

# Constitution of Crawley Borough Council

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Town Hall  
The Boulevard  
Crawley  
West Sussex  
RH10 1UZ



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# CONSTITUTION OF THE COUNCIL

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## INTRODUCTION TO CRAWLEY BOROUGH COUNCIL'S CONSTITUTION

### 1. INTRODUCTION

- 1.1. Crawley Borough Council, its Councillors and officers work to serve those living, employed and studying in the Borough in the best way possible.
- 1.2. This Constitution sets out how the Council operates, how decisions are made and the procedures that are to be followed. The purpose of this document is to provide transparent and accountable decision making and to support the active involvement of the public in the process. The processes set out derive from a combination of legislation and local practice.
- 1.3. Nothing in this Constitution supersedes legislation. The Constitution has been approved by the Full Council.
- 1.4. This Constitution is separated into three sections:
  - **Section 1: Decision Making** – Includes details of the Council's decision making mechanisms and a scheme of delegation setting out who is responsible for taking which decision.
  - **Section 2: Procedure Rules** - Details how meetings are conducted and how decisions are taken.
  - **Section 3: Codes and Protocols** - Sets out the expected standards of behaviour for Councillors and Officers along with any other required Councillor related protocols.
- 1.5. Councillors will have access to this Constitution electronically and will be provided with guidance on its location and use during induction.
- 1.6. Any reference in this Constitution to statutory provisions includes any amendments and re-enactment of subordinate legislation thereof. Reference to any EU legislation in this Constitution will be taken to include any such transitional arrangements and/or legislation put in place in relation to Brexit.

### 2. HOW THE COUNCIL OPERATES

- 2.1. The Council is comprised of 36 Councillors who each serve for a four year term. Borough elections take place three out of every four years when a third of Council seats become available. Councillors are democratically accountable to residents of their Ward. Only registered electors of the Borough or those living, working or owning property in the Borough are eligible to hold the office of Councillor. The overriding duty of Councillors is to the whole community, but they have a special duty to all their constituents (including those who did not vote for them).
- 2.2. All Councillors meet together as the Full Council in public. At Full Council meetings Councillors decide the Council's overall policies and set the Budget each year. The Full Council appoints a Leader for a four 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 Full Council also appoints a number of Council Committees for decision-making purposes. At every ordinary meeting of the Full Council, there is public question time.

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- 2.3. The Council has adopted a set of Code of Conduct documents to promote and maintain high standards of behaviour. Councillors have a personal responsibility to comply with the provisions of the Code.

## **3. COUNCILLORS**

- 3.1. A Councillor's role includes:

- Collectively being the ultimate policy makers.
- Contributing to good governance.
- Encouraging public participation and involvement in decision making.
- Dealing with their individual caseload and supporting their constituents in resolving particular concerns or grievances.
- Balancing different interests identified within their Ward and representing the Ward as a whole.
- Balancing the interests of their Ward and the Borough more generally.
- Participating in the governance and management of the Council.
- Being available to represent the Council on other bodies.
- Maintaining the highest standards of conduct and ethics.

- 3.2. If any Councillor fails to attend any Committee, Sub-Committee or a meeting of the Full Council as defined in Section 85 of the Local Government Act 1972 for six consecutive months, then, unless the failure is due to reasons approved by the Full Council, they will cease to be a Councillor.

- 3.3. Councillors are entitled to receive allowances in accordance with the Councillors' Allowances Scheme set out in this Constitution.

## **4. THE MAYOR**

- 4.1. The Full Council will annually elect a Mayor and Deputy Mayor who hold office until immediately after the election of a Mayor at the next annual meeting of the Full Council.

- 4.2. The Mayor is the First Citizen of the Borough and acts as an ambassador on behalf of the Borough. As a symbol of the Council and its area, the Mayor gives encouragement and shows appreciation for the many groups and organisations who also serve the residents of the Borough. The Mayor will attend such civic and ceremonial functions as they and the Council determine appropriate. The Mayor will act in a non-partisan manner and in the interests of the whole Council.

- 4.3. The Mayor has specific responsibilities as Chair of the Council, which are set out in the Full Council Procedure Rules.

## **5. COUNCIL OFFICERS**

- 5.1. The Council employs people (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. The Code of Conduct documents also govern the relationship between Officers and

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Councillors, and includes an Officers' Code of Conduct which all officers must comply with.

- 5.2. The Council may appoint such officers as it considers necessary to carry out its functions. In addition, some Statutory Officers must be appointed. These are:
  - Head of Paid Service.
  - Monitoring Officer.
  - Section 151 Officer (Chief Finance Officer).
- 5.3. The responsibilities of these and other Chief Officers are set out in this Constitution.

## 6. RIGHTS OF MEMBERS OF THE PUBLIC

- 6.1. **Voting:** Members of the public may vote at local elections if they are registered to vote.
- 6.2. **Contact their Local Councillor:** Members of the public may contact their local Councillor about matters of concern to them.
- 6.3. **Petitions:** Members of the public may present petitions to the Full Council and Committee meetings, providing that the requirements set out in the Petitions Scheme are met. The public may also petition to request a referendum on a mayoral form of Cabinet or to request a community governance review.
- 6.4. **Access to Information:** Members of the public have the right to access documents in accordance with the Access to Information Procedure Rules. Reports included in agendas will set out a list of background papers (non-published material used in creating the report) relating to the subject matter of the report. These background papers will be supplied at the request of members of the public and are available from the report author. The Council may make a reasonable charge for the supply of paper copies of agendas, reports, minutes and background papers to cover costs. The Council will give at least five clear working days' notice of any statutory meeting by publishing the agenda and reports which are to be considered on the Council's website.
- 6.5. **Attending Statutory Meetings:** Members of the public may attend meetings of the Full Council, its Committees and the Cabinet except, for example, where confidential or exempt matters are being discussed. A Calendar of meetings is available on the Council's website. All formal meetings of the Council (with the exception of the Employment Panel and Grants Appeal Panel) will be webcast subject to cost and practicality (*subject to commencement*).
- 6.6. **Speaking at a Statutory Meeting:** There are a number of meetings where the public can speak or ask questions such as the Full Council, the Cabinet, the Overview and Scrutiny Commission, the Audit Committee, the Governance Committee and the Planning Committee. These rights are set out in the relevant Procedure Rules.
- 6.7. **Council's Accounts:** Members of the public can inspect the Council's accounts and make their views known to the external auditor.
- 6.8. **Access to the Constitution:** The Monitoring Officer will ensure that copies of this Constitution are available for inspection at the Council's offices and via its website. A paper copy of this Constitution can be purchased by the public and local press on payment of a reasonable fee.

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- 6.9. **Complaints:** If a member of the public has a concern about the actions of the Council, its officers or Councillors, they have the right to make a complaint to:
- The Council under its Complaints Procedure.
  - The Ombudsman after exhausting the Council's Complaints Procedure.
  - The Monitoring Officer about a breach of the Code of Conduct for Councillors.

The Council expects the public to behave responsibly in exercising these rights.

## 7. FINANCE, CONTRACTS AND LEGAL MATTERS

- 7.1. The Council shall have Legal and Financial procedure rules as set out in this Constitution. These will be reviewed regularly according to the Scheme of Delegation. The Scheme of Delegation sets out the authority to sign documents and make decisions.
- 7.2. The Common Seal of the Council will be kept in a safe place in the custody of the Head of Governance, People & Performance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Governance, People & Performance should be sealed. The affixing of the Common Seal will be attested by the Head of Governance, People & Performance or some other person authorised by them.

## 8. SUSPENSION, INTERPRETATION AND REVISION OF THIS CONSTITUTION

- 8.1. **Suspension:** 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 and the purpose of any suspension should be to enhance the democratic process, not restrict it.
- 8.2. **Interpretation:** The Monitoring Officer will interpret this Constitution and provide advice to the Mayor, Leader, Committee Chairs and officers as appropriate. The ruling of the Mayor/Chair, on the advice of the Monitoring Officer, as to the construction or application of this Constitution or as to any proceedings of the Full Council and its Committees shall be final. Such interpretation will have regard to the purposes of this Constitution as set out in this introduction.
- 8.3. **Revisions:** The Governance Committee will monitor and review the operation of this Constitution to ensure that the aims and principles of the document are given full effect. 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 Full Council for determination. The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals for a change from a Leader and Cabinet form of Cabinet to any alternative arrangements.

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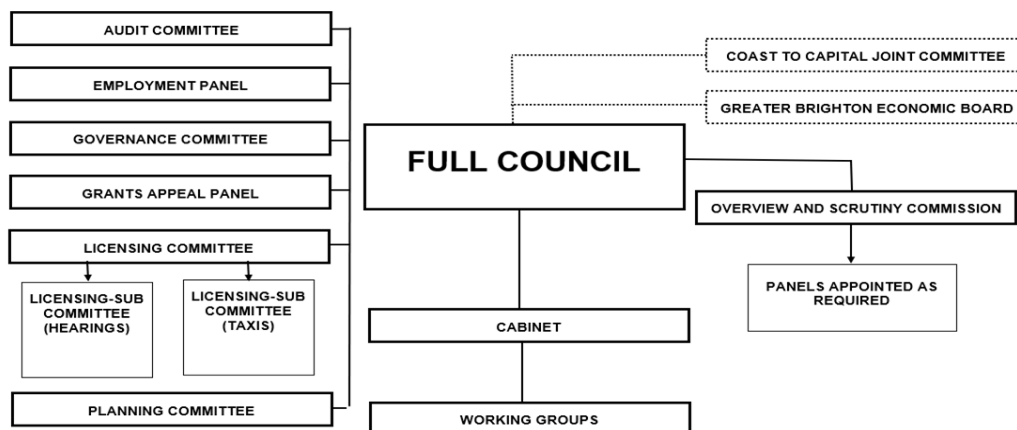
## INTRODUCTION TO DECISION MAKING

### 1. SCOPE

- 1.1. This section of the Constitution explains who holds responsibility for the functions of this Council, any delegation of those functions and any limits imposed.
- 1.2. All the responsibilities of this Council are either allocated to the Full Council or the Leader (who holds responsibility for all “Executive” functions). Those responsibilities, where appropriate, may be delegated to ensure efficient, effective, lawful and accountable decision-making.
- 1.3. This Council operates on the principles of openness and transparency. All decisions will be taken in accordance with the Principles of Decision Making (see below) and the Procedure Rules, including the Access to Information Procedure Rules.

### 2. FULL COUNCIL

- 2.1. The Full Council is the supreme body for Crawley Borough Council as a Local Authority and constitutes all Borough Councillors. It approves the Council’s Budget each year, appoints the Leader of the Council and also sets the policy framework (via the Policy Framework Documents) under which the Leader and their “Executive” functions will operate.
- 2.2. It has responsibility for all aspect of decision-making which legislation states:
  - **Must** be the responsibility of the Full Council (such as Regulatory functions).
  - **Must not** be the responsibility of the “Executive”.
- 2.3. There are certain decisions which are reserved for the Full Council, either by legislation or through its own choice, and as such these will only be taken by the Full Council.
- 2.4. The Full Council has established Committees to discharge the majority of its remaining functions. These Committees delegate operational day-to-day decisions relating to the management of service areas to the Chief Executive who may delegate them further through the Council’s Cascade System.
- 2.5. This Council operates under the following Committee structure:



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## 3. LEADER (“EXECUTIVE” FUNCTIONS)

- 3.1. The Council uses a ‘Strong Leader’ model of Governance, which means all the Executive functions are bestowed upon the Leader of the Council (“the Leader”). The Executive functions are defined as all functions which are not the responsibility of any other part of the local authority, whether by law or defined within this Constitution.
- 3.2. The Leader will determine a Scheme of Delegation for the discharge of these functions and in doing so determine which functions are to be exercised by them personally and which are to be exercised by the Cabinet, Cabinet Committees, Individual Cabinet Members, Joint Arrangements or Officers.
- 3.3. There are different categories of Executive decisions: Key Decisions and Non-Key Decisions.
- 3.4. **Key Decisions:** Key Decisions are major/key Executive decisions, and as such they must follow a defined decision making route that is open and transparent as set out in the Access to Information Procedure Rules. Key Decisions are defined as any decision which is likely to either:
- a) Significantly impact or affect a “significant” number of people/communities living or working in the Borough (usually this is defined as impacting **two or more wards**).
  - b) Result in the Council incurring expenditure which is, or in the making of savings which, are deemed significant in financial terms:
    - By not being in the Annual Budget and Capital Programme approved by the Full Council.
    - In the case of **revenue** expenditure, any projects and new commitments likely to **exceed £100,000** per annum.
    - In the case of **capital** expenditure, any projects if they involve entering into new commitments in excess of **£500,000**.
    - Any **contract** awards exceeding **£500,000**.
- NB: 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.*
- 3.5. Key Decisions are normally taken by the Cabinet or individual Cabinet Members (including the Leader).
- 3.6. **Non-Key Decisions:** Non-Key Decisions are categorised into either Significant Operational Decisions or Operational Decisions (“day-to-day”). The category of a decision will determine how it is taken and recorded.
- 3.7. **Operational Decisions (“day-to-day”):** The majority of Executive decisions are “day-to-day” Operational Decisions relating to the management of service areas and as such are delegated by the Leader to the Chief Executive who may delegate them further through the Council’s Cascade System. A public record of such decisions is not usually required and a departmental record suffices.
- 3.8. **Significant Operational Decisions:** These are Non-Key Decisions which necessitate a public record to ensure openness and transparency (in line with statute). Such decisions include any that:
- a) The Chief Executive, Monitoring Officer or another Chief Officer decides should be made publicly available (such as subsequent decisions relating to a previously agreed Key Decision).

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- b) Result in revenue expenditure or making savings (including the receipt or loss of income) between £80,000 and £99,999 per year.
- c) Result 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**.

## 4. PRINCIPLES OF DECISION MAKING

- 4.1. All decisions of the Council will be made in accordance with the following principles:
  - a) Proportionality (i.e. the action must be proportionate to the desired outcome).
  - b) Due consultation and the taking of professional advice from officers.
  - c) Respect for human rights.
  - d) A presumption in favour of openness.
  - e) Clarity of aims and desired outcomes.
  - f) Relevant matters have not been ignored.
  - g) Consideration and evaluation of alternatives and reasons for decisions.
  - h) Due regard to the statutory framework, guidance and Codes of Conduct.
- 4.2. **Decision Making by Council Bodies Acting as Tribunals:** The Council, a Councillor or an officer 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.

## 5. SCRUTINY

- 5.1. The Overview and Scrutiny Commission supports and scrutinises the work of the Cabinet and the Council as a whole. One of the main roles of the Commission is to be consulted and provide advice to the Cabinet and the Full Council on the Policy Framework Documents, the Budget and service delivery in general. The Commission also monitors the decisions of the Cabinet and whether, in its opinion, the decisions are appropriate; and this may lead to recommendations to the Cabinet for its consideration. The Commission may also hold public inquiries/Scrutiny Panels to investigate matters of local concern which allows citizens to have a greater say.
- 5.2. The Commission has the ability to Call-In "Executive" decisions to enable further consideration of a decision and to allow an opportunity for alternative options to be considered.

## 6. MEMBERSHIP OF COMMITTEES AND APPOINTMENTS TO OUTSIDE BODIES

- 6.1. **Membership of Committees:** The Full Council will establish formal meetings of the Council including their size, Terms of Reference and allocation of seats to the political groups. The Head of Governance, People & Performance will have the authority, during the Council year, to vary these appointments to give effect to the wishes of a political group in relation to their allocation.

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- 6.2. **Chair and Vice Chair of Committees:** The positions of Chair and Vice Chair for each Committee shall be elected by a simple majority at the Annual Meeting of the Full Council. The appointment of the Chair and Vice Chair of a Committee should not include Councillors from the same political group (where possible). The Independent Member to the Audit Committee will not be the Chair nor Vice Chair of that Committee.
- 6.3. **Appointments to Outside Bodies:** When the Full Council, normally at the Annual Meeting, appoints representatives to a Council Outside Body with two or more Council seats, at least one position will be given to each of the largest political Groups on the Council (where those Groups have made a nomination). The Head of Governance, People & Performance will have the authority, during the Council year, to vary these appointments to give effect to the wishes of a political group in relation to their allocation.



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## THE FULL COUNCIL (All Councillors)

### 1. PURPOSE

The Full Council is the supreme body for Crawley Borough Council as a Local Authority. It has powers to set the Council's Budget each year. The Full Council also sets the Policy Framework Documents under which the Executive (The Leader and Cabinet) will operate.

There are three types of Full Council meeting:

- a) The Annual Meeting.
- b) Ordinary meetings.
- c) Extraordinary meetings.

and they will be conducted in accordance with the Full Council Procedure Rules.

### 2. RESPONSIBILITIES OF THE FULL COUNCIL

The Full Council has responsibility for all aspects of the Council where the legislation has stated it must not fall under the "Executive" (such as Regulatory functions) or when it is stated that it must fall under the remit of the Full Council.

The Full Council has established Committees to discharge the majority of its functions. The terms of reference for these Committees are detailed in the following pages of this Constitution.

The Full Council will take responsibility for:

- a) Adoption and changes to the Constitution (other than mandatory changes required by law or minor changes).
- b) Appointing and removing the Leader of the Council.  
*NB. The appointment of membership of the Cabinet is the responsibility of the Leader.*
- c) Appointing the Mayor and Deputy Mayor at the Annual Full Council meeting. These appointees will hold office until the following Annual Meeting when the new Mayor is appointed unless, in the meantime, either cease to be a Councillor prior to the end of their scheduled term of office.
- d) Approval and adoption of the Budget and Council Tax - which includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

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- e) Approval or adoption of the Policy Framework Documents (PFDs) and selected Local Choice Functions (LCFs), which the Full Council has agreed should be undertaken by itself rather than the Cabinet.
- The PFDs are the following plans and strategies:
    - Statement of Licensing Policy.
    - Statement of Gambling Policy.
    - Crime and Disorder Reduction Strategy (Community Safety Strategy).
    - Development Plan Documents, including the Local Plan, for Submission Consultation and Submission, and Adoption.
  - The LCFs are the following plans and strategies:
    - The Council's Corporate Plan.
    - Budget Strategy.
    - The Annual Treasury Management Strategy.
    - Housing Revenue Account Business Plan.
    - Housing Allocations Scheme.
    - Homelessness Strategy.
    - Tenancy Strategy.

*NB: The Cabinet will be responsible for producing draft proposals on all aspects contained within d) and e) above for the adoption and approval by the Full Council.*

- f) Considering decisions about any matter where the Cabinet is proposing to make a decision which would be contrary to the Policy Framework Documents or contrary to/or not wholly in accordance with the Budget.

*Or*

Receiving a report from the Leader or the Cabinet on urgent decisions contrary to the Policy Framework Documents.

*NB: The above is subject to the Urgency Procedure contained in the Access to Information Procedure Rules.*

- g) Constituting, appointing and approving Council Committees, including Terms of Reference and membership and appointing representatives to outside bodies where appropriate.
- h) Agreeing the establishment of Joint Committees including proposed additional powers and requests for the dissolution of such a Committee.  
*NB: This includes for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a Local Planning Authority.*
- i) Agreeing to accept a delegation of a function from another local authority under Section 101 of the Local Government Act 1972 and other relevant Executive Function Regulations.  
*N.B Where such a delegation relates to an "Executive" function the Cabinet will make a recommendation to the Full Council.*
- j) Delegation of "non-Executive" functions to another local authority under Section 101 of the Local Government Act 1972.  
*N.B delegation of "Executive" functions under this legislation will be the sole responsibility of the Cabinet*
- k) Making, amending, revoking, re-enacting or adopting bylaws/Public Space Protection Orders (PSPOs) and promoting or opposing the making of local legislation or Personal Bills.

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- l) Housing Land Transfer: submission of applications (in draft or final form) to the Secretary of State for consent to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act, 1985.
- m) Power to resolve not to issue any casino premises licenses within the Borough under Section 166 of the Gambling Act 2005.
- n) Functions relating to electoral processes:
  - Approval of responses to Boundary Commission consultations.
  - Designation and review of polling places and polling districts.
- o) Functions relating to Local Government pensions.
- p) Adoption of the Councillors' Allowances Scheme and the allowance for the Mayor and Deputy Mayor, unless it is updated for inflation in accordance with the Budget Strategy.
- q) Considering any reports submitted by the Independent Person(s) in relation to Standards/Code of Conduct matters.
- r) Approving the appointment of the:
  - Head of Paid Service (Chief Executive).
  - Returning Officer.
  - Electoral Registration Officer.
  - Any post where the salary is above £99,999.
  - Independent Person(s) in relation to Standards/Code of Conduct matters.
  - Independent Member to the Audit Committee.
- s) Approving the designation of the:
  - Monitoring Officer.
  - Chief Finance Officer – Section 151 Officer
  - Deputy Electoral Registration Officer.
  - Data Protection Officer.
- t) Approving the dismissal of the:
  - Head of Paid Service (Chief Executive).
  - Monitoring Officer.
  - Chief Finance Officer – Section 151 Officer.
- u) Considering relevant petitions submitted under the Crawley Borough Council Petitions Scheme.
- v) Adopting and changing the Code of Conduct for Councillors.
- w) Providing a written representation in respect of a Development Consent Order Application Process which provide an overarching summary view of the key matters of importance to the Council (where the Council is a host authority) subject to a scheduled Full Council meeting aligning with the response timescales set by the Planning Inspectorate, otherwise the matter will be solely dealt with by the Planning Committee.
- x) Any decision whether to grant planning permission for any application that is defined as a departure application under the Town and Country Planning (Development Management Procedure) (England) Order 2015 where the recommendation would represent a departure from the Local Plan.
- y) The appointment of review boards under regulations under Subsection (4) of Section 34 (determination of claims and reviews) of the Social Security Act 1998.

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- z) Agreeing to change to an alternative governance arrangement as defined in the Local Government Act 2000 as amended.
- aa) To deal with matters relating to Community Governance Reviews as defined in the Local Government and Public Involvement in Health Act 2007.
- bb) Considering reports on lawfulness and maladministration. This includes considering payments or benefits and final reports of the Ombudsman where the Council does not propose to action their recommendation.
- cc) Changing the name of the area, conferring the title of Honorary Alderman or Freeman of the Borough.
- dd) All other matters which, by law, must be reserved to the Full Council.

*NB: The majority of the matters above will be considered by a Committee or the Cabinet prior to their determination by the Full Council.*

## **3. DOCUMENTS RELATED TO THE FULL COUNCIL**

- Full Council Procedure Rules.
- Access to Information Procedure Rules.
- Policy Framework Document Procedure Rules.
- Financial and Budget Procedure Rules.
- Petitions Scheme.
- Council Officer Responsibilities and Decision Making.

# Agenda Item 4

## **AUDIT COMMITTEE** (7 Members plus one Independent Member)

### **1. PURPOSE**

The Audit Committee is a key component of this Council's governance framework. Its function is to provide an independent and high-level resource to support good governance and strong public financial management.

The purpose of the Audit Committee is to provide independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and governance processes. By overseeing both internal and external audit the Committee makes an important contribution to ensuring that effective assurance arrangements are in place.

The Council has chosen to appoint one Independent Member to the Audit Committee to help provide a critical friend/challenge approach to the Committee. The Independent Member does not have voting rights and will not be the Chair nor Vice Chair of the Committee. The recruitment and appointment approach for the Independent Member mirrors that of the Council's Independent Person(s).

There is a split in the delegation of audit functions between the Audit Committee and the following posts:

- Head of Corporate Finance (including in their capacity as Section 151 Officer).
- Internal Auditors.
- Operational Benefits and Corporate Fraud Manager.

More information on the functions delegated to these officers are detailed in the Council Officer Responsibilities and Decision Making section of this Constitution.

### **2. RESPONSIBILITIES OF THE AUDIT COMMITTEE**

The responsibilities of the Audit Committee follow the guidance provided by The Chartered Institute of Public Finance and Accountancy (2018).

### **3. DECISIONS WHICH WILL BE TAKEN BY THE AUDIT COMMITTEE**

All of the responsibilities of the Audit Committee (detailed in Paragraph 2) are delegated to officers except the following which are reserved to the Committee:

- a) Approval and review of the adequacy of the Internal Audit Budget and Resource Plan.
- b) Approval of the Internal Audit Charter.
- c) Approval of the Internal Audit Plans and monitoring performance against the Plans.
- d) Receipt of the Internal Audit and Risk Management progress reports, seeking assurance that appropriate action has been taken where necessary.
- e) To consider a draft version of the Risk Management Strategy and provide any comments for incorporation into the final version. The final document will be approved by the Cabinet Member for Resources.

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- f) Receipt of the results of the Quality Assurance and Improvement Programme, including external assessment.
  - g) Consideration of the appointment of the External Auditor.
  - h) Receipt and consideration of the work of the external auditors (and other external inspection agencies) including the Annual Audit and Inspection Letter to the Council.
  - i) Receipt of the Annual Report of the Internal Auditors, including the review of the Ethical Framework.
  - j) Receipt of the report relating to fraud and investigations, to monitor the performance of the Council's counter-fraud function.
  - k) Approval of the Council's Financial Statements including the endorsement of the Annual Governance Statement\*.
  - l) Consideration of matters relating to the Regulation of Investigatory Powers Act 2000 (RIPA).
- \* The Annual Governance Statement will be considered by the Governance Committee prior to its submission to the Audit Committee.

## **4. DOCUMENTS RELATED TO THE AUDIT COMMITTEE**

- "Audit Committees: Practical Guidance for Local Authorities and Police (2018 edition)" by The Chartered Institute of Public Finance and Accountancy (CIPFA).
- Council Officer Responsibilities and Decision Making.

# Agenda Item 5

## EMPLOYMENT PANEL

(From a pool of Councillors) Including the Independent Panel

### 1. PURPOSE

The purpose of the Employment Panel is divided into two main areas; recruitment and employment relations issues including staffing appeals on behalf of the Council.

This section should be read in conjunction with the Council's internal Human Resources procedures such as disciplinary, capability, grievance and redundancy procedures, along with all legislative requirements relating to recruitment and employment relations.

### 2. RESPONSIBILITIES OF THE EMPLOYMENT PANEL

The Employment Panel has specific responsibilities in relation to the recruitment and employment relations issues of Chief Officers, especially the Statutory Officers. The Panel also has responsibility for the appeals against dismissal for all non-Chief Officers.

When a Panel is established, its membership will vary dependent on the duty it is considering; between 3 and 7 Councillors drawn from the membership pool. As far as possible the Panel will be politically balanced. Should they be on the Panel, the appropriate Cabinet Member (or the Leader) should be designated Chair for the meeting. Whenever the Panel meets it will be supported by a Senior Human Resources representative in an advisory role only.

The majority of employment related matters have been delegated to the Chief Executive (Head of Paid Service), who may delegate some of their powers to other Chief Officers, to enable them to take responsibility for their service area.

Specific delegations are set out later in this section.

### 3. DECISIONS WHICH WILL BE TAKEN BY THE EMPLOYMENT PANEL

#### Recruitment

When appointing:

- The Chief Executive (The Head of Paid Service) - the Panel will consist of **seven** Councillors including a minimum of **two** Cabinet Members (with a quorum of **five**).

*N.B: The recommendation from this Panel will be received by the Full Council for the final appointment.*

- The Deputy Chief Executive or a Head of Service - the Panel will consist of **five** Councillors including a minimum of **one** Cabinet Member (with a quorum of **three**).

*In all cases of the above appointments, any Cabinet Member not serving on the recruitment Panel, will be informed of the appointment and have the right to make a formal objection to the appointment.*

# Agenda Item 5

## Employment Relations Issues

### **Statutory Chief Officer**

Instigating a formal investigation process relating to disciplinary, grievance and capability matters including dismissal for Statutory Chief Officers:

- *When determining whether there is a question to be answered which requires a formal investigation by an investigator and independent person, the Panel will consist of a **minimum of three** Councillors (including at least **one** opposition Councillor, with a quorum of **three**). Substitutes may also be sought.*

Disciplinary, grievance and capability matters including dismissal for Statutory Chief Officers:

- *When determining the outcome of any investigations (including any advice, views of recommendations from the Independent Panel) the Panel will consist of a **minimum of three** Councillors (including at least **one** opposition Councillor, with a quorum of **three**). Substitutes may also be sought.*

Cabinet Members not serving on the Employment Panel, will be informed of any action taken and have the right to make a formal objection.

- The recommendation from this Panel will be then received by the Full Council for final determination (this stands in lieu of a dismissal appeal).

Appeals against any actions short of dismissal or grievance appeals for Statutory Chief Officers:

- Will be heard by an Employment Panel consisting of **three** Councillors (**one** who must be the Leader, **one** opposition Councillor and **one** other with a quorum of **three**). Substitutes may also be sought. Excluding the Leader, these Councillors must not have been involved in the either of the previous stages.

### **Non-Statutory Chief Officers**

Disciplinary, grievance and capability matters (including dismissal) for non-statutory Chief Officers:

- *When determining the outcome of any investigations the Panel will consist of a **minimum of three** Councillors (at least **one** opposition Councillor, with a quorum of **three**). Substitutes may also be sought.*

Cabinet Members not serving on the Employment Panel, will be informed of any dismissal and have the right to make a formal objection.

Appeals against any action taken above for non-statutory Chief Officers:

- *When determining an appeal against dismissal the Panel will consist of a **minimum of three** Councillors (at least **one** opposition Councillor, with a quorum of **three**). Substitutes may also be sought. No Councillor involved in the original decision to dismiss can serve on the Appeal hearing.*



# Agenda Item 5

## ***Appeals against Dismissal by all Other Officers***

Appeals against dismissal for all non-Chief Officers:

- *When determining an appeal against dismissal the Panel will consist of a **minimum of three** Councillors (at least **one** opposition Councillor, with a quorum of **three**). Substitutes may also be sought. No Councillor involved in the original decision to dismiss can serve on the Appeal hearing.*

## **4. SPECIFIC DELEGATIONS**

### The Leader of the Council:

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.

### Chief Executive in consultation with the Leader:

Action in accordance with any disciplinary code or capability procedure for the suspension from duty of non-statutory Chief Officers.

### Chief Executive:

Authority to agree a Settlement Agreement in circumstances where an officer 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 Chief Executive, in consultation with the Leader of the Council, has delegated authority to agree the amount (where the Chief Executive is the subject of the agreement then the Section 151 Officer will replace them in the authorisation process).

### Head of Governance, People & Performance (Monitoring Officer):

Duty to appoint a Deputy Monitoring Officer(s).

### Head of Governance, People & Performance:

Authority to establish an Independent Panel.

### Head of Corporate Finance (Section 151 Officer):

Duty to appoint a Deputy Section 151 Officer(s).

## **5. ROLE AND RESPONSIBILITY OF THE INDEPENDENT PANEL**

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. Its role is to offer advice, views or recommendations on the dismissal of a Statutory Officer in accordance with the Local Authorities (Standing Orders) (England) (Amendments) Regulations 2015.

The Head of Governance, People & Performance, or in the case of any action against that Officer, the Deputy Monitoring Officer, will establish the Independent Panel. The Panel is required to meet at least 20 days before the Employment Panel considers whether or not to approve a proposed dismissal of a Statutory Chief Officer.

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# Agenda Item 6

## GOVERNANCE COMMITTEE

(12 Members)

### 1. PURPOSE

To provide the Full Council with advice and a steer on the following matters: Constitutional issues including Standards matters, the Code of Conduct for Councillors, the Council's Political and Management Arrangements, Corporate Governance, Elections (including Ward Boundary Reviews), Councillors' Allowances and all non-Executive functions not specifically delegated to another Committee or Sub-Committee of the Council.

Whilst the Committee as a body does not take decisions directly, the Council has delegated certain functions to officers in relation to elections and governance. There is a split in the delegation of those functions between the following posts:

- Chief Executive in their capacity as Local Returning Officer/Returning Officer.
- Head of Governance, People & Performance (including in their capacity as Monitoring Officer).

More information on the functions delegated to these officers is detailed in the Council Officer Responsibilities and Decision Making section of this Constitution.

### 2. RESPONSIBILITIES OF THE GOVERNANCE COMMITTEE

#### **Direct Responsibilities:**

The Governance Committee holds direct responsibility for the following:

- a) Power to grant a Councillor or Co-opted Member a dispensation (either for a Disclosable Pecuniary Interest or a Prejudicial Interest) from the restriction on speaking and/or voting on any matter to be considered at a meeting of the Council or any of its Committees, Sub-Committees, Joint Committees or Joint Sub-Committees.
- b) To consider a draft version of the Annual Governance Statement and provide any comments for incorporation into the final version. The final document will be included in the Annual Statement of Accounts, which will be endorsed by the Audit Committee (the Audit Committee retains responsibility for the Annual Governance Statement).

#### **Provide Recommendations to the Full Council:**

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

- a) Adoption and changes to the Constitution (other than mandatory changes required by law or minor changes).
- b) Adopting and changing the Code of Conduct for Councillors.
- c) Agreeing to change to an alternative Governance arrangement as defined in the Local Government Act 2000 as amended.
- d) Matters relating to Community Governance Reviews as defined in the Local Governance and Public Involvement in Health Act 2007.

# Agenda Item 6

- e) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of Local Legislation or Personal Bills.
- f) Functions relating to electoral processes:
  - Approval of responses to Boundary Commission consultations.
  - Designation and review of polling places and polling districts.
- g) Adoption of the Councillors' Allowances Scheme and the allowance for the Mayor and Deputy Mayor, unless it is updated for inflation in accordance with the Budget Strategy.
- h) The appointment of Independent Person(s) in relation to Standards/Code of Conduct matters.
- i) Considering any reports submitted by the Independent Person(s) in relation to Standards/Code of Conduct matters.

### **3. DOCUMENTS RELATED TO THE GOVERNANCE COMMITTEE**

- Council Officer Responsibilities and Decision Making.

# Agenda Item 7

## **GRANTS APPEALS PANEL**

(Panel of 5 drawn from the pool of Councillors appointed to the Grants Appeals Panel\*)

\* Any Cabinet Member with responsibility for functions which may be reviewed by this Panel cannot be appointed to the pool of Grants Appeals members.

### **1. PURPOSE**

To determine appeals regarding:

- Grant applications submitted by voluntary organisations.
- The receipt of discretionary business rate relief.
- The receipt of small business grants.

An appeal will not be determined by anyone involved in making the original decision.

### **2. RESPONSIBILITIES OF THE GRANTS APPEAL PANEL**

To determine:

- Appeals by voluntary organisations in respect of grant applications received for the financial year.
- Appeals against the refusal of applications for discretionary business rate relief.
- Appeals against the refusal of applications for the small business grant scheme.

### **3. CABINET MEMBER ATTENDANCE**

The Cabinet Members below may attend Panel meetings in an advisory and non-voting capacity for the following:

Cabinet Member for Community Engagement and Culture:

- Appeals by voluntary organisations relating to grant applications.
- Appeals against the refusal of discretionary rate relief applications.

Cabinet Member for Planning and Economic Development:

- Appeals against the refusal of small business grant applications.

### **4. DOCUMENTS RELATED TO THE GRANTS APPEALS PANEL**

- Council Officer Responsibilities and Decision Making

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# Agenda Item 8

## JOINT COMMITTEES/ARRANGEMENTS

### 1. PURPOSE

To promote the economic, social or environmental well-being of the area, through joint arrangements or agreements and/or coordinated activities with other persons, bodies or Local Authorities.

### 2. ESTABLISHING JOINT COMMITTEES

#### 2.1. Responsibilities Relating to Non-Cabinet (“non-Executive” Functions)

- a) Full Council will resolve to establish joint arrangements and agree the details of membership, term of office and area within which the Committee is to exercise its authority (as appropriate).
- b) The Council may appoint persons who are not Crawley Borough Councillors.
- c) Where practical, membership should reflect the political composition of the Council.

#### 2.2. Responsibilities Relating to Cabinet (“Executive” Functions)

- a) The Cabinet will resolve to establish joint arrangements and agree the details of membership, term of office and area within which the Committee is to exercise its authority (as appropriate).
- b) Membership does not need to reflect the political composition of the Council.
- c) The Cabinet may only appoint Cabinet Members to a joint Committee, except where the joint Committee is:
  - Discharging a function in relation to five or more local authorities.
  - Discharging a function required by statute to be discharged by a joint Committee.
  - Discharging functions for less than two-fifths (in area or population) of the Crawley Borough. In such cases the Councillor appointed shall be a Ward Councillor for a geographical area affected by the remit of the Joint Committee.

#### 2.3. Responsibilities Relating to a Combination of Both Cabinet (“Executive”) Functions and Non-Cabinet (“non-Executive” Functions)

- a) The Full Council will approve the details of membership following consideration and agreement by the Cabinet.
- b) Membership must reflect the political composition of the Council.
- c) Where more than one Crawley Borough Councillor is appointed, at least one of those Councillors must be a Cabinet Member.

# Agenda Item 8

## 3. FUNCTIONS OF A JOINT COMMITTEE

The functions and responsibilities of each joint Committee will be agreed as set out in Paragraph 2.

The Council is currently a member of two joint Committees:

- Coast to Capital (LEP) Joint Committee.
- Greater Brighton Economic Board.

The Terms of Reference of these Committees can be found on the Council's website or by following the links included under Paragraph 5.

## 4. DELEGATION TO/FROM OTHER LOCAL AUTHORITIES AND CONTRACTING OUT

4.1. The delegations below include, but are not limited to, those functions discharged to/from another local authority under Section 101 of the Local Government Act 1972 and relevant Executive Functions Regulations.

### 4.2. Delegation to Another Local Authority

a) Responsibilities Relating to Non-Cabinet ("non-Executive") Functions

The Full Council may delegate functions to another local authority. Such functions will be delegated to that local authority's Full Council, unless the function is the responsibility of its Cabinet, in which case the function will be delegated to its Cabinet.

b) Responsibilities Relating to Cabinet ("Executive") Functions

The Cabinet may delegate functions to the Cabinet of another local authority. Such functions will be delegated to that local authority's Cabinet, unless the function is not an "Executive" function of that authority, in which case the function will be delegated to its Full Council.

### 4.3. Delegation from Another Local Authority

The decision whether or not to accept a delegation from another local authority will be taken by the Full Council (delegation of "Executive" functions will be recommended to the Full Council by the Cabinet).

### 4.4. Contracting Out

The Full Council/Cabinet (as appropriate), may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the 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.

## 5. DOCUMENTS RELATED TO THE JOINT COMMITTEES/ARRANGEMENTS

- [Coast to Capital \(LEP\) Joint Committee's Heads of Terms.](#)
- [Greater Brighton Economic Board's Heads of Terms.](#)



# Agenda Item 9

## LICENSING COMMITTEE

(15 Members)

### 1. PURPOSE

To discharge the functions of the Council as a Licensing Authority (with the exception of any functions which are reserved for the Full Council) relating to Hackney Carriages, Private Hire Vehicles, public safety, animal welfare, market and street trading, sex establishments, scrap metal dealing and other miscellaneous licensing and registration functions.

There is a split in the delegation of licensing functions between the Head of Community Services and the Licensing Committee. More information on the functions delegated to the relevant Head of Service and those functions reserved for the Licensing Committee can be found in this section and the Council Officer Responsibilities and Decision Making section of this Constitution.

Functions of the Council as a Licensing Authority under the Licensing Act 2003 and the Gambling Act 2005 have been delegated to the Licensing Sub-Committee (Hearings).

### 2. RESPONSIBILITIES OF THE LICENSING COMMITTEE

To discharge those functions relating to Licensing and registration as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and Schedule 2 Paragraph 4 and as may be amended.

To exercise the powers and functions of the Council as a Local Licensing Authority that in law must not be the responsibility of the Cabinet which relate to Hackney Carriages, Private Hire Vehicles, public safety, animal welfare, market and street trading, sex establishments, scrap metal dealing and other miscellaneous licensing and registration functions.

All issues relating to Hackney Carriages and Private Hire Vehicles (including approval of policy documents) are solely the responsibility of the Licensing Committee.

To discharge those functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged, but not in the Council’s capacity as an employer.

To discharge those functions relating to:

- Food safety under any “relevant statutory provision”.
- Environmental Protection Act 1990.
- Anti-Social Behaviour, Crime and Policing Act 2015.
- Any associated legislation.

# Agenda Item 9

## 3. DECISIONS WHICH WILL BE TAKEN BY THE LICENSING COMMITTEE

All of the responsibilities of the Licensing Committee (detailed in Paragraph 2) are delegated to the Head of Community Services\* except the following which are reserved to the Committee:

- a) Approval of fares for Hackney Carriages.
- b) Power to review and set fees for Private Hire vehicles, Private Hire Operators and Hackney Carriage vehicles (licences) where objections have been received and not withdrawn.
- c) Approval of all policy related documents regarding Hackney Carriages and Private Hire Vehicles.
- d) Power to issue licences authorising the use of land as a caravan site ("site licences").
- e) Power to license the use of moveable dwellings and campsites.
- f) Power to register pool promoters where objections have been received.
- g) Power to grant track betting licences and inter-track betting schemes.
- h) Power to grant permits in respect of premises with amusement machines where objections have been received.
- i) Power to register societies wishing to promote lotteries where objections have been received.
- j) Power to transfer enforcement functions to another enforcement authority under the Smoke-Free (Premises and Enforcement) Regulations 2006.
- k) Power to consider and license/refuse to license sex establishments in accordance with the Council's policy where objections have been received.
- l) Determination of licences under the Zoo Licensing Act 1981 where objections have been received.
- m) Determination of applications for licences under the Dangerous Wild Animals Act 1976 where objections have been received.
- n) Power to license performances of hypnotism where objections have been received.
- o) Power to license pleasure boats and pleasure vessels where objections have been received.

\* NB:

- *The Head of Community Services may further delegate these matters as they see fit.*
- *The Head of Community Services may decline to exercise any of the above functions in a particular case and must then refer the matter promptly to the Committee for consideration.*

## 4. DOCUMENTS RELATED TO THE LICENSING COMMITTEE

- Council Officer Responsibilities and Decision Making.

# Agenda Item 10

## **LICENSING SUB-COMMITTEE (HEARINGS)** (Panel of 3 drawn from the Licensing Committee Members)

### **1. PURPOSE**

To discharge functions of the Council as Licensing Authority relating to regulated activities such as the sale of alcohol, regulated entertainment, late night refreshment and gambling.

There is a split in the delegation of functions between the Head of Community Services and the Licensing Sub-Committee (Hearings). More information on the functions delegated to the relevant Head of Service and those functions reserved for the Sub-Committee can be found in this section and the Council Officer Responsibilities and Decision Making section of this Constitution.

### **2. RESPONSIBILITIES OF THE LICENSING SUB-COMMITTEE (HEARINGS)**

To exercise the powers and functions of the Council as a Licensing Authority under the:

- Licensing Act 2003.
- Gambling Act 2005.

### **3. DECISIONS WHICH WILL BE TAKEN BY THE LICENSING SUB-COMMITTEE (HEARINGS)**

All of the responsibilities of the Licensing Sub-Committee (Hearings) (detailed in Paragraph 2) are delegated to the Head of Community Services\* except the following which are reserved to the Sub-Committee (Hearings):

- a) Where an application has been submitted by or on behalf of the Council, either alone or jointly with another person.
- b) Where an application has been submitted by, or on behalf of, a Councillor, an officer or a member of their immediate family.
- c) Determination of applications for personal licences where representations have been made in respect of that application.
- d) Determination of applications for personal licences made by persons with unspent conviction(s).
- e) Determination of applications for premises licences/club premises certificates/provisional licences where representations/objections have been received and not withdrawn.
- f) Determination of applications to vary premises licences/club premises certificates where representations/objections have been received and not withdrawn.
- g) Determination of applications for Interim Authority, to vary a Designated Premises Supervisor, transfer a premises licence where a representation has been made by the Chief Police Officer (Licensing Act 2003).
- h) Determination of applications for a transfer of a licence where objections have been received by the Gambling Commission (Gambling Act 2005).

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- i) Determination of applications to review premises licences/club premises certificates.
- j) Determination of the appropriate responses to temporary event notices where representations have been made by a relevant person in respect of that notice, and issuing a counter notice if such a counter notice is found to be necessary.
- k) Decision to give a counter notice to a temporary use notice.
- l) Determination of applications for provisional statements where representations have been made in respect of that application.
- m) Determination of applications for club gaming/club machine permits where objections have been received and not withdrawn.
- n) Cancellation of applications for club gaming/club machine permits.
- o) To make an 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.
- p) Any other responsibilities which by law must be dealt with by the Sub-Committee.

\* NB:

- *The Head of Community Services may further delegate these matters as they see fit.*
- *The Head of Community Services may decline to exercise any of the above functions in a particular case and must then refer the matter promptly to the Sub-Committee for consideration.*

## 4. SPECIFIC DELEGATIONS

The Head of Governance, People & Performance:

Power to cancel a Hearing when, pursuant to Regulation 9(2) of the Licensing Act 2003 (Hearings) Regulations 2005, a Hearing is considered unnecessary.

*NB: This delegation only relates to the applications referred to in Paragraphs 3(c), (d), (e), (f), (g), (j) and (l) above.*

The Head of Governance, People & Performance:

Power to extend a time limit provided for in the Licensing Act 2003 (Hearings) Regulations 2005 in accordance with Regulation 11, where it is considered to be in the public interest.

## 5. DOCUMENTS RELATED TO THE LICENSING SUB-COMMITTEE (HEARINGS)

- Licensing Sub-Committee (Hearings) Procedure Rules.
- Council Officer Responsibilities and Decision Making.

# Agenda Item 11

## **LICENSING SUB-COMMITTEE (TAXIS)**

(Panel of 5 drawn from the Licensing Committee Members. Any Panel must reflect the political balance of the Council)

### **1. PURPOSE**

To discharge functions of the Council as Licensing Authority in relation to the suspension of issuing hackney carriage (driver and vehicle) licences and private hire (driver/vehicle/operator) licences.

### **2. CALLING AND HOLDING A MEETING OF THE LICENSING SUB-COMMITTEE (TAXIS)**

A Sub-Committee can **only** be called at the request of the Chair of the Licensing Committee.

Once the Chair of the Licensing Committee has called a Sub-Committee meeting, that meeting will be held within 15 working days.

### **3. RESPONSIBILITIES OF THE LICENSING SUB-COMMITTEE (TAXIS)**

To decide whether to suspend the issuing of:

- Hackney carriage (driver and vehicle) licences.
- Private hire (driver/vehicle/operator) licences.

### **4. DECISIONS WHICH WILL BE TAKEN BY THE LICENSING SUB-COMMITTEE (TAXIS)**

To determine whether it is necessary to suspend the issuing of:

- Hackney carriage (driver and vehicle) licences.
- Private hire (driver/vehicle/operator) licences.

\* *NB:*

*All decisions relating to suspending licences will be taken by the Head of Community Services unless the Chair of the Licensing Committee specifically requests that a Licensing Sub-Committee (Taxis) meeting be called.*

### **5. DOCUMENTS RELATED TO THE LICENSING SUB-COMMITTEE (TAXIS)**

- Council Officer Responsibilities and Decision Making
- Licensing Committee meeting documents from 17 August 2022.

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# Agenda Item 12

## OVERVIEW AND SCRUTINY COMMISSION (COMMISSION/OSC)

(11 Members – who must not be a member of the Cabinet)

### 1. PURPOSE

The Council is required to have an Overview and Scrutiny function which:

- a) Provides 'critical friend' challenge and holds to account the Executive decision makers (i.e. the Leader, the Cabinet, Cabinet Members and Senior Officers).
- b) Drives improvement, finds efficiencies and new ways of delivering services.
- c) Enables the voice and concerns of the public and its communities to be heard.
- d) Will be carried out by Councillors in an apolitical and non-partisan manner, leading and owning the scrutiny process.

### 2. RESPONSIBILITIES OF THE COMMISSION

To discharge the scrutiny related functions under the:

- Local Government Act 1972.
- Crime and Disorder Act 1998.
- Local Government Act 2000.
- Health and Social Care Act 2001.
- Local Government Act 2003.
- Police and Justice Act 2006.
- Local Government and Public Involvement in Health Act 2007.
- Local Democracy, Economic Development and Construction Act 2009.
- Crime and Disorder (Overview and Scrutiny) Regulations 2009.
- Localism Act 2011.

*NB: Some scrutiny powers are not applicable at district level, and can only be undertaken by Unitary, London and Metropolitan Boroughs or County Council scrutiny arrangements.*

### 3. ROLE AND SCOPE OF THE COMMISSION

The Commission will:

- a) Question, review and/or scrutinise decisions and policy objectives of:
  - Executive decision makers (i.e. the Leader, the Cabinet and delegated officers).
  - Committees (with the exception of regulatory Committees).
  - Officers (where appropriate).in relation to their performance targets and/or particular service areas.
- b) Question, review and/or scrutinise decisions and performance of:
  - Executive decision makers (i.e. the Leader, the Cabinet and delegated officers).
  - Committees (with the exception of regulatory Committees).
  - Officers (where appropriate).in relation to particular initiatives, issues or projects.

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- c) Monitor and review the internal and external delivery and performance of services (including the Council's Transformation Programme).
- d) Receive the Local Government Ombudsman Annual Review Letter.
- e) Scrutinise the development of the Budget and Policy Framework Documents.
- f) Receive and review budget monitoring and service information.
- g) Make recommendations arising from the outcome of the scrutiny process to the Cabinet, the appropriate Committee or the Full Council in connection with the discharge of any functions.
- h) Set up Scrutiny Panels to assist the Commission in its work.
- i) Appoint the Council's representative to the West Sussex Health and Adult Social Care Scrutiny Committee (HASCSC).
- j) Review and scrutinise any issue of local concern affecting the Borough but for which the Council is not directly responsible (where appropriate).
- k) Review and scrutinise the activities and performance of an outside and public body by inviting them to address the Commission or its Panels (a report may be requested to support this).
- l) Question and gather evidence from any person (with their consent).
- m) Liaise with other external organisations operating in the area to ensure that the interests of local people are enhanced by collaborative working.
- n) Have regard to any overview and scrutiny matter prescribed by legislation or regulation.



# Agenda Item 13

## **PLANNING COMMITTEE**

(11 Members)

### **1. PURPOSE**

To determine applications for planning permission, Listed Building Consent, Conservation Area Consent, Tree Preservation Orders, works to protected trees, advertisement consent, reserved matters, applications for permission in principle and agree measures for the Enforcement of Planning Control, consultation responses from other bodies and agreements made under Section 106 of the Town and Country Planning Act 1990.

There is a split in the delegation of development management functions between the Head of Economy and Planning and the Planning Committee. More information on the functions delegated to the Head of Economy and Planning and those functions reserved for the Planning Committee can be found in this section and the Council Officer Responsibilities and Decision Making section of this Constitution.

### **2. RESPONSIBILITIES OF THE PLANNING COMMITTEE**

To discharge those functions falling within the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulations 2 and 3 and Schedule 1 Part A Paragraphs 5-31, Part I Paragraphs (46-47A) and Schedule 2 Paragraph 16 and as may be amended.

To exercise the powers and functions of the Council as a Local Planning Authority under the:

- Antisocial Behaviour Act 2003.
- Community Infrastructure Levy Regulations 2010 – as amended.
- Hedgerow Regulations 1997.
- Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
- Planning (Hazardous Substances) Act 1990.
- Planning and Compensation Act 1991.
- Planning and Compulsory Purchase Act 2004.
- Planning Act 2008.
- Town and Country Planning Act 1990 – as amended.
- Town and Country Planning (Brownfield Land Register) Regulations 2017.

### **3. DECISIONS WHICH WILL BE TAKEN BY THE PLANNING COMMITTEE**

All of the responsibilities of the Planning Committee (detailed in Paragraph 2) are delegated to the Head of Economy and Planning\* except the following which are reserved to the Committee:

- a) Where a Councillor calls for the application or enforcement action to be determined by the Committee.

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- b) Where an application has been submitted by or on behalf of the Council, either alone or jointly with another person (including those premises managed on the Council's behalf i.e. The Hawth, K2 Crawley and Tilgate Forest Golf Centre).
- c) Where an application has been submitted by, or on behalf of, a Councillor, an officer or a member of their immediate family.
- d) Any application that is defined as a departure application under the Town and Country Planning (Development Management Procedure) (England) Order 2015, where the recommendation of the Head of Economy and Planning would represent a departure from the Local Plan. (Any such decision to grant planning permission shall be submitted to the Full Council for determination).
- e) The application is for a major development (as defined under the Development Management Procedure Order) of any kind.
- f) Where four or more persons in different households make a written representation which raises a valid material planning consideration within the consultation period and is inconsistent with the Head of Economy and Planning's recommendation.
- g) Where one or more residents' association, amenity group, conservation group or statutory consultee make a written representation which raises a valid material planning consideration within the consultation period and is inconsistent with the Head of Economy and Planning's recommendation.
- h) A recommendation to the Full Council on the written representation in respect of a Development Consent Order Application Process which provide an overarching summary view of the key matters of importance to the Council (where the Council is a host authority) subject to a scheduled Full Council meeting aligning with the response timescales set by the Planning Inspectorate, otherwise the matter will be solely dealt with by the Planning Committee.
- i) Where an objection has been received to the making of a Tree Preservation Order and the Head of Economy is minded to confirm the Tree Preservation Order.
- j) Power to approve or decline sites for entry into Part 2 of the Brownfield Land Register.
- k) Power to serve a completion notice.
- l) Power to require the discontinuance of a use of land under Section 102 of the Town and Country Planning Act, 1990.
- m) Powers in relation to common land and town or village greens, in relation to registration, enforcement, protection and prosecution under powers in relation to enforcement against unlawful works under Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961), Section 41 of the Commons Act 2006, Sections 45(2)(a) and 45(2)(b) of the Commons Act 2006.

**NB:**

- *For clarification, where this section makes reference to an "application", this relates to any type of planning application (including consultations from West Sussex County Council and other statutory undertakers) with the exception of householder notifications, prior approval applications (excluding telecoms), certificates of lawfulness, non material amendments, requests for Screening and Scoping Opinions, Section 211 Notices and those requesting a discharge of planning permission.*

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\* NB:

- *The Head of Economy and Planning may further delegate these matters as they see fit.*
- *The Head of Economy and Planning may decline to exercise any of the above functions in a particular case and must then refer the matter promptly to the Committee for consideration.*

## **4. DOCUMENTS RELATED TO THE PLANNING COMMITTEE**

- Code of Conduct on Planning Matters.
- Speaking at Planning Committee Procedure Rules.
- Council Officer Responsibilities and Decision Making.

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## THE “EXECUTIVE” FUNCTION (THE LEADER AND THE CABINET)

(The current Cabinet - 8 Members, including the Leader)

### 1. PURPOSE

The Council uses a ‘Strong Leader’ model of Governance, which means all the “Executive” functions are bestowed upon the Leader of the Council (“the Leader”). The “Executive” functions are defined as **all** functions which are **not** the responsibility of any other part of the local authority, whether by law or defined within this Constitution.

### 2. THE LEADER AND CABINET MEMBERS

#### 2.1. Appointment of the Leader of the Council (the “Leader”)

The Leader will be elected for a **four year term of office** (*or the remainder of their term of office as a Councillor*), by a simple majority vote, at an Annual Full Council (or its subsequent meeting if the Full Council fails to elect a Leader). Their term of office will start on the day they are elected as Leader.

They will hold office until the Annual Full Council following either:

- The end of their term of office as Leader.
- Their non-re-election as a Councillor.

Unless:

- a) They resign from office.
- b) They cease to be a Councillor.
- c) The Full Council passes a resolution to remove the Leader from office at an earlier date.

If the Full Council passes a resolution to remove the Leader (under Paragraph 2.1(c)), a new Leader should be elected at the same meeting. In the event of there being a vacancy in the office of Leader, the Full Council shall elect a new Leader at its next meeting.

#### 2.2. The Requirement to Form a Cabinet

The Leader is required to form a Cabinet (“the Cabinet”). The Cabinet will consist of the Leader, together with between two and nine Councillors (Cabinet Members), one of which must be the Deputy Leader. Neither the Mayor nor the Deputy Mayor of the Council may be appointed to the Cabinet.

#### 2.3. Appointment of the Deputy Leader

The Leader must appoint one Cabinet Member as Deputy Leader. The Deputy Leader will hold office until the end of the Leader’s term of office, unless the Deputy:

- a) Resigns from office.
- b) Ceases to be a Councillor.
- c) Is removed from office by the Leader.

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Where the Deputy Leader is removed from office under Paragraph 2.3(c), the Leader must deliver written notice of that removal to the Head of Governance, People & Performance. The removal will take effect immediately after receipt of that notice.

In the event of a vacancy, the Leader must appoint another Deputy Leader.

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

If, for any reason, both the Leader and Deputy Leader are unable to act or both positions become vacant, the Cabinet must act in the Leader's absence or must arrange for a Cabinet Member to do so.

## 2.4. **Appointment of the other Cabinet Members**

The Leader must appoint their Cabinet. Those Cabinet Members will hold office until the end of the Leader's term of office, or until the Cabinet Member:

- a) Resigns from office.
- b) Ceases to be a Councillor.
- c) Is removed from office by the Leader.

## 2.5. **Cabinet Portfolios**

The Cabinet will comprise of the following:

- Leader of the Council.
- Cabinet Member for Community Engagement and Culture.
- Cabinet Member for Environment, Sustainability and Climate Change.
- Cabinet Member for Housing.
- Cabinet Member for Leisure and Wellbeing.
- Cabinet Member for Planning and Economic Development.
- Cabinet Member for Public Protection.
- Cabinet Member for Resources.

*NB: The role of Deputy Leader will be allocated to one of the Cabinet Members listed above.*

## 2.6. **Functions of the "Collective" Cabinet**

A significant function of the Cabinet is to exercise collective responsibility for its decisions. The Cabinet will usually take key decisions, however Cabinet Members may also take key decisions in certain circumstances. The principles relating to those circumstances are detailed under the "Delegation" Paragraph below.

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## 3. LEADER AND DELEGATION

The Leader (with their Cabinet) will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The Leader will determine a Scheme of Delegation for the discharge of the Cabinet (Executive) functions to some (or all) of the following:

- Themselves.
- The Cabinet (or a Sub-Committee of it).
- An individual Cabinet Member(s)' area of responsibility (portfolio).
- An officer, normally the Chief Executive.
- An Area Committee.
- Another Local Authority(ies), via Joint Arrangements.

The Head of Governance, People & Performance will, on behalf of the Leader, maintain a written record of delegations made by the Leader. Those delegations are set out below and in the Cascade and Generic Delegations (contained within the Council Officer Responsibilities and Decision Making section of this Constitution).

### 3.1. The Leader's Scheme of Delegation

At the Annual Meeting of the Full Council, the Leader will present a written record of delegations made by them. This document will contain the following information:

- The names and wards of the Councillors appointed to the Cabinet and their individual portfolios.
- The extent of any delegations to Cabinet Members individually, including details of any limits to their authority.
- The terms of reference and constitution of such Cabinet Committees as the Leader appoints, and the names of the Cabinet Members appointed to them.
- The nature and extent of any delegation to area Committees, any other authority or any joint arrangements, and the names of the Cabinet Members appointed to any joint Committee.
- The nature and extent of any delegation to officers with details of any limits on that delegation, and the title of the officer to whom the delegation is made.

Subject to the Leader's powers to delegate Cabinet responsibilities, the Council's Scheme of Delegation for non-Cabinet functions will be subject to adoption by the Full Council and may only be amended by the Full Council.

### 3.2. Principles of Delegation to Cabinet Members

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 key decisions, however Cabinet Members may also take key decisions where the following 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.

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- 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 the Cabinet for a decision.

### 3.3. **Sub-Delegation of Cabinet Functions**

- Where the Cabinet, a Committee of the Cabinet or an individual Cabinet Member is responsible for a Cabinet function, they may delegate further to an Area Committee, Joint Arrangements or an officer.
- Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an officer.
- Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### 3.4. **Amending the Leader's Scheme of Delegation**

The following will apply in relation to any amendments to the Leader's Scheme of Delegation:

- a) The Leader may amend the Scheme of Delegation relating to Cabinet functions at any time during the year. To do so, the Leader must give written notice to the Head of Governance, People & Performance and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, when it takes effect 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 Councillors' Information Bulletin setting out the changes made by the Leader, following which it shall replace any previous version.
- b) 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.

## **4. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (CABINET)**

4.1. Along with the "Executive" functions the following functions are local choice functions which have been allocated to the Cabinet in accordance with Schedule 2 of the Local Authorities (Functions and Responsibilities) England Regulations 2000 as amended:

- a) The determination of housing related appeals.
- b) Any function relating to contaminated land.
- c) The discharge of any function relating to the control of pollution or the management of air quality.
- d) The service of an abatement notice in respect of a statutory nuisance.
- e) The passing of a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
- f) The inspection of the authority's area to detect any statutory nuisance.
- g) The investigation of any complaint as to the existence of a statutory nuisance.



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- h) The appointment of any individual to any:
- Office other than an office in which they are employed by the Council.
  - Body other than the authority or a joint Committee of two or more authorities.
  - Committee or Sub-Committee of such a body, and the revocation of any such appointment.

*NB: Appointment to outside bodies in relation to Cabinet functions are detailed under each individual Cabinet Member Portfolio Responsibilities within this Section.*

- i) The making of agreements with other local authorities for the placing of officers at the disposal of those local authorities.

4.2. Any delegation of these local choice functions by the Leader will be set out in the Cascade and Generic Delegation Scheme.

4.3. Allocation of any future local choice functions, or the equivalent, will be at the discretion of the Leader.

## **5. FUNCTIONS THAT SHALL NOT BE THE RESPONSIBILITY OF THE LEADER AND THEIR CABINET**

### **5.1. Regulatory Functions**

The Leader and their Cabinet will not be responsible for any of the functions detailed in Regulation 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 – as amended.

### **5.2. Recommendations to the Full Council**

The Cabinet is responsible for producing draft proposals on all aspects of the following documents prior to their adoption and approval by the Full Council:

- a) Approval and adoption of the Budget and Council Tax - which includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- b) Approval or adoption of the Policy Framework Documents (PFDs) and selected Local Choice Functions (LCFs), which the Full Council has agreed should be undertaken by itself rather than the Cabinet.
- The PFDs are the following plans and strategies:
    - Statement of Licensing Policy.
    - Statement of Gambling Policy.
    - Crime and Disorder Reduction Strategy (Community Safety Strategy).
    - Development Plan Documents, including the Local Plan, for Submission Consultation and Submission, and Adoption.
  - The LCFs are the following plans and strategies:
    - The Council's Corporate Plan.
    - Budget Strategy.
    - The Annual Treasury Management Strategy.
    - Housing Revenue Account Business Plan.
    - Housing Allocations Scheme.
    - Homelessness Strategy.
    - Tenancy Strategy.

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- c) *Proposals* to accept a delegation of an “Executive” function from another local authority under Section 101 of the Local Government Act 1972 and other relevant Executive Function Regulations.

*N.B arrangements to discharge functions under the above legislation will be the sole responsibility of the Cabinet.*

## 6. CABINET MEMBER PORTFOLIO RESPONSIBILITIES

The responsibilities and delegations to Cabinet Members will include, but not be limited to, those set out within this Paragraph (subject to the exercise of such consultation processes as the Cabinet may agree for particular functions).

### 6.1. Responsibilities of All Cabinet Members

All Cabinet Members, including the Leader, hold the following responsibilities for the service areas within their portfolio:

- a) Act as a spokesperson for the Council on services and functions within their portfolio areas to promote the interests and reputation of the Council.
- b) Provide a political steer through overseeing the development of policy and strategy (with the appropriate Chief Officer) and thus be politically accountable for their portfolio.
- c) Work with the Leader and the Cabinet to develop a Corporate Plan and other corporate strategies and policies which the majority group(s) wish(es) to pursue.
- d) Monitor the budgets, delivery and performance of their services, including major contracts and projects.
- e) Determine priorities, and where appropriate agree the re-allocation of resources, for service delivery, in conjunction with the relevant Chief Officer (in accordance with the Policy Framework Documents and the Budget).
- f) Agree an appropriate response to petitions, in accordance with the Council’s Petitions Scheme.
- g) A Cabinet Member may refer any matter within their portfolio to the Leader or the Cabinet for a decision.

If a Cabinet Member is unable to act, the Leader may act on their behalf or authorise another Cabinet Member to do so.

### 6.2. The Leader of the Council

6.2.1. Key Roles: They will determine the key policies of the Council and in particular, carry out responsibilities with regard to the following roles and areas:

- a) Leader of the Council and Chair of the Cabinet.
- b) Strategic and political lead as the spokesperson for the majority political group(s), liaising regularly with the Chief Executive.
- c) Initiating and developing corporate strategies and policies which the majority group(s) wish(es) to pursue.
- d) Represent the Council and act as spokesperson with neighbouring local authorities, regional partners and other partners, and in doing so build good relationships and promote the interests and reputation of the Council and the Borough.

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- 6.2.2. Service Area Responsibilities: They will carry out responsibilities with regards to the following service areas:
- a) The overall staffing of the Council.
  - b) Governance.
  - c) Mayoralty and ceremonial matters.
  - d) Communications.
  - e) Finance (rating, business rates, council tax, funds and investment management, the Budget, borrowing, fraud).
  - f) Finance and Procurement (risk management and insurance matters).
  - g) Council owned commercial properties.
  - h) Council owned garages (non-Crawley Homes).
  - i) Civil contingencies (including emergency planning).
  - j) Asset Management.
  - k) Shared Prosperity Fund.
- 6.2.3. Policy and Strategy Responsibilities: They will initiate, oversee, and where applicable, approve the development of plans, statutory notices and policies across the Council, ensuring appropriate consultation occurs on all such proposals, including:
- a) The development of policy and strategy for the Council, and its expression in the Corporate Plan with the Chief Executive (and in liaison with the appropriate Cabinet Member).
  - b) Asset Management Strategy (including corporate estate).
- 6.2.4. Specific Delegations: They hold, but are not limited to, the following specific delegations:
- a) Approval of the Council's Debt Management Strategy.
  - b) Approval of the Council Tax Base.
  - c) Approval of the NNDR1 (National Non-Domestic Rates Return).
  - d) Authority to make appointments to Outside Bodies Relating to Cabinet functions.
  - e) Authority to approve the transfer of residual land on terms proposed by the Asset Manager.
  - f) 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.
  - g) Approval of feasibility scheme and final implementation proposals for neighbourhood centre improvements which are in accordance with the Capital Programme.
  - h) 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:
    - (i) 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

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Strategy 2014/15-2018/19) to the Cabinet and the Full Council on 10 and 24 July 2013 respectively.

- (ii) 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 the Full Council on 12 and 26 February 2014.
- i) 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.
- j) Authority to approve the transfer of Section 106 monies between £100,000 and £500,000 to West Sussex County Council which have been collected specifically for spend categories within the County Council remit.
- k) Determination of applications for landlord's consent for changes of use on neighbourhood shopping parades and the rest of the commercial estate (where one or more Ward Member raises an objection to the proposal or where the Cabinet Member for Planning and Economic Development has a conflict of interest the Leader will take the decision).  
*NB. This delegation relates to asset management only.*
- l) Approval of minor amendments to the Local Discretionary Rate Relief Scheme.
- m) Approval of the Modern Slavery and Human Trafficking Transparency Statement (report [FIN/539](#) refers).
- n) 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.
- o) Determination of applications for landlord's consent for changes of use on neighbourhood shopping parades and the rest of the commercial estate (where one or more Ward Member raises an objection to the proposal). *NB. This delegation relates to asset management only.*

6.2.5. Outside Bodies: They will be a member of the following Cabinet appointed outside bodies:

- a) Local Government Association (General Assembly).
- b) District Councils Network.
- c) Crawley Town Deal Board
- d) Greater Brighton Economic Board (GBEB).

*NB: All Cabinet Members may be substitute for another Cabinet Member on any of the Cabinet appointed outside bodies.*

## 6.3. Deputy Leader

6.3.1. The Leader has appointed the Cabinet Member for Planning and Economic Development as Deputy Leader of the Council.

## 6.4. Cabinet Member for Community Engagement and Culture

6.4.1. Service Area Responsibilities: They will carry out responsibilities with regards to the following service areas:

- a) Community and neighbourhood development.
- b) Community engagement.

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- c) Grants to voluntary bodies.
- d) Social inclusion and mobility.
- e) Town Twinning.
- f) Issues relating to travellers.
- g) Cultural & Heritage matters.
- h) Children and young people (along with relevant partner organisations) including responsibilities defined under Section 11 (Safeguarding) of the Children's Act 2004.
- i) Armed Forces Covenant.
- j) Arts & Culture (including Crawley Museum).

6.4.2. Policy and Strategy Responsibilities: They will oversee, and where applicable, approve the development of plans, statutory notices and policies within the above service areas, ensuring appropriate consultation occurs on all such proposals, including:

- a) Social Inclusion Strategy.
- b) Fostering interest in Local Government.
- c) Cultural & Heritage Strategy (in consultation with, the Cabinet Member for Planning and Economic Development).

6.4.3. Specific Delegations: They hold, but are not limited to, the following specific delegations:

- a) Review the allocation of the small grants budget on an annual basis and amend when necessary (jointly with the Head of Community Services).
- b) Award funding for strategic grants in accordance with paragraph 5.22 of report HCS/029.

6.4.4. Outside Bodies: They will be a member of the following Cabinet appointed outside bodies:

They are not specifically appointed to any outside bodies.

*NB. All Cabinet Members may be substitute for another Cabinet Member on any of the Cabinet appointed outside bodies.*

## 6.5. **Cabinet Member for Environment, Sustainability and Climate Change**

6.5.1. Service Area Responsibilities: They will carry out responsibilities with regards to the following service areas:

- a) Gatwick Airport Port Health.
- b) Public (external) health and safety.
- c) Environmental Health Service.
- d) Waste management, refuse and recycling.
- e) Streetscene (including grass cutting).
- f) Public conveniences.
- g) Council Owned Car Parks.
- h) Climate change and sustainability.

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- i) Cemeteries and burials.
- j) Flood prevention and land drainage.

6.5.2. Policy and Strategy Responsibilities: They will oversee, and where applicable, approve the development of plans, statutory notices and policies within the above service areas, ensuring appropriate consultation occurs on all such proposals, including:

- a) Carbon Reduction Strategy.
- b) Climate Change Strategy.
- c) To work collectively with the Cabinet Member for Housing, the Cabinet Member for Planning and Economic Development and the Cabinet Member for Resources (via joint Briefing meetings) in relation to the Town Hall site redevelopment.

6.5.3. Specific Delegations: They hold, but are not limited to, the following specific delegations:

- a) The approval of feasibility schemes and the implementation of proposals for residential environmental improvements which are in accordance with the Capital Programme.
- b) Naming and numbering of streets.
- c) 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 the capital programme.

6.5.4. Outside Bodies: They will be a member of the following Cabinet appointed outside bodies:

- a) Gatwick Joint Local Authorities.
- b) Inter Authority Waste Group.
- c) Gatwick Airport Consultative Committee (GATCOM).

*NB. All Cabinet Members may be substitute for another Cabinet Member on any of the Cabinet appointed outside bodies.*

## 6.6. **Cabinet Member for Housing**

6.6.1. Service Area Responsibilities: They will carry out responsibilities with regards to the following service areas:

- a) Crawley Homes.
- b) Strategic Housing (including statutory functions such as homelessness and houses in multiple occupation but excluding private sector housing regulation).
- c) Disabled Facility Grants.
- d) Council tax reduction and housing benefit.
- e) Council Owned Garages (Crawley Homes).
- f) Housing Revenue Account.
- g) Stock decarbonisation and energy efficiencies.

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6.6.2. Policy and Strategy Responsibilities: They will oversee, and where applicable, approve the development of plans, statutory notices and policies within the above service areas, ensuring appropriate consultation occurs on all such proposals, including:

- a) Housing Strategy.
- b) Allocations Policy.
- c) To work jointly with the Cabinet Member for Planning and Economic Development to meet the housing needs of the Borough.
- d) Liaising and joint working with Social Services and health (housing).
- e) To work collectively with the Cabinet Member for Environmental Services and Sustainability, the Cabinet Member for Planning and Economic Development and the Cabinet Member for Resources (via joint Briefing meetings) in relation to the Town Hall site redevelopment.

6.6.3. Specific Delegations: They hold, but are not limited to, the following specific delegations:

- a) Power to vary the rent of dwellings and garages held on the Housing Revenue Account.
- b) 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 or housing policy may justify any variation to the percentage and/or tenure mix being sought.
- c) 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.
- d) Approval of amendments to the Crawley Homes Under-Occupation Incentive Policy.
- e) Responding to the Government's Welfare Reform agenda (with the Leader).

6.6.4. Outside Bodies:

They are not specifically appointed to any outside bodies.

*NB. All Cabinet Members may be substitute for another Cabinet Member on any of the Cabinet appointed outside bodies.*

6.7. **Cabinet Member for Leisure and Wellbeing**

6.7.1. Service Area Responsibilities: They will carry out responsibilities with regards to the following service areas:

- a) Health and Wellbeing (local and strategic issues).
- b) Sport and fitness.
- c) Parks, gardens and open spaces (including allotments, trees and recreational space).
- d) Play service.
- e) Community centres.
- f) The Hawth and K2 Crawley/ Bewbush leisure.

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6.7.2. Policy and Strategy Responsibilities: They will oversee, and where applicable, approve the development of plans, statutory notices and policies within the above service areas, ensuring appropriate consultation occurs on all such proposals, including:

- a) Implementation of the Green Space Strategy (formulation of this Strategy remains with the Cabinet Member for Planning and Economic Development).

6.7.3. Specific Delegations: They do not currently hold any specific delegations.

6.7.4. Outside Bodies: They will be a member of the following Cabinet appointed outside body:

- a) Gatwick Greenspace Partnership.

*NB. All Cabinet Members may be substitute for another Cabinet Member on any of the Cabinet appointed outside bodies.*

## 6.8. **Cabinet Member for Planning and Economic Development**

6.8.1. Service Area Responsibilities: They will carry out responsibilities with regards to the following service areas:

- a) Town and Country Planning (including local planning policy).
- b) Transport Planning (in liaison with relevant partners).
- c) Economic Development and Regeneration (including education and skills, Town Centre management and Manor Royal liaison).

6.8.2. Policy and Strategy Responsibilities: They will oversee, and where applicable, approve the development of plans, statutory notices and policies within the above service areas, ensuring appropriate consultation occurs on all such proposals, including:

- a) Gatwick Airport, Manor Royal and the Town Centre.
- b) Green Space Strategy (implementation of this Strategy remains with the Cabinet Member for Wellbeing).
- c) Local Plan and related documents.
- d) Liaising with West Sussex County Council and neighbouring local authorities on planning and highways matters.
- e) To work jointly with the Cabinet Member for Housing to meet the housing needs of the Borough.
- f) Economic Development, Employment and Skills.
- g) Transport related policies and documents.
- h) To work collectively with the Cabinet Member for Housing, the Cabinet Member for Environmental Services and Sustainability and the Cabinet Member for Resources (via joint Briefing meetings) in relation to the Town Hall site redevelopment.

6.8.3. Specific Delegations: They hold, but are not limited to, the following specific delegations:

- a) The adoption of revised versions of the Local Development Scheme (LDS), including the adoption of associated planning documents and Supplementary Planning Documents as defined by the LDS.



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6.8.4. Outside Bodies: They will be a member of the following Cabinet appointed outside bodies:

- a) Crawley Town Deal Board.
- b) Gatwick Joint Local Authorities.
- c) Manor Royal Management Group.
- d) Manor Royal BID Board.
- e) Sussex Building Control.
- f) Town Centre Partnership. BID Board.
- g) West Sussex and Greater Brighton Strategic Planning Board.
- h) Bus Company Meetings.

*NB. All Cabinet Members may be substitute for another Cabinet Member on any of the Cabinet appointed outside bodies.*

## 6.9. **Cabinet Member for Public Protection**

6.9.1. Service Area Responsibilities: They will carry out responsibilities with regards to the following service areas:

- a) Licensing.
- b) Community Wardens.
- c) Civil Enforcement Officers.
- d) Off Street Parking and Parking Orders.
- e) Private sector housing regulation.
- f) Community safety and anti-social behaviour (including improvement schemes and liaison with emergency services).
- g) Nuisance and Anti-Social Behaviour (NASB).
- h) Community cohesion.
- i) Prevent duties.

6.9.2. Policy and Strategy Responsibilities: They will oversee, and where applicable, approve the development of plans, statutory notices and policies within the above service areas, ensuring appropriate consultation occurs on all such proposals, including:

- a) Licensing Policy.
- b) Gambling Policy.
- c) Prevent Strategy.
- d) Crime Reduction and Community Safety Strategies.
- e) Public Space Protection Orders (PSPOs).

6.9.3. Specific Delegations: They hold, but are not limited to, the following specific delegations:

- a) The approval of criteria for the prioritisation of community safety improvement schemes.
- b) The approval of an annual programme of community safety schemes subject to the proposals being achievable within the limits of the approved financial budget.

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6.9.4. Outside Bodies: They will be a member of the following Cabinet appointed outside bodies:

- a) Patrol Adjudication Committee.
- b) Crawley Prevent Board.
- c) Safer Crawley Partnership Executive.
- d) Sussex Police and Crime Panel (member).

*NB. All Cabinet Members may be substitute for another Cabinet Member on any of the Cabinet appointed outside bodies.*

## 6.10. **Cabinet Member for Resources**

6.10.1. Service Area Responsibilities: They will carry out responsibilities with regards to the following service areas:

- a) Legal.
- b) People HR and Organisational Development (including Corporate Health and Safety).
- c) Performance including Corporate dashboard, Customer complaints.
- d) Information Governance - Freedom of Information and Data Protection/ GDPR.
- e) Governance and Democracy, including Elections, and Councillors' services (including equipment, training and support).
- f) Strategic Risk Management.
- g) Audit.
- h) Current building management/office accommodation.
- i) Contact Centre.
- j) Shared service provision.
- k) Information and Communication Technology.
- l) Transformation Programme and service improvements.

6.10.2. Policy and Strategy Responsibilities: They will oversee, and where applicable, approve the development of plans, statutory notices and policies within the above service areas, ensuring appropriate consultation occurs on all such proposals, including:

- a) Human Resources Strategy.
- b) Equal Opportunities Policy and Corporate Equality Statement.
- c) Digital, IT Strategy, Council Website, channel shift programmes e.g. MyCrawley.
- d) To work collectively with the Cabinet Member Environmental Services and Sustainability, the Cabinet Member for Housing and the Cabinet Member for Planning and Economic Development (via joint Briefing meetings) in relation to the Town Hall site redevelopment.

6.10.3. Specific Delegations: They hold, but are not limited to, the following specific delegations:

- a) To approve the Corporate Equality Statement.
- b) Approval of the Council's Risk Management Strategy.

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- c) Agree the annual cycle of meetings for implementation (in consultation with the Head of Governance, People & Performance).

## 6.10.4. Outside Bodies:

They are not specifically appointed to any outside bodies.

*NB. All Cabinet Members may be substitute for another Cabinet Member on any of the Cabinet appointed outside bodies.*

## **7. CABINET APPOINTED OUTSIDE BODIES NOT ALLOCATED TO A SPECIFIC CABINET MEMBER PORTFOLIO**

- 7.1. Appointment to the following Cabinet appointed Outside Bodies have not been allocated to a specific Cabinet Member portfolio and will be determined by the Leader / Cabinet:

- The Cycling Forum
- Gatwick Airport Noise Management Board
- Gatwick Airport Noise Management Board Community Forum
- High Weald Area of Outstanding Natural Beauty Advisory Committee
- Strategic Aviation Special Interest Group

Any other Cabinet appointed Outside Bodies not allocated to a specific Cabinet Member portfolio.

## **8. DOCUMENTS RELATED TO THE LEADER AND CABINET**

- Cabinet Procedure Rules.
- The Full Council Functions.
- Petition Scheme.
- Council Officer Responsibilities and Decision Making.

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## **EMPLOYEES' JOINT CONSULTATIVE FORUM (EJCF)**

(All Cabinet Members, Unison Branch Secretary and nominated Unison Representative/s)

### **1. PURPOSE**

The Employees' Joint Consultative Forum ("the Forum") will facilitate consultation between the Council and its officers to maintain and improve relations between both sides.

A meeting of the Forum may be called by either side as and when suitable issues arise for the Forum to consider.

### **2. RESPONSIBILITIES OF THE EMPLOYEES' JOINT CONSULTATIVE FORUM**

The Forum is not a decision making body but may make recommendations to the Cabinet when appropriate.

The responsibilities of the Forum are to:

- a) Develop a full understanding and interest in the work of the Council to enable all parties to work constructively in developing and providing an efficient service.
- b) Ensure that officers are well informed about current issues, the economic situation and activities of the Council, including any future proposals.
- c) Ensure the provision of information and consultation on any proposed change or development of services/structures which would potentially have employment implications.
- d) Inform and consult on decisions which are likely to lead to substantial changes in Terms and Conditions or contracts of employment (including local conditions of service, training arrangements and implications of national agreements).
- e) Discuss issues arising from the operation of agreed procedures and conditions, and assisting in the prevention of misunderstanding.

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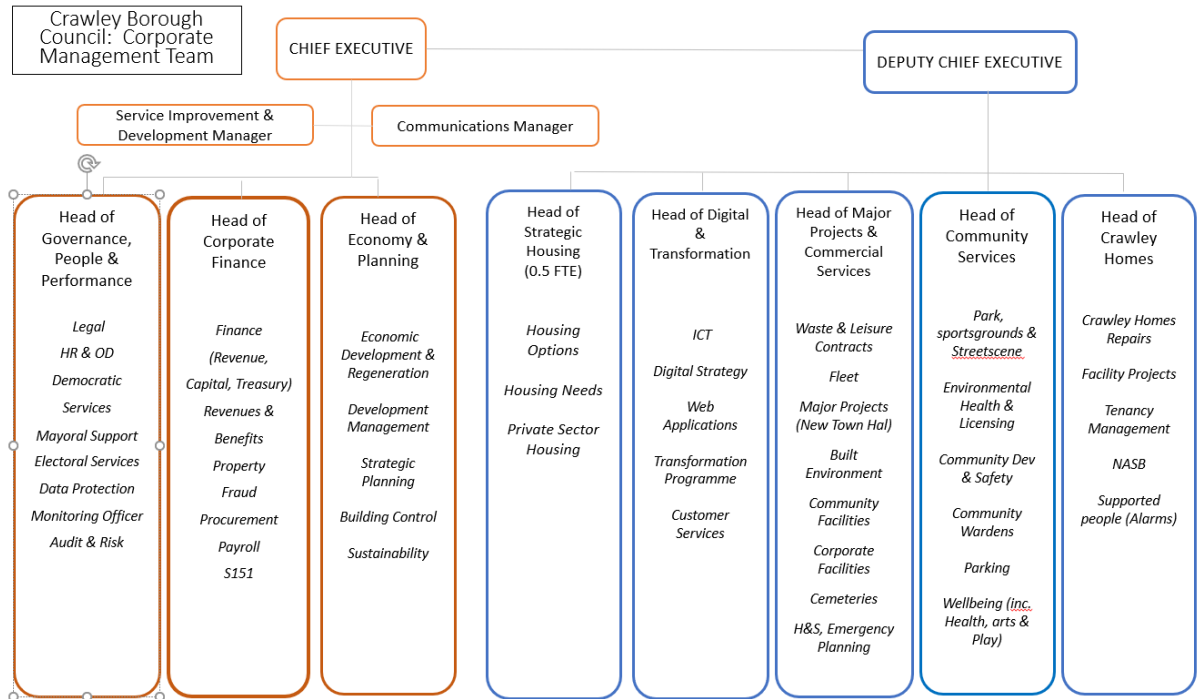
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## COUNCIL OFFICER RESPONSIBILITIES AND DECISION MAKING

### 1. INTRODUCTION AND MANAGEMENT STRUCTURE

1.1. This section will detail the senior management structure of the Council, identifying the Chief Officers, Proper Officers and Statutory Officers along with their responsibilities.

1.2. **Chief Officers:** The definition of a Chief Officer for the purposes of any interpretation in this Constitution is Chief Executive, the Deputy Chief Executive and Heads of Services, as shown in the Chief Executive's Corporate Management (CMT) Team structure below.



1.3. All Chief Officers have responsibility for the areas identified in the chart above. These responsibilities have been cascaded down to specific Chief Officers by the Chief Executive. These responsibilities can be delegated further through each Chief Officer's sub-delegation scheme. More information regarding the cascade can be found in this Constitution.

1.4. Specific responsibilities assigned to individual Chief Officers are detailed in the following paragraphs.

1.5. **Statutory Officers:** The Council is required to appoint the following Statutory Officers:

- Head of Paid Service (Chief Executive).
- Monitoring Officer (Head of Governance, People & Performance).
- Section 151 Officer (Head of Corporate Finance).

The Council has a legal duty to provide the Monitoring Officer and Section 151 Officer with such resources that, in their opinion, are sufficient to allow their duties to be performed.

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- 1.6. **Proper Officers:** As referred to in law, the term Proper Officer is a defined role/individual relating to specific responsibility. The Chief Executive, or in their absence the Monitoring Officer, is authorised to act as the Council's Proper Officer for the purpose of any function not otherwise identified in the following paragraphs or elsewhere in the Constitution.

## 2. RESPONSIBILITIES OF THE CHIEF EXECUTIVE

Post	Designation
Chief Executive	Head of Paid Service Returning Officer Electoral Registration Officer

### 2.1. In their role as Chief Executive they will:

- a) Have overall responsibility for corporate and operational management (including overarching management responsibility for all employees).
- b) Determine and publicise a description of the departmental structure of the Council showing the management structure and deployment of officers.
- c) Have overall responsibility for the services areas of the following officers:
  - Deputy Chief Executive.
  - Head of Corporate Finance.
  - Head of Economy and Planning.
  - Head of Governance, People & Performance.
- d) Prepare the Plans and Strategies which comprise the Policy Framework Documents and other key corporate policies as appropriate for agreement by the Cabinet and the Full Council.
- e) Be authorised to discharge any function of the Council in relation to those corporate/strategic responsibilities and departmental supervisory responsibilities allocated to them by the Council.
- f) Represent the Council on partnership and external bodies as required by statute or the Council.
- g) In case of urgency or an emergency, take any decision on behalf of the Council in accordance with the relevant Urgency Procedures (as set out in the Full Council Procedure Rules/Access to Information Procedure Rules within this Constitution).
- h) Hold specific responsibilities relating to the Employment Panel, namely:
  - i) Chief Executive in consultation with the Leader:  
Action in accordance with any disciplinary code or capability procedure for the suspension from duty of non-statutory Chief Officers.
  - ii) Chief Executive:  
Authority to agree a Settlement Agreement in circumstances where an employee of the Council has made a claim or has a potential claim against the Council. In addition, where the Settlement Agreement



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includes an amount of financial compensation, the Chief Executive, in consultation with the Leader of the Council, has delegated authority to agree the amount following consultation with the Head of Governance, People & Performance (where the Chief Executive is the subject of the agreement then the Section 151 Officer will replace them in the authorisation process).

2.2. In their Statutory Officer role as Head of Paid Service they will:

- a) Make recommendations for the way in which the Council and the Constitution could be amended and/or improved to better achieve the overarching purposes of the Council. In undertaking this task, they may:
  - Observe meetings of different parts of the Council.
  - Undertake an audit trail of a sample of decisions.
  - Record and analyse issues raised with them by Councillors, officers, the public and other relevant stakeholders.
  - Compare practices in this Council with those in comparable authorities, or national examples of best practice.
- b) Not be the Monitoring Officer but may, although not preferable, hold the post of Chief Finance Officer if a qualified accountant.
- c) Together with the Monitoring Officer, provide professional advice to all parties in the decision making process and maintain a system of record keeping for all the Council's decisions.
- d) Be authorised to discharge any Council or Executive function not otherwise delegated to a Chief Officer, including civic and ceremonial functions of the Council, and to take any action remitted to them under corporate policies or the Delegation Scheme.
- e) Any reference to the Clerk of the Council or the Town Clerk of a Borough in any enactment or instrument passed before the Local Government Act 1972 shall be taken as a reference to the Head of Paid Service.

2.3. In their roles as Returning Officer and Electoral Registration Officer they will:

- a) Act as Electoral Registration Officer for the registration of Parliamentary and Local Government Electors and Acting Returning Officer/Returning Officer for Parliamentary, Local, Parish, referendum and Police and Crime Commissioner Elections under the relevant provisions of the Representation of the People Act 1983 and as Proper Officer for all related functions and relevant legislation.
- b) Assign officers in relation to requisitions of the Electoral Registration Officer.
- c) Pay expenses properly incurred by Electoral Registration Officers.
- d) Hold powers in respect of holding elections (including temporarily changing a polling place if necessary).
- e) Declare any vacancy in office in certain areas.
- f) Give public notice of a casual vacancy.
- g) Determine fees and conditions for supply of copies of, or extracts from, elections documents.

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- h) Act as Acting Returning Officer for European Elections under the relevant provisions of the European Parliamentary Elections Act 2002, including providing assistance at European Parliamentary elections, and to act as Proper Officer for all related functions and relevant legislation.

*NB: The Deputy Electoral Registration Officer is appointed by the Full Council. This position is currently held by the Electoral Services Manager.*

## 3. RESPONSIBILITIES OF THE DEPUTY CHIEF EXECUTIVE

3.1. The Deputy Chief Executive will:

- a) Deputise for the Chief Executive as appropriate.
- b) Be the lead officer on specific corporate priorities.
- c) Have overall responsibility for the service areas of the following officers:
  - Head of Community Services.
  - Head of Crawley Homes.
  - Head of Digital and Transformation.
  - Head of Major Projects and Commercial Services.
  - Head of Strategic Housing.

## 4. RESPONSIBILITIES OF HEAD OF GOVERNANCE, PEOPLE & PERFORMANCE

Post	Designation
Head of Governance, People & Performance	Monitoring Officer Council's Solicitor Data Protection Officer Senior Responsible Officer for RIPA and Surveillance Matters

4.1. In their role as Head of Governance, People & Performance they will:

- a) Provide the Council, Councillors and officers with professional legal advice.
- b) Act as Solicitor to the Council to institute, defend, participate, settle or discontinue any legal proceedings on own initiative (where necessary to give effect to decisions and to protect the Council's position/interests) or following consultation with the relevant Head of Service on significant cases.
- c) Authenticate documents, including any relating to legal proceedings, and to sign and execute, under Seal, any documents on behalf of the Council.
- d) Conduct and appear (or authorise another officer to appear) on the Council's behalf in proceedings before any court, public inquiry or tribunal as far as a Right of Audience is available.

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- e) Obtain the opinion of and/or instruct Counsel/Solicitors to represent the Council in any court proceedings, public inquiry or tribunal where they deem it to be in the best interest of the Council.
- f) Serve notices to obtain any information necessary for the Council to take a decision, or as a consequence of a decision taken by the Council.
- g) Hold a specific responsibility relating to the Employment Panel, namely the authority to establish an Independent Panel.
- h) Hold a specific responsibility relating to the Licensing Sub-Committee (Hearings), namely the power to extend a time limit provided for in the Licensing Act 2003 (Hearings) Regulations 2005 in accordance with Regulation 11, where it is considered to be in the public interest.

## 4.2. In their Statutory Officer role as Monitoring Officer they will:

- a) Maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by Councillors, officers and the public.
- b) After consulting the Chief Executive and Head of Corporate Finance, 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.
- c) Contribute to the promotion and maintenance of high standards of conduct for Councillors through provision of support to the Audit Committee, Governance Committee and the Employment Panel.
- d) Appoint a suitably qualified person to conduct investigations where an allegation has been referred for investigation.
- e) Ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible (See the Access to Information Procedure Rules for further details).
- f) Advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework Documents.
- g) Interpret this Constitution and provide guidance to the Mayor, Leader, Committee Chairs, Councillors and officers as appropriate.
- h) Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, the Budget and policy framework issues to all Councillors.
- i) Not be the Chief Finance Officer or the Head of Paid Service.
- j) Produce and maintain the Monitoring Officer Protocol.
- k) Act as the 'qualified officer' under the Freedom of Information Act 2000.
- l) Make recommendations for the way in which the Council and the Constitution could be amended and/or improved to better achieve the overarching purposes of the Council. In undertaking this task, they may:
  - Observe meetings of different parts of the Council.
  - Undertake an audit trail of a sample of decisions.
  - Record and analyse issues raised with them by Councillors, officers, the public and other relevant stakeholders.
  - Compare practices in this Council with those in comparable authorities, or national examples of best practice.

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- m) Appoint a Deputy Monitoring Officer(s) to exercise all the powers and duties of the Monitoring Officer in their absence.
- n) Hold power to grant dispensations under the provisions of the Code of Conduct for Councillors.

- 4.3. The Head of Governance, People & Performance fulfils the position of Data Protection Officer on behalf of the Council.
- 4.4. The Head of Governance, People & Performance fulfils the position of Senior Responsible Officer for the purpose of the Regulation of Investigatory Powers Act 2000 (RIPA) and any Surveillance Matters.
- 4.5. They will hold responsibility for the following Proper Officer designations:

SECTION	DUTY/RESPONSIBILITY
<b>Local Government Act 1972</b>	
83	Witness and receive declarations of acceptance of office.
84	Receive declaration of resignation of office.
88	Convene meetings of Council to fill casual vacancy in the office of Mayor.
100B	Decide whether information is likely to be exempt when coming before the Full Council, Cabinet or a Committee.
100C	Produce a written summary of proceedings taken by the Full Council, Cabinet or a Committee.
100F	Decide whether a document discloses exempt information.
225	Receive and retain any document deposited with the Council for custody.
228	Inspection of documents.
229	Certificate photographic copies of documents.
234	Authenticate documents.
Schedule 12(4)	Sign and send to all members of the Council, the summons to attend meetings of the Council.
Schedule 14 (25)	Certify resolutions under that Paragraph for the purposes of legal proceedings.
<b>Local Government (Miscellaneous Provisions) Act 1976</b>	
41	Certificate copies of formal documents as evidence in legal proceedings.
<b>Local Government and Housing Act 1989</b>	
All Proper Officer responsibilities contained within the Act.	
<b>Local Government (Committees and Political Groups) Regulations 1990</b>	
Give, deliver and receive notices and expressions of wishes.	
<b>Local Authorities (Referendums) (Petitions) (England) Regulations 2011</b>	
Reg 4	Publish verification number of petitions (HoPS).
apart from Reg 4	Responsibilities in relation to petitions etc.

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SECTION	DUTY/RESPONSIBILITY
<b>Localism Act 2011</b>	
33	Receive and grant written applications for dispensations.
<b>The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012</b>	
Regs 3, 4, 5, 9, 11, 15, 17 and 21	Record decisions. Inspect documents. Access to papers. Publicity in connection with Key Decisions. Exceptions to forward plans. Additional rights of Councillors to documents. Confidential information.

## 5. RESPONSIBILITIES OF THE HEAD OF CORPORATE FINANCE

Post	Designation
Head of Corporate Finance	Chief Finance Officer  Section 151 Officer

5.1. In their Statutory Officer role as Chief Finance Officer/Section 151 Officer they will:

- a) After consulting the Head of Paid Service and the Monitoring Officer, 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.
- b) Have responsibility for the administration of the financial affairs of the Council.
- c) Contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, the Budget and Policy Framework Document issues to all Councillors.
- e) Provide financial information to the media, members of the public and the community.
- f) In relation to borrowing limits, manage the movement between the separately agreed limits for borrowing and other long-term liabilities within the total authorised limit for any individual year.

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- g) Make recommendations for the way in which the Council and the Constitution could be amended and/or improved to better achieve the overarching purposes of the Council. In undertaking this task, they may:
- Observe meetings of different parts of the Council.
  - Undertake an audit trail of a sample of decisions.
  - Record and analyse issues raised with them by Councillors, officers, the public and other relevant stakeholders.
  - Compare practices in this Council with those in comparable authorities, or national examples of best practice.
- h) Appoint a qualified officer(s) to deputise for them if they are unable to perform their duties.

5.2. They will hold responsibility for the following Proper Officer designations:

SECTION	DUTY/RESPONSIBILITY
<b>Local Government Act 1972</b>	
115	Receipt of money due from officers.
146	Signing of declarations and certificates with regard to securities.
<b>Local Government Finance Act 1988</b>	
116	Notify the Auditor of steps taken under Section 115 of this Act.

## 6. OTHER PROPER OFFICER DESIGNATIONS

6.1. The Head of Economy and Planning will hold responsibility for the following Proper Officer designations:

SECTION	DUTY/RESPONSIBILITY
<b>Highways Act 1980</b>	
295	Serve notice requiring owner to remove old materials.
321 Schedules 9 and 15	Sign any notice, consent, approval, order etc. under this Act.
<b>Building Act 1984</b>	
78	Exercise powers of the Council in relation to emergency measures to dangerous buildings.

6.2. Report Authors will hold responsibility for the following Proper Officer designations:

SECTION	DUTY/RESPONSIBILITY
<b>Local Government Act 1972</b>	
100D	Decide what comprises a background paper; and retention and inspection of background papers (report authors).

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## 7. THE CASCADE AND THE GENERIC DELEGATIONS

### Introduction

- 7.1. In order to ensure the efficient delivery of all the services, the Full Council and the Leader delegate officers the operational powers needed to fulfil their responsibilities.
- 7.2. However, all functions reserved to the Full Council by Statute, Standing Orders or Financial Regulations are not delegated. Strategic, policy setting and other “Key Decisions” remain the responsibility of the Leader and their Cabinet (as set out in the “Executive” Function (the Leader and the Cabinet)).
- 7.3. Any decision taken by officers under this Scheme must be in accordance with policy or direction as approved by the Full Council and/or the Cabinet and within the approved budgets.
- 7.4. Therefore the majority of officer delegated decisions will be Operational (‘Non-Key’) Decisions.

### What is the Cascade?

- 7.5. Officers’ decision making powers have been delegated by means of a standing cascade. This means that there are no long lists in this Constitution of specific powers and who those powers have been delegated and sub-delegated to.
- 7.6. Instead, there is a standing delegation of all necessary powers from the Full Council and the Leader (and their Committees) to the Chief Executive. From the Chief Executive there is a standing delegation to either the Deputy Chief Executive or directly on to the Heads of Service. The cascade continues down through the Heads of Service to managers and relevant officers via a sub-delegation scheme for each Chief Officer.
- 7.7. In each case the powers delegated are the full range and extent vested in the Council to discharge functions, implement decisions, and undertake the efficient operational management of the Services for which each Chief Officer is responsible.
- 7.8. Officers should be aware that the Head of Corporate Finance has statutory duties in relation to the financial administration of the Council. Similarly the Head of Governance, People & Performance 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 Council. These statutory responsibilities cannot be overridden.

### Sub-Delegation Schemes

- 7.9. The Chief Executive, Deputy Chief Executive and each Head of Service (Chief Officers) 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.
- 7.10. Chief Officers, in consultation with their managers, will determine the most appropriate level of officer within their service who are suitably competent and qualified to carry out delegations under their authority. They shall do this by ensuring that there is clarity in their team structure and officer positions.

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- 7.11. Chief Officers can reserve the right to take certain decisions on particular matters which would ordinarily be taken at a point further along the chain of cascade.
- 7.12. When officers act under delegated powers, they do so in the name of their Chief Officer who will retain ultimate responsibility for the decision.
- 7.13. Any ambiguity as to whether or not an officer has authority to carry out a delegation will be resolved through referring the matter back up through the chain of cascade (as appropriate) to managers, Chief Officers or ultimately the Chief Executive. Confirmation of authority shall be given in writing.
- 7.14. Reference to any statutory provision within a sub-delegation scheme will include any amendments, re-enactment or subordinate legislation thereof.

## **Limitation of Delegated Authority**

- 7.15. As referred to in Paragraph 1, Chief Officers, their managers and staff, cannot take decisions specifically reserved for Councillors, including the adoption of new policy and unbudgeted expenditure.
- 7.16. Officers are only empowered to act in respect of matters which fall wholly within their service area responsibilities and levels of competence.
- 7.17. Where a decision will impact upon another service area, officers are obliged to consult with, and take appropriate advice from, the Chief Officer of the associated service.
- 7.18. Where a decision has potential financial or legal implications, advice should be sought from the Head of Corporate Finance and/or the Head of Governance, People & Performance respectively.

## **Referring a Decision to Someone Else**

- 7.19. Officers, in consultation with those above them in the chain of cascade, may decline to exercise powers where they consider it would be more appropriate for one of the following to exercise that power instead:
  - a) **“Non-Executive” Functions:**
    - Another officer (further up the chain of cascade).
    - A Committee/Sub-Committee.
    - The Full Council.
  - b) **“Executive” (Cabinet) Functions:**
    - Another officer (further up the chain of cascade).
    - A Cabinet Member.
    - The Leader.
    - The Cabinet (the Cabinet shall not exercise its delegated powers when a decision has been Called-In).
- 7.20. Where an officer with delegated authority is unable to carry out the delegation, then an alternative officer who is suitably qualified and competent can act in their place. This will usually follow the chain of cascade or line of management back up through managers and Chief Officers to the Chief Executive.
- 7.21. The Chief Executive has the right to take any decision (in particular those which are highly politically sensitive or high profile), including those that have been delegated to an officer by the Full Council, the Cabinet or any Committee, except those reserved



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specifically to a Statutory Officer (i.e. Section 151 Officer or the Monitoring Officer) or, in their absence, their deputy.

- 7.22. In the event of the Chief Executive being absent or otherwise unable to act, the appropriate Chief Officer shall be authorised to act in their place.

## **Taking and Recording Decisions**

- 7.23. In taking decisions, officers shall be satisfied that they can demonstrate that they:
- Have been delegated the authority to take the decision.
  - Have undertaken all necessary consultation.
  - Are aware of the process required to record the decision correctly.
  - Will keep an adequate record of the decision taken.
- 7.24. In taking decisions, officers must consider the nature, subject matter, and likely impact of their decision. They will liaise closely with those above them in the chain of cascade, especially where a matter is potentially politically sensitive, or has significant operational impact. In such cases it may also be appropriate to consult with the relevant Cabinet Member/s, Committee Chair and/or Ward Councillors.
- 7.25. If the decision is an 'Executive' function then delegations are based on "Non-Key (Operational) Decisions". However should a decision become "Key" officers should contact Democratic Services.
- 7.26. If a 'Key Decision' has been taken by the Cabinet/Cabinet Member, and as a consequence other decisions are required, these become 'Non-Key' and follow the cascade. They may however need to be recorded as a Significant Operational Decision (see Access to Information Procedure Rules/Decision Making Introduction).
- 7.27. In taking decisions, officers must at all times observe and abide by the principles and controls governing officer decision as detailed in the Council Officer Responsibilities and Decision Making section of this Constitution.

## **The Generic Delegations**

- 7.28. Listed below are the generic delegations from which all officer delegations stem through the cascade. For the avoidance of doubt, the use of these delegations includes the power to take all action necessary in connection with or ancillary to those delegations.

<b>Generic Delegations</b>	
1.	The authorisation of officers as may be required by legislation (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 and inspection of land or premises.
2.	All matters relating to the instruction of external Solicitors or Barristers and the conduct of legal (or quasi legal) proceedings (including the authentication or execution of documents) are reserved to the Head of Governance, People & Performance (and their duly authorised officers) who shall be authorised to prosecute institute, defend, settle, discontinue, conclude 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.

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	<b>Generic Delegations</b>
3.	<p>In exercising their delegated powers Chief Officers may serve, receive and act upon:</p> <ul style="list-style-type: none"> <li>• The issuing, service, variation, or withdrawal of any notice, direction, determination, requisition, ultimatum or demand.</li> <li>• The making, confirmation, variation or withdrawal of any order or regulation.</li> <li>• The formation, variation or termination of any contract or agreement.</li> <li>• The granting, variation, revocation, withdrawal or termination of any permission, notice, authorisation, licence or consent.</li> </ul> <p>in the exercise of any discretionary power or in complying with any duty of the Council.</p>
4.	<p>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 (where objections are received in respect of reviewing and setting fees for Hackney Carriage and Private Hire driver, vehicle and operator licences, the matter will be determined by the Licensing Committee).</p>
5.	<p>Matters in respect of consultations:</p> <ol style="list-style-type: none"> <li>a) 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.</li> <li>b) Responding to consultation documents where the views of local authorities are sought generally. <i>(NB. All responses from the Council as Local Planning Authority to plans and proposals submitted by other Local Authorities are reserved to the Head of Economy and Planning.)</i> A copy of the response to consultations submitted shall be published in the Councillors' Information Bulletin.</li> <li>c) Prior to submission, any officer must consult the Head of Community Services on any proposed Traffic Regulation Orders.</li> </ol>
6.	<p>The acceptance and determination of applications (including grants) made in accordance with Council policy/procedure and other legislation.</p>
7.	<p>The day-to-day management of services, including (but not limited to) the seeking of external funding and the implementation and monitoring (as well as necessary minor amendments) of approved Council policies, practices, strategies and schemes.</p>
8.	<p>The Head of Corporate Finance has statutory duties in relation to the financial administration and stewardship of the Authority and this statutory responsibility cannot be overridden. The Financial and Budget 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.</p>
9.	<p>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).</p>
10.	<p>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.</p>

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	<b>Generic Delegations</b>
11.	Decisions on Human Resources matters below Head of Service level relating to their service area, subject to the appropriate guidance and procedures issued by the Council and any changes being within the constraints of the approved financial limits and the Financial and Budget Procedure Rules (in relation to Head of Service level and above, such decisions will be taken by the Chief Executive in consultation with the Leader).

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## FULL COUNCIL PROCEDURE RULES

### 1. ORDINARY MEETINGS OF THE FULL COUNCIL

Ordinary Meetings of the Full Council will take place as scheduled in the Calendar of Meetings.

#### 1.1 Order of Business (Full Council)

Agendas for ordinary meetings of the Full Council will incorporate:

Formal and Procedural Session including:

- a) Apologies for absence.
- b) Declarations of interest from Councillors.
- c) Approve the Full Council minutes.
- d) Communications including Cabinet Announcements.
- e) Public Question Time.

Decision Making Debate Session including:

- f) Consider Petitions.
- g) Consideration of Full Council Recommendations and Call-In Decisions.
- h) Notices of Motion.

General Debate Session including:

- i) Councillors' Question Time.
- j) Receiving the minutes of the Cabinet, Overview and Scrutiny Commission and other Council Committees including Items for Debate.

*NB: The order of business is at the discretion of the Mayor and some items will not be required at every Full Council Meeting.*

#### 1.2 Procedural Guidance for Each Agenda Item on the Order of Business

##### A. Apologies for Absence

- A.1. Receive notification of apologies for absence. Should the Mayor and Deputy Mayor not be present, the meeting shall elect a non-Cabinet Member to chair the meeting.

##### B. Declarations of Interest

- B.1. In accordance with the Code of Conduct for Councillors, Councillors are required to declare interests as appropriate. These declarations should only relate to items being debated by Full Council and are not necessary for items previously considered by Committees.

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## C. Full Council Minutes

- C.1. Each ordinary meeting of the Full Council will consider the minutes of the previous 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, and this must be undertaken through a Procedural Motion and voted on accordingly. Once the minutes have been agreed they shall be signed by the Mayor.
- C.2. An Extraordinary meeting of the Full Council will not consider the minutes of the previous meeting.

## D. Public Question Time

### D.1 Public Question Time (PQT) Procedure

Members of the public may ask questions at any Ordinary Full Council meetings with PQT lasting for a maximum of 30 minutes.

There are two methods for asking a question:

- a) Members of the public can submit a written question in advance of the meeting and a written answer will be provided on the evening of the Full Council. During the PQT the member of the public can ask a supplementary Question (relating to their original question).
- b) Members of the public can attend a Full Council meeting and may ask a question verbally during PQT. If wishing to, the public may ask a supplementary question (relating to their original question).

In asking a question in either form the questioner must confirm their name and the ward they live in.

### D.2 Public Written Questions

- a) **Who May be Asked a Question:** A question will normally only be put to either:
  - The Mayor.
  - A Cabinet Member.
  - The Chair of any Committee.
- b) **How to Submit a Question:** Questions will be emailed to the Head of Governance, People & Performance or emailed to [democratic.services@ Crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk). Questions should be received by noon one week before the meeting.  
*NB: In normal circumstances, where the meeting is to be held on a Wednesday, then it must be delivered by noon on Wednesday of the previous week.*

**Publication of Responses:** The written Questions and Answers will be published in advance of the meeting via a Supplementary Agenda on the Council's website, and hard copies will be available at the venue on the evening of the Full Council meeting.

### D.3 Scope of Questions: The Mayor/Head of Governance, People & Performance may reject a question (or supplementary question) if, in their opinion, it:

- Is a statement and not a question.
- Does not relate to an issue for which the Council holds responsibility, or which specifically affects the Borough.

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- Is defamatory, frivolous or offensive.
- Requires the disclosure of confidential or exempt information or relates directly to an individual's personal circumstances.
- Is substantially the same as a question which has been put to a meeting of the Council in the past 6 months.
- Relates to a specific planning or licensing application.
- In the case of a written question not being submitted before the defined deadline or is more than 100 words.

## D.4 Asking Questions Verbally at the Meeting

- a) The Mayor will provide clear guidance on the procedure for public questions and will invite each questioner in turn to the lectern. Questioners will:
  - State their name and the ward in which they live.
  - Ask their question concisely to the Mayor.
- b) The Mayor will then invite the most appropriate Councillor, normally either the Leader, a Cabinet Member or a Committee Chair to reply and their response will be limited solely to replying to the question. No other Councillor will be able to respond.
- c) Those members of the public that submitted a written question will be invited to ask their supplementary question first. Only one supplementary question is allowed. That question must relate directly to their original question or the response.
- d) Those members of the public that have asked an oral question have the right to ask a supplementary question. Only one supplementary question is allowed. That question must relate directly to their original question or the reply.

*NB: If several questions relate to the same issue, the Mayor may decide to receive those questions together and then seek to provide one overall response.*

- D.5 **Written Answers to Oral Questions:** 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.

## E. Communications

- E.1 To receive communications from the Mayor, Leader, the Chief Executive or the Head of Governance, People & Performance.
- E.2 Also under the Communications item the Mayor may make presentations of awards/gifts to Former Councillors/Long Service Badges to serving Councillors, and allow tributes to be paid as appropriate.
- E.3 Cabinet Member Announcements. Any announcement or information relating to their Portfolio which Cabinet Members (with the exclusion of the Leader) wish to report to the Full Council will be included within the Order Paper.

The announcements/information must be emailed to [democratic.services@crawley.gov.uk](mailto:democratic.services@crawley.gov.uk) by midnight before the day of the meeting.

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*NB: In normal circumstances, where the meeting is to be held on a Wednesday, then the information must be received by midnight on the Tuesday, the day before the meeting.*

- E.4 At the meeting itself the Mayor will allow any Cabinet Member to either expand upon their published announcement or to make a further urgent announcement verbally, with a maximum of 10 minutes available to be shared.

## **F. Petitions at a Full Council Meeting**

- F.1 A petition received and containing more than 1,000 signatures of local residents will normally be debated at the next ordinary meeting of the Full Council.
- F.2 However, if that petition requests that a senior Council officer give evidence at a public meeting, this should occur at the Committee which has the appropriate authority to take such a decision which may, or may not, be the Full Council.
- F.3 A maximum of 30 minutes will be allowed at each meeting for considering petitions. Any petition(s) not fully debated within the 30 minutes will be referred to the relevant Cabinet Member for consideration or deferred until the next meeting of the Full Council.
- F.4 Within that maximum 30 minutes, the organiser of a petition will be given up to **five** minutes to present their petition at the Full Council meeting. The petition will then be discussed by Councillors. All petitions considered by the Full Council will be subject to a recorded vote where the decision is not unanimous.
- F.5 Details of the Council's Petition Scheme are contained in this Constitution.

## **G. Consideration of Full Council Recommendations and Call-In Decisions**

- G.1 In most cases the recommendations for consideration by the Full Council will be contained within a minute from either the Cabinet, Overview and Scrutiny Commission or a Committee that has been held more than nine clear working days before the Full Council meeting.
- G.2 However, should a recommendation be made to the Full Council that is within that nine day period, that specific minute (not the full minutes of the meeting) will be put before the Full Council for its consideration.
- G.3 The Full Council agenda will include a hyperlink to the report associated with the recommendation being considered, to enable Councillors in advance of the meeting or at the meeting via a laptop/tablet to have sight of a copy of the report that they are making a decision on. In some case the full report itself may also be included within the agenda.
- G.4 In the case of an item being **Called-In**, the **Call-In** justification will also be included with the Full Council agenda, along with any other information agreed by the Monitoring Officer. See the Call-In Procedures for further information.
- G.5 For recommendations to the Full Council from a Committee the Mayor will invite the relevant Chair of the Committee to whom the recommendation relates, to move the recommendation, and in so doing present the item. Once moved a seconder will be sought.



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- G.6 In the case of a recommendation coming from the Cabinet, the Leader (or in their absence whomever chaired the Cabinet) will move the recommendation. The Cabinet Member with portfolio responsibility for the item will second the recommendation and present the item.
- G.7 Amendments to Recommendations can be made. See Full Council Amendments (Paragraph 12).
- G.8 In the case of a recommendation from the Cabinet that has been **Called-In**, the same approach as in G.6 will be used. Once the item has been seconded the next speaker shall be the Councillor who called the item in. That Councillor will present their rationale for the **Call-In**.
- G.9 If the **Call-In** item relates to a decision taken by a Cabinet Member, then that Cabinet Member will move and present the recommendation, with the Leader seconding the decision. Once the item has been seconded the next speaker shall be the Councillor who called it in. That Councillor will present their rationale for the **Call-In**.
- G.10 In all cases listed above the Mover of the recommendation will have the right to reply at the end of the debate.
- G.11 **Recommendations not to be Debated** - Political groups can, in advance of the meeting (by 3pm on the day before the Full Council meeting), inform Democratic Services (acting on behalf of the Mayor) of any Full Council recommendations that they consider do not require debate.
- G.12 If all political groups highlight the same recommendation(s) **not to be debated** then these items will be listed as such in the Supplementary Agenda/Order paper.
- G.13 At the Full Council meeting itself once all 'debated' recommendations have been approved, the Mayor will invite the Deputy Mayor to move the undebated recommendations for approval. No debate should occur on these items.

## H. Notices of Motion

- H.1 **Submitting Notices of Motion:** Any Notice of Motion must include signatures (electronic is acceptable) from both the Councillor(s) proposing the Motion and from a Councillor(s) seconding the Motion. The signed Motion must be emailed or handed to the Head of Governance, People & Performance or emailed to [democratic.services@crowley.gov.uk](mailto:democratic.services@crowley.gov.uk) at least nine clear working days' prior to the meeting.

*NB: In normal circumstances, where the meeting is to be held on a Wednesday, notice must be delivered by midnight of the Wednesday evening two weeks before.*

- H.2 **Evaluating a Notice of Motion:** The Monitoring Officer will consider all Notices of Motion to ensure they:
- Are signed and received correctly.
  - Relate to matters for which the Council has powers or duties.
  - Relate to matters which either affect, impact or are of significant concern to local residents.
  - Are not defamatory, frivolous, offensive, unlawful or improper.

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- Do not seek to rescind a previous decision made at a meeting of the Full Council within the past six months unless they are signed by at least one third of the Councillors of the Council (13) or are in connection with a report or recommendation of a Committee or the Cabinet.
- Are not similar to a motion or amendment rejected by the Full Council in the past six months, unless they are signed by at least one third of the Councillors of the Council (13) or are in connection with a report or recommendation of a Committee or the Cabinet.

H.3 The Monitoring Officer will have the final say as to whether the Notice of Motion is valid, with the presumption in favour of it being valid.

If the Monitoring Officer feels the Notice of Motion received does not fully meet one of the above criteria, they reserve the right to reject the Notice of Motion or return it to the proposer to allow an alteration for resubmission.

If this occurs, the revised Notice of Motion must be approved by the Head of Governance, People & Performance by the agenda publication deadline. If the Notice of Motion is not included within the published agenda, it will not be debated at that Full Council Meeting.

H.4 **Publication of Notice of Motion:** All Notices of Motion will be published within the Full Council agenda and on the Council's website. The order in which Notices of Motion appear on the agenda will be determined by the order in which they were received.

*NB: In advance of the meeting, or via a Procedural Motion, a Councillor may request that the Mayor change the point at which a Notice of Motion will be dealt with during the meeting. The Mayor will only agree, if they consider such a change would be convenient and conducive to the business.*

H.5 **Notice of Motion Relating to Expenditure/Non-Full Council Functions:**

Any Notice of Motion, once moved and seconded, that either:

- Would result in a significant increase/reduction in capital or revenue expenditure.
- Does not relate to the functions of the Full Council.

will be adjourned and referred without discussion to the Cabinet or relevant Committee for consideration. At the next Ordinary meeting of the Full Council the findings/decision of the referral will then be reported back.

H.6 **How Notices of Motion will be dealt with at the Meeting:**

A Notice of Motion will follow the same procedure, including amendments as for Full Council Recommendations and Call-In Decisions as detailed in Paragraph 1.2(G).

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## I. Councillors' Question Time

### I.1 Councillors' Question Time (CQT) Procedure

As with Public Question Time at any Ordinary Full Council meeting, there will be a maximum of **30** minutes for Councillors' Question Time (CQT). Councillors may ask questions relating to either a portfolio issue or with regard to the functions delegated to a Committee.

There are **two** methods for Councillors asking questions:

1. Councillors can submit written questions in advance of the meeting and written answers will be provided on the evening of the Full Council.
2. Councillors can also verbally ask questions during the CQT.

Councillors have the opportunity to ask oral supplementary questions in relation to either of the methods above.

### I.2 Written Questions

- a) **How to Submit a Question:** Questions will be emailed or handed to the Head of Governance, People & Performance or emailed to [democratic.services@ Crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk) with at least four clear working days' notice of the meeting.

*NB: In normal circumstances, where the meeting is to be held on a Wednesday, notice must be delivered by midnight of the Wednesday evening of the previous week.*

- b) **Publication of Responses:** The written Questions and Answers will be published in advance of the meeting via a Supplementary Agenda on the Council's website and hard copies will be available at the venue on the evening of the Council meeting.

### I.3 Asking Questions Verbally at the meeting

- a) Each Councillor asking solely an oral question has the right to ask one supplementary question, which must relate directly to their original question or the reply.
- b) Every question will be put and answered without discussion. An answer may take the form of:
  - A direct verbal answer.
  - Where a reply to the question cannot be given immediately, a written response will be provided.

### I.4 Who May be Asked a Question: A Councillor may only ask a question to either:

- The Mayor.
- A Cabinet Member.
- The Chair of any Committee.

### I.5 Rejection of Questions

A Councillor question, either written or verbal, may be rejected if it:

- Is a statement and not a question.
- Is defamatory, frivolous or offensive.

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- Requires the disclosure of confidential, personal or exempt information.
- Does not relate to an issue for which the Council holds responsibility, or which specifically affects the Borough.
- Is substantially the same as a question which has been put to a meeting of the Council in the past 6 months.
- 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 those grounds (written questions only).
- does not relate to a matter for which that individual is responsible\*
  - \* The Monitoring Officer may use their discretion to forward such questions to the appropriate person.

## **J. Receiving the Minutes of the Cabinet, Overview and Scrutiny Commission and Other Council Committees Including Reserved Items for Debate**

J.1 The Full Council will receive a copy of all Cabinet, Overview and Scrutiny Commission and other Council Committee minutes that had been held more than nine clear working days before the Full Council meeting. The minutes will be contained in the Full Council agenda.

J.2 Political groups can in advance of the meeting (by 3pm on the day before the Full Council meeting) inform Democratic Services (acting on behalf of the Mayor) about any items contained within the minutes that they wish to reserve for debate - Reserved Items (RI).

J.3 In reserving items for debate political groups may not reserve items:

- That could/have been discussed earlier on the Full Council agenda.
- Previously debated and decided upon at an Extraordinary Meeting of the Full Council held earlier in the same Committee cycle.
- Or in the case that an item has been considered at multiple meetings, only the item in the minutes of one of those meetings can be reserved for debate.

*NB: The Full Council cannot change the contents, or amend for accuracy purposes, any of the Committees' minutes. That is the responsibility of each individual Committee when those Committees are asked to approve their own minutes.*

J.4 The list of reserved items will be published in advance of the Full Council meeting (in the Order Paper or the equivalent documentation).

## **J.5 Debating Reserved Items (RI)**

Using the published list of RI, the Mayor will take in chronological order each RI in turn for discussion.

J.6 The Mayor, for each RI, will invite the Councillor/representative from the Group who has reserved the item to speak first. The last person to speak on these items will either be the appropriate Cabinet Member or Committee Chair. No votes will be taken on these items.

J.7 Once all the RI have been discussed, the Mayor will invite the Deputy Mayor (or the Mayor's nominee in the absence of the Deputy Mayor) to formally move the receipt of those minutes, without the need for a seconder.

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*NB: There shall be no debate on any item previously debated and decided upon at an Extraordinary Meeting of the Full Council held earlier in the same Committee cycle.*

## **2. ANNUAL MEETING OF THE FULL COUNCIL**

### **2.1 Order of Business**

The Annual Meeting will:

- a) Elect a non-Cabinet Member to chair the meeting, should the outgoing Mayor and Deputy Mayor not be present.
- b) Receive any apologies for absence.
- c) Receive any declarations of interest from Councillors.
- d) Elect the Mayor for the forthcoming year (including their investiture).
- e) Elect the Deputy Mayor for the forthcoming year (including their investiture).
- f) Hold the investiture of the Youth Mayor and Youth Deputy Mayor for the forthcoming year (if required).
- g) Extend a vote of thanks to the outgoing Mayor and their Consort.
- h) Extend a vote of thanks to the outgoing Deputy Mayor and their Consort (if required).
- i) Approve the Full Council minutes.
- j) Receive any communications.
- k) Receive the Returning Officer's report of results of elections.
- l) Elect the Leader if required (as set out in The "Executive" Function (The Leader and the Cabinet) section of this Constitution).
- m) Receive the Leader's written record of delegations made by them for "Executive" functions for inclusion in the Council's Scheme of Delegation.
- n) Agree the scheme of delegation relating to the Council and its Committees (as set out in Section 1 of this Constitution).
- o) Review the political proportionality of Committees and appointments to Outside Bodies for the forthcoming municipal year, and agree the following:
  - The Committees to be established (one of which must be a scrutiny Committee) to deal with matters which are not functions of the Full Council or the "Executive" (as set out in Section 1 of this Constitution).
  - The terms of reference for those Committees.
  - The size and allocation of seats (and substitutes if any – one for each political group which hold seats on that Committee) to the political groups in accordance with the political proportionality rules.
  - Nominations from party group leaders of Councillors to serve on each Committee and Outside Body (which is not an "Executive" function).
  - The Chairs and Vice Chairs of those Committees and appointments to Outside Bodies will be allocated in accordance with the guidance set out in the Introduction to Decision Making section of this Constitution.

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*NB: The Head of Governance, People & Performance will have the authority, during the Council year, to vary the appointments to Committees, Sub-Committees and Outside Bodies to give effect to the wishes of a political group in relation to seats allocated to it subject to the change being reported to Councillors.*

- p) Consider any urgent business (with the exception of petitions).

## **3. EXTRAORDINARY MEETINGS OF THE FULL COUNCIL**

### **3.1 Requesting an Extraordinary Meeting of the Full Council**

An Extraordinary meeting of the Full Council will be called at the request of:

- a) A resolution of the Full Council.
- b) The Mayor.
- c) The Monitoring Officer.
- d) Any nine Councillors, if they have signed a request which has been presented to the Mayor, and the Mayor has either:
  - Refused to call a meeting.
  - Failed to call a meeting within seven working days of the presented request.

Any request must state the business to be transacted, and why such business cannot be delayed until the next scheduled Ordinary meeting of the Full Council.

### **3.2 Notification of an Extraordinary Meeting of the Full Council**

Notice of the time, date and place of any Extraordinary Meeting of the Full Council will be sent by the Head of Governance, People & Performance to every Councillor no less than five clear working days before the meeting is to be held.

### **3.3 Order of Business**

Agendas for extraordinary meetings of the Full Council will only incorporate:

- a) Apologies for absence.
- b) Declarations of interest from Councillors.
- c) Dealing with any business required by statute.
- d) Dealing with the business specified in the request to hold the Extraordinary Meeting.
- e) Considering any urgent business (with the exception of petitions).

The Rules of Debate will be the same as the procedures for Ordinary meetings of the Full Council.

*NB: There is no consideration or signing of minutes from a previous Full Council meeting nor will there be public questions. However, the Mayor has the discretion to hold public questions if they consider it to be beneficial to the business specified in the request to hold the Extraordinary Meeting.*

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## 4. INTERPRETATION OF THE PROCEDURE RULES

- 4.1 The Mayor, or in their absence the Deputy Mayor/the person chairing the meeting, will decide on all matters of order and interpretation of these rules and their decision will be final and not open to discussion. In presenting a ruling they must explain their decision.
- 4.2 In reaching their decision, they must give due consideration to the advice of the Monitoring Officer. The Mayor may defer to the Monitoring Officer to provide the interpretation on their behalf.

## 5. ROLE AND FUNCTION OF THE MAYOR

- 5.1 The Mayor, or in their absence the Deputy Mayor/the person chairing the meeting, will have the following roles and functions:
- a) To uphold the values of the Council and to uphold and promote the Constitution.
  - b) To chair Full Council meetings in a fair and impartial manner, ensuring Councillors treat each other with respect.
  - c) To ensure that the Full Council debates matters of concern to the local community.
  - d) To promote public involvement in the Council's activities.
  - e) To represent the Council at civic and ceremonial functions.

## 6. NOTICE AND SUMMONS TO MEETINGS

- 6.1 The Head of Governance, People & Performance will give notice to the public of the time and place of any meeting of the Full Council in accordance with the Access to Information Procedure Rules. The summons (in the form of an agenda) will be published at least five clear working days before a meeting and will detail the time, location and items to be discussed including any associated reports being considered.

## 7. ATTENDANCE AT THE MEETING

- 7.1 **Apologies for Absence:** Councillors who have conveyed their apologies for absence will be recorded as such in the minutes. Councillors 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.
- 7.2 **Quorum:** The quorum of a Full Council meeting shall be more than one third of the Councillors of the Council (13). If a meeting remains inquorate 15 minutes after its scheduled start time, an officer (usually a member of the Democratic Services team) will announce that the meeting is inquorate and those present will be requested to informally agree to either reconvene at a later date or defer items on the agenda to a future scheduled meeting.

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## 8. DURATION OF MEETING

- 8.1 **Commencement:** All Full Council meetings will commence at 7.30pm, unless the summons/agenda issued by either the Chief Executive or the Head of Governance, People & Performance, following consultation with the Mayor, alters this time.
- 8.2 **Concluding the Meeting:** The business of any Full Council meeting should conclude within 2 ½ hours (normally 10.00 pm), unless a vote(s) for continuing the meeting has been passed.
- 8.3 **Vote to Extend the Meeting:** If the business of the meeting has not been completed within 2 ½ hours, the Mayor will call for a vote to extend the meeting for up to 30 minutes. A simple majority is required for the meeting to continue.

If required, following the meeting's initial extension, further votes may be taken to extend the meeting by periods not exceeding 30 minutes in each case. However, if the Full Council is held outside of the Town Hall no further extensions may be called to extend the meeting beyond that period (normally 11.00pm) when the guillotine will come into effect.

- 8.4 **Guillotine:** The use of the guillotine process comes into effect once either a vote to extend has been lost or, where the meeting is held outside the Town Hall, the meeting has reached 11.00pm.

The Guillotine process is:

- a) **Motions and Recommendations Not Dealt With:** If there are any Notices of Motion or recommendations on the agenda that have not been dealt with, 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.
- b) **Recorded Vote:** If a recorded vote is called for during this process, it will be taken immediately.
- c) **Procedural Motions Which May Be Moved:** During the guillotine process, the only other Procedural Motions which may be moved are that a matter be withdrawn or referred to an appropriate body or individual for decision or report.
- d) **Closure of the Meeting:** When all Motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

## 9. SPEECH LENGTH

- 9.1 During Full Council meetings Councillors are limited to speaking rights of no more than **five** minutes per item/discussion. This includes raising questions and responding.
- 9.2 A count down of the five minutes will be shown by a projection within the room. Councillors are required to adjust their speeches to fit their set time.
- 9.3 If Councillors exceed their allotted time, the Mayor is required to confirm that their microphones have been cut off and will remind the Councillors that their allotted time is up.



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- 9.4 The exceptions to the **five** minute limit are:
- The Mayor has no limits on their speaking rights.
  - At the Annual Meeting the retiring Mayor, making their End of Term Official Speech.
  - For their speeches on the annual Budget/setting the Council Tax report, the Leader of the Council and the Leader of the Opposition will be entitled to speak for ten minutes.
  - The use of Right to Reply, where the mover of a motion has received a further **five** minutes to reply.

- 9.5 The Mayor retains the right to extend any Councillor's speaking time beyond **five** minutes if they feel, in an exceptional circumstance, it is in the public interest to do so.

## 10. VOTING

- 10.1 **Procedure:** The Mayor will give clear instructions and guidance when a vote is to be taken, this may include an explanation as to the question being voted upon and a summary of the debate.

The Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting unless a recorded vote is requested. All Councillors will be expected to indicate their voting intentions clearly.

- 10.2 **Majority:** All matters will be decided by a simple majority of those Councillors voting and present in the room at the time the question is put to the vote. The Mayor will ascertain the numbers voting for or against any question, or not voting on it and shall announce those numbers and declare the result.

- 10.3 **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.

- 10.4 **Recorded Vote:** A recorded vote will be taken:
- a) If in advance of the meeting a Political Group Leader or Secretary has made a request to the Mayor via Democratic Services. This where possible will be included in the Supplementary Agenda/Order paper.
  - b) If any **two** Councillors indicate and request it at the meeting.
  - c) On all petitions where the decision is not unanimous.
  - d) 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 Tax, including precepts in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.

In the event of a recorded vote, the Head of Governance, People & Performance shall call the names of each Councillor present in alphabetical order. Each Councillor will then declare themselves for or against the motion or abstaining from voting. This process will be taken down in writing and entered into the minutes. The Mayor will declare the result.

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- 10.5 **Right to Require Individual Vote to be Recorded:** Any Councillor may request that the minutes record how they voted, be it for, or against or abstaining from voting. Such a request must be made immediately after the relevant vote is taken.
- 10.6 **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.

## 11. PROCEDURAL MOTIONS

11.1 Procedural motions, as listed below, may be moved without notice:

- a) **Point of Order:** A point of order is a request from a Councillor to the Mayor to rule on an alleged legal or procedural irregularity relating to the meeting. A Councillor may raise a point of order at any time and the Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Full Council Procedure Rules or the law, and the Councillor raising the matter must indicate how they believe it has been breached. The ruling of the Mayor on the matter will be final.
- b) **Personal Explanation:** A Councillor may make a personal explanation at any time to clarify an aspect of an earlier speech they have made which appears to have been misunderstood in the present debate. The ruling of the Mayor on the matter will be final.
- c) Elect a non-Cabinet Member to chair the meeting, should the Mayor or Deputy Mayor not be present.
- d) Contest the accuracy of the minutes.
- e) To change the order of business in the agenda.
- f) To refer something to an appropriate body or individual.
- g) To appoint a Committee or Councillor(s) to a Committee, arising from an item on the summons for the meeting.
- h) To receive reports or adoption of recommendations of the Cabinet, Committees or officers and any resolutions following from them.
- i) To withdraw a motion.
- j) To extend the time limit for Full Council speeches.
- k) To make a verbal amendment to a motion, that is less than 8 words – (further information on verbal amendments can be found in Rule 12.4).
- l) To proceed to the next business.
- m) That the item/issue now be voted upon.
- n) To adjourn a debate.
- o) To adjourn a meeting.
- p) To authorise the sealing of documents.
- q) To suspend a particular Full Council Procedure Rule.
- r) To exclude the public and press in accordance with the Access to Information Procedure Rules.
- s) To not hear further a Councillor named under Rule 16.5 or to exclude them from the meeting under Rule 16.6.

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t) To give the consent of the Council where its consent is required by this Constitution.

*\* NB: Once a procedural motion (with the exception of (a) and (b) above) has been moved and seconded, a vote on the matter will be taken immediately.*

## 12. AMENDMENTS

- 12.1 This procedure is for use with both proposed amendments to Full Council recommendations and Notices of Motion.
- 12.2 An amendment **MUST** only seek to make the following change(s) to the original recommendation or Notice of Motion:
- a) Refer the matter to an appropriate body or individual for (re)consideration.
  - b) Remove words.
  - c) Replace words.
  - d) Insert additional words.
- 12.3 An amendment **MUST NOT**:
- a) Add unrelated issues to the original recommendation or Notice of Motion.
  - b) Have the effect of introducing a new proposal into the debate.
  - c) Have the effect of negating the original recommendation or Notice of Motion.
- 12.4 **Verbal Minor Amendments:** The procedure for dealing with verbal minor amendments (of less than 8 words) will follow the same process as that for written amendments and will be dealt with after all written amendments have been voted upon, unless the amendment is for clarification purposes.
- 12.5 **Written amendments:** All amendments that are more than 8 words must be in written form in advance of the commencement of the meeting in which the item being amended is being discussed.
- 12.6 **Submitting an Amendment:** Amendments will be emailed or handed to the Head of Governance, People & Performance or emailed to [democratic.services@ Crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk) by 10.00am on the day of the meeting.
- 12.7 **Evaluating an Amendment:** The Head of Governance, People & Performance will evaluate an amendment against the criteria set out in Paragraphs 1.2(H.2), 12.2 and 12.3. They reserve the right to reject the amendment accordingly.
- 12.8 All written amendments should be published and circulated to all Councillors in the Order Paper in advance of the meeting.
- 12.9 **At the Meeting:** An amendment will be dealt with as follows:
- a) Once the item has been formally moved, presented and seconded, the Mayor will then take any published amendments in turn.
  - b) A mover will be sought to move and present the published amendment, they do not need to be a signatory.
  - c) A seconder will be sought. If the amendment is not seconded, the amendment will fall and will not be discussed. The seconder may reserve their right to speak later in the debate.

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- d) Once all the amendments have been moved and seconded the Mayor will open the debate on the amendment(s) and the original Recommendation/Notice of Motion.
  - e) Once the debate has concluded the mover of the original Recommendation/Notice of Motion will have the final right to reply.
  - f) Then each amendment will be voted upon separately, in the order they were moved. The Mayor will clearly announce the amendment being voted on before the vote commences and after each vote the Mayor will read out the decision.
  - g) If an amendment is carried, the Recommendation/Notice of Motion as amended will then become the substantive motion/recommendation.
  - h) Once all amendments have been debated and voted upon, a vote will then be taken on the substantive motion/recommendation and the decision will be read out by the Mayor.
- 12.10 The Mayor retains the right, in consultation with the Head of Governance, People & Performance, to hold an individual debate including the voting on the amendment(s), if it is deemed that this approach would be conducive to the debate. This would be made clear to all present if this was the case.

## **13. SUSPENSION OF FULL COUNCIL PROCEDURE RULES**

- 13.1 All Full Council Procedure Rules, except Rules 1.2(C1) (signing of minutes) and 10.4 (holding a recorded vote), may be suspended if they receive a majority of support from Councillors present, as set out in Rules 10.2 (majority) and 10.3 (Mayor's casting vote). Suspension will only apply for the duration of that meeting.

## **14. EXCLUSION OF PUBLIC FOR DISCUSSIONS IN EXEMPT SESSION**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules of this Constitution or Rule 17 (Disturbance by Public).

## **15. URGENT ACTION**

- 15.1 If urgent action is required in respect of any Full Council function before a decision can be taken by the Full Council, a written report will be prepared for consideration by the Chief Executive. The Chief Executive may after consultation and agreement in writing from the Mayor, take a decision and any necessary action as appropriate in relation to that matter.
- 15.2 Should the Mayor not be available for consultation, the Deputy Mayor shall be consulted in their absence.
- 15.3 Every such decision shall be reported to the next available Ordinary Meeting of the Full Council.

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## 16. COUNCILLORS' CONDUCT

In addition to the general requirements of the Code of Conduct for Councillors, the following shall apply to meetings of the Full Council:

### 16.1 Every Councillor present at the meeting shall:

- a) Treat others with courtesy and respect.
- b) Conduct themselves in a way which does not cause offence to others or limits in any way others' ability to participate at the meeting.
- c) Only speak when called on by the Mayor or speak through the Mayor.

### 16.2 Unacceptable conduct includes:

- a) Using abusive or inappropriate 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.

16.3 **Only One Councillor Shall Speak at a Time:** A Councillor, when speaking, shall address the Mayor. If two or more Councillors indicate a wish to speak, the Mayor shall call on one to speak and any others shall wait to be called. While a Councillor is speaking other Councillors shall remain quiet, unless raising a procedural motion.

16.4 **Mayor Speaking:** When the Mayor speaks during a debate or stands in the Council Chamber any Councillor speaking at the time must stop. The meeting must be silent.

16.5 **Councillor Not to be Heard Further:** If a Councillor persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor or another Councillor may move that the Councillor not be heard further. If seconded, the motion will be voted on without discussion.

16.6 **Councillor to Leave the Meeting:** If the Councillor continues to behave improperly after such a motion is carried, the Mayor may move that either the Councillor 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 Councillor leave the room is carried, the Councillor will leave the room immediately.

## 17. DISTURBANCE BY PUBLIC

17.1 If there are general disturbances by a member of the public, the Mayor has a number of powers, including:

- a) To warn a particular person or order their removal from the meeting.
- b) To adjourn the meeting to allow order to be restored.
- c) To clear all or part of the public areas as necessary.
- d) To adjourn the meeting to another date and time as the Mayor deems appropriate so that the business of the meeting can be conducted.

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# Agenda Item 18

## GENERAL COMMITTEE PROCEDURE RULES

### 1. SCOPE OF THESE RULES

- 1.1. These Rules apply to all Committee and Sub-Committee meetings of the Council with the exception of the Full Council. Separate Procedure Rules are in place for the Cabinet, Overview and Scrutiny Commission and Licensing Sub-Committees (Hearings) which must be read in conjunction with these General Committee Procedure Rules.

### 2. SCHEDULED COMMITTEE MEETINGS

- 2.1. Committee meetings will take place as scheduled in the Calendar of Meetings unless amended with the agreement of the relevant Chair, or in the Chair's absence, the Vice Chair of the appropriate Committee.

### 3. ORDER OF BUSINESS

- 3.1. Committee and Sub-Committee meetings will:
  - a) Elect a Committee Member to chair the meeting, should the Chair and Vice Chair not be present.
  - b) Receive notification of apologies for absence.
  - c) Receive any declarations of interest from Councillors.
  - d) Approve the minutes of the last meeting.
  - e) Public Question Time (excluding Planning Committee, Licensing Sub-Committee (Hearings) and Licensing Sub-Committee (Taxis)).
  - f) Consider the business detailed on the agenda.
  - g) Consider any relevant petitions (if any) under the Council's Petitions Scheme.
  - h) Consider any urgent business.

*NB: The order of business is at the discretion of the Chair.*

### 4. INTERPRETATION OF THESE PROCEDURE RULES

- 4.1. The Chair or in their absence the person chairing the meeting will decide on all matters of order and interpretation of these rules and their decision will be final and not open to discussion. In presenting a ruling they must explain their decision.
- 4.2. In reaching their decision, they must give due consideration to the advice of the Legal Officer or Democratic Services Officer. The Chair may defer to the Legal Officer or Democratic Services Officer to provide the interpretation on their behalf.

### 5. ROLE OF THE CHAIR

- 5.1. The Chair, and in their absence the Vice Chair, will have the following roles:
  - a) To prepare for and chair meetings in a fair, impartial and competent manner, ensuring Councillors treat each other with respect.

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- b) To have a clear understanding of the responsibilities, range of services and current agreed policies for which their Committee is responsible.

## 6. NOTICE AND SUMMONS TO MEETINGS

6.1. The Head of Governance, People & Performance will give notice to the public of the time and place of any Committee meeting in accordance with the Access to Information Procedure Rules. The summons (in the form of an agenda) will be published at least five clear working days before a meeting and will detail the time, location and items to be discussed including any associated reports being considered. The date and time of scheduled Committee meetings will be published in the Calendar of Meetings.

6.2. **Special meetings of a Committee:** A special meeting may only be called:

- If there is urgent business to be considered.
- At the written request of any three members of the relevant Committee or the Chair.

Should such a request be made, the Chair and Vice Chair of the relevant Committee will be consulted and a summons/agenda issued by the Head of Governance, People & Performance.

*NB: No business, other than that contained within the issued summons/agenda shall be considered at Special Committee meetings.*

6.3. **Cancellation of scheduled Committee meetings:** A scheduled meeting may be cancelled in writing by the Head of Governance, People & Performance, if there is insufficient business, following consultation with the relevant Chair.

## 7. COMMENCEMENT OF MEETING

7.1. All Committee meetings will commence at the time specified in the scheduled Calendar of Meetings, unless the summons/agenda issued by the Head of Governance, People & Performance, following consultation with the Chair, alters this time.

## 8. ATTENDANCE AT THE MEETING

8.1. **Apologies for Absence:** Councillors who have conveyed their apologies for absence will be recorded as such in the minutes. Councillors 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.

8.2. **Quorum:** The quorum of a Committee meeting shall be one quarter of the whole number of Councillors rounded up where necessary to the next number and no less than three Councillors. Specific quorum requirements relating to the Employment Panel are set out in its functions (Section 1 of this Constitution). The attendance of the Independent Member to the Audit Committee shall not be taken into account when calculating the quorum at Audit Committee meetings.

If a meeting remains inquorate 15 minutes after its scheduled start time, an officer (usually a member of the Democratic Services team) will announce that the meeting



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is inquorate and those present will be requested to informally agree to either reconvene at a later date or defer items on the agenda to a future scheduled meeting.

8.3. **Substitutes:** Where substitutes have been assigned to a Committee, those Councillors may only take the place of the ordinary Committee Member when they will be absent for the whole of the meeting and either the Chair or the Head of Governance, People & Performance has been notified in advance of the substitution. Substitutes will have all the powers and duties of any ordinary Committee Member.

8.4. **Council Officers:** Officers attending Committee meetings may, with the consent of the Chair, contribute by presenting any report under consideration or by providing advice and guidance.

8.5. **Non-Committee Councillors:**

Every Councillor has the right to attend any standing Committee or Sub-Committee of the Council, other than:

- The Employment Panel (selected Panel only).
- Closed sessions of the Licensing Sub-Committee (Hearings) (selected Panel only).

A non-Committee Councillor is only entitled to take part in the proceedings if they obtain the Chair's consent to speak on a particular item. They will not under any circumstances be entitled to vote. Non-Committee Councillors will sit separately from Committee Members.

8.6. **Non-Committee Councillors proposing a motion:** A Non-Committee Member who has moved a Notice of Motion at the Full Council which has been referred to a Committee has the right to attend the meeting to explain the motion. They will not have the right to vote on the item.

## 9. DECLARATIONS OF INTEREST

9.1. In accordance with the Code of Conduct for Councillors, Councillors are required to declare interests as appropriate.

## 10. MINUTES

10.1. Each Committee meeting will consider and sign the minutes of the previous meeting. The Chair 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 and any questions as to their accuracy shall be raised as a Procedural Motion and voted on accordingly. Once the minutes have been agreed by the Committee they shall be signed by the Chair.

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## 11. PUBLIC QUESTIONS AND SPEAKING RIGHTS

- 11.1. **Public Question Time:** Public Question Time will only occur at ordinary meetings of the Audit Committee, Governance Committee and Licensing Committee and will last for a maximum of 15 minutes.
- a) Members of the public do not need to give prior notice of their questions.
  - b) The question should be relevant to any item on the agenda. 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.
  - c) The question must not be in essence the same as a question which has been put to that Committee in the past 6 months.
  - d) The Chair of that Committee, at their discretion, may answer the question or invite other Councillors or officers to respond.
  - e) After the question has been answered, the person asking the question may ask one supplementary question relating to the same matter.

Separate procedures are in place for public questions at meetings of the Overview and Scrutiny Commission, the Full Council and the Cabinet (see the relevant Procedure Rules for more detail).

- 11.2. **Public Speaking Rights:** There are no public speaking rights at Committees or Sub-Committees with the exception of the Planning Committee and Licensing Sub-Committee (Hearings) (see relevant sections of this Constitution). However, the Chair has the discretion to allow public speaking rights if they consider it to be beneficial.

## 12. AMENDMENTS

- 12.1. This procedure is for use with proposed amendments to Committee recommendations.
- 12.2. An amendment **MUST** only seek to make the following change(s) to the original recommendation:
- a) Refer the matter to an appropriate body or individual for (re)consideration.
  - b) Remove words.
  - c) Replace words.
  - d) Insert additional words.
- 12.3. An amendment **MUST NOT**:
- a) Add unrelated issues to the original recommendation.
  - b) Have the effect of introducing a new proposal into the debate.
  - c) Have the effect of negating the original recommendation.
  - d) Be defamatory, frivolous or offensive.

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12.4. An amendment will be dealt with as follows:

- a) May be moved during the debate and will be discussed during the general discussion.
- b) Before any amendment is voted upon it must be formally moved and seconded. If the amendment is not seconded, the amendment will fall.
- c) If more than one amendment is proposed, each amendment will be voted upon separately in the order in which they were moved.
- d) If the amendment is carried the recommendation as amended will then become the substantive recommendation.
- e) Once all amendments have been voted upon, a vote will then be taken on the substantive recommendation and the decision will be announced by the Chair.

## 13. VOTING

13.1. **Procedure:** The Chair will give clear instructions and guidance when a vote is to be taken, this may include an explanation as to the questions being voted upon and a summary of the debate.

The Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting unless a recorded vote is requested (Rule 12.4). All Councillors will be expected to indicate their voting intentions clearly.

It should be noted that the Independent Member to the Audit Committee does not have voting rights.

13.2. **Majority:** All matters will be decided by a simple majority of those Councillors voting and present in the room at the time the question is put to the vote. The Chair will ascertain the numbers voting for or against any question, or not voting on it and shall announce those numbers and declare the result.

13.3. **Chair's Casting Vote:** If there are equal numbers of votes for and against, the Chair or the person presiding will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

13.4. **Recorded Vote:** A recorded vote will be taken if any Councillor present at the meeting demands it. In the event of a recorded vote, the Democratic Services or Legal Officer shall call the names of each Councillor present in alphabetical order. Each Councillor will then declare themselves for or against the recommendation or abstaining from voting. This process will be taken down in writing and entered into the minutes. The Chair will declare the result.

13.5. **Right to Require Individual Vote to be Recorded:** Any Councillor may request that the minutes record how they voted, be it for or against the recommendation or abstaining from voting. Such a request must be made immediately after the relevant vote is taken.

13.6. **Voting at the Planning Committee:** It is important that decisions by the Planning Committee are not taken in a way which encourages a challenge on the grounds of impropriety. As such, members of the Committee must have heard the majority of the officer's presentation and been present for the majority of the discussion on an application in order to vote on that item.

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## 14. PROCEDURAL MOTIONS

14.1. Procedural motions, as listed below, may be moved without notice:

- a) **Point of Order:** A point of order is a request from a Councillor to the Chair to rule on an alleged legal or procedural irregularity relating to the meeting. A Councillor may raise a point of order at any time and the Chair will hear them immediately, for a period of up to 2 minutes. A point of order may only relate to an alleged breach of these Procedure Rules or the law, and the Councillor raising the matter must indicate how they believe it has been breached. The ruling of the Chair on the matter will be final.
- b) **Personal Explanation:** A Councillor may make a personal explanation at any time to clarify an aspect of an earlier speech they have made which appears to have been misunderstood in the present debate. The ruling of the Chair on the matter will be final.
- c) Elect a Committee Member to chair the meeting, should the Chair or Vice Chair not be present.
- d) Contest the accuracy of the minutes (Rule 9).
- e) To change the order of business in the agenda.
- f) To refer something to an appropriate body or individual.
- g) To proceed to the next business.
- h) That the item now be voted upon.
- i) To adjourn a debate.
- j) To adjourn a meeting.
- k) To authorise the sealing of documents.
- l) To suspend a particular Procedure Rule.
- m) To exclude the public and press in accordance with the Access to Information Procedure Rules.
- n) To not hear further a Councillor named under Rule 15.5 (Councillor not to be heard further) or to exclude them from the meeting under Rule 15.6 (Councillor to leave the room).

*\* NB: Once a procedural motion (with the exception of (a) and (b) above) has been moved and seconded, a vote on the matter will be taken immediately.*

## 15. DURATION OF MEETING

- 15.1. **Commencement:** Most formal Committee meetings will commence at 7.00pm, unless the summons/agenda issued by the Chief Executive or the Head of Governance, People & Performance, following consultation with the relevant Chair, alters this time.
- 15.2. **Concluding the Meeting:** The business of any Committee meeting should conclude by 11.00pm.

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- 15.3. **Guillotine (with the exception of the Planning Committee):** The use of the guillotine process comes into effect once the meeting has reached 11.00pm.

The Guillotine process is:

- a) **Recommendations Not Dealt With:** If there are any recommendations on the agenda that have not been dealt with, 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/Committee is statutorily required to make a decision about a matter before a particular date.
- b) **Recorded Vote:** If a recorded vote is called for during this process, it will be taken immediately.
- c) **Procedural Motions Which May Be Moved:** During the guillotine process, the only other Procedural Motions which may be moved are that a matter be withdrawn or referred to an appropriate body or individual for decision or report.
- d) **Closure of the Meeting:** When all recommendations have been dealt with, the Chair will declare the meeting closed.

- 15.4. **Guillotine (Planning Committee):** The use of the guillotine process comes into effect once the meeting has reached 11.00pm.

The Guillotine process is:

- a) **Recommendations Not Dealt With:** If there are any recommendations on the agenda that have not been dealt with, they will be deferred until the next scheduled meeting of the Committee. The exception to this will be matters which statutorily require a decision before the date of the next meeting, in which case an additional Committee meeting will be arranged as soon as practicably possible to consider these matters. No speeches will be allowed on these items and no votes will be taken.
- b) **Consideration Underway:** Any item already undergoing debate at 11.00pm will be concluded and voted upon rather than being deferred.
- c) **Recorded Vote:** If a recorded vote is called for during this process, it will be taken immediately.
- d) **Procedural Motions Which May Be Moved:** During the guillotine process, the only other Procedural Motions which may be moved are that a matter be withdrawn or referred to an appropriate body or individual for decision or report.
- e) **Closure of the Meeting:** When all recommendations have been dealt with or deferred, the Chair will declare the meeting closed.

## 16. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules or Rule 18 (Disturbance by Public).

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## 17. COUNCILLORS' CONDUCT

In addition to the general requirements of the Code of Conduct for Councillors, the following shall apply to Committee meetings:

### 17.1. **Every Councillor present at the meeting shall:**

- a) Treat others with courtesy and respect.
- b) Conduct themselves in a way which does not cause offence to others or limits in any way others' ability to participate at the meeting.
- c) Only speak when called on by the Chair or speak through the Chair.

### 17.2. **Unacceptable conduct includes:**

- a) Using abusive or inappropriate 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.

17.3. **Only One Councillor Shall Speak at a Time:** A Councillor when speaking shall address the Chair. If two or more Councillors indicate a wish to speak, the Chair shall call on one to speak and any others shall wait to be called. While a Councillor is speaking other Councillors shall remain quiet, unless raising a procedural motion or making a personal explanation.

17.4. **Chair Speaking:** When the Chair speaks during a debate, any Councillor speaking at the time must stop. The meeting must be silent.

17.5. **Councillor Not to be Heard Further:** If a Councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair or another Councillor may move that the Councillor not be heard further. If seconded, the motion will be voted on without discussion.

17.6. **Councillor to Leave the Meeting:** If the Councillor continues to behave improperly after such a motion is carried, the Chair may move that either the Councillor 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 Councillor leave the room is carried, the Councillor will leave the room immediately.

17.7. **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 so that order may be restored.

## 18. DISTURBANCE BY PUBLIC

18.1. If there are general disturbances by a member of the public, the Chair has a number of powers, including:

- a) To warn a particular person or order their removal from the meeting.
- b) To adjourn the meeting to allow order to be restored.
- c) To clear all or part of the public areas as necessary.

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- d) To adjourn the meeting to another date and time as the Chair deems appropriate so that the business of the meeting can be conducted.

## **19. URGENT ACTION**

- 19.1. Executive (Leader and Cabinet) decisions taken under urgency will follow the Urgency and Exemption Procedures set out in the Access to Information Procedure Rules.
- 19.2. If urgent action is required in respect of any Committee function before a decision can be taken by the appropriate Committee or Sub-Committee, a written report will be prepared for consideration by the 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 and any necessary action as appropriate in relation to that matter.
- 19.3. Should the Chair or Vice Chair of the appropriate Committee or Sub-Committee not be available for consultation, the Mayor shall be consulted in their absence.
- 19.4. Every such decision shall be reported to the next available meeting of the appropriate Committee or Sub-Committee.

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# Agenda Item 19

## VIRTUAL COMMITTEE PROCEDURE RULES

This section will only come into force if, and when, fully virtual Committee meetings are able to place

### 1. SCOPE OF THESE RULES

- 1.1. These Rules apply to all Committee and Sub-Committee meetings of the Council including Full Council, Cabinet, Overview and Scrutiny Commission, and Scrutiny Panels and must be read in conjunction with the General Committee Procedure Rules.
- 1.2. The Licensing Sub-Committee (Hearings) Procedure Rules have been rewritten to include the ability to hold Sub-Committee hearings virtually, but regard should still be paid to these Rules when operating Sub-Committee Hearings.

### 2. OVERVIEW

- 2.1. The Local Authorities and Police and Crime Panels (Coronavirus)(Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations came into force on 4 April 2020. These Regulations allow the Council to hold its Council and Committee meetings virtually until 7 May 2021. Committees can be run wholly virtually, or partly virtually and partly in physical form. If any part of a meeting is held virtually then the Virtual Committee Procedure Rules shall apply and take precedence over the General Committee Procedure Rules.
- 2.2. Virtual Committee meetings will be held through Microsoft Teams Live Events and broadcast via the Council's website. Members of the public and press can view a meeting via a link which will appear on the Committee page of the website 24 hours before the commencement of the meeting.
- 2.3. Agendas for Committee meetings will be published via the Council's website in line with normal procedure.
- 2.4. In order for Councillors to be able to attend meetings of the Council remotely, they need not be physically present, provided they are able to hear and be heard by (and where practicable, see and be seen by) other Committee members and members of the public attending remotely or in person.
- 2.5. At the commencement of a meeting the Chair will ask Committee members in turn (alphabetically) to confirm their attendance. This is to ensure that communication between the Chair, Committee, and officers is working correctly and that the meeting is quorate.
- 2.6. Councillors who are members of the Committee or who are presenting a report will receive a link to join the Committee feed. All non-Committee members are also entitled to join the Committee feed and as such may request to join that feed by contacting Democratic Services prior to the start of the meeting; those Councillors will then be dialled into the Committee feed in advance of the meeting. Non-Planning Committee members who have submitted a representation on a planning application as a Ward Councillor must follow the above procedure. Non-Committee members wishing to view discussions relating to exempt or confidential information (Part B items) may only do so through the Committee feed.

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*N.B: For record purposes any non-Committee members present at the meeting (via the Committee feed) will be announced by either the Chair or the Democratic Services Officer. It will be taken that such Councillors do not have any disclosures of interest unless indicated by the Councillor themselves.*

- 2.7. Connection issues may nullify Committee members' entitlements to vote on agenda items. See sections 9 (Adjournments) and 10 (Voting).

### 3. PUBLIC QUESTIONS

- 3.1. There will no in-person public question time (PQT) at any Council meeting while virtual Committee meetings are being held.
- 3.2. Public questions to Committees can instead be submitted in writing by **noon two days\*** in advance of the meeting by emailing [democratic.services@crawley.gov.uk](mailto:democratic.services@crawley.gov.uk) with the exception of the Full Council where the questions must be submitted by **noon one week\*\*** before the meeting.
- 3.3. There are to be **no** written public questions allowed for Planning Committee, Licensing Sub-Committee (Hearings), Licensing Sub-Committee (Taxis) or Scrutiny Panel meetings.
- 3.4. All accepted public questions will be published within a supplementary agenda.
- 3.5. Written public questions will be read out (normally by the Chair or by the Democratic Services Officer) during the allocated time at a meeting and will be followed by a response. A written copy of the response will be included within the minutes of that meeting and the questioner will receive an emailed copy of the response given at the meeting. There will be no supplementary questions.

#### Rules Governing Written Public Questions

- 3.6. The Monitoring Officer shall have the final say as to whether any question received meets the following criteria.
- 3.7. For ordinary meetings of the **Overview and Scrutiny Commission, Audit Committee, Governance Committee and Licensing Committee** the following rules apply to the written question:
- a) The question must be received by **noon two days\*** before the scheduled date of the meeting.
  - b) The question should be relevant to any item on the agenda.
  - c) 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.
  - d) The question must **not** be, in essence, the same as a question which has been put to that Committee in the past 6 months.
  - e) The question must **not** be more than 100 words long.
  - f) The Chair of the Committee, at their discretion, may answer the question or invite other Committee members or officers to respond.

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3.8. For the **Cabinet** the following rules apply to the written question:

- a) The question must be received by **noon two days\*** before the scheduled date of the meeting.
- b) The question should be relevant to the functions of the Cabinet.
- c) 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.
- d) The question must **not** be, in essence, the same as a question which has been put to the Cabinet in the past 6 months.
- e) The question must **not** be more than 100 words long.
- f) The Leader may answer the question or invite the most relevant Cabinet Member(s) or an officer present to respond.

*\*For example, "noon two days before the meeting" means that questions must be received by noon on Monday for a meeting held on the Wednesday of that week.*

3.9. For **Full Council** the following rules apply to the written question, based on the *Public Written Questions* section set out in the current *Full Council Procedure Rules*:

- a) A question will normally be put to either:
  - The Mayor.
  - A Cabinet Member.
  - The Chair of any Committee.
- b) The question must be received by **noon one week\*\*** before the scheduled date of the meeting.
- c) Where possible, the questions and answers will be published in advance of the meeting via a supplementary agenda on the Council's website.
- d) The Monitoring Officer may reject a question if, in their opinion, it:
  - Is a statement and not a question.
  - Does **not** relate to an issue for which the Council holds responsibility, or which specifically affects the Borough.
  - Is defamatory, frivolous or offensive.
  - Requires the disclosure of confidential or exempt information or relates directly to an individual's personal circumstances.
  - Is substantially the same as a question which has been put to a meeting of the Council in the past 6 months.
  - Relates to a specific planning or licensing application.
  - In the case of a written question, it has not been submitted before the defined deadline or is more than 100 words long.

*\*\*For example, questions must be received by **noon** on Wednesday for a meeting held on the following Wednesday.*

## 4. PUBLIC SPEAKING RIGHTS

4.1. There are no public speaking rights at any virtual Committees or Sub-Committees with the exception of the Licensing Sub-Committee (Hearings).

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## Planning Committee

- 4.2. There will be no right to speak at a virtually held Planning Committee meeting. Instead the applicant, anyone who has submitted a valid written representation on an application, the local Ward Borough Councillors, or any other elected individual (as defined in the Speaking at Planning Committee Procedure Rules (SPCPR)) has the ability to submit a further statement for consideration by the Planning Committee. This replaces the ability to address the Committee during consideration of the application as detailed in the SPCPR.
- 4.3. People wishing to submit a statement must have emailed their statement to [democratic.services@crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk) no later than **noon two days\*** before the Committee meeting.
- 4.4. The document must be in a Microsoft Word or PDF format, may contain images, and must be no more than 1½ A4 sheets of text and a further 1½ A4 sheets of images. Presentations will not be accepted. Statements will be read out at the Planning Committee meeting (normally by the Democratic Services Officer) and will be allocated a maximum of 3 minutes each.
- 4.5. To try to align with the current SPCPR a limited number of statements will be accepted per application and they will be accepted on a first come, first served basis:
- 3x Objectors (including Objectors on behalf of a group)
  - 3x Applicant, Agent or Supporters, including relevant Cabinet Member/s
  - Ward Borough Councillors
  - Any other elected individual.
- 4.6. The order in which the statements will be presented to the Committee will be as set out in paragraph 6 (Order of Speaking and Time Allocation) of the SPCPR.

*\*For example, “noon two days before the meeting” means that statements must be received by noon on Monday for a meeting held on the Wednesday of that week.*

## Principal Petitioner (Person Who Has Submitted the Petition)

- 4.7. There will be no right to present a petition at virtually held meetings. Instead, once a relevant petition has reached the appropriate number of accepted signatures (as defined in the Petitions Scheme) and the Principal Petitioner has been contacted by a member of the Democratic Services Team to be informed as such, the Principal Petitioner has the right to submit a statement for consideration by the relevant meeting. This replaces their ability to address the meeting at the commencement of the debate on the petition.

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- 4.8. The Principal Petitioner must have emailed their statement (in Microsoft Word or PDF format) to [democratic.services@crawley.gov.uk](mailto:democratic.services@crawley.gov.uk) in accordance with the following:

Meeting	Deadline Date	Speech Duration*
Overview & Scrutiny Commission (OSC)	5pm on the (working) day before the meeting <i>(this would normally be on a Friday for a meeting held on the Monday)</i>	3 minutes = no more than 1½ A4 sheets of text
Cabinet	5pm on the (working) day before the meeting <i>(this would normally be on a Tuesday for a meeting held on the Wednesday)</i>	3 minutes = no more than 1½ A4 sheets of text <i>(this can be the same submission as used for the OSC or an amended version following the OSC debate)</i>
Full Council	5pm <b>two working days</b> before the meeting <i>(this would normally be on a Monday for a meeting held on the Wednesday)</i>	5 minutes = no more than 2½ A4 sheets of text

\* as detailed in the Petitions Scheme

- 4.9. Statements will be read out at the relevant meeting (normally by the Democratic Services Officer).

## 5. EXCLUSION OF PUBLIC

- 5.1. Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules relating to exclusion on the grounds of exempt or confidential information (Part B items) or Rule 17 (Disturbance by Public) of the Full Council Procedure Rules/General Committee Procedure Rules.
- 5.2. Any agenda item that requires exclusion of the public under the Access to Information Procedure Rules will be taken as the final item on the agenda. The live stream will be ended for the public and press, and the meeting will continue privately.
- 5.3. Any Committee member participating in a private session of a meeting is required to ensure that that part of the meeting cannot be seen or heard by any other person at their remote location. It is recommended that headphones are worn for such items.

## 6. COUNCILLORS' CONDUCT AT VIRTUAL MEETINGS

The general requirements of the Code of Conduct for Councillors still apply. Particular attention should be paid to the following.

- 6.1. Every Councillor present at the meeting shall:
- Treat others with courtesy and respect.
  - Conduct themselves in a way which does not cause offence to others or limit in any way others' ability to participate at the meeting.
  - Only speak when called on by the Chair or speak through the Chair.

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- d) Be mindful of the background of their video stream as it will be shown throughout the duration of the meeting. Backgrounds should be blurred or a Council-branded background used whenever possible.
  - e) Ensure that there will be no visible or audible disturbances.
  - f) Log on to a meeting individually and not share a screen.
  - g) Notify the Chair or the Democratic Services Officer if they need to leave the meeting, want to raise a procedural motion or are having technical difficulties.
- 6.2. When the Chair speaks during a debate, any Councillor speaking must stop and mute themselves.
- 6.3. If a Committee member wishes to speak during a meeting, they should indicate to the Democratic Services Officer via the agreed approach. Committee members should only speak when called upon and ensure that they are 'live' before they address the Committee. The Chair and Democratic Services Officer on their behalf have discretion as to the order of speakers at any meeting.
- 6.4. A Committee member when speaking shall address the Chair. While a Committee member is speaking others shall remain quiet, normally being muted unless raising a procedural motion or making a personal explanation.
- 6.5. Committee members are asked not to use the Microsoft Teams 'chat' facility during a Committee meeting, except when informing the Democratic Services Officer of connectivity problems. Otherwise, the facility is to be used only by the Chair and the officers present to provide or seek advice.
- 6.6. All Councillors hold a strict responsibility not to share any links to Committee meetings, including with fellow Councillors.

## **7. SPEAKING AT A MEETING OF THE FULL COUNCIL**

- 7.1. At the request of the Mayor it may be necessary for each political Group to provide a list of Councillors wishing to speak on specific items at a Full Council meeting, which must be sent to Democratic Services prior to the meeting. This would not prevent other Councillors from requesting to speak at the meeting itself, as defined in section 6.3, but the list will ensure that the virtual Full Council meeting runs efficiently.
- 7.2. Any Councillor either seconding a Notice of Motion, Recommendation or an Amendment will not have the ability to reserve their right to speak later in the debate, but must instead make their speech as they second the item.
- 7.3. Notices of Motion may be submitted in line with current procedure set out in the Constitution, as long as the Councillor submitting provides evidence to demonstrate to the Monitoring Officer that the matter is time critical.

## **8. DISCLOSURES OF INTERESTS**

- 8.1. All Committee members will need to declare whether they have an interest in any item of business being considered by the Committee. Committee members shall be called upon in turn to disclose the existence and nature of any interest (personal, prejudicial, or a Disclosable Pecuniary Interest [DPI]).

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- 8.2. If a Committee member has a DPI or prejudicial interest in any item on the agenda, that Committee member will be required to disconnect from the meeting for the duration of the consideration of that item. Once the item has been discussed and voted upon, the Committee member shall be invited back into the meeting.

## 9. ADJOURNMENTS

- 9.1. Should the Chair wish to adjourn the meeting for a brief period, the Committee will be notified and advised of the time at which it shall reconvene. Participants should remain connected to the meeting with their microphones muted and their video off.
- 9.2. Where a Committee member has lost connection, the Chair has discretion as to whether to adjourn the meeting for a short period to allow for their connection to be re-established, or to continue to transact the business of the meeting. The Chair is required to ensure the meeting remains quorate.
- 9.3. If a Committee member's connection is lost while in attendance at a **regulatory/quasi-judicial meeting of the Council** (i.e. Planning Committee, Licensing Committee, Licensing-Sub Committee (Hearings) or Licensing Sub-Committee (Taxis)) and the meeting continues, the disconnected Committee member(s) should vote to **abstain** on the item as they have been unable to hear the consideration of said item.
- 9.4. If technical reasons cause **all participants** to lose connection to a meeting, there will be a temporary adjournment to allow participants to re-connect. If this is not possible, the meeting will be adjourned and the business considered at a future date.
- 9.5. If it becomes clear either that the public feed is not functioning or the public are unable to connect to view the meeting, the meeting will be temporarily adjourned and a fix sought. If the public connection cannot be restored within a reasonable time period, the meeting will be adjourned and the business considered at a future date.

## 10. VOTING

### Entitlement to Vote

- 10.1. Committee members must have been 'present' as defined by section 2.4 and have heard the proceedings (at the absolute minimum) to be able to vote on the item.
- 10.2. If a Committee member loses connection during either a Planning Committee, Licensing Committee, Licensing-Sub Committee (Hearings) or Licensing Sub-Committee (Taxis), and the meeting continues, that Councillor, even if they reconnect during the item, cannot vote and must **abstain** as they have been unable to hear the full discussion on that item.

### Moving and Seconding a Recommendation

- 10.3. During voting all substantive recommendations shall be moved by the Chair and seconded by the Vice-Chair of the Committee. If the Chair and/or Vice-Chair are absent, alternative movers and seconders will be sought. Movers and seconders of amendments or alternative recommendations will differ on a case-by-case basis.

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## **Block Voting at Full Council**

- 10.4. Block Voting allows the Group Whip (or another individual named in advance) to vote on behalf of their respective Group as a block vote, rather than each Councillor voting individually. Any individual from within their Group still retains the right to use their own vote as an individual and not be included within their Group's block vote. Should a Group propose to use a block vote for an item, the Political Group Leader or Secretary must notify the Mayor via Democratic Services of that intention by midnight the day before the meeting. When no indication has been provided the voting procedure for that item will default to that set out below.

## **Recorded Voting at all Virtual Meetings**

- 10.5. For any Committee held virtually, all voting (with the exception of 10.4) will be held via a recorded vote taken by the Legal Officer/Democratic Services Officer on behalf of the Chair. In accordance with the Full Council Procedure Rules Full Council decisions relating to the Annual Budget and Council Tax will always be taken as a recorded vote.
- 10.6. The exceptions to this are the approving of the minutes of the previous meeting or any other procedural item or where the item's sole recommendation to a Committee is to 'note' the report. The Chair will move the item and it will be presumed agreed, unless a dissenting comment from any Committee member is made.

## **Connection Issues during Voting**

- 10.7. If a Committee member's microphone connection fails during a vote, but they still can hear the officer taking the recorded vote, that Committee member may still vote by showing their vote through the raising of a hand.
- 10.8. If a Committee member's video connection fails during a vote, and the Councillor can still hear the officer taking the recorded vote, that Committee member may still vote by indicating verbally.
- 10.9. If either of the voting connection issues occurs (as defined in section 10.7 or 10.8) during a Planning Committee, Licensing Committee, Licensing-Sub Committee (Hearings) or Licensing Sub-Committee (Taxis) vote, the Committee Member must also consider section 10.2 which requires a vote to **abstain** be made if they have been unable to hear the full discussion on that item.

## **11. DURATION OF A MEETING**

- 11.1. With the exception of Full Council (see Full Council Procedure Rules), the business of any formal Council meeting should conclude within 4 hours, unless a vote(s) to continue the meeting has been passed.
- 11.2. If the business of the meeting has not been completed within 3 ½ hours, the Chair will call for a vote to extend the meeting for up to 30 minutes. A simple majority is required for the meeting to continue.
- 11.3. If required, following the meeting's initial extension, further votes may be taken to extend the meeting by 30 minute increments.



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## **12. RECORDING AND RETENTION OF THE MEETING**

- 12.1. Committee meetings will be live streamed through Microsoft Teams Live Events. Democratic Services will, dependent on technological capability, aim to make a recording of each meeting available on the Council's website. Recordings will be available for six months after the meeting.

## **13. ADVANCEMENT OF THE VIRTUAL COMMITTEE PROCEDURE RULES**

- 13.1. There is an expectation that the above Procedure Rules will evolve as technology adapts and as the Council becomes more experienced at holding virtual meetings.
- 13.2. The Chief Executive and/or Head of Governance, People & Performance has the delegation to amend these Procedure Rules in consultation with the Chair and Vice-Chair of the Governance Committee and the Leader of the Council, to ensure that the Council's virtual Committees run as efficiently as possible and mirror, where possible, standard committees.

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# Agenda Item 20

## LICENSING SUB-COMMITTEE (HEARINGS) PROCEDURE RULES

These Rules are divided into two sections relating to the format of the meeting:

- **Section A:** Procedures for In-Person Meetings.
- **Section B:** Procedures for Virtual Meetings.

### SECTION A: PROCEDURES FOR IN-PERSON MEETINGS

#### 1. SCOPE OF THESE RULES

- 1.1. These Rules apply specifically to Licensing Sub-Committee Hearings under the Licensing Act 2003 ('the Act') and the *Licensing Act 2003 (Hearings) Regulations 2005* ('the Regulations').
- 1.2. These Rules should be read in conjunction with paragraphs 9 (Declarations of Interest), 16 (Councillors' Conduct) and 17 (Disturbance by Public) of the General Committee Procedure Rules as appropriate.
- 1.3. In these Rules all references to "party" and "parties" is a reference to all persons to whom a Notice of Hearing must be given pursuant to Regulation 6 of the Regulations.

#### 2. CONSULTATION PERIOD AND SUBMISSION OF RELEVANT REPRESENTATIONS/DOCUMENTATION

##### Consultation Period and Relevant Representations

- 2.1. The Council encourages that all representations made in relation to an application/notice be submitted by e-form on the Council's website or by e-mail to [licensing@ Crawley.gov.uk](mailto:licensing@ Crawley.gov.uk) (rather than by post or other means) to reduce the risk that they may not be received or considered by the Council. The Council's website will clearly state this.
- 2.2. When submitting representations/documentation parties are encouraged to provide a contact email address.

##### Submission of Documentation Supporting an Application, Notice or Representation

- 2.3. All parties must use their best endeavours to submit any documentation in support of their application, notice or representation which they wish to be included within the Notice of Hearing electronically to [licensing@ Crawley.gov.uk](mailto:licensing@ Crawley.gov.uk).
- 2.4. The Council encourages parties to follow these principles when drafting submissions in support of their application, notice or representation:
  - a) Focus on the promotion of one or more of the four Licensing Objectives as defined by the Act.
  - b) Make reference to the relevant parts of the Council's Licensing Policy Statement and Section 182 Guidance.
  - c) Be relevant.
  - d) Be evidence-led not based on speculation.

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- 2.5. Parties should endeavour to submit all additional documentation they wish to be considered by the Sub-Committee (which was not included in the Notice of Hearing) no later than 48 hours before the Hearing so that it can be circulated to all other parties. All submissions and supporting documentation/evidence should be submitted by email to [democratic.services@ Crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk).

## **Submission of CCTV and Audio Evidence**

- 2.6. Any video evidence submitted before a Hearing which a party wishes the Sub-Committee to view should be submitted in MP4 format. Parties are asked to ensure that any recording is edited to only contain relevant matters which relate to their representation. Parties are encouraged to submit any video evidence with a description of how, when and where the video was recorded and a summary of its contents.
- 2.7. Parties should endeavour to submit any video evidence they wish to rely upon at least 72 hours before the Hearing to allow sufficient time for it to be made available to the other parties.

## **3. NOTICE OF HEARING, AGENDA DOCUMENTS, NOTICE OF INTENTION TO ATTEND AND CANCELLATION OF THE HEARING**

### **Notice of Hearing and Agenda**

- 3.1. A Notice of Hearing (in the form of an agenda) will be sent via email to all parties at least ten clear working days before the meeting. The Notice will also be published via the Council's website in line with normal procedure. The Notice will include:
- a) Details of the date and time of the Hearing.
  - b) The report of the Council's Licensing Officer.
  - c) The application/notice.
  - d) Any relevant representations/notices received.
  - e) Any other supporting documentation submitted.
  - f) A copy of these Licensing Sub-Committee (Hearings) Procedure Rules.
  - g) A "Parties' Notice of Intention" form.

### **Notice of Intention to Attend**

- 3.2. All parties wishing to participate in the Hearing must register their wish to participate and provide their own email address and the email address(es) of any representatives/witnesses they wish to speak at the meeting. This **must** be done by returning the "Parties' Notice of Intention" form via email to the Council at [democratic.services@ Crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk) no later than five working days before the day of the Hearing.
- 3.3. Applicants are encouraged to attend the Hearing although they may choose not to attend and instead allow the decision to be considered on the basis of the written representations, and for the decision to be taken based on the information available at the Hearing.

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## **Cancellation of the Hearing**

- 3.4. If the application is withdrawn or an agreement is reached between the applicant and those who have submitted a representation, the Hearing will be cancelled as there will be no business to be considered. However, should the withdrawal or agreement be confirmed less than 24 hours before the Hearing is due to take place, the meeting will not be cancelled on that basis.

## **4. SPECIFIC LICENSING SUB-COMMITTEE (HEARINGS) RULES**

- 4.1. **Establishment of a Sub-Committee:** A Sub-Committee will only be arranged when there is a requirement for a Hearing as defined in the Act.
- 4.2. **Membership:** A Sub-Committee will consist of a panel of three Councillors drawn from a pool of four Councillors who have confirmed that they are available to attend the scheduled Hearing. (The purpose of having four is to ensure that there is a reserve Councillor available to substitute for one of the other three Councillors in the event that one of the others cannot attend due to unforeseen circumstances.) The pool of four Councillors will be drawn from the Councillors appointed to the Licensing Committee. Endeavours will be made for the Sub-Committee membership to be drawn from different political parties where possible, although this is not a requirement in law.
- 4.3. **Quorum:** The quorum of a Sub-Committee will be three.
- 4.4. **Appointment of Chair:** A Chair will be elected from the membership of the panel.
- 4.5. **Officer Attendance:** A Council legal advisor ('Legal Clerk'), Democratic Services Officer and Licensing Officer will usually attend a Sub-Committee for the sole purpose of providing advice on law and procedure.
- 4.6. **Sub-Committee Pre Meeting:** The Sub-Committee will usually meet with the Democratic Services Officer and Legal Clerk in advance of a Hearing. The purpose of this meeting will be to identify any matters upon which the Sub-Committee may require clarification (see Paragraph 3.1 – Order of Business), to ensure the Sub-Committee members have all the documentation for the Hearing, and to remind themselves of the Hearing Procedure. During any pre-meeting **no** decisions will be made and **no** discussions will take place regarding the substantive merits of the application or representations.
- 4.7. **Minutes:** The minutes of the Sub-Committee remain the responsibility of the Licensing Committee and will be brought before a minimum of ten Committee Members for their approval at a Licensing Committee meeting. Only a member of the relevant Sub-Committee is permitted to question the accuracy of the minutes. Once the minutes have been agreed, they shall be signed by a member of that Sub-Committee, which would normally be the Chair of the Panel.
- 4.8. **Procedure at the Meeting:** The procedure to be followed at Sub-Committee meetings is outlined later in these Rules.
- 4.9. **Additional Information:** When making their presentation/s, parties may only introduce documentary or other information produced either before the Hearing or, with the consent of all the other parties, at the Hearing.

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- 4.10. **Duration of Representations:** Each party will be given an equal amount of time to make representations. The amount of time will be at the Chair's discretion based on the number of parties present.
- 4.11. **Exclusion of the Public/Retiring for Deliberation:** By virtue of Regulation 14 of the Regulations, the Sub-Committee shall exclude from all or part of the Hearing any member of the public and/or any other person present at the Hearing if it believes that the public interest in doing so outweighs the public interest in allowing the person(s) in question to remain.

This exclusion will be used when the Sub-Committee retires for its deliberations.

## 5. HEARING PROCEDURE

- 5.1. **Order of Business:** Each Sub-Committee will usually follow the procedure below. However, a Sub-Committee may decide to vary the order of business below if it considers it appropriate, after it has first sought and considered any views of the parties present.
- 5.2. The Sub-Committee will appoint a Chair for the duration of the meeting.
- 5.3. The Chair will explain the Hearing Procedure.
- 5.4. The Chair will ask all parties present to introduce themselves.
- 5.5. The Legal Clerk will ask if any of the parties at that point have an application to make (for example for an adjournment).
- 5.6. The Sub-Committee will consider and decide on any applications made.
- 5.7. The Legal Clerk will inform the meeting whether, during any pre-meeting, the Sub-Committee sought clarification on any aspect of the application.
- 5.8. The Council's Licensing Officer will present the report which details the application and relevant representations.
- 5.9. The Sub-Committee may ask the Licensing Officer any questions in relation to the report.
- 5.10. In the order listed below, each party will present their application/representation to the Sub-Committee, including, with the permission of the Sub-Committee, presenting evidence from any witness they have brought with them.

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<b>Hearings of an application for a review of a premises licence or club premises certificate</b>	<b>All other Hearings</b>
1. The Applicant for the review	1. The Applicant
2. Those who made a relevant representation in respect of the application, in this order: <ul style="list-style-type: none"> <li>a) Any responsible authorities (as defined in the Act) other than the Applicant. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement.</li> <li>b) Any other person. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement.</li> </ul>	2. Those who made a relevant representation in respect of the application, in this order: <ul style="list-style-type: none"> <li>a) Any responsible authorities (as defined in the Act). If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement.</li> <li>b) Any other person. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement.</li> </ul>
3. The licence/certificate holder	

- 5.11. After each party's presentation (including any evidence from witnesses):
  - a) the Sub-Committee will lead a discussion on the issues raised, including asking any questions of the presenting party and/or their witnesses, and the Legal Clerk will ensure that any such requests are satisfactorily addressed; and
  - b) each other party (in the order set out above) may, with the permission of the Sub-Committee, ask questions of the presenting party and/or their witnesses.
- 5.12. Any closing statements will be made in the same order as described in 3.10 above.
- 5.13. The Sub-Committee shall retire in private for its deliberation (along with the Legal Clerk, to provided legal advice, and the Democratic Services Officer, for minuting purposes) to consider the application and other representations made, both written and oral.
- 5.14. When the Sub-Committee returns from its deliberations, the Legal Clerk will summarise any legal advice given during the Sub-Committee's deliberations.
- 5.15. The Sub-Committee's decision will be given by the Chair (or the Chair may invite the Legal Clerk to do so).
- 5.16. A full written version of the decision will be provided to all parties within the timeframe prescribed by the Act.

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## SECTION B: PROCEDURE FOR VIRTUAL MEETINGS

NB. This section will only come into force if, and when, fully virtual Sub-Committee meetings are able to place.

### 6. SCOPE OF THESE RULES

- 6.1. These Rules apply specifically to Licensing Sub-Committee Hearings under the Licensing Act 2003 ('the Act') and the *Licensing Act 2003 (Hearings) Regulations 2005* ('the Regulations').
- 6.2. These Rules form part of the Council's Hearings Procedures and should be read in conjunction with the Virtual Committee Procedure Rules as well as paragraphs 9 (Declarations of Interest) and 17 (Disturbance by Public) of the General Committee Procedure Rules as appropriate.
- 6.3. These Rules will replace the previously published Licensing Sub-Committee (Hearings) Procedure Rules to reflect that all Licensing Sub-Committee (Hearings) will be held virtually via Microsoft Teams Live until such time as it is deemed safe by the Government to hold public meetings.
- 6.4. In these Rules all references to "party" and "parties" is a reference to all persons to whom a Notice of Hearing must be given pursuant to Regulation 6 of the Regulations.

### 7. CONSULTATION PERIOD AND SUBMISSION OF RELEVANT REPRESENTATIONS/DOCUMENTATION

#### Consultation Period and Relevant Representations

- 7.1. The Council encourages that all representations made in relation to an application/notice be submitted by e-form on the Council's website or by e-mail to [licensing@crawley.gov.uk](mailto:licensing@ Crawley.gov.uk) (rather than by post or other means) to reduce the risk that they may not be received or considered by the Council. The Council's website will clearly state this.
- 7.2. As all Hearings until further notice will be held virtually through Microsoft Teams Live Event, when submitting representations/documentation parties are asked to provide a contact email address.

#### Submission of Documentation Supporting an Application, Notice or Representation

- 7.3. All parties must use their best endeavours to submit documentation in support of their application, notice or representation which they wish to be included within the Notice of Hearing electronically to [licensing@crawley.gov.uk](mailto:licensing@ Crawley.gov.uk).
- 7.4. The Council encourages parties to follow these principles when drafting submissions in support of their application, notice or representation:
  - e) Focus on the promotion of one or more of the four Licensing Objectives as defined by the Act.
  - f) Make reference to the relevant parts of the Council's Licensing Policy Statement and Section 182 Guidance.



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- g) Be relevant.
- h) Be evidence-led not based on speculation.

7.5. Parties should endeavour to submit all additional documentation they wish to be considered by the Sub-Committee (which was not included in the Notice of Hearing) no later than 48 hours before the Hearing so that it can be circulated to all other parties. All submissions and supporting documentation/evidence should be submitted by email to [democratic.services@crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk).

## **Submission of CCTV and Audio Evidence**

- 7.6. Any video evidence submitted before a Hearing which a party wishes the Sub-Committee to view should be submitted in MP4 format. Parties are asked to ensure that any recording is edited to only contain relevant matters which relate to their representation. Parties are encouraged to submit any video evidence with a description of how, when and where the video was recorded and a summary of its contents.
- 7.7. Parties should endeavour to submit any video evidence they wish to rely upon at least 72 hours before the Hearing to allow sufficient time for it to be made available to the other parties.

## **8. NOTICE OF HEARING, AGENDA DOCUMENTS, NOTICE OF INTENTION TO ATTEND AND CANCELLATION OF THE HEARING**

### **Notice of Hearing and Agenda**

- 8.1. A Notice of Hearing (in the form of an agenda) will be sent via email to all parties at least ten clear working days before the meeting. The Notice will also be published via the Council's website in line with normal procedure. The Notice will include:
- h) Details of the date and time of the online Hearing.
  - i) The report of the Council's Licensing Officer.
  - j) The application/notice.
  - k) Any relevant representations/notices received.
  - l) Any other supporting documentation submitted.
  - m) A copy of these Virtual Licensing Sub-Committee (Hearings) Procedure Rules.
  - n) A copy of the Virtual Committee Procedure Rules.

### **Notice of Intention to Attend**

- 8.2. All parties wishing to participate in the Hearing must register their wish to participate and provide their own email address and the email address(es) of any representatives/witnesses they wish to speak at the meeting. This **must** be done by email to the Council at [democratic.services@crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk) within the appropriate timeframe as set out below:
- a) For Hearings under section 48(3)(a) (cancellation of interim authority notice following police objection), or section 105(2)(a) (counter notice following police objection to temporary event notice) – **no later than one working day before the day or the first day on which the Hearing is to be held.**

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- b) For a Hearing under section 167(5)(a) (review of premises licence following closure order), section 53C (review of premises licence following review notice), paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence), paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence) – **no later than two working days before the day or the first day on which the Hearing is to be held.**
- c) For all other Hearings, **no later than 72 hours before the day (or the first day) on which the Hearing is to be held.**

8.3. Applicants are encouraged to attend the Hearing online although they may choose not to attend and instead allow the decision to be considered on the basis of the written representations, and for the decision to be taken based on the information available at the Hearing.

## **In Advance of the Hearing**

- 8.4. The Sub-Committee, in discussion with the Democratic Services Officer and Legal Clerk, will decide upon a practical protocol for management of the Hearing and decision-making in an online environment (e.g. self-introduction before speaking, asking all participants to keep their microphones on mute when not speaking, etc). Such a protocol can be amended from time to time and does not require Committee approval for any change.
- 8.5. The Council will email an invitation to join the Hearing to all parties (and their representatives/witnesses) who registered their wish to participate within the time set out in Paragraph 3.2 above and where an email address has been provided.
- 8.6. All parties are requested to join the Microsoft Teams Live Event meeting 15 minutes before the scheduled start time of the Hearing to ensure that communication between the Sub-Committee, officers and all parties is working correctly.

## **Cancellation of the Hearing**

- 8.7. If the application is withdrawn or an agreement is reached between the applicant and those who have submitted a representation, the Hearing will be cancelled as there will be no business to be considered. However, should the withdrawal or agreement be confirmed less than 24 hours before the Hearing is due to take place, the meeting will not be cancelled on that basis.

## **9. SPECIFIC LICENSING SUB-COMMITTEE (HEARINGS) RULES**

- 9.1. **Establishment of a Sub-Committee:** A Sub-Committee will only be arranged when there is a requirement for a Hearing as defined in the Act.
- 9.2. **Membership:** A Sub-Committee will consist of a panel of three Councillors drawn from a pool of four Councillors who have confirmed that they are available to attend the scheduled Hearing. (The purpose of having four is to ensure that there is a reserve Councillor available to substitute for one of the other three Councillors in the event that one of the others cannot attend due to unforeseen circumstances.) The pool of four Councillors will be drawn from the Councillors appointed to the Licensing Committee. Endeavours will be made for the Sub-Committee membership to be drawn from different political parties where possible, although this is not a requirement in law.

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- 9.3. **Quorum:** The quorum of a Sub-Committee will be three.
- 9.4. **Appointment of Chair:** A Chair will be elected from the membership of the panel.
- 9.5. **Participation in the Hearing:** Members of the Sub-Committee, officers, and all relevant parties, including Applicants, Interested Parties and Responsible Authorities will be invited to join (attend) the meeting remotely via a Microsoft Teams participation feed. Such invitation links must not be shared. Microsoft Teams enables individuals to view and participate in a video-conference using a desktop computer or laptop.
- 9.6. **Officer Participation:** A Council legal advisor ('Legal Clerk'), Democratic Services Officer/s (which may include a Producer) and Licensing Officer/s will usually participate in a Sub-Committee for the purposes of facilitating the meeting and providing advice on law and procedure.
- 9.7. **Observation of the Hearing:** To meet the legal requirement for Hearings to be held in public, members of the press and public will be able to observe (but not participate in) the Hearing meetings online via a public feed. Councillors who are not members of the Sub-Committee must also view the meeting through the public feed rather than directly participating in the meeting.
- 9.8. **Sub-Committee Pre-Meeting:** The Sub-Committee will usually meet virtually with the Democratic Services Officer and Legal Clerk in advance of a Hearing. This pre-meeting will be held in private, and will not be streamed via the public feed. The purpose of this meeting will be to identify any matters upon which the Sub-Committee may require clarification (see Paragraph 5.6 – Order of Business), to ensure the Sub-Committee members have all the documentation for the Hearing, and to remind themselves of the Hearing Procedure. During any pre-meeting **no** decisions will be made and **no** discussions will take place regarding the substantive merits of the application or representations.
- 9.9. **Minutes:** The minutes of the Sub-Committee remain the responsibility of the Licensing Committee and will be brought before a minimum of ten Committee Members for their approval at a Licensing Committee meeting. Only a member of the relevant Sub-Committee is permitted to question the accuracy of the minutes. Once the minutes have been agreed, they shall be signed by a member of that Sub-Committee, which would normally be the Chair of the Panel.
- 9.10. **Procedure at the Meeting:** The procedure to be followed at Sub-Committee meetings is outlined later in these Rules.
- 9.11. **Additional Information:** When making their presentation/s, parties may only refer to the documentation/information submitted in advance of the Hearing. Additional/abled information may only be referred to with the consent of all parties at the Hearing.
- 9.12. **Exclusion of the Public/Retiring for Deliberation:** By virtue of Regulation 14 of the Regulations, the 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 if it believes that the public interest in doing so outweighs the public interest in allowing the person(s) in question to remain. This exclusion will be used when the Sub-Committee retires for its deliberations.

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## 10. HEARING PROCEDURE

It should be noted that particular reference should be made to the Virtual Committee Procedure Rules in regard to issues such as adjournments and voting procedures.

**Order of Business:** Each virtual meeting of the Sub-Committee will usually follow the procedure below. However, a Sub-Committee may decide to vary the order of business below if it considers it appropriate.

- 10.1. At the commencement of the meeting the Democratic Services Officer will seek nominations for a Chair for the duration of the meeting.
- 10.2. The Chair will ask all parties present to introduce themselves.
- 10.3. The Chair will make reference to this Hearings Procedure.
- 10.4. The Legal Clerk will ask if any of the parties have an application to make at that point (for example for an adjournment).
- 10.5. The Sub-Committee will consider and decide on any applications made.
- 10.6. The Legal Clerk will inform the meeting whether, during any pre-meeting, the Sub-Committee sought clarification on any aspect of the application.
- 10.7. The Council's Licensing Officer will present the report which details the application and relevant representations.
- 10.8. The Sub-Committee may ask the Licensing Officer any questions in relation to the report.
- 10.9. In the order listed below, each party will be given 10 minutes to present their application/representation to the Sub-Committee (their written representations having been considered).

<b>Hearings of an application for a review of a premises licence or club premises certificate</b>	<b>All other Hearings</b>
1. The Applicant for the review	1. The Applicant
2. Those who made a relevant representation in respect of the application, in this order: <ul style="list-style-type: none"> <li>c) Any responsible authorities (as defined in the Act) other than the Applicant. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement.</li> <li>d) Any other person. If more than one, in the order determined between</li> </ul>	2. Those who made a relevant representation in respect of the application, in this order: <ul style="list-style-type: none"> <li>c) Any responsible authorities (as defined in the Act). If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement.</li> <li>d) Any other person. If more than one, in the order determined between themselves, or as decided by the Sub-Committee</li> </ul>

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<b>Hearings of an application for a review of a premises licence or club premises certificate</b>	<b>All other Hearings</b>
themselves, or as decided by the Sub-Committee in the absence of an agreement.	in the absence of an agreement.
3. The licence/certificate holder.	

- 10.10. After each party's presentation (including any evidence from witnesses):
- a) The Sub-Committee will lead a discussion on the issues raised, including asking any questions of the presenting party and/or their witnesses, and the Legal Clerk will ensure that any such requests are satisfactorily addressed; and
  - b) Each other party (in the order set out above) may, with the permission of the Sub-Committee, ask questions of the presenting party and/or their witnesses.
- 10.11. Any closing statements will be made in the same order as described in 5.9 above.
- 10.12. The Sub-Committee's deliberations will take place without other participants, the press, and members of the public being able to hear or see those deliberations. At this point in the Hearing the live public feed will end and deliberations will take place by way of a separate virtual meeting between the Sub-Committee members, the Legal Clerk (to provide legal advice) and the Democratic Services Officer (for minuting purposes).
- 10.13. The summary decision and reasons will be sent via email to all those who have provided the Democratic Services Officer with a valid email address in advance of the Hearing.
- 10.14. A full written version of the decision will be provided to all parties within the timeframe prescribed by the Act.

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## **SPEAKING AT PLANNING COMMITTEE PROCEDURE RULES**

### **1. THE RIGHT TO SPEAK AT PLANNING COMMITTEE**

- 1.1. Public speaking rights only apply to planning applications and confirmation of tree preservation orders which are to be determined by the Planning Committee. They do not apply to applications where a decision is delegated to officers under the scheme of delegation.
- 1.2. Public speaking rights will not apply at accompanied site visits or in respect of Confidential/Exempt items (such as enforcement matters) which may be brought before the Committee.
- 1.3. Only the following people may make a representation to the Committee:
  - Those submitting planning applications and/or their agents. If a Cabinet Member wishes to speak in support of an application submitted by/or on behalf of the Council which relates to their Portfolio, they will do this as part of the time allocated to the Applicant/agent or their supporters.
  - Representatives of civic or local representative groups.
  - Members of the public who have made written representations to Development Control (either for or against) in respect of the planning application. Such representations must have been received at least five clear working days before the relevant Planning Committee.
  - Borough Ward Councillors whose ward is directly affected by the planning application.
  - Any other elected individual (e.g. Member of Parliament or County Councillor) who represents the area affected by the planning application at the discretion of the Chair of the Planning Committee.

### **2. REGISTERING AN INTENTION TO SPEAK**

- 2.1. Applicants/agents/authors of written representations will be notified of their right to speak. It is the responsibility of those individuals 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.
- 2.2. People wishing to speak must register their interest with Democratic Services no later than 12 noon on the day of the Committee. Given the time limits set out below, to avoid disappointment people are advised to register their interest to speak early.
- 2.3. Should a speaker wish to use any visual aids they must notify Democratic Services via email at [democratic.services@ Crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk) no later than 12 noon on the day of the Committee. Any electronic visual aids to be shown during a speaker's presentation must also be included with that request. Only maps, plans, diagrams, photographs and video footage may be used as a visual aid by a speaker to support their verbal presentation. However, these materials cannot be circulated as hard copies at the meeting itself. It should be noted that the identity and privacy of other individuals should be respected in all content. In addition, any video footage must not exceed the speaker's allocated time.

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- 2.4. Registered speakers will be asked to arrive no later than 15 minutes before the start of the Committee. Speakers will be asked to provide the Democratic Services Officer with a written note of their presentation for record purposes.
- 2.5. Any Borough Ward Councillor, other elected individual or Cabinet Member intending to make a representation should obtain prior consent from the Chair. Any such representation shall be made from the public gallery.

## **3. MAKING A REPRESENTATION**

- 3.1. 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.
- 3.2. Information on matters which are considered 'relevant' when a planning application is determined can be found on the Council's website. Speakers should take account of this guidance when preparing their presentation.

## **4. COUNCILLORS WITH AN INTEREST TO DECLARE**

- 4.1. In accordance with the Code of Conduct for Councillors, Councillors are required to declare interests as appropriate.
- 4.2. Cabinet Members who also serve on the Planning Committee must declare an interest when the Committee considers a planning application submitted by the Council which relates directly to their portfolio. The nature of the interest will depend on the level of involvement that Cabinet Member has had in prior discussions relating to the application.
- 4.3. Councillors with a Disclosable Pecuniary Interest in a planning application being considered by the Committee will not be permitted to speak or attend the meeting unless a dispensation has been granted by the Monitoring Officer prior to the meeting.
- 4.4. Councillors with a personal or prejudicial interest in a planning application being considered may speak at the Committee meeting in accordance with the Code of Conduct for Councillors.
- 4.5. The existence and nature of such interests should be declared before a Councillor speaks on the planning application. If a Councillor has a personal and prejudicial interest in a planning application they are entitled to speak for the same length of time as a member of the public. Once they have finished their representation the Councillor must leave the room. The Chair of the Committee will decide when the Councillor exercises this right; however, it will be before any debate on the item.

## **5. ADDITIONAL INFORMATION AND QUESTIONS**

- 5.1. Speakers do not have the right to ask other parties or the Committee questions. Committee Members will not ask speakers questions, other than for purposes of clarification.



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- 5.2. No new documentation should be circulated to the Committee Members at the meeting.
- 5.3. 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 Councillor improperly and could create a perception of bias.
- 5.4. Speakers should not make any derogatory or defamatory remarks about a person. Such comments may leave them open to legal action.

## 6. ORDER OF SPEAKING AND TIME ALLOCATION

- |  | <u>Total Time Allowed</u>   |
|--|---|
| 1. <u>Planning Officer</u><br>To introduce the application and provide any updates following publication of the report   |   |
| 2. <u>Objectors</u>  | <ul style="list-style-type: none"><li>• 3 minutes for individuals</li><li>• 5 minutes if speaking on behalf of a group (provided there are not also two other objectors who wish to speak)</li></ul> <p>Total time allowed: <b>9 minutes</b></p>  |
| 3. <u>Applicant, Agent and Supporters, including relevant Cabinet Member/s</u>   | <ul style="list-style-type: none"><li>• 3 minutes for applicant and/or agent</li><li>• 3 minutes for each relevant Cabinet Member</li><li>• 3 minutes for each supporter or 5 minutes if speaking on behalf of a group (provided there are not also two other supporters who wish to speak)</li></ul> <p>Total time allowed: <b>9 minutes</b></p> |
| 4. <u>Borough Ward Councillors</u>   | <ul style="list-style-type: none"><li>• 5 minutes</li></ul>   |
| Any other elected individual   | <ul style="list-style-type: none"><li>• 3 minutes</li></ul>   |
| 5. <u>Planning Officer</u><br>To deal with any errors of fact which have arisen.<br><br>Thereafter, the Committee will discuss the application, involving officers as necessary. There will be no further right for others to speak. |   |

## 7. RELATED DOCUMENTS AND LINKS

- [Submitting a representation in relation to a planning application](#)

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## SCRUTINY PROCEDURE RULES

These Rules are divided into three sections relating to the different types of scrutiny meeting:

- **Section A:** Overview and Scrutiny Commission (Commission/OSC) Procedures.
- **Section B:** Specific Scrutiny Panel Procedures.
- **Section C:** Specific Joint Scrutiny Procedures.

### **SECTION A: OVERVIEW AND SCRUTINY COMMISSION (COMMISSION/OSC) PROCEDURES**

#### **1. COMMISSION MEMBERSHIP**

- 1.1. All Councillors, except Cabinet Members, will be eligible for appointment as a Commission Member. However, no Councillor may be involved in scrutinising a decision in which they have been directly involved.

#### **2. SCHEDULED COMMISSION MEETINGS**

- 2.1. Ordinary meetings of the Overview and Scrutiny Commission will take place as scheduled in the Calendar of Meetings unless amended with the agreement of the Chair of the Commission, or in the Chair's absence, the Vice Chair of the Commission.

#### **3. ORDER OF BUSINESS**

- 3.1. Agendas for ordinary meetings of the Commission (and Scrutiny Panel meetings for items a-c only) will incorporate:
  - a) Apologies for absence.
  - b) Declarations of interest from Councillors.
  - c) Approve the minutes of the previous meeting.
  - d) Public Question Time.
  - e) Scrutinise and comment upon reports including the Budget and Policy Framework Documents that the Cabinet, or other Committees, will be making decisions upon.
  - f) Review and scrutinise the Transformation Plan and receive presentations.
  - g) Cabinet Member and Chief Executive Discussions as appropriate.
  - h) Monitor the Cabinet's Forward Plan.
  - i) Consider the business otherwise detailed on the agenda.
  - j) Consider any urgent business.
- 3.2. Other items that may be considered include the following:
  - a) Approve and co-ordinate an annual work programme.
  - b) Appoint Scrutiny Panels, set the terms of reference, their duration and their Chairs.

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- c) Receive and review the Scrutiny Panel findings.
- d) Respond to requests from the Cabinet for Scrutiny involvement in policy review and development.
- e) Scrutinise any matter referred to the Commission which may include inviting/requesting the evidence of third parties, that impacts upon the Borough's residents and, where appropriate, make recommendations to the Full Council or the Cabinet (exclusions may apply – see Rule 4).
- f) Consider petitions (50-999 signatories).
- g) Consider decisions which have been Called-In.
- h) 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.
- i) Where appropriate, recommend to the Full Council the appointment of Co-optees to serve on the Commission following discussions between the Head of Governance, People & Performance and Group Leaders. Co-optees will not have voting rights.
- j) Where appropriate, to appoint Co-optees to serve on Scrutiny Panels (following discussions between the Chair of the Commission, Head of Governance, People & Performance and Group Leaders). Co-optees will not have voting rights.
- k) Where appropriate, and having received a request in writing for information relating to the functions of a relevant partner authority, obtain the information and require Executives of local authorities to exclude confidential and exempt information when publishing their response to reports and recommendations of the Commission.

## **4. EXCLUDED MATTERS**

### 4.1. Matters which must not be considered by Scrutiny include:

- a) 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.
- b) Any matter which is vexatious, discriminatory or not reasonable; any matter referring to an individual complaint.
- c) Any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006.

### 4.2. A matter is not considered 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.

## **5. INTERPRETATION OF THE PROCEDURE RULES**

### 5.1. The Chair or in their absence the person chairing the meeting will decide on all matters of order and interpretation of these rules and their decision will be final and not open to discussion. In presenting a ruling they must explain their decision.

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- 5.2. In reaching their decision, they must give due consideration to the advice of the Democratic Services Officer. The Chair may defer to the Democratic Services Officer to provide the interpretation on their behalf.

## 6. NOTICE AND SUMMONS TO MEETINGS

- 6.1. The Head of Governance, People & Performance will give notice to the public of the time and place of Commission and Scrutiny Panel meetings in accordance with the Access to Information Procedure Rules. The summons (in the form of an agenda) will be published at least five clear working days before a meeting and will detail the time, location and items to be discussed including any associated reports being considered. The date and time of scheduled Commission meetings will be published in the Calendar of Meetings.

## 7. CANCELLATION OF SCHEDULED COMMISSION OR SCRUTINY PANEL MEETINGS

- 7.1. A scheduled meeting may be cancelled in writing by the Head of Governance, People & Performance if there is insufficient business, following consultation with the Chair of the Commission or the relevant Scrutiny Panel.

## 8. EXTRAORDINARY MEETINGS OF THE COMMISSION

- 8.1. An Extraordinary meeting of the Commission may be called:

- a) If the Head of Governance, People & Performance considers it necessary or appropriate.
- b) At the written request of any three Commission Members or the Chair.

*NB: No business, other than that contained within the issued summons/agenda shall be considered at Extraordinary Commission meetings.*

- 8.2. Notice of the time, date and location of any Extraordinary meeting will be sent by the Head of Governance, People & Performance to every Councillor no less than five clear working days before the meeting is to be held.

## 9. COMMENCEMENT OF MEETING

- 9.1. All Commission meetings will commence at the time specified in the scheduled Calendar of Meetings, unless the summons/agenda issued by the Head of Governance, People & Performance, following consultation with the Chair, alters this time.

## 10. ATTENDANCE AT THE MEETING

- 10.1. **Apologies for Absence:** Councillors who have conveyed their apologies for absence will be recorded as such in the minutes. Councillors 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. Should the Chair or Vice Chair not be present then a Commission Member must be elected to chair the meeting.

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- 10.2. **Quorum:** The quorum of a Commission or Scrutiny Panel meeting shall be one quarter of the whole number of Councillors rounded up where necessary to the next number and no less than three Councillors. If a meeting remains inquorate 15 minutes after its scheduled start time, an officer (usually a member of the Democratic Services team) will announce that the meeting is inquorate and those present will be requested to informally agree to either reconvene at a later date or defer items on the agenda to a future scheduled meeting.
- 10.3. **Council Officers:** Officers attending Commission or Scrutiny Panel meetings may, with the consent of the Chair contribute by presenting any report under consideration or by providing advice and guidance. Officers may also attend to answer questions relating to performance targets, their service area, initiatives, issues or projects.
- 10.4. **Cabinet Members:** If requested by the Commission or a Scrutiny Panel, Cabinet Members must attend a meeting of the Commission or Scrutiny Panel to answer questions relating to performance targets, service areas, initiatives, issues or projects within their portfolio responsibilities.
- 10.5. **Non-Commission Councillors:** Every Councillor has the right to attend any Commission or Scrutiny Panel meeting. A non-Commission Councillor is only entitled to take part in the proceedings if they obtain the Chair's consent to speak on a particular item. They will not under any circumstances be entitled to vote. Non-Commission Councillors will sit separately from Commission Members.

## 11. DECLARATIONS OF INTEREST

- 11.1. In accordance with the Code of Conduct for Councillors, Councillors are required to declare interests as appropriate.

## 12. THE PARTY WHIP

- 12.1. To enable the Commission to serve its purpose, whipping on any scrutiny matter should not occur. If a member of the Commission or one of its Panels feels they are subject to a party whip, they must declare this during the Declarations of Interest item.

## 13. MINUTES

- 13.1. Each Commission or Panel meeting will consider and sign the minutes of the previous meeting. The Chair 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 and any questions as to their accuracy shall be voted on accordingly. Once the minutes have been agreed by the Commission/Panel they shall be signed by the Chair.

## 14. PUBLIC QUESTION TIME (INCLUDING PETITIONS) PROCEDURE

- 14.1. Public Question Time will only occur at an ordinary meeting of the Commission and will last for a maximum of 15 minutes.
- a) Members of the public do not need to give prior notice of their questions.
  - b) The question should be relevant to any item on the agenda, a Scrutiny Panel or potential review. The question must not relate to an individual case which

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should be dealt with under the Council's complaints procedure or any other formal appeals procedure.

- c) The question must not be in essence the same as a question which has been put to the Commission in the past 6 months.
- d) The Chair of the Commission, at their discretion, may answer the question or invite other Councillors or officers to respond.
- e) After the question has been answered, the person asking the question may ask one supplementary question relating to the same matter.

14.2. Petition organisers may address the Commission in accordance with the Council's Petition Scheme and may speak for a maximum of 3 minutes.

## **15. FORTHCOMING DECISION NOTICES**

15.1. Commission Members have the right to examine the Forthcoming Decision Notices and identify whether a decision should be scrutinised prior to it being taken. This can be done either through a provisional or full referral. The Commission must consider the following when referring an item:

- a) Will the Scrutiny Commission add value?
- b) Is it controversial?
- c) Can the OSC influence the debate?
- d) Do the report's proposals go against existing policy?
- e) Where else has, or will, the item be considered?
- f) Would an informal discussion with the report's author resolve any problems?
- g) Is the referral a good use of officer resources?

15.2. Items should not be identified for Commission consideration if a Councillor's queries could easily be answered by reference to the appropriate Head of Service or relevant Cabinet Member.

## **16. REPORTS FROM THE COMMISSION**

16.1. The Commission will produce reports to the appropriate decision maker when a particular piece of work has been completed.

16.2. These reports will be presented by the Chair of the Commission (or the Councillor who led the review). Where the Full Council is to receive the report, a copy of the report should go via the Cabinet and they may wish to comment upon the report which will also be presented to the Full Council.

16.3. If the 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.

## **17. CRIME AND DISORDER**

17.1. The Commission is designated as the Council's "Crime and Disorder Committee" in accordance with the Police and Justice Act 2006, the Crime and Disorder (Overview and Scrutiny) Regulations 2009 and the Crime and Disorder Act 1998.

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17.2. The Commission's responsibility is to:

- a) Annually review or scrutinise decisions made, or action taken, in connection with the discharge by the "Responsible Authorities" of their crime and disorder functions.
- b) Make reports and recommendations to the Full Council with regard to the discharge of the Responsible Authorities' function.

## 18. VOTING

18.1. **Procedure:** The Chair will give clear instructions and guidance when a vote is to be taken, this may include an explanation as to the questions being voted upon and a summary of the debate.

The Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting unless a recorded vote is requested (Rule 18.4). All Councillors will be expected to indicate their voting intentions VERY clearly.

18.2. **Majority:** All matters will be decided by a simple majority of those Councillors voting and present in the room at the time the question is put to the vote. The Chair will ascertain the numbers voting for or against any question, or not voting on it and shall announce those numbers and declare the result.

18.3. **Chair's Casting Vote:** If there are equal numbers of votes for and against, the Chair or the person presiding will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

18.4. **Recorded Vote:** A recorded vote will be taken if any Councillor present at the meeting demands it. In the event of a recorded vote, the Democratic Services Officer shall call the names of each Councillor present in alphabetical order. Each Councillor will then declare themselves for or against the recommendation or abstaining from voting. This process will be taken down in writing and entered into the minutes. The Chair will declare the result.

18.5. **Right to Require Individual Vote to be Recorded:** Any Councillor may request that the minutes record how they voted, be it for or against the recommendation or abstaining from voting. Such a request must be made immediately after the relevant vote is taken.

## 19. EXCLUSION OF PUBLIC

19.1. Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules of this Constitution or Rule 21.

## 20. COUNCILLORS' CONDUCT

In addition to the general requirements of the Code of Conduct for Councillors, the following shall apply to meetings of the Commission and Scrutiny Panels:

20.1. **Every Councillor present at the meeting shall:**

- a) Treat others with courtesy and respect.
- b) Conduct themselves in a way which does not cause offence to others or limits in any way others' ability to participate at the meeting.



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- c) Only speak when called on by the Chair or speak through the Chair.

## 20.2. **Unacceptable conduct includes:**

- a) Using abusive or inappropriate 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.

20.3. **Only One Councillor Shall Speak at a Time:** A Councillor when speaking shall address the Chair. If two or more Councillors indicate a wish to speak, the Chair shall call on one to speak and any others shall wait to be called. While a Councillor is speaking other Councillors shall remain quiet, unless raising a procedural motion.

20.4. **Chair Speaking:** When the Chair speaks during a debate any Councillor speaking at the time must stop. The meeting must be silent.

20.5. **Councillor Not to be Heard Further:** If a Councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair or another Councillor may move that the Councillor not be heard further. If seconded, the motion will be voted on without discussion.

20.6. **Councillor to Leave the Meeting:** If the Councillor continues to behave improperly after such a motion is carried, the Chair may move that either the Councillor 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 Councillor leave the room is carried, the Councillor will leave the room immediately.

20.7. **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 so that order may be restored.

## 21. **DISTURBANCE BY PUBLIC**

21.1. If there are general disturbances by a member of the public, the Chair has a number of powers, including:

- a) To warn a particular person or order their removal from the meeting.
- b) To adjourn the meeting to allow order to be restored.
- c) To clear all or part of the public areas as necessary.
- d) To adjourn the meeting to another date and time as the Chair deems appropriate so that the business of the meeting can be conducted.

## 22. **ROLE AND FUNCTION OF THE CHAIR**

22.1. The Chair of the Commission, and in their absence the Vice Chair, will have the following roles and functions:

- a) To chair meetings of the Commission impartially, encouraging contributions from all Commission Members.
- b) To promote and develop the profile and impact of overview and scrutiny.

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- c) To consider how Scrutiny work might be assisted by:
  - Arranging informal discussions outside the Committee process or undertaking visits.
  - Inviting outside contributors to attend Commission meetings.
  - Calling for reports from the Chief Executive, or relevant officers or commissioning research.
- d) To produce and present a report to the Cabinet, at a Committee and/or the Full Council, as appropriate.
- e) To be consulted on and/or approve use of the urgent rules as defined in the Access to Information Procedure Rules.
- f) To represent the Commission on the West Sussex Joint Scrutiny Steering Group.  
*NB: A substitute should be accepted if a Councillor appointed to the Steering Group is unable to attend a particular meeting.*

*NB: 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 Councillor nominated by an Opposition Group.*

## **SECTION B: SPECIFIC SCRUTINY PANEL PROCEDURES**

### **23. ESTABLISHMENT OF SCRUTINY PANELS**

- 23.1. The Overview and Scrutiny Commission may establish time-limited Scrutiny Panels; the number to be running at any one time will be subject to resource constraints.

### **24. REMIT OF SCRUTINY PANELS**

- 24.1. Scrutiny Panels will:
  - a) Carry out an in-depth investigation into specific service areas, policy or issues of genuine importance to the town (The exclusions set out in Rule 4 may apply).
  - b) Work to a specific brief set out by the Commission.
  - c) Report to the Commission.

### **25. PANEL MEMBERSHIP**

- 25.1. Membership of the Scrutiny Panels must be drawn from non-Cabinet Members and include at least one Commission Member. However, no Councillor may be involved in scrutinising a decision in which they have been directly involved. The size and membership will be agreed in consultation with Group Leaders and the secretaries, and will be politically balanced unless they agree otherwise. The Commission will agree the Chair of the Scrutiny Panel (who will not necessarily be a Commission Member).

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## **26. ATTENDANCE RELATING TO SCRUTINY PANEL INVESTIGATIONS**

- 26.1. Where Scrutiny Panels conduct investigations, they may ask people to attend to give evidence in accordance with the following principles:
- a) That the investigation be conducted fairly and all members of the Panel be given the opportunity to ask questions of attendees and to contribute.
  - b) That those assisting the Panel by giving evidence be treated with respect and courtesy.
  - c) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
  - d) Following any investigation or review, the Panel shall prepare a public report, for submission to the Commission, relevant Committee and/or the Full Council as appropriate.

## **SECTION C: SPECIFIC JOINT SCRUTINY PROCEDURES**

## **27. ESTABLISHMENT OF JOINT SCRUTINY ARRANGEMENTS**

- 27.1. A formal but flexible joint scrutiny arrangement was established in West Sussex in 2011 and is led by the West Sussex Joint Scrutiny Steering Group.

## **28. SCOPE OF JOINT SCRUTINY WORK**

- 28.1. The issues for joint scrutiny will be based on County, District and Borough Overview and Scrutiny Committees' work programmes and the Steering Group takes the following matters into account:
- a) What added value joint scrutiny can bring.
  - b) Whether or not the issue is being scrutinised elsewhere.
  - c) Who the group is intending to influence.
  - d) Whether the issue has been identified by the public/key stakeholders.
  - e) The resource implications of any scrutiny reviews and how these will be supported (e.g. identify officer support/research needs etc.).

## **29. REMIT OF THE JOINT TASK AND FINISH GROUP**

- 29.1. 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 is 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, any scrutiny will not be of the organisations themselves, but rather of relevant issues relating to their work/role.

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## **30. TASK AND FINISH GROUP MEMBERSHIP**

- 30.1. Although there should normally be a minimum number of three members and no maximum is imposed, the number of members will be agreed by the Steering Group dependent on the requirements of the issue under scrutiny. However, membership of task groups should 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 group.
- 30.2. Any joint scrutiny will be carried out by non-Cabinet Members of County, District and Borough Councils. Non-Executive County Council Councillors 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.

## **31. REPORTING BY TASK AND FINISH GROUPS**

- 31.1. Task groups will generally report to the relevant decision-makers within the West Sussex local authorities. A copy of the report will be sent to the Steering Group.
- 31.2. The task group members will liaise with their authority's responsible colleagues for the issue under review – the Cabinet Member and the lead Chief Officer/officer – as well as the Scrutiny Officer to ensure that the review and its outcomes are communicated more widely within the authority in order that all members may be informed and involved.
- 31.3. The task group report will be finalised by task group members before circulation to the relevant decision-makers. It is therefore important for all members of the group to agree the recommendations.
- 31.4. Members of the task group will be responsible for information sharing and liaison with other colleagues within their Authority to ensure the recommendations are inline with their required outcomes.

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## CALL-IN PROCEDURE RULES

### 1. SCOPE OF THESE RULES

- 1.1. All Councillors have the ability to Call-In the majority of “Executive Decisions”, and this is a fundamental aspect of the Council’s scrutiny processes. This power should only be used in exceptional circumstances where Councillor(s) Calling-In the decision believe that the decision maker did not take the decision in accordance with the principles of decision making as listed below.
- 1.2. In addition, the Overview and Scrutiny Commission (“Commission”) has the ability to Call-In decisions which are contrary to a Policy Framework Document or contrary to, or not wholly in accordance with, the Budget. The procedure for such Call-Ins is set out separately in Paragraph 9 within these Rules.

### 2. PRINCIPLES OF DECISION MAKING

- 2.1. All decisions of the Council will be made in accordance with the following principles:
  - a) Proportionality (i.e. the action must be proportionate to the desired outcome).
  - b) Due consultation and the taking of professional advice from officers.
  - c) Respect for human rights.
  - d) A presumption in favour of openness.
  - e) Clarity of aims and desired outcomes.
  - f) Relevant matters have not been ignored.
  - g) Consideration and evaluation of alternatives and reasons for decisions.
  - h) Due regard to the statutory framework, guidance and Codes of Conduct.

### 3. REQUIREMENTS FOR CALL-IN CONSIDERATION

- 3.1. In order to ensure that Call-In is not abused, nor causes unreasonable delay, the following requirements must be fully satisfied before a matter will be considered for Call-In:
  - a) At least four Councillors (one of which will be the named signatory) must request Call-In of the decision.
  - b) The request for Call-In must specify the reason they consider there has been an alleged breach of at least one principle of decision making.
  - c) The request for Call-In must be received by the Monitoring Officer by 12 noon on the fifth day following publication of the decision. The request for Call-In should either be submitted:
    - In Hard Copy: including the signatures of the Councillor requesting the Call-In and those Councillors supporting the Call-In.
    - Electronically: to [democratic.services@crawley.gov.uk](mailto:democratic.services@crawley.gov.uk). The Councillor requesting the Call-In must submit the form and each Councillor supporting the Call-In must send an email in support. All emails must be sent from the Councillors’ individual Crawley Borough Council email addresses.
  - d) The decision for which Call-In is requested must not have been subject to a prior Call-In request.

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- e) Should the proposed Call-In decision have been considered by the Commission, the justification must also explain why the Councillor requesting the Call-In is of the view that, either:
- The Commission did **not fully** scrutinise the decision in advance of it being taken; or
  - The views of the Commission were **not fully** considered or addressed by the Cabinet in its decision making.

## 4. SUSPENSION AND PUBLICATION OF THE DECISION

- 4.1. Decisions taken by any of the following will become immediately suspended to allow the Call-In period to take place:
- The Cabinet.
  - A Cabinet Member.
  - A Key Decision by an officer.
- 4.2. Decisions taken by the Cabinet, or a Committee of the Cabinet, will be published electronically, within 2 days of the decision being taken.
- 4.3. Delegated decisions taken by either a Cabinet Member, or a key decision taken by an officer or under joint arrangements, will be published electronically as soon as practically possible (normally through the Councillors' Information Bulletin).
- 4.4. The date on which a decision is published electronically will specify the Call-In deadline, after which the decision can be implemented.
- 4.5. The Call-In period will end at 12 noon on the fifth clear day following electronic publication. The decision will then come into force and may be implemented, unless a proper and timely Call-In request has been made (as defined above).

## 5. ASSESSING THE CALL-IN REQUEST

- 5.1. Upon receipt of any Call-In request, the Monitoring Officer will assess the Call-In form(s) and the information supporting the alleged breach(es) of the principles of decision making, to determine whether the request meets the requirements set out in these Rules.
- 5.2. The Monitoring Officer will have the final say as to whether the request is a valid Call-In, with the presumption in favour of it being valid.
- 5.3. The decision will remain suspended until the Monitoring Officer has completed their assessment of the request. If the Call-In request is deemed valid, the decision will remain suspended to enable the consideration of the Call-In to take place, as detailed below.

## 6. CONSIDERATION OF THE CALL-IN

- 6.1. The next ordinary meeting of the Full Council will consider the Call-In of any decision taken by the Cabinet, a Cabinet Member, or Key Decision of an Officer, that **has** been subject to scrutiny by the Commission following a referral.

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- 6.2. Any other Called-In decision will be considered by the Commission, this may require a special meeting. However for expediency, should there be an ordinary meeting of the Full Council scheduled before the Commission is able to meet, the Full Council will consider the Call-In.

## 7. OUTCOMES OF CALL-IN

- 7.1. When considering the Call-In, the Commission/Full Council have the following options:

- a) Uphold the original decision: In this case, the original decision stands and can be implemented.
- b) Uphold the Call-In: In this case, the decision will be referred to either:
  - (i) The original decision maker for reconsideration.
  - (ii) The Cabinet for its consideration (where the original decision was taken under delegation).
  - (iii) The Full Council, if the decision was contrary to the Council's Policy Framework Documents or contrary to (or not wholly in accordance with) the approved Budget.

*NB: In relation to (i) and (ii) above, the matter may not be Called-In a second time. Also, should the matter have previously been subject to a Scrutiny referral, the Commission may only refer the decision if there is new material to be considered.*

## 8. PROTECTION FROM CALL-IN

- 8.1. The Call-In Procedure shall not apply where the decision being taken has been protected from Call-In by the Chief Executive. A decision may only be protected if any delay, likely to be caused by the Call-In process, would seriously prejudice the interests of the Council or the public.
- 8.2. To allow the protection to take place the Chief Executive, or their nominee, must indicate the rationale behind their decision to protect. This rationale should be published online as soon as practicable and included within both the consideration report and in any associated minute/record.
- 8.3. Any Protection from Call-In must be reported to the next Ordinary meeting of the Full Council, including the rationale.
- 8.4. The Governance Committee will review Protection from Call-In provisions annually if any decisions have been protected from Call-In during that municipal year. After considering a review the Governance Committee may submit a report to the Full Council AGM with proposals for changes to the provisions.

## 9. CALLING-IN A DECISION CONTRARY TO A POLICY FRAMEWORK DOCUMENT OR THE BUDGET

- 9.1. Where the Commission is of the opinion that an "Executive" Decision is, or if made would be, contrary to a Policy Framework Document or contrary to, or not wholly in accordance with, the Budget then it shall seek advice from the Monitoring Officer.
- 9.2. The decision, if not yet made and/or implemented, will remain suspended until the Cabinet has considered the Monitoring Officer's report as detailed below. In relation

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to the Budget, the Monitoring Officer will consult with the Chief Finance Officer when preparing their report.

- 9.3. Following consideration of the Call-In, the Monitoring Officer will submit a report to the Cabinet on the matter (a copy of which shall be made available to all Councillors). Regardless of whether the decision is delegated or not, the Cabinet must then meet to decide what action to take in respect of the Monitoring Officer's report.
- 9.4. At that meeting the Cabinet must decide upon the action it wishes to make with regard to the Monitoring Officer's findings and submit a report to either:
  - a) The Full Council if the Monitoring Officer concludes that the decision was a departure (*the decision will remain suspended until the Full Council has considered the matter*).
  - b) The Commission if the Monitoring Officer concludes that the decision was not a departure.
- 9.5. When the Full Council considers the Call-In and the Cabinet's report on the matter it has the following options:
  - a) Endorse that the decision falls within the existing Policy Framework Document or the Budget. In this case no further action is required, and the decision of the Full Council will be recorded in its minutes and circulated to all Councillors in the normal way.
  - b) Amend the existing Policy Framework Document or the Budget to encompass the decision of the body or individual responsible for that "Executive" function, and agree to the decision with immediate effect. In this case, no further action is required, and that decision of the Full Council will be recorded in its minutes and circulated to all Councillors in the normal way.
  - c) Uphold the view that the decision is contrary to a Policy Framework Document or the Budget and choose not to amend policy to accommodate it, requiring the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer.



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## CABINET PROCEDURE RULES

### 1. SCOPE OF THESE RULES

- 1.1. These Rules apply specifically to meetings of the Cabinet and its Sub-Committees and should be read in conjunction with the General Committee Procedure Rules (GCPR) and the Access to Information Procedure Rules (AIPR). Where these Rules make reference to the “Cabinet” this refers to a meeting of the Cabinet.

### 2. APPROACH TO DECISION MAKING

- 2.1. As this Council operates the “Strong Leader” Model the Leader holds responsibility for all Executive functions. As such, the Leader has chosen that the Cabinet will usually exercise collective responsibility for Key Decisions. The principles relating to Executive decision making are detailed in the Leader and Cabinet Functions.
- 2.2. The Cabinet works on the principle of openness and transparency and as such all Cabinet meetings are held in public, however some items may be held in Part B (Closed to the Public) session in line with the AIPR.
- 2.3. There are specific AIPR that govern how Cabinet decisions must be taken and as such they directly relate to these Cabinet Procedure Rules.
- 2.4. The process and principles for taking all delegated Executive decisions (either by a Cabinet Member or an Officer) are set out within the following sections of this Constitution and must be followed accordingly:
  - Leader and Cabinet Functions.
  - Council Officer Responsibilities and Decision Making.
  - Access to Information Procedure Rules (AIPR).

### 3. RULES SPECIFIC TO THE CABINET

Cabinet meetings will follow the principles of the GCPR, however the following relate specifically to the Cabinet and supersede those Rules.

- 3.1. **Scheduled Meetings of the Cabinet:** The frequency and timing of the Cabinet will be determined by the Leader and will be published in the Calendar of Meetings. Meetings may be amended when necessary. In line with the AIPR, the Leader is required to give five clear working days’ notice before calling a meeting of the Cabinet.
- 3.2. **Membership, the Chair and Quorum:** The Cabinet will consist of the Leader and their Cabinet Members with the Leader chairing the meeting, in their absence the Deputy Leader shall act as Chair. The quorum of the Cabinet is three. If a meeting remains inquorate 15 minutes after its scheduled start time, an officer (usually a member of the Democratic Services team) will announce that the meeting is inquorate and those present will be requested to informally agree to either reconvene at a later date or defer items on the agenda to a future scheduled meeting.

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3.3. **Non-Cabinet Member Attendance:** Every Member of the Council has the right to attend the Cabinet, but is not entitled to take part in the proceedings unless they have obtained the prior consent of the Leader to speak on a particular item, unless they are:

- The Chair of the Overview and Scrutiny Commission when presenting the Commission's Comments to the Cabinet.
- A Scrutiny Panel Chair when presenting the final report of their Scrutiny Panel.
- A Councillor whose motion at the Full Council was referred to the Cabinet will have the right to explain their motion.
- The Leader of the Opposition who will be allocated a space at the table to observe proceedings but must still obtain prior consent to speak on an item.

*NB: None of the above persons will be entitled to vote.*

3.4. **Public Question Time:** Public Question Time will only occur at an ordinary meeting of the Cabinet and will last for a maximum of 15 minutes at the start of the meeting.

- Members of the public do not need to give prior notice of their questions.
- The question should be relevant to the functions of the Cabinet and must not relate to an individual case which should be dealt with under the Council's Complaints Procedure or any other formal appeals procedure.
- The question must not be in essence the same as a question which has been put to the Cabinet in the past 6 months.
- The Leader may answer the question or invite the most relevant Cabinet Member(s) or an officer present to respond.
- After the question has been answered, the person asking the question may ask one supplementary question relating to the same matter.

Members of the public may also submit written questions to the Cabinet regarding a matter affecting the Borough. Such questions should be addressed to the Head of Governance, People & Performance at [democratic.services@ Crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk) and a written response will be provided.

Petition organisers may address the Cabinet in accordance with the Council's Petition Scheme and may speak for a maximum of 3 minutes.

3.5. **Who Can Put Items on the Cabinet Agenda?:** The following may request that the Monitoring Officer add an item to a forthcoming Cabinet agenda (any such request must be complied with):

- The Leader may put any Executive matter on the Cabinet agenda (whether previously delegated or not).
- The Leader following a request from any Councillor to put an item on the agenda for consideration. The Cabinet agenda will name the Councillor who made the request.
- Any Cabinet Member may request that an item be put on the agenda of the next available Cabinet meeting.
- The Commission may refer any matter to the Cabinet.
- The Monitoring Officer and/or the Chief Finance Officer may include an item on the Cabinet agenda in pursuance of their statutory duties.

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- 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 a Cabinet agenda. 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.

*NB. A Forthcoming Decision Notice (in line with the AIPR) should be published for all Cabinet decisions.*

3.6. **Urgent Items for Consideration:** Any urgent matter will follow the Special Urgency Procedures in the AIPR.

3.7. **Conflict of Interest:** Where the Leader or a Cabinet Member has a conflict of interest this will be dealt with in accordance with the Code of Conduct for Councillors.

If the exercise of a Cabinet function has been delegated to an individual Cabinet Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and be in accordance with the Code of Conduct for Councillors.

3.8. **Consultation:** All reports to the Cabinet from any Cabinet Member or an officer on proposals relating to the Budget and Policy Framework Documents 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.

3.9. **Voting in the Cabinet:** All Cabinet decisions will be determined by show of hands by those Cabinet Members present and the Leader shall have the second or casting vote as required.

As the Cabinet uses collective decision making, a Cabinet Member must request that their individual vote in dissent or abstention be recorded.

As with any other Committee, a recorded vote may be requested at any time.

- 3.10. **Petitions:** Once a petition is submitted to the Cabinet following its consideration by the Overview and Scrutiny Commission (in line with the Petition Scheme) the petition will be considered at the next available Cabinet meeting in the following manner:
- a) Petitions will be dealt with in the order in which they were received, if more than one petition is due to be considered.
  - b) A maximum of 30 minutes will be allowed at each meeting for considering petitions. Any petition(s) not fully debated within the 30 minutes will be referred to the relevant Cabinet Member for consideration or deferred until the next meeting.
  - c) The Leader 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 **three** minutes. The Leader may ask questions of the petition organiser, and will then invite any relevant Ward Councillors present to address the Cabinet for up to three minutes (each). The Leader will then invite the relevant officer(s) to advise the meeting, after which the matter will be open for debate among the Cabinet.

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- d) When considering a petition, the Cabinet/Cabinet Member can:
  - Take a decision on the matter.
  - Request that the matter be investigated and reported back.
  - Refer the matter to either the Full Council, the Cabinet (when a Cabinet Member), or a Committee/Sub-Committee of the Council for determination.
- e) Details of the Council's Petition Scheme are contained in this Constitution.

3.11. **Policy Framework Documents (PFDs):** The Cabinet is responsible for proposing the PFDs to the Full Council and will be responsible for any consultation required or necessary in the course of preparing those documents. Once a PFD is in place, it will be the responsibility of the Cabinet to implement it. The procedure for developing and maintaining PFDs is contained within the Policy Framework Document Procedure Rules.

3.12. **Budget Setting Process:** The Cabinet is responsible for proposing the Budget to the Full Council and will be responsible for any consultation required or necessary in the course of its preparation. Once the Budget has been agreed, it will be the responsibility of the Cabinet. The procedure for developing and maintaining the Budget is contained within the Financial and Budget Procedure Rules.

## 4. ORDER OF BUSINESS FOR A CABINET MEETING

- 4.1. Agendas for Cabinet meetings will incorporate:
- a) Apologies for absence.
  - b) Declarations of interest from Councillors.
  - c) Approve the Cabinet minutes.
  - d) Public Question Time.
  - e) Further Notice of Intention to Conduct Business in Private and Notifications of any Representations.
  - f) Matters Referred to the Cabinet\* and Report from the Chair of the Overview and Scrutiny Commission (the Commission's comments will be considered under the relevant agenda item).
  - g) Consider any relevant petitions (if any) under the Council's Petitions Scheme.
  - h) Consider the business detailed on the agenda (each report will be presented by the relevant Cabinet Member) in accordance with the AIPR.
- \* Namely: items Called-In, or those matters referred relating to the Budget or Policy Framework Documents by either the Full Council or the Overview and Scrutiny Commission.

*NB: The order of business is at the discretion of the Leader and some items will not be required at every Cabinet Meeting.*

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## ACCESS TO INFORMATION PROCEDURE RULES

### 1. SCOPE AND INTERPRETATION

- 1.1. This Council's Access to Information Procedures work on the principles of openness and transparency to enable the public to access how decisions are (and have been) taken.
- 1.2. These Rules provide Councillors' access to Committee documents which exceed statutory requirements to ensure that all Councillors are kept informed of the business of the Cabinet (including delegated decisions), the Full Council and all Committees.
- 1.3. These Rules apply to all formal meetings of the Full Council, Overview and Scrutiny Committee(s), other Committees, Sub-Committees, meetings of the Cabinet and its Committees (including Joint Committees).
- 1.4. These Rules also detail the procedures for recording and publicising Executive delegated decisions.
- 1.5. Joint Committees will follow the relevant Access to Information Procedure Rules (i.e. Cabinet/Executive Rules where Councillor Membership solely consists of Cabinet Members from those Authorities or Non-Cabinet/Executive Rules in all other cases).
- 1.6. Rules 12 onwards specifically relate to Cabinet/Executive decision making.
- 1.7. The Monitoring Officer holds overall responsibility for these Rules, including their interpretation.
- 1.8. Where these Rules make reference to:
  - a) The publication of Notices, this refers to them being published on the Council's website. In addition, it also means that all Notices (including agendas and those under Urgency and Exception) can be made available on request for inspection by the public at the offices of the Council.
  - b) Clear working days, this refers to days the Council Offices are open to the public (i.e. not Saturdays, Sundays and Bank Holidays) and excludes both the day on which the Notice is published and the day of the meeting.

### 2. RIGHTS TO INFORMATION

- 2.1. These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.
- 2.2. These Rules are a written summary of the public's right to attend meetings and to inspect and copy documents. These Rules (through being part of the Constitution) are available to the public on its website on request at the Council offices.

### 3. RIGHTS TO ATTEND MEETINGS

#### Public

- 3.1. Members of the public may attend all formal meetings subject only to the exceptions in these rules. All formal meetings of the Council which are open to the public (with

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the exception of the Employment Panel and Grants Appeal Panel) will be webcast subject to cost and practicality (*subject to commencement*).

- 3.2. The public have the right to attend all formal Cabinet meetings. The Forthcoming Decision Notice/s will identify the items which the Cabinet intends to hold in Part B (Closed to the Public) session.
- 3.3. In advance of the Cabinet meeting, the public may request, via the Monitoring Officer, that the discussion on an exempt item be held in Part A (Open to the Public). At the Cabinet meeting, the Cabinet will consider any such request.

## **Councillors / Independent Person(s) / Independent Member**

- 3.4. Councillors may attend all formal meetings, including exempt sessions, with the exception of the Employment Panel and the closed session of the Licensing Sub-Committee (Hearings).
- 3.5. The Independent Person(s) will only be able to attend exempt sessions of a Standards Hearing.
- 3.6. The Independent Member to the Audit Committee will only be able to attend exempt sessions of the Audit Committee.

## **4. NOTICE OF MEETING**

- 4.1. The Council will give at least five clear working days' notice ("summons") of any meeting by posting details on its website and at the offices of the Council. Where exceptionally this period of notice cannot be given, the Council will ensure that legal requirements on specifying the special urgent circumstances that apply in particular cases will be met.

## **5. ACCESS TO AND SUPPLY OF AGENDAS, REPORTS AND OTHER COMMITTEE DOCUMENTS**

- 5.1. Where a meeting was open to the public, the Council will make copies of the agenda and reports available for a minimum of six years after the meeting was held. Recordings of webcast meetings will be retained for a minimum of six months following the meeting (*subject to commencement*).

### **Public**

- 5.2. The Council will make copies of the agenda and reports available to the public on its website at least five clear working days before the meeting. A paper copy for public inspection will also be available on request at the Town Hall. Where reports are prepared after the summons/agenda publication, the Monitoring Officer will make each report and supplementary agenda available to the public via the website as soon as practicable.
- 5.3. When requested, the Council will supply members of the public with paper copies of Committee documents (a charge may be made).
- 5.4. Documents (and recordings of webcast meetings) which contain exempt and/or confidential information will not be made available to the public.

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## **Councillors**

- 5.5. All Councillors will be notified and receive access to Committee papers electronically on the date of publication, including those containing exempt and/or confidential information. The Head of Governance, People & Performance has the discretion to provide paper copies to Councillors (e.g. for disability or medical reasons).
- 5.6. However, the Monitoring Officer may deem it necessary to restrict access solely to those Councillors involved in taking that decision, where the information is considered highly sensitive, and the interest of restricting access outweighs the rights of all other Councillors (e.g. Employment Panel or contract negotiations). In such cases, the Monitoring Officer may allow a Councillor to view such documents under their supervision. Where a Councillor requests access to restricted information, and this is denied by the Monitoring Officer, the reasons for that decision will be provided in writing to that Councillor.

## **6. BACKGROUND PAPERS**

- 6.1. The Officer preparing a report will set out within the report, a list of documents (called background papers) which in their opinion:
- a) Disclose any facts or matters on which the report or an important part of the report are based.
  - b) Have been relied upon, to a material extent, in preparing the report.
- 6.2. Background papers do not however include published works or those which contain exempt and/or confidential information.
- 6.3. The Council will make available for public inspection (either via its website or on request), for a minimum of six years after the date of the meeting, one copy of each of the documents on the list of background papers.

## **7. MINUTES AND RECORD OF DECISIONS**

- 7.1. Following any formal meeting, or when a delegated decision is taken by a Cabinet Member (or a Key decision is taken by an officer), a formal record of the decision (usually in the form of a minute) will be produced and made publicly available via the Council's website for a minimum of six years.
- 7.2. That record must include:
- a) A record of the decision maker and, where appropriate, under which delegated power the decision was taken.
  - b) A record of the decision including the date it was made.
  - c) A record of the reasons for the decision/recommendation.
  - d) Details of any alternative options considered and rejected.
  - e) A record of any conflict of interest declared by a Councillor involved in the decision making process, and a note of any related dispensation granted by the Head of Governance, People & Performance.
  - f) A summary of the discussion (formal meetings only).
  - g) Reference to any Exempt Information – Category under which access by the public to a report/information was restricted.

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- h) A summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record (formal meetings only).

7.3. To enable the Call-In process to commence in a timely manner, a Notice of Decision for the meetings of the Cabinet will be published as soon as reasonably practicable. This will contain:

- a) The date of the meeting.
- b) The decision.
- c) Reasons for the recommendation/decision.

A full minute will be published in due course.

## 8. CONFIDENTIAL/EXEMPT INFORMATION

### Confidential Information

8.1. 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.

### Exempt Information

8.2. Exempt information is information held by the Council which can be withheld from the public. The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 states that "*Information... is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information*".

8.3. This Council works on the principles of openness and transparency and when deciding whether information should be classed as exempt, the public interest test\* is always a consideration. The Monitoring Officer may exclude access by the public to reports/information under one or more of the 7 Exempt Information - Categories as set out below. Exempt reports will be marked "not for publication" and will identify the relevant Exempt Information - Category. Where possible any exempt information should be contained in an appendix to enable discussion of the main item to be held in public.

### Exempt Information - Categories

8.4. Exempt information means falling within the following categories (subject to any qualification):

1. Information relating to any individual	
Condition/s	<i>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 (as defined below this table)*.</i>
Practical Illustration	Reports which relate to: <ul style="list-style-type: none"><li>• Employees, a former employee, job applicants.</li><li>• Occupiers or former occupiers of Council accommodation.</li></ul>



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	<ul style="list-style-type: none"> <li>• Applicants or recipients or former recipients of any service provided by the Council.</li> <li>• Applicants or recipients or former recipients of any financial assistance provided by the Council.</li> <li>• Protected informants in relation to civil matters.</li> </ul>
<b>2. Information which is likely to reveal the identity of an individual</b>	
<i>Condition/s</i>	<i>The Public Interest Test Qualification applies, as in 1 above*.</i>
Practical Illustration	Reports where personal data could be revealed indirectly. Names, addresses or telephone numbers can identify individuals.
<b>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</b>	
<i>Condition/s</i>	<ul style="list-style-type: none"> <li>• <i>The Public Interest Test Qualification applies, as in 1 above*.</i></li> <li>• <i>“Financial or business affairs” includes contemplated, as well as past or current, activities.</i></li> </ul>
Practical Illustration	<p>Financial or business affairs are defined to include contemplated as well as past or current business activities. This exemption covers:</p> <ul style="list-style-type: none"> <li>• The financial or business affairs of the Council itself.</li> <li>• The financial or business affairs of individuals and companies, charities etc. 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).</li> <li>• Reports about contracts and negotiations for the acquisition/disposal of property or supply of goods or services, the identity of the Council or any other person offering any particular tender for a contract for the supply of goods or services and the making of grants to external organisations.</li> </ul>
<b>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under, the authority</b>	
<i>Condition/s</i>	<ul style="list-style-type: none"> <li>• <i>The Public Interest Test Qualification applies, as in 1 above*.</i></li> <li>• <i>“Labour relations matters” are:</i> <ul style="list-style-type: none"> <li><i>(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</i></li> <li><i>(b) any dispute about a matter falling within Paragraph (a) above</i></li> </ul> <p><i>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.</i></p> </li> </ul>

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	<ul style="list-style-type: none"> <li>• “employee” means a person employed under a contract of service.</li> <li>• “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.</li> </ul>
Practical Illustration	Labour relations means matters which may be the subject of a trade dispute under the Trade Union and Labour Relations Act 1992, such as pay and terms and conditions of employment. Employee means a person employed under a contract of service. Office holder, in relation to the Council, means the holder of any paid office appointments which are or may be made or confirmed by the Council or by any joint board on which the Council is represented or by any person who holds any such office or is an employee of the Council.
<b>5. Information in respect of which a claim to legal privilege could be maintained in legal proceedings</b>	
Condition/s	<i>The Public Interest Test Qualification applies, as in 1 above*.</i>
Practical Illustration	This covers legal advice given by a professional legal adviser, i.e. Legal Services or external solicitors and barristers. It applies where no litigation is contemplated or pending (e.g. general advice on non-contentious matters), as well as in connection with legal proceedings by or against the Council.
<b>6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment</b>	
Condition/s	<i>The Public Interest Test Qualification applies, as in 1 above*.</i>
Practical Illustration	The wording of this exemption covers reports about proposed action under regulatory legislation such as planning, licensing and environmental health.
<b>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b>	
Condition/s	<i>The Public Interest Test Qualification applies, as in 1 above*.</i>
Practical Illustration	The wording of this exemption covers reports about criminal investigations and prosecutions undertaken by the Council, and any actions which might be taken to prevent crime occurring. This would include information about a protected informant in relation to any criminal investigations.

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## Information which is not exempt (Qualifications)

- 8.5. 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; or
  - If it must be registered under various statutes, such as:
    - 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.
    - f) The Charities Act 2011.

### \* The Public Interest Test

- 8.6. The Freedom of Information (FOI) Act 2000 states that the Authority must release the information unless *“in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information”*.
- 8.7. The starting point is that there is a general public interest in release, and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.
- 8.8. There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.
- There is a distinction between the public interest and what merely interests the public.
  - Does it further the understanding of and participation in the public debate of issues of the day?
  - Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
  - Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
  - Does it bring to light information affecting public health and public safety?

## 9. EXCLUSION OF ACCESS OF THE PUBLIC TO MEETINGS

- 9.1. For clarification, the Council uses the term “Part B Business (Closed to the Public)” where exempt or confidential information will be considered and the meeting will not be open to the public. In these circumstances the relevant Committee is required to pass a resolution to move the meeting into Part B session.

### Confidential: Requirement to Exclude Public

- 9.2. The public must be excluded from meetings or parts of meetings where it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information (as previously defined) would be disclosed.

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## **Exempt information: Discretion To Exclude Public**

- 9.3. The public may be excluded from meetings when a Committee is considering an exempt report (as defined above) or the nature of the business being debated is likely to disclose exempt information. In these circumstances the following resolution will be passed, that:

*“Under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that it/they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act by virtue of the paragraphs specified against the item(s).”*

- 9.4. Where reports contain exempt or confidential information, the meeting may decide not to pass the above resolution and still discuss the matter in public, ensuring that it does not disclose any exempt or confidential information.
- 9.5. 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 of the Act.

## **10. WEBCASTING AND PUBLIC RECORDINGS AT MEETINGS**

- 10.1. Subject to cost and practicality, the Council will webcast all formal meetings of the Council (with the exception of the Employment Panel and Grants Appeal Panel) (*subject to commencement*).
- 10.2. In line with the Openness of Local Government Bodies Regulations 2014, audio/visual recording (including livestreaming) and photography is permitted at all formal meetings (i.e. the Full Council, the Cabinet, Committees and Sub-Committees). However, recording of oral commentary/reporting during the meeting is not permitted.
- 10.3. However, if a resolution is passed to exclude the media and public (Part B Business (Closed to the Public)) then, in conjunction with this, all recording rights (both of the public and Councillors) are removed.
- 10.4. Any recording must only focus on Councillors, officers and those member(s) of the public as they address the Committee, and not those sitting in the public gallery.
- 10.5. All mobile/recording devices must be set to silent mode during the meeting.
- 10.6. If the Chair of the meeting feels that any recording is disruptive or distracting to the good order and conduct of the meeting (i.e. through flash photography or intrusive camera equipment), they can withdraw the right to record. The Chair’s decision is final.
- 10.7. The Council will, as far as is practicable, make reasonable facilities available for those wishing to record. Therefore, advanced written notice is requested to the Monitoring Officer ([democratic.services@ Crawley.gov.uk](mailto:democratic.services@ Crawley.gov.uk)).

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## 11. EMERGENCY URGENCY

- 11.1. Between 1 April 2020 and 31 July 2020 additional Emergency Urgency Powers were in place which delegated decision making authority to the Chief Executive in consultation with the appropriate Councillor/s. These measures ensured that the Council could continue to work as efficiently as possible and take necessary and appropriate decisions in light of the significant and ongoing impact of the Coronavirus pandemic. The agreed Emergency Urgency Powers are set out in [Councillors' Information Bulletin IB/1019](#).
- 11.2. The power to reinstate Emergency Urgency Powers is delegated to the Chief Executive, with the agreement of the Leader, the Opposition Leader, and the Chair and Vice-Chair of the Governance Committee, should the situation change with regard to the Coronavirus pandemic and it become necessary to do so.

## 12. ACCESS TO INFORMATION (CABINET)

- 12.1. The following Rules specifically relate to Cabinet/Executive decision making, including access rights to documents relating to a delegated decision.
- 12.2. The types of Executive decisions are contained within the Introduction to the Decision Making Section of this Constitution.
- 12.3. Where the following paragraphs do not make reference to specific Access matters, then the main Access Rules above will apply.

## 13. INFORMAL: CABINET BRIEFING AND PORTFOLIO BRIEFINGS

- 13.1. The Cabinet, either collectively (via Cabinet Briefing) or individually (via Portfolio Briefings), may informally meet in private for the purpose of being briefed by officers. These briefings will relate to matters which are likely to either be considered at a formal future Cabinet meeting or relate specifically to their Portfolio.
- 13.2. As these meetings are informal and any reports are in draft format, they are not subject to these Access to Information Rules.

## 14. NOTICE OF KEY DECISION

- 14.1. Subject to the urgency procedures set out below, a Key Decision may not be taken unless:
  - a) A Forthcoming Decision Notice ("Notice") has been published electronically in connection with the matter for at least 28 clear days before the decision is to be taken. That Notice shall detail (where relevant):
    - (i) The decision to be taken.
    - (ii) A description of the issue requiring the decision.
    - (iii) The decision maker (e.g.):
      - Cabinet or Sub-Committee of the Cabinet.
      - Cabinet Member (and their portfolio title).
      - Officer (and their job title).
    - (iv) The date the decision was first published.
    - (v) The intended date that the decision will be taken.
    - (vi) The Wards affected.
    - (vii) Why the decision is defined as Key.

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- (viii) The nature of any consultation (if relevant).
  - (ix) Details of any documents that the decision maker will consider (which may include background documents) when taking their decision (if relevant).
- b) Where it is intended that the decision will involve the consideration of exempt or confidential information and the discussion will be held in Part B Business (Closed to the Public), a Notice has been published electronically at least 28 clear days before the decision is to be taken. That Notice will state the Exempt Information – Category which justifies why the decision is to be taken in private.
- c) A further Notice (normally an agenda) has been published at least five clear working days before the decision is taken. That Notice shall contain a report (which may contain exempt or confidential information) for consideration which details the decision to be made, alternative options considered and rejected and the reason for the recommendation.

## 14.2. **Report to the Full Council by the Leader Following a Challenge by the Overview and Scrutiny Commission Regarding a Decision Route**

Where the Commission is of the opinion that a Key Decision has been taken which was either not included on the list of Forthcoming Decisions or did not follow the relevant Urgency Procedure/s correctly (as set out below), it may pass a resolution that the Leader be required to submit a report to the next ordinary meeting of the Full Council. However, if the next meeting of the Full Council is within five clear working days, then the report may be submitted to the meeting after that.

The report must detail who took the decision, the decision taken, the reasons for that decision, the procedure followed and why the decision was deemed to be Non-Key.

## 15. **DELEGATED DECISIONS**

### 15.1. **Consideration Reports**

When a Cabinet Member is due to take any delegated decision (either Key or Non Key) a Consideration report is required to be published.

A Consideration report equates to a Cabinet Committee report and as such is subject to the same Access Rules, i.e. the report:

- a) Must be published at least five clear working days before the decision is to be taken.
- b) Must include the following:
  - A description of the issue to be resolved (i.e. purpose).
  - Recommendation/s.
  - Details of any alternative options for consideration.
  - Reasons for the decision.
  - Any other implications and supporting information (as required).
- c) Can be classed as “exempt” and not for publication under the Exempt Information – Categories as defined in Paragraph 8.4.

In the unusual circumstance that an officer takes a Key Decision, that decision will be subject to the same Rules as a Decision being taken by a Cabinet Member.

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## 15.2. Record of Significant Operational Decisions

As the Council has a duty to be open and transparent as soon as is reasonably practicable after an officer has taken a Significant Operational (Non Key) Decision, the decision will be published on the Council's website. That record must include:

- a) A record of the decision maker and, when appropriate, under which delegated power the decision was taken.
- b) A record of the decision, including the date it was made.
- c) A record of the reasons for the decision/recommendation.
- d) Details of any alternative options considered and rejected.
- e) Any other information deemed necessary.

## 16. URGENCY AND EXCEPTION PROCEDURES

16.1. There are three urgency and exception procedures:

- General Exception.
- Exempt Exception.
- Special Urgency.

### 16.2. General Exception

If a Forthcoming Decision Notice has not been published electronically at least 28 clear days before the decision is to be taken, that decision may still be taken if:

- a) It would be impracticable to defer the decision by 28 days.
- b) The Chair of the Overview and Scrutiny Commission, or in their absence each Commission Member, has been informed of the decision to be made and why it would be impracticable for it to be deferred.
- c) A Forthcoming Decision Notice has been published electronically which confirms that the individual(s) in (b) above have been informed of the decision.
- d) At least five clear working days are available to allow publication of the Notice (agenda/report) before the decision is due to be taken.
- e) The decision does not involve the consideration of exempt or confidential information in Part B Business (Closed to the Public).

### 16.3. Exempt Exception

Where a Forthcoming Decision Notice has not been published for 28 days identifying that a decision is intended to consider exempt or confidential information and the discussion will be held in Part B Business (Closed to the Public), that decision may still be taken in a Private Session if:

- a) It would be impracticable to defer the decision by 28 days.
- b) It would be unreasonable to take the decision in public.
- c) The Chair of the Overview and Scrutiny Commission, or in their absence the Vice Chair of the Commission and the Mayor, has agreed that the decision is urgent and cannot be reasonably deferred.
- d) A Forthcoming Decision Notice has been published electronically stating which Exempt Information Category, justifies the decision being taken in private along

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with a notice stating the reason for urgency and the agreement of the individual(s) named in (c) above.

- e) At least five clear working days are available to allow publication of the Notice (agenda/report) before the decision is due to be taken.

## 16.4. Special Urgency

If a decision is required to be taken urgently and it would be impracticable to publish a Forthcoming Decision Notice for the 28 clear days period and to publish the agenda/report for five clear working days then that decision may only still be taken if:

- a) The Chair of the Overview and Scrutiny Commission, or in their absence the Vice Chair of the Commission and the Mayor, has agreed that the decision is urgent and cannot be reasonably deferred.
- b) A Forthcoming Decision Notice has been published electronically as soon as practicable along with a notice stating the reason for urgency and the agreement of the individual(s) named in (a) above.
- c) The decision must be taken by such a date that it is impracticable to defer the decision to give five clear working days' notice and enact the General Exception Procedure.
- d) The Leader submits a report (detailing the decision made and reason for Special Urgency) to the next ordinary meeting of the Full Council following the use of the Special Urgency Procedure.

*NB. By the nature of the decisions usually taken under Special Urgency, these decisions may require a Protection from Call-In as detailed in the Call-In Procedures.*

## 17. RIGHTS OF OVERVIEW AND SCRUTINY COMMISSION MEMBERS

17.1. In addition to the rights and restrictions contained within Paragraph 5.5, Commission Members are entitled to any formal Cabinet/Executive document relating to:

- a) Any business that has been transacted at its formal meeting.
- b) Any decision taken by an individual Cabinet Member or a Key Decision taken by an officer.

17.2. Such documents will be provided within ten clear working days after the request has been received by the Monitoring Officer ([democratic.services@crawley.gov.uk](mailto:democratic.services@crawley.gov.uk)). However, where the Monitoring Officer deems it necessary to restrict access to that document (or part of it) based on the criteria set out in Paragraph 5.6, the Overview and Scrutiny Commission will be provided with a written statement setting out the reasons for that decision.

17.3. The Commission also has the ability to provisionally refer an item from the list of Forthcoming Decisions. This entitles Commission Members to view a draft version of that report to allow those Councillors to determine whether there is value in fully referring the item to the Commission for its scrutiny.

17.4. If the Commission refers a delegated Key Decision (Cabinet Member or officer) from the list of Forthcoming Decisions, that 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 Governance, People & Performance of the reason as to why it is impracticable to defer the decision until after the Overview and Scrutiny Commission has met.



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## POLICY FRAMEWORK DOCUMENTS PROCEDURE RULES

### 1. RESPONSIBILITY FOR POLICY FRAMEWORK DOCUMENTS (PFDs)

- 1.1. A list of the PFDs, including those which the Council has chosen as its Local Choice Functions (LCFs), is contained within the:
  - Full Council Functions.
  - Executive Functions (The Leader and Cabinet).
- 1.2. The Cabinet is responsible for proposing PFDs (including the LCF plans and strategies) to the Full Council. Once a PFD is in place, it will be the responsibility of the Cabinet to implement it.
- 1.3. The Budget setting process whilst similar to the procedure for PFDs is set out separately within the Financial and Budget Procedure Rules.

### 2. DEVELOPING POLICY FRAMEWORK DOCUMENTS (PFDs)

- 2.1. The process for developing PFDs (including the LCF plans and strategies) will be as follows (unless regulations dictate otherwise, such as with the Local Development Plan):
  - a) The Cabinet will publicise (including publishing on the Website and taking whatever other steps it deems appropriate such as a Forthcoming Decision Notice) a timetable for making proposals to the Full Council for the adoption of any PFD. This publication will also include the arrangements for consultation after publication of its initial proposals. All Councillors will be informed. The consultation period shall be a minimum of 6 weeks.
  - b) All PFDs will be considered by the Commission as part of the consultation process to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Commission into account in drawing up firm proposals for submission to the Full Council, and its report to the Full Council will reflect the comments made by consultees and the Cabinet's response.
  - c) Once the Cabinet has agreed the proposed PFD, the PFD will be considered at the next ordinary meeting of the Full Council for a decision.
  - d) If the Full Council has any objections or wishes to make amendments to the proposed PFD then it must inform the Leader of those objections and instruct the Cabinet to reconsider the PFD, in the light of those objections. Those instructions must specify the period (of at least five clear working days, commencing the day after the Leader receives the instructions) within which the Leader may either:
    - Submit a revised version of the PFD to the Full Council for consideration, with the Cabinet's reasons for any amendments made; or
    - Inform the Full Council of any disagreement that the Cabinet has with any of the Full Council's objections/amendments, giving reasons for any such disagreement.
  - e) Following the expiration of the period referenced above, the Full Council must make a decision on the PFD, having taken into consideration any response received from the Cabinet.

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## 3. DECISIONS OUTSIDE THE POLICY FRAMEWORK DOCUMENTS (PFDs) INCLUDING IN-YEAR CHANGES

- 3.1. Decisions must only be taken which are in accordance with the PFDs approved by the Full Council except when those changes are:
- a) Necessary to ensure compliance with the law, Ministerial direction or Government guidance.
  - b) In relation to a PFD which would normally be agreed annually by the Full Council following consultation, but where the existing policy document is silent on the matter under consideration.
- 3.2. Where a decision needs to be taken and the Monitoring Officer has confirmed that the decision is contrary to an approved PFD, then that decision must be taken by the Full Council. Where that decision is a matter of urgency the procedure set out in the Paragraph 4 (Urgent Decisions Outside the Policy Framework Documents) must be followed.
- 3.3. **Calling-In of a Decision Contrary to a PFD:** If the Commission is of the opinion that a decision was taken which was contrary to a PFD (as approved by the Full Council), the decision may be Called-In and will follow the process set out in the Call-In Procedures.

## 4. URGENT DECISIONS OUTSIDE THE POLICY FRAMEWORK DOCUMENTS

- 4.1. Any urgent decisions which are contrary to a PFD approved by the Full Council can only be taken if:
- a) It is not practical to convene a quorate meeting of the Full Council.
  - b) The Chair of the Overview and Scrutiny Commission, or in their absence the Mayor (or in the absence of both of them, the Deputy Mayor), has agreed that the decision is urgent and cannot be reasonably deferred.
  - c) The decision maker (normally the Cabinet/Leader) submits a report to the next ordinary meeting of the Full Council. This report will detail the decision made, the reason for urgency and confirmation of the Overview and Scrutiny Commission's consent.

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## FINANCIAL AND BUDGET PROCEDURE RULES

### A. INTRODUCTION

- A.1. The Head of Corporate Finance is responsible, under Section 151 of the Local Government Act 1972, for the “proper administration of the Council’s financial affairs.”
- A.2. Financial and Budget Procedure Rules provide the framework for managing the Authority’s financial affairs. They apply to every Councillor and officer of the Council and anyone acting on behalf of the Council. The regulations identify the financial responsibilities of officers and Councillors and where these responsibilities are delegated, a written record should be maintained of the delegation to whom and any limits that apply.
- A.3. All Councillors and officers 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 for Council purposes only, is legal, is properly authorised and provides value for money.
- A.4. The Head of Corporate Finance is responsible for:
- Maintaining a continuous review of the Financial and Budget Procedure Rules and submitting any additions or changes necessary to the Full Council for approval.
  - Reporting, where appropriate, breaches of the Financial and Budget Procedure Rules to the Full Council and/or to the Cabinet Members.
  - Issuing advice and guidance to underpin the Financial and Budget Procedure Rules which Councillors, officers and others acting on behalf of the Council are required to follow.
- NB. Additional responsibilities of the Head of Corporate Finance are set out in the Council Officer Responsibilities and Decision Making Section of this Constitution.*
- A.5. Chief Officers are responsible for ensuring that all officers in their divisions are aware of the existence and content of the authority’s Financial and Budget Procedure Rules and other internal regulatory documents and that they comply with them.
- A.6. Service Managers and other officers designated as having responsibility for a budget are referred to as a Budget Manager in this document. Chief Officers 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 and Budget Procedure Rules and other internal regulatory documents.

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## **B. FINANCIAL PLANNING AND BUDGET SETTING PROCEDURES**

- B.1. The Cabinet is responsible for proposing the Budget to the Full Council.
- B.2. The Full Council is responsible for setting the capital and revenue budgets annually prior to the start of the financial year for the current and future financial years, including allocation to services, and reserves and contingencies for the forthcoming financial year, the budget requirement and basic amounts of tax.
- B.3. Once the Budget is in place, it will be the responsibility of the Cabinet to implement it. The Process for this is detailed in Section C (Financial Management/Budget Monitoring) of these Rules.

### **Process for Developing the Budget**

- B.4. The Head of Corporate Finance will report to the Cabinet on the Budget Strategy, including the Medium Term Financial Strategy.
- B.5. Chief Officers will prepare budgets, in consultation with their Budget Managers, which:
- Reflect the Council's priorities in respect of service development.
  - Consider alternative service delivery options to ensure that the service achieves the most effective use of both financial and non-financial resources.
  - Identify potential savings for the budget areas.
  - Include business cases for any proposed increased levels of spending.
  - In doing so, ensure that every budget is administered by the most appropriate Budget Manager and aligns budget responsibility as closely as possible to the decision making that influences the expenditure/income concerned.
- B.6. Chief Officers will consult with Cabinet Members on all significant budget proposals and, where other service areas are likely to be impacted, with the relevant Chief Officers.
- B.7. The Head of Corporate Finance will seek views on the revenue and capital proposals via the Budget Advisory Group or through a Councillor seminar and the Overview and Scrutiny Commission. Those views will then be reported to the Cabinet.
- B.8. The Leader of the Council with the Head of Corporate Finance will present the draft Budget Report to the Overview and Scrutiny Commission for their scrutiny prior to its consideration by the Cabinet.
- B.9. The Head of Corporate Finance will advise the Cabinet on appropriate levels of reserves to be held for budget purposes having regard to any policies agreed by the Council and making decisions on the establishment of new reserves.
- B.10. The Cabinet will subsequently make recommendations to the Full Council on:
- The proposed General Fund Budget for the subsequent year, including savings and growth.
  - The proposed Housing Revenue Account Budget for the subsequent year.
  - The proposed Capital Programme and funding for future years.

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- The Council's proposed share of Council Tax for the subsequent year.
- The proposed Pay Policy Statement for the subsequent year.

## **Process for Approving the Budget**

- B.11. The Full Council will consider the Cabinet's recommendations on the Final Budget and on the level of Council Tax before 11 March each year (usually at its February meeting).
- a) If the Full Council has objections to the Cabinet's proposals referred to in Paragraph B.10, 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.
  - b) When giving such instructions, the Full 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:
    - Submit revised proposals, as amended by the Cabinet, with the Cabinet's reasons for the amendments for consideration by the Full Council.
    - Inform the Full Council of any disagreement that the Cabinet has with any of the Full Council's objections and the Cabinet's reasons for any such disagreement.
  - c) On the expiration of the period specified by the Full Council, the Full Council must take into consideration any response received from the Cabinet within that period, when making a decision.
  - d) The decision will be made on the basis of a simple majority of votes cast at the Full Council meeting.
  - e) The conflict resolution procedure identified in Paragraphs (a) to (c) 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 Full Council for consideration after 7 February in any financial year.
  - f) In approving the Budget, the Full Council will also specify the extent of transfers within the Budget (virements) which may be undertaken by the Cabinet, in accordance with these Rules.

## **C. FINANCIAL MANAGEMENT/BUDGET MONITORING**

C.1. Budget Managers are responsible for:

- Following an approved process for all expenditure.
- Ensuring all income and expenditure is properly recorded and accounted for.
- Monitoring performance levels/levels of service in conjunction with the Budget and taking necessary action to align services, outputs and budgets.

C.2. Chief Officers are responsible for:

- Securing value for money in all financial transactions, ensuring that they and their officers comply with these Financial Regulations and any associated guidance.
- Ensuring that levels of expenditure and associated performance for their services are properly monitored and controlled throughout the year, with

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realistic forecasts of income and expenditure prepared and submitted to the Head of Corporate Finance.

- Ensuring that their services are managed within the approved budget and appropriate corrective action is taken where significant variations from the approved budget are forecast.
- All income and expenditure under their control.

C.3. The Head of Corporate Finance is responsible for:

- Providing appropriate financial information to enable budgets to be monitored effectively.
- Reporting to the Cabinet on the overall Council budget monitoring position on a quarterly basis.
- Report on the Council's reserves presented annually to the Cabinet as part of the Financial Outturn Report.

## **Budget Transfers (Virement)**

C.4. Budgets can be transferred from one service area to another by Chief Officers, the Head of Corporate Finance or the Cabinet up to their limits in the Council's Financial Approval Levels (included within Section J of these Rules). All other budget transfers shall be referred to the Full Council for approval unless deemed urgent (see below).

C.5. The Head of Corporate Finance can approve:

- One-off redundancy and early retirement costs arising from any staffing restructure or other circumstances up to the limit in the Council's Financial Approval Levels subject to the restructure delivering value for money. This will normally be interpreted as providing a payback with three years.
- Changes to the cost and phasing of individual schemes within the overall capital programme budget in consultation with the Leader.

The Cabinet can approve supplementary estimates up to the limits specified in the Council's Financial Approval Levels.

C.6. All budget transfers and supplementary estimates will be reported to the Cabinet in quarterly budget monitoring reports.

## **Calling-In of a Decision Contrary to the Budget**

C.7. If the Overview and Scrutiny Commission is of the opinion that a decision was taken which was contrary to (or not wholly in accordance with) the Budget (as approved by Full Council), the decision may be Called-In and will follow the process set out in the Call-In Procedures in this Constitution.

## **Urgent Decision Outside the Budget**

C.8. An urgent decision which is contrary to or not wholly in accordance with the Budget may only be taken by the Leader/Cabinet in consultation with the Head of Corporate Finance and the Chief Executive if:

- It is not practical to convene a quorate meeting of the Full Council.
- The Chair of the Overview and Scrutiny Commission, or in their absence the Vice Chair of the Commission (or in the absence of both of them, the Mayor), has agreed that the decision is urgent and cannot be reasonably deferred.

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- The Leader submits a report to the next ordinary meeting of the Full Council. This report will detail the decision made, the reason for urgency and confirmation of the Overview and Scrutiny Commission's consent.

## **D. FINANCIAL SYSTEMS AND PROCEDURES**

- D.1. The Head of Corporate Finance is responsible for issuing financial instructions to Chief Officers which must be complied with in respect of controlling income and expenditure.
- D.2. The Cabinet, having regard to the advice of the relevant Chief Officer and the Head of Corporate Finance, is responsible for determining discretionary charges for Council services, for writing off sums to the Council, and for delegating authority to determine discretionary charges and to write off sums due to the Council.
- D.3. Any proposal outside of the annual review process to introduce or change a charge with an estimated annual value above a level agreed by the Cabinet must be approved by the Cabinet – or as appropriate, if this matter is so delegated.
- D.4. Chief Officers are responsible for ensuring that:
- All income due to the Council is identified and charged correctly.
  - All charges for Council services are reviewed in conjunction with the Head of Corporate Finance at least once a year having regard to their appropriateness in relation to the Council's approved charging and other relevant Council policies, and approved by the Cabinet or as appropriate, if this matter is so delegated.
  - Effective recovery processes are in place for all income streams and compliance with the Council's debt management policy.
  - All money received by an officer, contractor or agent on behalf of the Council is paid without delay to the Council's bank account, properly recorded and reconciled to the bank account by a person who is not involved in the collection or banking process.
  - Formal approval for debt write off is obtained without delay.
  - A Scheme of Management is operated effectively within the area identifying officers authorised to act on the Chief Officer's behalf in respect of placing orders, payments, income collection and preparation of write offs for submission to the Head of Corporate Finance, together with the limits of their authority.
  - Value Added Tax and other forms of relevant taxation (e.g. under the Construction Industry Scheme) are properly accounted for within stipulated timescales and any implications of any proposed income or expenditure are properly considered prior to the transaction taking place.
  - The systems and procedures to be adopted in relation to financial aspects of contracts for constructions and alterations to buildings for civil engineering works are documented and agreed with the Head of Corporate Finance.

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## **E. TREASURY MANAGEMENT (INVESTMENTS AND BORROWING)**

- E.1. The Council has adopted the key recommendations of CIPFA's Treasury Management in the Public Service Code of Practice (Code). Accordingly, the Full Council is responsible for approving a Treasury Management Policy Statement, on an annual basis, stating the policies and objectives of its treasury management activities, including, the 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 Treasury Management Practices (TMPs).
- E.2. The Council will create and maintain, as the cornerstones for effective treasury management:
- A Treasury Management Policy Statement, stating the policies, objectives and approach to risk management of its treasury management activities.
  - Suitable TMPs, setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- E.3. The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key principles.
- E.4. The Full 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.
- E.5. The Full Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the Council's policy statement and TMPs and, if they are a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- E.6. The Council nominates the Overview and Scrutiny Commission to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

### **Banking**

- E.7. All arrangements concerning banking services will be made solely upon direction of the Chief Finance Officer. This includes the opening, closing and operation of the Council's bank accounts, credit, debit or other payment cards and the arrangements for retaining cash (including cash floats) on Council premises.

## **F. CONTROL OF ASSETS**

- F.1. Chief Officers, having regard to advice and instructions from the Head of Corporate Finance and any other relevant professional advisors employed by the Council, are responsible for ensuring that:
- Resources are used only for the purposes of the Council and are properly accounted for, including the maintenance of proper inventories.
  - Resources are available for use when required.



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- Resources no longer required are disposed of in accordance with the law and the procedures issued by the Head of Corporate Finance.
- All officers are aware of their responsibilities with regard to safeguarding the Council's assets and information, including any legal requirements in relation to data protection and software copyright.
- All officers 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.
- Contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

F.2. Assets must be disposed of at the most appropriate time, only when it is in the best interests of the Council, at the best price reasonably obtainable and in accordance with the limits in the Council's Financial Approval Levels.

## **G. RISK MANAGEMENT AND AUDIT (INCLUDING FRAUD)**

### **Risk Management and Insurance**

- G.1. The Head of Corporate Finance is responsible for producing the Council's strategic risks annually to be presented to the Audit Committee.
- G.2. Chief Officers are responsible for:
- Implementing and complying with the Council's risk management policy, having regard to associated advice and instructions from the Head of Corporate Finance and other specialist officers (e.g. health and safety, crime prevention, legal).
  - Embedding risk management within the operation of all of their services.
  - Maintaining and testing business continuity plans.
- G.3. The Head of Corporate Finance is responsible for all insurance matters including the review of the approach to risk management, determining the nature and level of insurance cover to be arranged and the processing and settlement of all claims.
- G.4. Chief Officers are responsible for notifying the Head of Corporate Finance of any:
- New risk, property, equipment or vehicle which may require insurance.
  - Alterations to services or other arrangements which may affect insurance arrangements.
  - Loss, damage or claim.
- G.5. Chief Officers are responsible for ensuring that those acting on behalf of the Council are instructed not to make any admission of liability or offer of compensation that might prejudice the assessment of a potential liability of the Council or of its insurers.

### **Internal Controls**

- G.6. The Head of Corporate Finance is responsible for the production of the Annual Governance Statement and for ensuring that an effective system of internal control exists, advising and instructing Chief Officers accordingly. The Annual Governance Statement and the system of internal control will be designed to guard against fraud

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and corruption and to ensure that public funds are properly safeguarded and used economically, efficiently and effectively.

- G.7. Chief Officers are responsible for ensuring that internal controls within their service areas are adequate and operating as intended and for the timely implementation of all agreed recommendations in audit reports.

## **Audit Requirements**

- G.8. The Head of Corporate Finance is responsible for providing the internal audit of the Council's systems and processes, ensuring it is sufficient in its coverage and independent in its planning and operation.
- G.9. The Head of Corporate Finance is responsible for ensuring that the individual responsible for the Council's audit function has direct access to the Chief Executive, all levels of management, and Chairs of Committees, as appropriate.
- G.10. The Head of Corporate Finance shall ensure that the statutory requirements for external audit are complied with in order that the external auditor is able to effectively scrutinise the Council's records. Chief Officers shall ensure reasonable access by them to the Council's premises and records relevant to the audit.
- G.11. Chief Officers are responsible for ensuring that the Head of Corporate Finance is immediately notified of any suspected irregularity relating to both private and Council funds, including cash, payment cards, any Council financial system, stores or other property, and any financial transaction or arrangement, or any material weakness which has been identified in any system or control.

## **Preventing Fraud and Corruption**

- G.12. All Councillors and officers of the Council are personally responsible for ensuring integrity in the conduct of the Council's business. The Head of Corporate Finance is responsible for developing and maintaining an anti-fraud and corruption strategy, which will incorporate advice to all officers and Councillors on the controls necessary to maintain control of public funds and assets used by the Council in the daily management of its services, including appropriate arrangements for the treatment and registration of relevant interests, gifts and hospitality.
- G.13. Chief Officers shall foster a culture of honesty and opposition to fraud and corruption within the Council and are responsible for notifying the Head of Audit immediately of any suspected fraud, theft, irregularity or improper use of Council property, assets, resources or services.
- G.14. Where financial impropriety is discovered, and sufficient evidence exists to believe that a criminal offence has been committed, the Head of Corporate Finance will instruct the Head of Governance, People & Performance to take the appropriate legal action.

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## **H. PROCUREMENT**

- H.1. The Council's Procurement Code sets out the processes and rules to be followed when procuring all the Council's goods, works and services. The Code can be found via the Council's website.
- H.2. The Procurement Code is the responsibility of the Full Council.
- Minor amendments to the Procurement Code are delegated for approval to the Head of Corporate Finance and Head of Governance, People & Performance.
  - Significant amendments (anything deemed not minor by either the Head of Corporate Finance or Head of Governance, People & Performance) shall be considered by the Cabinet prior to them being agreed and adopted by the Full Council.
- H.3. For ease of reference, the approval and sign off levels for procurement are included within Section J of these Rules.

## **I. EXTERNAL ARRANGEMENTS**

### **External Funding**

- I.1. The Head of Corporate Finance is responsible for ensuring that all funding due from external bodies is received and properly accounted for.
- I.2. Chief Officers are responsible for:
- Ensuring that any external funding/grant supports the Council's service priorities.
  - Ensuring that the Head of Corporate Finance is notified in a timely manner of all grants being made to the Council.
  - Maintaining a copy of the terms and conditions of all such grants and ensuring compliance with them.
  - Ensuring, in conjunction with the Head of Corporate Finance, that any matched funding requirements can be met from within existing budgets.
  - Ensuring that time limited funding is spent in advance of the end date and that no financial commitments remain with the Council, unless previously agreed by the Cabinet, after the external funding/grant ceases.
  - Ensuring that, where funding is withdrawn, the related service and any associated expenditure should cease.

### **Alternative Service Delivery Models**

- I.3. A number of alternative service delivery models may be adopted to deliver the Council's services, (e.g. shared services, local authority companies, trusts, etc) including those functions discharged under Section 101 of the local Government Act 1972 and relevant Executive Functions Regulations. The Head of Corporate Finance shall ensure that the accounting arrangements adopted in relation to these delivery models are subject to control procedures which reflect those of the Council.
- I.4. Chief Officers must consult the Head of Corporate Finance at an early stage of any proposals relating to alternative delivery models in order to ensure that the financial impact of the proposals, including VAT and pensions, etc., is understood.

## J. FINANCIAL APPROVAL LEVELS AND PROCUREMENT THRESHOLDS

### Financial Approval Levels

	Budget Transfers (Virements)		Redundancies/early retirement	Supplementary Estimate		Purchase land/property	Asset Disposal	Write-offs	Sale of land
	Revenue	Capital		Revenue	Capital				
Heads of Service	£50,000 within service area, no future commitment	£50,000 within service area					£10,000		
Head of Corporate Finance	£100,000 across the Council, no future commitment	£50,000 across the Council	£500,000			<i>For investment:</i> Within the limits of the Investment Acquisition Reserve	£10,000 - £50,000	Up to £2,500	Up to £25,000
Head of Crawley Homes in agreement with the Head of Corporate Finance *						<i>For housing delivery **:</i> Within the limits of the Housing Revenue Account Budget			

	Budget Transfers (Virements)		Redundancies/early retirement	Supplementary Estimate		Purchase land/property	Asset Disposal	Write-offs	Sale of land
	Revenue	Capital		Revenue	Capital				
Head of Strategic Housing in agreement with the Head of Corporate Finance *						<i>For temporary accommodation **: Within the limits of the Temporary Accommodation Acquisitions Budget</i>			
Leader							£2,500 - £50,000	£25,000 - £200,000	
Cabinet	Over £100,000, and up to £100,000 future commitment	Over £50,000		Up to £100,000 per request, up to maximum of £500,000 per annum	Up to £500,000 per scheme		Over £50,000	Over £50,000	Over £200,000
Full Council	Future commitment above £100,000			Over £100,000	Over £500,000				

\* In consultation with the appropriate Cabinet Member and the Leader.

\*\* Each acquisition must be assessed on its individual merits and may include, but is not limited to, the following options:

- a) Council-owned land to be delivered in-house.

- b) Land acquisitions to be progressed in-house.
- c) Joint Venture developments with investors, developers or housing associations.
- d) Off-plan and off-market acquisitions to be delivered on 'turnkey' basis.
- e) S106 affordable housing within market-led schemes.
- f) Securing additional affordable housing within market-led schemes.
- g) Securing 'off-the-shelf' schemes that are nearing completion.
- h) 'Flipping' tenures on existing S106 schemes.
- i) Land or schemes under auction on the market.
- j) Step-in arrangements to complete schemes that are at risk.
- k) Institutionally funded schemes on a lease-back basis.

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## Procurement Thresholds and Contract Award Procedure: Goods and Services Contracts

Total Contract Value	Procurement Route	Short-Listing/Evaluation of Suppliers	Receipts 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 electronically to Department and reviewed by at least two Officers or to be electronically opened by the Council's approved e-tendering package	Officer in consultation with the Head of Service	Signature	Publish details of all contracts on the Council's contracts register*
£50,000 – £214,904 <sup>^</sup> inc. VAT;  £179,087 exc. VAT	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 electronically opened by two officers using 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
					Over £100,000 sealing	Publish details of all contracts on the Council's contract register*
Above Threshold £214,904 <sup>^</sup> inc. VAT;  £179,087 exc. VAT	Invitation to tender by advertisement Contracts Finder and Find a Tender via the SE Shared Services Portal	Tenders to be evaluated by a minimum of two officers.  Where a restricted tender process has been completed using a Selection Questionnaire approval of shortlist by Officer, and Head of Service	As above	Above Threshold (£214,904 <sup>^</sup> ) to £250k Head of Service approval in consultation with CEO/Deputy CEO	sealing	Publish details of contract award on SE Shared Services Portal.
				£250k to £500k Head of Service in consultation with CEO/Deputy CEO and Cabinet Member. .A Significant Operational Decision Form (SOD) must be completed and submitted to Democratic Services for inclusion in the Councillors' Bulletin		Publish details of all contracts on the Council's contract register*
				Above £500k – approval by Cabinet and included in the Forthcoming Decisions List 28 days prior to contract award.	sealing	

\* The Contracts Register is managed through the Procurement Team and Legal/Democratic Services. There is an eform available on the intranet that must be completed in order to provide details of the contract award.

<sup>^</sup> This value is inclusive of VAT- previous values were exclusive of VAT.- Please ensure that you take this into account when calculating contract value. Please refer to 3.1 of the Procurement Code and the Procurement Team for advice.

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## Procurement Thresholds and Contract Award Procedure: Works Contracts

Total Contract Value	Procurement Route	Short-Listing/Evaluation of Suppliers	Receipts 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 electronically to Department and reviewed by at least two Officers or to be electronically opened by the Council's approved e-tendering package.	Officer in consultation with Head of Service.	Signature	Publish details of all contracts on the Council's contract register*
£99,999 – above Threshold for Works £5,372,609 <sup>^</sup> inc. VAT; £4,477,174 (exc. VAT)	Invitation to tender, to at least five Tenderers by advertisement on Contracts Finder via the SE Shared Services Portal.  A 'restricted' tender process for Works contracts can only be used for Tenders above the goods and services Threshold. A national standard PQQ/SQ must be used.	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	To be electronically opened by two officers using the Council's approved e-tendering package	Up to £214,904 <sup>^</sup> (£179,087 exc. VAT) Goods & Services threshold Officer in consultation with Head of Service	Up to £100,000 Signature	Publish details of contract awards on SE Shared Services Portal.  Publish details of all contracts on the Council's contract register*
				Above £214,904 <sup>^</sup> (£179,087 exc. VAT) goods & services threshold to £250k Head of Service approval in consultation with CEO/Deputy CEO	Over £100,000 Sealing	
				£250k to £500k Head of Service in consultation with CEO/Deputy CEO and Cabinet Member. A Significant Operational Decision Form (SOD) must be completed and submitted to Democratic Services for inclusion in the Councillors' Bulletin		
Above Threshold £5,372,609 <sup>^</sup> inc. VAT; £4,477,174 (exc. VAT)	Invitation to tender to at least five Tenderers by advertisement on Contracts Finder via the SE Shared Services Portal and by advertisement on Find a Tender	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	Approval by Cabinet	Sealing	Publish details of contract award on SE Shared Services Portal.  Publish details of all contracts on the Council's contract register*

\* The Contracts Register is managed through the Procurement Team and Legal/Democratic Services. There is an eform available on the intranet that can be completed in order to provide details of the contract award.

<sup>^</sup> This value is inclusive of VAT- previous values were exclusive of VAT.- Please ensure that you take this into account when calculating contract value. Please refer to 3.1 of the Procurement Code and the Procurement Team for advice.



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## CODE OF CONDUCT FOR COUNCILLORS

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## CODE OF CONDUCT FOR COUNCILLORS

### Part 1 – General Provisions

#### 1. INTRODUCTION AND INTERPRETATION

- (1) This Code applies to **you** as a Councillor of this authority, when acting in that capacity.
- (2) This Code is based upon the seven principles of public life which are set out in **Part 4**.
- (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) Any failure to observe the Code may result in:
  - a) A prosecution against you. It is a criminal offence to fail to notify the Monitoring Officer of a disclosable pecuniary interest, to take part in discussions or vote 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.
  - b) A complaint that you have failed to comply with this Code and will be dealt with by the Authority under Arrangements which it has in place for such purposes.
- (5) In this Code

"Councillor" includes a co-opted Member and an appointed Member.

"Co-opted Member" means a person who is not a Councillor 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 authorityand 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 Cabinet, any Committees, Sub-Committees, Joint Committees or area or local Committees.
  - b) Councillors in formal or informal meetings with other Councillors and/or officers relating to the business of the authority.

#### 2. SCOPE

- (1) Subject to sub-paragraph (3), you must comply with this Code whenever you act or appear to act in your official capacity as a Councillor, 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),
  - b) Act, claim to act or give the impression you are acting as a representative of your authority or

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- c) Give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;
- (2) The Code applies to all forms of communication and interaction, including:
    - at face-to-face meetings
    - at online or telephone meetings
    - in written communication
    - in verbal communication
    - in non-verbal communication
    - in electronic and social media communication, posts, statements and comments.'
  - (3) This Code does not apply to what Councillors do in their purely private and personal lives.

## 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 or harass any person.
- (4) Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour or abuse or misuse of power in a way that undermines, humiliates, denigrates or injures the recipient.
- (5) Harassment is defined as “unwanted conduct” which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- (6) You must undertake the Code of Conduct training provided by your local authority.
- (7) 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 Councillor (including yourself) has failed to comply with their Authority’s Code of Conduct. If a Code of Conduct complaint is referred for an Investigation, there will be an obligation on the Councillor to comply with any formal standards investigation.
- (8) You must comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.
- (9) 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.
- (10) 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:

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- 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. or
  - 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 <sup>1</sup> or
- b) Prevent another person from gaining access to information to which that person is entitled by law.
- (11) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- (12) You must not use or attempt to use your position as a Councillor improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
- (13) 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).
- (14) You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (15) 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.
- (16) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

<sup>1</sup> Note "In compliance with the reasonable requirement of the Authority" means that a Councillor should consult the Chief Executive (as Head of the Paid Service), the Head of Governance, People & Performance (as Monitoring Officer) or the Head of Corporate Finance (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:
- 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
      - (a) Exercising functions of a public nature.

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- (b) Directed to charitable purposes.
- (c) 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 Councillor 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.

You are required to register a Personal interest.

- (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.
  - (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.
  - (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 (4) 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)(a), 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.

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## 6. PREJUDICIAL INTERESTS

- (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.
  - (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 councillors.
    - (v) Any ceremonial honour given to councillors.
    - (vi) Setting council tax or a precept under the Local Government Finance Act 1992.

## 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 Cabinet 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 Cabinet, Committee, Sub-Committee, Joint Committee or Joint Sub-Committee 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:

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- (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.
  - (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) 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 as set out in Part 5 of this Code.
- (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.
  - (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.
- (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 Councillor's Interests.
- (3) If the Disclosable Pecuniary Interest is not already on your Register of Councillor'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.

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## 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 in any discussions of the matter at a meeting.
  - (b) You must not participate in any vote taken on the matter at the meeting.
  - (c) You must withdraw from the meeting room including the public gallery where the meeting considering the matter is being held unless you have received a dispensation.

## Part 3 – Registration of Councillors' Interests

### 10. REGISTRATION OF COUNCILLORS' INTERESTS

- (1) You must, within 28 days of your election or appointment to office (where that is later), register in your authority's Register of Councillors' Interests details of:
  - (i) Your personal interests and
  - (ii) Disclosable Pecuniary Interests by providing written notification to your authority's Monitoring Officer.
- (2) You must within 28 days of becoming aware of any new personal or pecuniary interest or change to any such interests register details of that new interest or change by written notification to your Authority's Monitoring Officer.

### 11. GIFTS AND HOSPITALITY

- (1) The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 10 years or a fine or both.
- (2) You must register as a Personal Interest the receipt of any gift or hospitality with an estimated value of £50 or more received within the last three years. This must be done within 28 days of its receipt / acceptance.
- (3) In any event, you are required to complete a Form of Declaration of receipt / acceptance of any gift or hospitality including refusal.
- (4) Further information can be found within the Guidance Note on Gifts & Hospitality section of this Constitution.

### 12. 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 Councillors' 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.



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- (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 Councillors' 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.

## 13. DISPENSATIONS

- (1) On a written request made to the Monitoring Officer by a Councillor for a dispensation the Monitoring Officer or the Governance Committee may grant a dispensation relieving the Councillor from the restriction of non-participation or voting on a matter where the member has a prejudicial or a disclosable pecuniary interest in a matter.
- (2) A dispensation may only be granted in accordance with Section 33 of the Localism Act 2011.

## Part 4 – The Seven Principles of Public Life

### *Selflessness*

1. Councillors should act solely in terms of the public interest.

### *Integrity*

2. Councillors must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or friends. They must declare and resolve any interests and relationships.

### *Objectivity*

3. Councillors must act and take decisions impartially, fairly and on merit and using the best evidence and without discrimination or bias.

### *Accountability*

4. Councillors are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### *Openness*

5. Councillors should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### *Honesty*

6. Councillors should be truthful.

### *Leadership*

7. Councillors exhibit these principles in their own behaviour, they should actively promote and robustly support these principles and be willing to challenge poor behaviour wherever it occurs.

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## Part 5 – The Categories of Disclosable Pecuniary Interests

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 ("M" = Member of the Council)
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 Councillor, 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.
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.

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## PROCEDURE FOR DEALING WITH CODE OF CONDUCT COMPLAINTS

1. Complaints in writing are to be made to the Monitoring Officer who will be responsible for the management of complaints, liaising with the complainant(s), Councillors, 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 that has responsibility for the discharge of standards functions on the complaints, the outcomes and lessons learned.
2. The Monitoring Officer will acknowledge receipt of the complaint within 10 working days of receipt of the prescribed form and inform the Councillor of the complaint which has been made against him / her.
3. A decision on the initial assessment of the complaint will normally be made within 20 working days of acknowledgement of the complaint.
4. The Monitoring Officer will review the complaint and, if necessary, undertake basic enquiries before deciding whether it should be rejected, merits further consideration or requires another course of action. A complaint will be rejected if:
  - (a) The Councillor is no longer a Councillor.
  - (b) The behaviour complained of occurred more than 3 months ago\*.
  - (c) The conduct complained of is not covered by the Code of Conduct.
  - (d) The complaint appears to be politically motivated, malicious, vexatious, tit for tat, trivial or otherwise not in the public interest to warrant further action.
  - (e) The conduct complained of is the same or substantially the same as a complaint that has previously been dealt with.
  - (f) There is no prima facie evidence that the Code has been breached or there is not enough information to take the matter forward.
  - (g) The complaint is anonymous.
  - (h) The complaint should be dealt with by some other process or other body or agency.

\*The Monitoring Officer shall have the discretion to consider the extension to this time frame in consultation with the Independent Person should it be considered necessary to do so.

The Monitoring Officer will seek the views of and consult with the Independent Person when a complaint is to be rejected.

5. If the complaint is not rejected, the Monitoring Officer will consider the complaint, based on the information provided and seek any clarifications where required. Thereafter the Monitoring Officer will make a judgement as to whether there is a case to answer in accordance with the criteria set out in Appendix A and then decide on whether the complaint should be dealt with informally or by referral for a formal investigation.

The role of the Independent Person in the complaints process is set out in Appendix B.

6. 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 Chief Executive, the Leader of the Council, the Group Leader(s), and the Independent Person.
7. If the Monitoring Officer considers that there is a case to answer then they will consider what action to take. This will either be by informal resolution or by referring

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the complaint for an investigation. 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 refer the matter for an investigation (having consulted the Independent Person and having informed and consulted the Chief Executive, the Leader, and/or the Group Leader(s)) in accordance with any directions of the Independent Person.

8. Types of informal resolution of a complaint may include:
  - (a) An explanation by the Councillor of the circumstances surrounding the complaint.
  - (b) An apology from the Councillor.
  - (c) Arranging training for the Councillor.
  - (d) Arranging a mediation or conciliation session between the complainant and the Councillor.
  - (e) Any other action capable of resolving the complaint.

The Monitoring Officer will seek confirmation that the suggested informal resolution of the complaint has been complied with.
9. Once an Investigation is complete, the Monitoring Officer will report to the Independent Person together with any representations from the complainant and the Councillor.
10. If a decision is made that the complaint be investigated then the matter will follow the Investigations Procedure set out at Appendix E. Upon receipt of the Final Report, if the report reveals breaches of the Code of Conduct for Councillors, 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.
11. If the Independent Person considers that a breach is established and considers that action other than informal steps should be taken the Independent person may make recommendations to:
  - A Panel of Councillors drawn from the Employment Panel.
12. The recommendations of the Independent Person may include any of those set out in Appendix C. They are neither exclusive nor exhaustive.
13. The ultimate decision on the Independent Person's recommendations is for:
  - A Panel of Councillors drawn from the Employment Panel.
14. Publicity will be given to Code of Conduct Complaints which are determined as upheld either at the informal stage or following an investigation.
15. Formal notice of the Council's decision must be given to the complainant and the Councillor.
16. 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 Councillor with the agreement of the Monitoring Officer or, depending upon the stage reached, the Independent Person to settle the complaint.

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17. Complaints should be handled sensitively and fairly. Anonymous complaints should not normally be allowed and complainants should expect to be identified, 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. 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 being undertaken may be made 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 Councillors drawn from the Employment Panel.

of the Independent Person's recommendations, subject to the rules on confidential/exempt information.

18. A flow chart explaining these arrangements is set out in Appendix D.

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## APPENDIX A

### ROLE OF THE MONITORING OFFICER

1. Upon receipt of a complaint the Monitoring Officer must consider:
  - a) Whether the subject matter of the allegation is within the Code of Conduct for Councillors.
  - b) Whether the allegation appears to disclose a failure to comply with the Code of Conduct for Councillors because it comprises:
    - A failure to treat others with respect.
    - Acting in a way that may cause the authority to breach an equality enactment.
    - Bullying of any person.
    - An intimidation or attempt at intimidation of a person involved in an allegation against the Councillor.
    - A compromise of the impartiality of those who work for, or on behalf of, the authority.
    - A disclosure of confidential information.
    - The bringing of an office or authority into disrepute.
    - The using or attempted use of the Councillor's position as a Councillor improperly to confer or secure an advantage or disadvantage.
    - The using of the resources of the authority not in accordance with its requirements.
    - The disregarding of relevant advice when reaching decisions.
    - A failure to give reasons for decisions.
    - A failure to declare a disclosable pecuniary interest.
    - A failure to declare another type of disclosable interest.
    - Having an interest and failing to act appropriately.
    - A failure to register interests.
2. If the allegation appears to disclose a failure to comply with the Code of Conduct for Councillors, the Monitoring Officer is to consider:
  - a) The extent to which the Councillor is alleged to have failed to treat others with respect.
  - b) The extent to which the Councillor 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 Councillor.
  - d) Whether in disclosing confidential information, the Councillor 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 Councillor, and public trust and confidence.
  - h) The consequences or the likely consequences of the Councillor's alleged actions.
  - i) The extent to which the Councillor is alleged to have used their position as a Councillor improperly to confer or secure an advantage or disadvantage.

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- j) The extent to which the Councillor 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, e.g. 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 Councillor time which could be incurred on an investigation or other steps.

3. If the Monitoring Officer considers that a breach of the Code of Conduct for Councillors 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 Councillor or a meeting between the complainant, the Councillor, the Independent Person or a third party e.g. Group Leader, the Leader of the Council or the Chief Executive, or an apology.
- b) To recommend steps to the complainant and the Councillor 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 some other body or agency if relevant.
- f) To take no further action because:
  - The subject matter of the allegation is outside the Code of Conduct for Councillors.
  - The allegation does not appear to disclose a failure to comply with the Code of Conduct for Councillors.
  - The information submitted is insufficient to enable them to reach a decision.
  - 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.
  - The complaint is about something that happened so long ago that there would be little public benefit in taking action now.
  - The complaint is too trivial to warrant further action.
  - The complaint appears to be simply frivolous, malicious, vexatious, politically motivated or tit-for-tat \*.
  - It would not be expedient in the public interest for the matter to be pursued further.

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\* A frivolous or vexatious complaint is described as:

- Repeated complaints making the same or similar complaints against the same Councillor 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.

The Monitoring Officer must consider the reasons for making this decision.

4. If the Monitoring Officer proposes to take steps 3b to 3f they shall inform the Chief Executive, the Group Leader and the Independent Person.
5. If the Monitoring Officer proposes to take steps 3c or 3d they shall consult the Independent Person.



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## APPENDIX B

### 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 Councillor, 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 Councillor.
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 Councillors drawn from the Employment Panel.
8. In reaching any decision the Independent Person is to consider:
  - a) Whether the subject matter of the allegation is within the Code of Conduct for Councillors.
  - b) Whether the allegation appears to disclose a failure to comply with the Code of Conduct for Councillors because it comprises:
    - A failure to treat others with respect.
    - Acting in a way that may cause the authority to breach an equality enactment.
    - Bullying of any person.
    - An intimidation or attempt at intimidation of a person involved in an allegation against the Councillor.
    - A compromise of the impartiality of those who work for, or on behalf of, the authority.
    - A disclosure of confidential information.
    - The bringing of an office or authority into disrepute.
    - The using or attempted use of the Councillor's position as a Councillor improperly to confer or secure an advantage or disadvantage.
    - The using of the resources of the authority not in accordance with its requirements.
    - The disregarding of relevant advice when reaching decisions.
    - A failure to give reasons for decisions.
    - A failure to declare a disclosable pecuniary interest.
    - A failure to declare another type of disclosable interest.
    - Having an interest and failing to act appropriately.
    - A failure to register interests.

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9. If the allegation appears to disclose a failure to comply with the Code of Conduct for Councillors, the Independent Person is to consider:
- a) The extent to which the Councillor is alleged to have failed to treat others with respect.
  - b) The extent to which the Councillor 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 Councillor.
  - d) Whether in disclosing confidential information, the Councillor 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 Councillor, and public trust and confidence.
  - h) The consequences or the likely consequences of the Councillor's alleged actions.
  - i) The extent to which the Councillor is alleged to have used their position as a Councillor improperly to confer or secure an advantage or disadvantage.
  - j) The extent to which the Councillor 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 investigation or of an investigation by another regulator, e.g. 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 Councillor time which could be incurred on an investigation or other steps.
10. If the Independent Person considers that a breach of the Code of Conduct for Councillors 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 Councillor or a meeting between the complainant, the Councillor, the Independent Person or a third party e.g. Group Leader, the Leader of the Council or the Chief Executive, or an apology.
  - b) To recommend steps to the complainant and the Councillor other than investigation and, if so, what steps.

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- c) To recommend action to:
- A Panel of Councillors drawn from the Employment Panel.
- d) To take no further action because:
- The subject matter of the allegation is outside the Code of Conduct for Councillors.
  - The allegation does not appear to disclose a failure to comply with the Code of Conduct for Councillors.
  - The information submitted is insufficient to enable them to reach a decision.
  - 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.
  - The complaint is about something that happened so long ago that there would be little public benefit in taking action now.
  - The complaint is too trivial to warrant further action.
  - The complaint appears to be simply frivolous, malicious, vexatious, politically motivated or tit-for-tat \*.
  - It would not be expedient in the public interest for the matter to be pursued further.

\* A frivolous or vexatious complaint is described as:

- Repeated complaints making the same or similar complaints against the same Councillor 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.

The Independent Person must consider the reasons for making this decision.

11. If the Independent Person makes a decision they shall inform the Monitoring Officer, the Chief Executive, the Group Leader, the complainant and the Councillor.
12. The actions the Independent Person may recommend to:
- A Panel of Councillors drawn from the Employment Panel are set out at Appendix C.

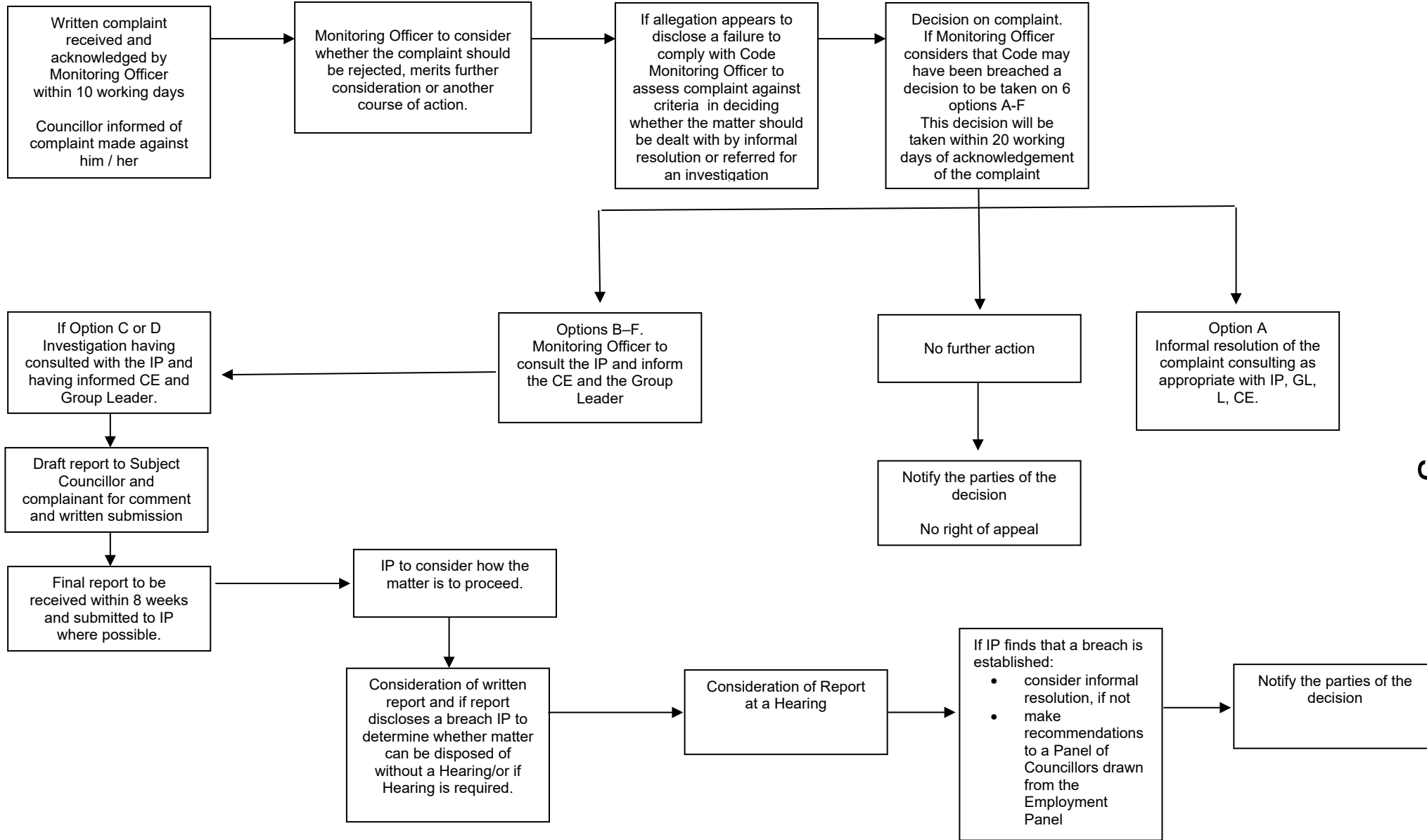
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## APPENDIX C

### RECOMMENDATIONS WHICH THE INDEPENDENT PERSON MAY MAKE TO A PANEL OF COUNCILLORS (DRAWN FROM THE EMPLOYMENT PANEL)

1. That the Councillor should be censured.
2. That the Councillor should apologise to the complainant or other affected person.
3. That the Councillor should for a specified period of time be excluded from a building, office or offices, from contact with a particular officer or officers or required to conduct their business through a named senior officer.
4. That the Councillor should for a specified period of time be prohibited from using specific resources of the Council.
5. That the Councillor should give an undertaking to refrain from certain conduct or to carry out their business in a particular fashion.
6. That the Councillor and/or other or all Councillors should undergo training in a particular area or areas of their Council business.
7. That the Councillor should be suspended or removed from membership of the Cabinet, 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 Councillor'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 Councillors.

CODE OF CONDUCT COMPLAINTS PROCEDURE (FLOWCHART)



### INVESTIGATION AND HEARINGS PROCEDURE

#### 1. INTRODUCTION

- 1.1. 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 Councillor should be investigated.
- 1.2. This document also sets out the process which 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.

#### 2. THE APPOINTMENT OF THE INVESTIGATING OFFICER

- 2.1. 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 the Code of Conduct and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation or if a conflict of interest occurs. The Investigating Officer may be an Officer of the authority or another authority or an external Investigating Officer.

#### 3. THE ROLE OF THE INVESTIGATING OFFICER

- 3.1. 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.
- 3.2. 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.

#### 4. NOTIFICATION REQUIREMENTS

- 4.1. Once they have appointed an Investigating Officer, the Monitoring Officer will notify the Subject Councillor against whom the allegation has been made that the matter is being referred for investigation and inform them who is conducting the investigation.
- 4.2. The Monitoring Officer will notify the complainant that an investigation will take place and that they may be contacted in relation to that investigation.

#### 5. CONDUCT OF THE INVESTIGATION

- 5.1. The Investigating Officer shall have a broad discretion as to how they conduct the investigation.
- 5.2. They may require the Subject Councillor 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. There will be an obligation placed on the Councillor to co-operate with the investigation.

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- 5.3. 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.
- 5.4. The Investigating Officer may request any person to attend an interview with them and/or provide them with documents and/or information.
- 5.5. 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).
- 5.6. The Investigating Officer will take a note of any interviews that they conduct.
- 5.7. 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.

## **6. REFERRAL TO THE MONITORING OFFICER**

- 6.1. 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 Councillor is seriously ill or the decision to investigate should be reconsidered in the light of new evidence.

## **7. DEFERRAL OF INVESTIGATION**

- 7.1. 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.

## **8. CONFIDENTIALITY**

- 8.1. The Investigating Officer shall request that anyone contacted in relation to the investigation maintain confidentiality in order to maintain the integrity of the process.

## **9. DRAFT REPORT**

- 9.1. 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 Councillor, 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 Councillor has breached the Code.
- 9.2. The draft report should be sent to the Monitoring Officer, the complainant and the Subject Councillor for their comments. The Investigating Officer may wish to conduct further investigations once they have received those comments, before producing their final report.

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## **10. FINAL REPORT**

- 10.1. 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.
- 10.2. It may be helpful to include a chronology, summary of disputed facts and/or to append witness statements or other documents.
- 10.3. The Monitoring Officer will supply a copy of the final report to the Independent Person.

## **11. ACTION ON RECEIPT OF REPORT**

- 11.1. 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 Councillor notifying them that no further action is required and enclosing a copy of the report.
- 11.2. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.
- 11.3. 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.

## **12. MODIFICATION OF THE INVESTIGATION PROCEDURE**

- 12.1. 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.

## **13. PRE-HEARING PROCESS**

- 13.1. 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 Councillor can attend. They should give all those involved, particularly the Subject Councillor, 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.
- 13.2. The Hearing will comprise of the Independent Person acting alone or in exceptional cases sitting together with another Independent Person.
- 13.3. The Monitoring Officer will require the Subject Councillor 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.
- 13.4. If the Subject Councillor 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 Councillor wishes to add to what the Investigating Officer has



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written they should provide a witness statement to the Monitoring Officer as soon as possible.

- 13.5. New arguments or new evidence will not be allowed to be presented at the Hearing.
- 13.6. 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 Councillor in reaching such decisions.
- 13.7. 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.
- 13.8. The Monitoring Officer may wish to offer to cover the expenses of witnesses associated with their attendance at the Hearing.
- 13.9. The Monitoring Officer will consider whether it is appropriate to hear two complaints together, for example if they relate to the same Councillor, or relate to the same incident or occasion.
- 13.10. The Subject Councillor should be provided with the Investigating Officer's report and any evidence which will be heard at the Hearing.
- 13.11. 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.
- 13.12. 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.
- 13.13. The Monitoring Officer will act as a point of contact for the Subject Councillor, the complainant, the Independent Person(s) and any witnesses who will give evidence.

## **14. THE HEARING**

- 14.1. 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 of 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.
- 14.2. If the Subject Councillor 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.
- 14.3. 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.

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- 14.4. The Independent Person(s) will decide disputed issues and whether the Subject Councillor has breached the Code of Conduct on the balance of probabilities.

## **15. REPRESENTATION**

- 15.1. The Subject Councillor 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 Councillor and the Investigating Officer if they feel it would assist them in reaching a decision.

## **16. EVIDENCE**

- 16.1. 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.
- 16.2. Generally the Subject Councillor is entitled to present their case as they see fit.
- 16.3. The Independent Person(s) will usually have regard to submissions from the Subject Councillor if they are considering whether to hear particular evidence.
- 16.4. 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.
- 16.5. Witnesses should be treated with courtesy throughout the pre-Hearing stage and at the Hearing.
- 16.6. Witnesses may be questioned by the Independent Person(s), the Monitoring Officer and the Subject Councillor. This discretion should generally be unfettered unless there is good reason to do so.
- 16.7. The onus is on the Subject Councillor 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.
- 16.8. Neither the Independent Person(s) nor the Subject Councillor will have any power to compel witnesses to give evidence.

## **17. AT THE HEARING**

- 17.1. 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 Councillor 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.

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## 18. ROLE OF THE MONITORING OFFICER

- 18.1. References to the Monitoring Officer should be read to include any representative of the Monitoring Officer including a Deputy Monitoring Officer.
- 18.2. 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).

## 19. ROLE OF THE COMPLAINANT

- 19.1. 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.

## 20. DECISION

- 20.1. 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.
- 20.2. The Independent Person(s) will reach a decision as to whether the Subject Councillor has breached the Code of Conduct. If they decide that the Subject Councillor has not breached the Code of Conduct they will take no further action. If they decide that the Subject Councillor has breached the Code of Conduct they should go on to decide what sanction, if any, is appropriate and to recommend to the Employment Panel 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.

## 21. SANCTIONS

- 21.1. A Panel of Councillors from the Employment Panel 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.
- 21.2. 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 Councillor now? Have they apologised?
  - Has the Subject Councillor previously been dealt with for a breach of the Code?
- 21.3. The following are examples of mitigating and aggravating factors but these lists should not be regarded as exhaustive.
  - a) **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.

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## b) **Aggravating Factors**

- Dishonesty.
- Continuing to deny the facts or blaming other people.
- Evidence of a failure to follow advice or warnings.

21.4. The priority of the Panel should be to ensure that there are no further breaches of the Code and that public confidence is maintained.

## **22. SANCTIONS AVAILABLE**

22.1. The sanctions available to the Panel are:

- a) That the Councillor should be censured.
- b) That the Councillor should apologise to the complainant or other affected person.
- c) That the Councillor should for a specified period of time be excluded from a building, office or offices, from contact with a particular officer or officers or required to conduct their business through a named senior officer.
- d) That the Councillor should for a specified period of time be prohibited from using specific resources of the Council.
- e) That the Councillor should give an undertaking to refrain from certain conduct or to carry out their business in a particular fashion.
- f) That the Councillor and/or other or all Councillors should undergo training in a particular area or areas of their Council business.
- g) That the Councillor should be suspended or removed from membership of the Cabinet, a Committee or Sub-Committee.
- h) That a breach of the interest provisions should be referred to the Police.
- i) That a breach potentially exhibits criminal conduct which should be referred to the Police.
- j) That the Councillor's conduct be referred to another regulator.
- k) That it would not be expedient in the public interest for the matter to be pursued further.
- l) That improvements might be made in the conduct of business to promote or maintain high standards of conduct among Councillors.

## **23. NOTE OF DECISION**

23.1. 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 Councillor, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Panel of Councillors from the Employment Panel.

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## CODE OF CONDUCT ON PLANNING MATTERS

### 1. INTRODUCTION

- 1.1. 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.
- 1.2. The Code applies to all Planning Committee Members 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 Councillors 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.
- 1.3. In the discharge of their planning functions, local authorities are expected to make their decisions openly and impartially, based on sound planning arguments. Councillors and officers are quite rightly expected to maintain the highest standards of integrity at all times.
- 1.4. 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.
- 1.5. 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.
- 1.6. 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 minimise the risk of legal challenges.

### 2. GENERAL PRINCIPLES

- 2.1. Councillors of the local planning authority are elected to represent the interests of the whole community on planning matters. In performing their duties, Councillors 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.
- 2.2. The actions of both officers and Councillors should leave no grounds for suggesting with any justification that a decision has been partial, biased or not well founded in any way.

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- 2.3. Councillors 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.
- 2.4. Decisions on planning matters should be based on planning considerations alone and should exclude all non-planning matters.
- 2.5. Action and decisions on planning matters should be taken in a manner which is both accountable and open to public scrutiny.

## **3. THE ROLE OF OFFICERS AND COUNCILLORS**

- 3.1. Councillors and officers 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 Councillors are responsible to the electorate while officers 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.
- 3.2. Councillors are responsible for the need to register and disclose interests.
- 3.3. Councillors 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.
- 3.4. Officers 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.
- 3.5. Officers 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 Councillors.
- 3.6. Officers and Councillors should work together, but instructions to officers should only be given through the Full Council or a Committee decision.
- 3.7. Officers and Councillors 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.

## **4. PREDISPOSITION, PREDETERMINATION OR BIAS**

- 4.1. Councillors attending the Planning Committee or the Local 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 before taking a decision on a planning application or on planning policies.
- 4.2. Councillors 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.

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- 4.3. Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor 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.
- 4.4. A Councillor 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.
- 4.5. Nevertheless, a Councillor 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 they had previously done or said anything that directly or indirectly indicated the view the Councillor took, or would, or might take.
- 4.6. If a Councillor has predetermined their position, they should withdraw from being a Member of the decision-making body for that matter.
- 4.7. This would apply to any Planning Committee Member who wanted to speak for or against a proposal or as a campaigner (for example on a proposal within their ward).

## **5. LOBBYING OF AND BY COUNCILLORS**

- 5.1. Lobbying is a common part of the political process. It is one of the ways by which Councillors 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 Councillors. However, unless handled with great care and within clear guidelines, lobbying can be perceived as harming the integrity and impartiality of the planning process.
- 5.2. Councillors 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. Planning Committee Members may consider referring such matters to other Ward Councillors or, if appropriate, other Councillors.
- 5.3. Given reasonable notice, officers will always be available to attend meetings with members of the public who wish to make representations to Councillors on planning matters and Councillors should, wherever possible, request the presence of an officer where meetings are to discuss specific proposals or planning applications; where meetings take place with an officer in attendance, a full record should be kept.
- 5.4. When hearing representations, and in order to protect rights to a fair hearing, Planning Committee Members 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 Councillors 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.
- 5.5. Councillors should not become involved in negotiations with applicants or other advocates of development proposals.

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- 5.6. Councillors 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.
- 5.7. 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.
- 5.8. For the same reason, political group meetings should not be used prior to a Committee meeting to decide how Councillors will vote on planning applications.
- 5.9. Councillors should in general avoid organising support for or opposition to a particular planning proposal and avoid lobbying other Councillors.
- 5.10. Councillors 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 officer's impartiality or professional integrity.
- 5.11. Call-In Procedures, whereby Councillors 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.

## **6. PRE-APPLICATION DISCUSSIONS**

- 6.1. 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.
- 6.2. 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.
- 6.3. 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



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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.

6.4. 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.

## 7. HOSPITALITY

7.1. During the course of their work, officers or Councillors 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 Code of Conduct for Councillors, Councillors 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 Officers' Code of Conduct.
- All hospitality received should be notified to the Monitoring Officer and recorded in the Register of Gifts and Hospitality.
- Both Councillors 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.

## 8. PRE-COMMITTEE PROCEDURES

8.1. 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 Chair. The procedures adopted at this stage help to ensure smooth operation of the Committee and contribute to a fair and open planning process.

8.2. All planning applications and other planning matters brought to Committee for decision will be accompanied by an officer's 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.

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- 8.3. Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
- 8.4. 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.
- 8.5. Reports should have a written recommendation for a decision to be made.
- 8.6. 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.
- 8.7. 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.
- 8.8. Any oral updates or changes to the report should be recorded.
- 8.9. Background documents relating to any report, including representations by third parties, will be available to Councillors 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 Councillors to inspect immediately before the Committee meeting should they wish. All documentation is available for inspection on the Council's website.
- 8.10. A 'call over' meeting may be held with the Chair 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.

## **9. COMMITTEE PRACTICE AND PROCEDURE**

- 9.1. 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.
- 9.2. Oral reporting by officers 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; officers can and will respond to requests from Councillors for clarification, explanation and further information.
- 9.3. 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.

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- 9.4. New documents should not be circulated to the Planning Committee; Councillors 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.
- 9.5. Messages should never be passed to individual Councillors, either from other Councillors or from the public. This could be seen as seeking to influence that Councillor improperly and will create a perception of bias that will be difficult to overcome.
- 9.6. Members of the public are allowed to speak at Committee subject to specific procedures; Councillors should be aware of the expectation of the public that the issues which concern them will be properly considered.
- 9.7. Ward Councillors and other Councillors wishing to comment on planning applications or other items on the agenda are also allowed to speak at the Committee but not vote.
- 9.8. Committee consideration should be confined to planning issues relating to the matter being considered; in the event that Councillors 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.
- 9.9. Declarations that a Councillor has been lobbied on a planning matter by an interested party should be made before the Councillor speaks on the item and in any event before a vote is taken; such declarations do not prevent Councillors from speaking and voting on the item. The decision taken should be clear to all Committee Members and members of the public.
- 9.10. It is important that decisions by the Planning Committee are not taken in a way which encourages a challenge on the grounds of impropriety. As such, members of the Committee must have heard the majority of the officer's presentation and been present for the majority of the discussion on an application in order to vote on that item.

## **10. REGISTRATION AND DISCLOSURE OF INTERESTS**

- 10.1. Chapter 7 of the Localism Act 2011 places requirements on Councillors 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.
- 10.2. Advice should always be sought from the Monitoring Officer. Ultimately, responsibility for fulfilling the requirements rests with each Councillor.
- 10.3. Cabinet Members who also serve on the Planning Committee must declare an interest when the Committee considers a planning application submitted by the Council which relates directly to their portfolio. The nature of the interest will depend on the level of involvement that Cabinet Member has had in prior discussions relating to the application.

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- 10.4. The provisions of the Act seek to separate interests arising from the personal and private interests of the Councillor from those arising from the Councillor's wider public life. Councillors 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.
- 10.5. A flow chart of Councillors' disclosures of interests is attached as an Appendix to this Code.
- 10.6. All disclosable interests should be registered and a register maintained by the Monitoring Officer and made available to the public. Councillors should also disclose that interest orally at the Committee meeting when it relates to an item under discussion.
- 10.7. A Councillor 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 Councillor becoming aware of such changes.
- 10.8. A Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Committee Member. The Councillor 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.
- 10.9. If a Councillor has a (non-pecuniary) personal interest, they should disclose that interest, but then may speak and vote on that particular item.
- 10.10. It is always best to identify a potential interest early on. If a Councillor 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.

## **11. SITE VISITS**

- 11.1. Occasionally it may be appropriate in considering a planning application or another development issue for Councillors to undertake a formal visit before reaching a decision.
- 11.2. Site visits as advised by the Head of Governance, People & Performance will take place in the week prior to each Planning Committee 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.
- 11.3. Requests from Ward Councillors for a site visit should normally be accepted, subject to the test outlined above.
- 11.4. Site visits will be arranged solely for the purposes of inspecting the site and its surroundings.
- 11.5. An officer should always attend formal Committee site visits.
- 11.6. 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.

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- 11.7. On accompanied visits, interested parties may point out features which they would wish Councillors to view; however no representations from interested parties about the proposals should be accepted.
- 11.8. Officers will prepare a brief record of the site visit.
- 11.9. Councillors visiting a site should not be delegated the power to make decisions but should report back to the Committee.
- 11.10. 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.
- 11.11. 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.
- 11.12. Separate from any procedures for formal site visits, Planning Committee Members should consider whether there is advantage in them viewing particular application sites from public vantage points before the applications are considered by the Committee. Such visits should not be used as a lobbying opportunity by objectors or supporters.

## **12. DECISIONS WHICH DIFFER FROM A RECOMMENDATION**

- 12.1. 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).
- 12.2. This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.
- 12.3. Planning Committee Members 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 Councillors 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.
- 12.4. 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 and:
  - Councillors should be prepared to explain in full their planning reasons for not agreeing with the officers' recommendation and pressure should never be put on officers to fabricate reasons for refusal.

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- 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.

## **13. ANNUAL REVIEW OF DECISIONS**

- 13.1. 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.
- 13.2. 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.
- 13.3. The Overview and Scrutiny Commission may be able to assist in this process but the essential purpose of these reviews is to assist Planning Committee Members to refine their understanding of the impact of their decisions. Planning Committee Members should be fully engaged in such reviews.

## **14. TRAINING**

- 14.1. Officers can provide detailed professional advice on the various issues facing Councillors in the exercise of their planning powers. However the quality of decision making is also dependent on Councillors being well informed and up to date on planning matters.
- 14.2. Officers should review on an annual basis the need for training sessions to keep Councillors informed on planning matters.
- 14.3. Officers should arrange for new Councillors in general and for new members of the Planning Committee in particular to receive specific in-house training on planning matters. It should also be a requirement that substitute Councillors have received training before they sit on the Planning Committee.
- 14.4. Councillors should make every effort to ensure that they attend training sessions.

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## **15. COMPLAINTS AND RECORD KEEPING**

- 15.1. 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.

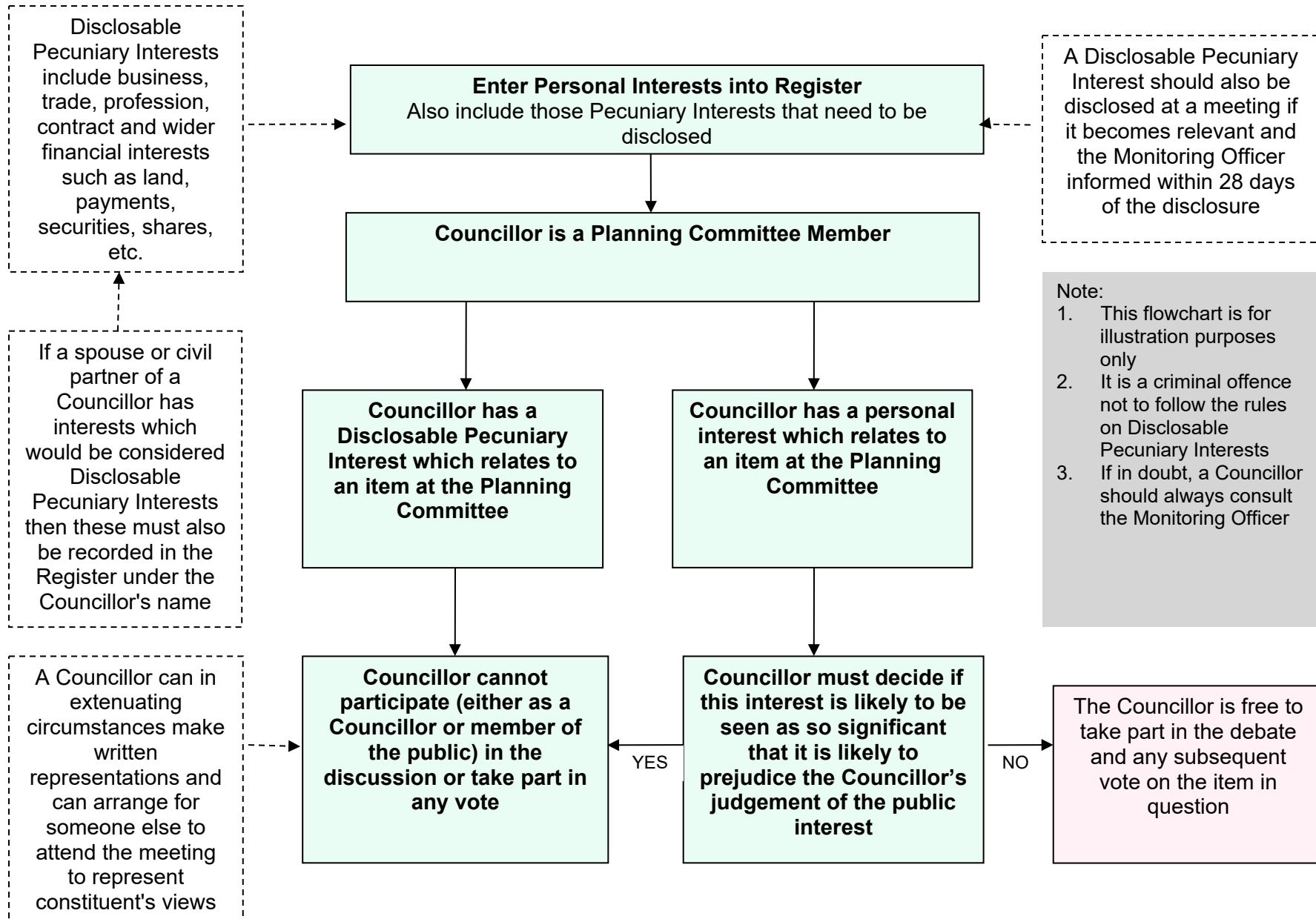
## **16. DELEGATION**

- 16.1. Approximately 87% of all planning applications are handled under delegated powers by the officers, 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 has been received from a statutory consultee, are brought to Committee.
- 16.2. In handling delegated decisions, officers should maintain the same standards of probity as would be the case if the decision were to be taken by Committee.
- 16.3. All applications determined under delegated powers should be accompanied by an officer's report and recommendation.

## **17. DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS, AND COUNCIL DEVELOPMENT**

- 17.1. 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.
- 17.2. Such proposals must be handled in a way that gives no grounds for accusations of favouritism.
- 17.3. Applications made by the Council, Councillors or officers should only be dealt with by a report and recommendation to Committee; Councillors or officers making applications should notify the Head of Economy and Planning in writing.
- 17.4. Councillors who make planning applications or act as agents on planning applications should take no part in the decision making process for that proposal.
- 17.5. Officers 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.
- 17.6. If Councillors or Planning Officers submit their own proposal to the authority they should play no part in its consideration.
- 17.7. The Monitoring Officer should be informed of such proposals.
- 17.8. Such proposals should be reported to the Planning Committee and not dealt with by officers under delegated powers.
- 17.9. Proposals for the Council's own development should be treated in the same way as those by private developers.

FLOWCHART OF COUNCILLORS' INTERESTS





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## **GUIDANCE NOTE FOR COUNCILLORS (INCLUDING THE MAYORALTY) ON GIFTS AND HOSPITALITY**

### **1. BACKGROUND**

- 1.1. The role of Councillor means that you are brought into contact, as part of your Council work, with many people for many different reasons. From time to time you may encounter situations where individuals, firms, companies, and other public bodies will offer gifts or hospitality.
- 1.2. The reasons for this will vary, but such offers will usually be made as good will gestures, or for celebration or appreciation, or for helping networking or working together.
- 1.3. Some Councillors who hold particular positions within the Council may find themselves receiving offers of gifts and hospitality for example the Mayor of the Council in their civic role, or senior Councillors who have to liaise often with other public and private sector partners.
- 1.4. There are rules which regulate the acceptance of gifts and hospitality by Councillors. This is because the acceptance of benefits such as gifts can affect the perception of whether Councillors and the Council are acting in the public interest. Councillors are in a position of significant influence over issues that affect people's lives within their area. They are holders of the public purse and in their Council role must always act in the best interests of the people of Crawley. They must not act in any way which undermines public trust in what they are doing.
- 1.5. This inevitably means that as a Councillor you need to understand the rules that apply to gifts and hospitality and you must always bear in mind how the public might view your acceptance of them.
- 1.6. This Guidance applies to all Councillors including the Mayor and Deputy Mayor, it sets out a clear set of principles which should apply when a Councillor is considering whether it would be proper to accept any gift or hospitality.

### **2. THE MEANING OF GIFTS AND HOSPITALITY**

- 2.1. "Gift or Hospitality" includes any of the following:
  - a) The free gift of any goods or services.
  - b) 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.
  - c) The opportunity to obtain any goods or services which are not available to the general public.
  - d) The offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event on terms not available to the general public.
  - e) Common gifts include pens, diaries, calendars, books, flowers and promotional items.
  - f) Common hospitality includes lunches, dinners or refreshments.

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## **3. LEGAL POSITION AND THE CODE OF CONDUCT**

- 3.1. The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 10 years or a fine or both.
- 3.2. Under the Code of Conduct Councillors must register as a Personal Interest the receipt of any gift or hospitality with an estimated value of £50 or more received within the last three years. This must be done within 28 days of its receipt / acceptance.
- 3.3. Councillors in any event are required to complete a Form of Declaration of receipt / acceptance of any gift or hospitality including refusal.
- 3.4. The Monitoring Officer maintains a Register of Gifts and Hospitality which will be published on the Council's website.

## **4. GENERAL GUIDANCE ON GIFTS AND HOSPITALITY**

- 4.1. When to accept a gift or hospitality is a matter of judgement for each individual Councillor. An important criteria in exercising judgement as to what is acceptable is how it might be perceived by an ordinary member of the public or the press. It is acknowledged that to refuse may also cause misunderstanding or offence however to accept may give rise to questions of impropriety or conflict of interest.
- 4.2. Your primary duty as a Councillor is to ensure there is no conflict of interest in the performance of your duties. You should consider carefully all the circumstances surrounding the offer of the gift or hospitality, the scale, the amount, the timing of the offer particularly in relation to decisions which the Council may be taking affecting those making the offer, the potential frequencies and the source.
- 4.3. In deciding whether it is appropriate to accept any gift or hospitality you should apply the following principles:
  - a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor.
  - b) Never accept a gift or hospitality if the acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality from:
    - (i) Parties involved with the Council in competitive tendering or procurement processes.
    - (ii) Applicants for planning permission and other applications for licences, consents and approvals.
    - (iii) Applicants for grants, including voluntary bodies and other organisations applying for public funding
    - (iv) Parties in legal proceedings with the Council.
  - c) Is there some benefit to the Council in accepting the gift or hospitality?
  - d) Never solicit a gift or hospitality.
  - e) Never accept a gift or hospitality if it puts you under an obligation to the provider as a consequence.
  - f) Never accept a gift or hospitality of significant value or whose value is excessive in the circumstances.

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- 4.4. The sections below provide guidance on gifts and hospitality which are usually considered acceptable and unacceptable, however there are no hard and fast rules laid down to cover every circumstance as to what is appropriate or inappropriate, in any case of doubt, advice should be sought from the Monitoring Officer.

## 5. GIFTS AND HOSPITALITY WHICH MAY BE ACCEPTED

- 5.1. The following are examples of acceptable gifts and hospitality:

- Official hospitality such as a civic reception or a working / business lunch in Council owned premises (provided it is ancillary to the business being conducted).
- Civic hospitality provided by another public authority.
- Modest refreshments in connection with any meeting in the course of your work as a Councillor e.g. normal refreshments.
- Modest meals or refreshments funded by other public sector partners, as part of joint working / collaboration, and provided it is ancillary to the business being conducted.
- Modest meals or refreshments provided as part of a ceremony or event to promote / launch a project or initiative.
- Low value gifts below £25 such as pens, calendars and diaries, flowers and promotional items.
- Hospitality in connection with attendances at conferences and seminars, where the hospitality is corporate rather than personal.
- Hospitality ancillary to attendance by the Mayor / Deputy Mayor at charity events, garden parties, fetes, schools, concerts, etc.

## 6. UNACCEPTABLE GIFTS AND HOSPITALITY

- 6.1. The following are examples of unacceptable gifts and hospitality:

- 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 an individual's or an organisation's flat or hotel.
- Discounted services, materials, labour, etc. from contractors or suppliers which are not normally available on the same basis to others not having an actual or potential business link with them. Councillors should not procure or encourage any such provision to family, friends or business associates.
- Cash or monetary gifts.
- Significant gifts in kind.

- 6.2. Where it is impractical to reject an unsolicited gift, or in the particular circumstances where refusal of the gift may cause misunderstanding or offence, the gift will be donated to the Mayor's charity raffle and the person who has made the gift will be thanked and notified accordingly.

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## PROTOCOL ON COUNCILLOR/OFFICER RELATIONS

### 1. INTRODUCTION

- 1.1. This protocol seeks to provide a set of principles to guide Councillors and officers of the Council in their relationship with one another in such a way as to ensure a harmonious professional relationship with each other working collaboratively in partnership. The relationship is fundamental to the successful working of the Council.
- 1.2. The relationship between Councillors and officers is based on honesty, mutual trust and respect. This protocol is intended to support that relationship by giving guidance on the roles and relationships in order to build a common understanding and set of expectations. The protocol sets out what should happen if difficulties arise and how they can be resolved.
- 1.3. This protocol should be read in conjunction with the Code of Conduct for Councillors, the Officers' Code of Conduct and the Council's Constitution, any guidance issued by the Audit or Governance Committees and/or the Monitoring Officer.
- 1.4. It should be noted that certain employees of the Council, e.g. the Head of the Paid Service (Chief Executive), the Chief Financial Officer (Section 151 Officer) and the Monitoring Officer, have specific statutory responsibilities which are over and above their obligations to the Council and Councillors and which they are under a duty to discharge.
- 1.5. This protocol applies to all officers (employees) and elected and appointed Councillors of the Council (including co-optees).
- 1.6. All Councillors and officers should abide by this protocol.

### 2. GENERAL PRINCIPLES

- 2.1. It is essential in Local Government that there is mutual respect, trust and courtesy between Councillors and officers.
- 2.2. Undue familiarity between individual Councillors and officers should be avoided as it can:
  - Damage the principle of mutual respect.
  - Give rise to inappropriate behaviour or relationships.
  - Cause embarrassment to Councillors and/or officers.
  - Give rise to suspicions of favouritism/malpractice.
- 2.3. Both Councillors and officers are servants of the public and they depend on each other in carrying out the work of the Authority and are indispensable to one another. However, their roles and responsibilities are different and distinct. Their respective roles are set out below.
- 2.4. Councillors are democratically elected, operate politically and are responsible to the electorate and serve only so long as their term of office lasts. The roles of Councillors are set out in the Constitution including those with special responsibilities. In brief Councillors have five main areas of responsibility. They are responsible for

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the development of policies and the strategic framework for the Council and giving political leadership, making decisions, acting as an advocate on behalf of their constituents, representing the authority externally, and reviewing and scrutinising the performance of services including holding the Cabinet to account on decisions.

- 2.5. Officers must be politically neutral in their work, their job is to provide impartial, technical, financial, professional and legal advice to Councillors and the Council as a whole and not to any political group or to any individual Councillor and to carry out the Council's work under the direction and control of the Council and the Leader/Cabinet. They are responsible for implementing decisions of the Council, the Cabinet and Committees as well as taking decisions delegated to them. Officers are employed by and ultimately responsible to the Chief Executive as Head of the Paid Service.
- 2.6. Councillors must respect the political impartiality of officers and do nothing to compromise it e.g. by insisting that an officer changes their professional or technical advice.
- 2.7. Councillors should be aware of the collective responsibility of officers of the Council and should not act in a way which may undermine the trust and confidence between officers and Councillors or prejudice the ability of officers to work collectively in the interests of the Council.
- 2.8. Councillor/officer relationships should be co-ordinated in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position to seek or exert due pressure or influence on the other party.
- 2.9. At all public meetings of the Council, officers will address a member by the office they hold, i.e. Councillor.

## **3. EXPECTATIONS**

- 3.1. What Councillors can expect from officers:
  - Political neutrality.
  - A commitment to act in the interests of the Council as a whole and not to any one political group.
  - Professional, accurate, honest and impartial advice.
  - A professional approach to the working relationship.
  - A timely response to enquiries and complaints.
  - Integrity, mutual support and appropriate confidentiality.
  - Courtesy and respect.
  - Implementation of Council policies and decisions.
  - The operational delivery of services within their responsibility including the management of staff.
  - Compliance with the Officers' Code of Conduct.
  - Awareness of sensitivity to the political environment.

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## 3.2. What officers can expect from Councillors:

- Political leadership and direction.
- An understanding of the requirements of their roles and an appreciation of compelling calls on their time.
- A constructive working partnership.
- Courtesy and respect.
- Not to be bullied, intimidated, harassed or put under inappropriate pressure.
- Compliance with the Code of Conduct for Councillors.
- Respect for their professional advice.

## 4. **COUNCILLORS' PROCEDURE FOR RESOLVING ISSUES**

- 4.1. All issues relating to the conduct of officers 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. Councillors and officers are encouraged to work together to seek and resolve differences by talking to each other about any concerns at the earliest opportunity.
- 4.2. If any Councillor feels that they have reasonable cause to complain about the conduct of an officer, they should put their complaint in writing to the appropriate Head of Service, or if the complaint is about a Head of Service or the Deputy Chief Executive then to that officer's Line Manager (i.e. the Deputy Chief Executive or the Chief Executive).
- 4.3. The decision by a Councillor to complain about an officer should not be taken lightly. It is damaging to Councillor/Officer relations for such complaints to be made, unless they can be fully justified. Therefore, if a Councillor decides to submit a complaint then the complaint must supply factual evidence to support the allegation.
- 4.4. Once such a complaint has been made, the Head of Service, Deputy Chief Executive or 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 Councillor of their decision.
- 4.5. 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 Employment Panel then the Councillor who made the complaint shall not serve on the Committee, but may be called upon to give evidence to the Committee.
- 4.6. If, following examination of the complaint, the Head of Service, Deputy Chief Executive or 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 Councillor's political group.

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## 5. OFFICERS' PROCEDURE FOR RESOLVING ISSUES

- 5.1. If any officer feels they have reasonable cause to complain about the conduct of a Councillor they should in the first instance draw the matter to the attention of the Head of Service, Deputy Chief Executive or Chief Executive as appropriate, who will take appropriate action either by approaching the individual Councillor and/or Group Leader. If, for any reason, the officer does not wish to raise the matter initially with their Line Manager, they may make a direct approach to the Monitoring Officer.
- 5.2. The Monitoring Officer will address the issue either directly with the Councillor 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 officer to submit a Code of Conduct complaint.

## 6. PROVISION OF INFORMATION AND OF OFFICER SUPPORT

- 6.1. **The Mayor:** The Mayor plays an important ambassadorial role for the Council. The Service Level Agreement including the Mayoral Protocol sets out the roles and responsibilities of the Mayor and Deputy Mayor and the staff who support them in Democratic Services. In all other respects the Mayor will be provided with the same support as other Councillors.
- 6.2. **Political Groups:** It must be recognised by all officers and Councillors that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group or any individual Councillor. The Leader of the Council or the Leader of the Opposition Group may request the Chief Executive, Deputy Chief Executive or Head of Service to prepare a briefing or write a report for consideration by their Group; such requests are to be reasonable and should not seek confidential or personal information. Officers will provide factual information only with the identification of options and the merits and demerits of such for the Council if relevant. If an officer deems the nature of the request to be unreasonable, the request will be referred to the Chief Executive for determination.

Political groups are a recognised part of local authorities. Officers may from time to time be required to attend Group meetings and give information and advice to political groups. Information on this is set out in the Protocol for Officers and Political Groups available for officers on the Council's internal intranet pages. If officers receive a request from a Group for a subject matter briefing, then any briefing offered to or requested by a political group will be notified to and offered to any other political group.

Officers will respect the confidentiality of any political group discussion and will not relay the content of any such discussion to another political group. This should not prevent an officer from providing feedback to other senior officers on a "need to know" basis if considered appropriate and with the consent of the Group Leader.

Officers will not attend and provide information at any political group meeting which includes non-Council members. Any exception to this will be approved in writing by the Head of the Paid Service (Chief Executive).



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In relation to Budget proposals:

- a) The Administration shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the Administration or until published.
- b) The Opposition Group shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the Opposition Group or until published.

Where an officer gives advice to a Councillor in confidence, that advice should not be disclosed to any other Councillor unless otherwise agreed. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

Any Council information provided to a Councillor must only be used by the Councillor for the purposes for which it was provided, that is in connection with the discharge and performance of the Councillor's duties as a Crawley Borough Councillor.

Correspondence between an individual Councillor and an officer should not be copied in by an officer to any other Councillor. In the exceptional circumstance where it is necessary to copy in another Councillor, this should be made clear to the original Councillor.

Official letters on behalf of the Council should be sent out in the name of the appropriate officer, rather than in the name of the Councillor. It may be appropriate in certain limited circumstances (eg representations to a Government Minister) for a letter to appear in the name of the Leader or Cabinet Member, but this should be the exception rather than the norm.

- 6.3. **The Cabinet, Chairs and Vice Chairs:** It is clearly important that there should be a close working relationship between Cabinet Members, Chairs and Vice Chairs of a Committee and Heads of Service and senior officers 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 officer's ability to deal impartially with other Councillors and other political 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 officer will be under a professional duty to submit a report. Similarly, as Head of Paid Service, the Chief Executive or Deputy 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.

Chairs and Vice Chairs of Committees will also be briefed on matters relevant to the terms of reference of the Committee.

- 6.4. **Officer Support to the Overview and Scrutiny Commission (OSC) and its Panels:** Support will be provided to OSC Members by Democratic Services who will support the planning of agendas and the Forward Programme of the OSC. Officer support to the Member-led scrutiny function will be provided as required, e.g. to scrutiny panels. As part of their overview and scrutiny work and in accordance with the Constitution, the Head of the Paid Service, Deputy Chief Executive or Heads of Service may be invited to attend these meetings to answer questions and provide information.

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- 6.5. **Ward Councillors:** All Councillors are first and foremost representatives of their local community, and officers should assist Councillors in fulfilling this role. Officers should keep Councillors up to date with developments relevant to their role as a Ward Councillor. This should include public consultations and proposed changes to service delivery affecting their wards.

When a meeting is arranged by the Council in a ward to discuss a ward issue, then all Councillors representing that ward will be invited as a matter of course. Similarly, whenever the Council undertakes any form of consultative exercise or arranges publicity events on a local issue the Ward Councillors should be notified at the outset of the exercise. When an opening ceremony or photo opportunity is being held in an individual ward to mark the opening or installation of a new or upgraded facility or service provision, all Councillors representing that ward will be invited to attend and take part in the event.

## 7. COUNCILLOR ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 7.1. Councillors are free to approach officers of the Council to provide Councillors with information and advice as they may reasonably need in order to assist them in discharging their role as a Councillor. This can range from general information about some aspect of the Council's activities, to a request for specific information on behalf of a constituent. Officers should endeavour to respond to requests for information promptly.
- 7.2. The legal rights of Councillors to inspect Council documents is set out in legislation and in common law.
- 7.3. The starting point is that Councillors have the same rights as members of the public in respect of public papers, this includes copies of any published information held by the Council and which forms part of the business of the Council, in particular documents relating to meetings of the Council including reports, agendas and minutes of Committees.
- 7.4. Councillors have additional legal rights to access information held by the Council which would not normally be made public. They are given these extra rights of access in order to enable them to undertake their role as Councillors. This is under common law principles. Councillors are entitled to such information as they may reasonably need in order to assist them in discharging their role as a Councillor. This is known as the "Need to Know" principle. In this respect a Councillor has no right to a "roving commission". Councillors must demonstrate the need to know to the Chief Executive, Deputy Chief Executive or Head of Service, and in any case of dispute the matter should be referred to the Monitoring Officer. This excludes documents or papers or information that contain confidential or exempt information.
- 7.5. Councillors will be provided with copies of all exempt reports irrespective of whether they are a member of the Cabinet, Cabinet Committees, Committees, Sub Committees or the Overview and Scrutiny Commission.
- 7.6. Councillors have the same rights as any other member of the public to request information under the Freedom of Information Act.
- 7.7. The Code of Conduct for Councillors also addresses the following:
- A Councillor must not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature,

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without the consent of the person authorised to give it, or unless they are required by law to do so.

- A Councillor must not prevent another person from gaining access to information to which that person is entitled by law.

## **8. PUBLICITY AND THE MEDIA**

- 8.1. Press releases will be issued by the Communications Team. All communications work undertaken will be non-party political and will comply with the Code of Recommended Practice on local authority publicity.
- 8.2. Official contact with the media (including radio and TV) on Council business will be handled by the Communications Team. Where appropriate, the Communications Team will contact the appropriate Cabinet Member, Committee Chair, Chief Executive, Deputy Chief Executive or Head of Service, whenever possible, to provide a timely response.
- 8.3. Cabinet Members are encouraged to liaise with the Communications Team over media enquiries to ensure a co-ordinated and positive profile for Council activities.
- 8.4. Councillor quotes in press releases will normally be restricted to Cabinet Members and the Mayor. These will be cleared with the appropriate Councillor. Press releases on major or controversial issues will be cleared with the appropriate Cabinet Member and the Chief Executive or Deputy Chief Executive. Ultimate approval of press releases rests with the Leader of the Council.
- 8.5. 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 Chief Executive or Deputy Chief Executive) will, wherever possible, be present.
- 8.6. Where a journalist wishes to find out what was said by individual Councillors during a meeting, the reporter will be referred to the Councillor direct. It is the prerogative of individual Councillors to make their own statements relating to the issues in their ward.

## **9. PUBLICITY**

- 9.1. In determining publicity arrangements, officers should, at all times, have regard to the Ministry of Housing, 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. During the Pre-Election Period (period of heightened sensitivity) which takes place between the time of publication of a notice of an election and polling day (Purdah), publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual Councillors or groups of Councillors.
- 9.2. All press releases, including comments, during the Pre-Election Period (period of heightened sensitivity), will be from a Council spokesperson.

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## OFFICERS' CODE OF CONDUCT

### 1. INTRODUCTION

- 1.1. The public is entitled to expect the highest standards of conduct from all officers who work for the Council. This Code outlines existing laws, regulations and conditions of service, provides further guidance to assist officers in their day to day work with the principles of integrity, honesty, impartiality and objectivity and lays guidelines which will help maintain and improve standards and protect officers from misunderstanding or criticism.

### 2. SCOPE OF THE CODE

- 2.1. 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.

### 3. WHO THE CODE IS AIMED AT

- 3.1. The Code applies to all employees of the Council although some of the issues covered by it will affect senior, managerial and professional officers more than it will others. Activities carried out by officers acting as members of companies or voluntary organisations will be subject to the minimum standards set out in the Code.

### 4. GENERAL PRINCIPLES OF CONDUCT

- 4.1. Local government officers are expected to give the highest possible standard of service to the public, and to provide appropriate advice to Councillors and fellow officers with impartiality. The public is entitled to expect the highest standards of conduct from officers. The role of officers is to serve the Council in providing advice, implementing its policies and delivering services to the community. In performing their duties officers must act with selflessness, integrity, objectivity, honesty and impartiality.
- 4.2. Officers 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. Officers must report to their line manager, or if they prefer, to the Operational Benefits & Corporate Fraud Manager or the Monitoring Officer (as appropriate), an impropriety or breach of procedure.

### 5. DISCLOSURE OF INFORMATION/CONFIDENTIALITY

- 5.1. In the interests of open government, the law requires that certain types of information must be available to Councillors, auditors, government departments, service users and the public. Officers should be aware of the Council's rules concerning the disclosure of information and act accordingly.
- 5.2. Officers 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.

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- 5.3. Any confidential information received by an officer from a Councillor which is personal to that Councillor and does not belong to the authority should not be divulged by the officer without the prior approval of the Councillor, except where such disclosure is required or sanctioned by the law.

## 6. POLITICAL NEUTRALITY

- 6.1. Officers serve the Council 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.
- 6.2. Any officer who may be required to advise political groups must do so in ways which do not compromise their political neutrality. Further information on this can be found in the protocol on Councillor/Officer relations.
- 6.3. All Officers must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

## 7. RELATIONSHIPS

- 7.1. **Councillors:** Officers are responsible to the Council through its senior managers. For some, their role is to give advice to Councillors. Mutual respect between officers and Councillors is essential to good local government. Close personal familiarity between officers and individual Councillors can damage the relationship and prove embarrassing to other officers and Councillors and should therefore be avoided.
- 7.2. **The Public:** Officers should always remember their responsibilities to the public and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community.
- 7.3. **Contractors:** All relationships of a business or private nature with external contractors or potential contractors should be made known to the Line Manager and notified in writing to the Monitoring Officer. Orders and contracts must be awarded on merit, in accordance with the Council's procurement code and no inappropriate favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process.

## 8. APPOINTMENT AND OTHER EMPLOYMENT MATTERS

- 8.1. Officers involved in appointments should ensure that they are made on the basis of merit and in accordance with the Council's recruitment and selection procedures. It is unlawful for an officer 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, officers should not be involved in an appointment where they are related to the applicant, or have a close personal relationship outside work with them.
- 8.2. Similarly, officers should not be involved in decisions relating to discipline, promotion or pay and conditions for any other officer who is a relative, partner or a close friend.

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## **9. OFFICERS USING COUNCIL SERVICES**

- 9.1. Many officers will also be users of the Council's services.
- 9.2. 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. Officers employed in these work areas must refer cases involving other officers to senior management.
- 9.3. In particular, so far as planning applications are concerned, if an officer intends to submit, or have submitted on their behalf, applications for planning permission, then they must notify the Head of Economy and Planning in writing. This is because applications from officers have to be considered by the Planning Committee.

## **10. OUTSIDE COMMITMENTS**

- 10.1. Officers' 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.
- 10.2. The Council will generally not attempt to preclude officers from undertaking additional employment but any such employment must not conflict with, or act detrimentally to, the Council's business. Officers 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 the HR and OD Manager.
- 10.3. All officers 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. Officers 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.

## **11. PERSONAL INTERESTS**

- 11.1. Officers must declare to a line manager any financial and or non-financial interests which they or close relatives have which they consider could bring about conflict with the council's interests.
- 11.2. Officers should declare to a line 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, officers should obtain a copy of the organisation's rules.
- 11.3. Any interests declared under this section must be recorded in a register maintained by the Monitoring Officer.

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## **12. SEPARATION OF ROLES DURING TENDERING**

- 12.1. Officers involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior officers who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 12.2. Officers in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 12.3. Officers should ensure that no special favour is shown to current or recent former officers or their partners, close relatives or associates, in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- 12.4. Officers 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 Corporate Finance.

## **13. CORRUPTION AND BRIBERY**

- 13.1. Officers 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 officer to demonstrate that such rewards have not been corruptly obtained.

## **14. USE OF FINANCIAL RESOURCES**

- 14.1. Officers 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.

## **15. HOSPITALITY AND GIFTS**

- 15.1. When to accept hospitality or a gift is clearly a matter of judgement. Officers should follow the same principles that are referred to in the Guidance Note prepared for Councillors on Gifts and Hospitality which shall apply equally to officers.
- 15.2. All offers of hospitality and gifts accepted (with the exception of insignificant items of token value) and rejected must be entered in the register maintained by the Monitoring Officer.
- 15.3. In case of doubt the Head of Service or Monitoring Officer should be consulted.



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## **16. SPONSORSHIP: GIVING AND RECEIVING**

- 16.1. Where an outside organisation wishes to sponsor or is seeking to sponsor a council activity, whether by invitation, tender, negotiation or voluntarily, the basic convention concerning acceptance of gifts or hospitality applies. Particular care must be taken when dealing with contractors or potential contractors.
- 16.2. Where the Council wishes to sponsor an event or service, neither an officer nor any partner, spouse or relative must benefit from such sponsorship without there being a disclosure to a line manager of any such interest. Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, officers should ensure that impartial advice is given and that there is no conflict of interest involved.

## **17. INTEREST OF OFFICERS IN CONTRACTS**

- 17.1. The Head of Governance, People & Performance 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 pecuniary interest in a contract, and the book shall be open during office hours to the inspection of any Councillor.

## **18. REPORTING ON FRAUD, CORRUPTION AND BRIBERY**

- 18.1. The Council has an Anti-Fraud and Corruption Strategy, a copy of which is available on the Intranet or by request from the Fraud Investigation Team or Audit Services.
- 18.2. Suspected fraud or corruption should initially be raised with a line manager or Senior Manager or one of the other officers listed in the 'Whistleblowing' Policy. Strict confidentiality will be maintained in these circumstances and there will be no recriminations against anyone genuinely raising such issues.

## **19. FAILURE TO COMPLY WITH THE CODE**

- 19.1. Breaches of this Code will be dealt with under the Council's Disciplinary Procedure.

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## PETITIONS SCHEME

### 1. INTRODUCTION

- 1.1. Residents, those working or studying in the Borough (including those under the age of 18) are able to petition the Council on a variety of matters.
- 1.2. Petitions are accepted via the Council's e-petition facility or in paper form.

### 2. RELEVANT PETITIONS

- 2.1. Petitions will be accepted only where they relate to a matter that the Council can affect, for example they call on the Council to take a particular course of action.
- 2.2. Petitions which will not be considered as part of this Scheme include any:
  - a) Petition relating to specific planning or licensing applications because each has statutory processes which must be followed. Those petitions will instead be passed to the relevant Council department for inclusion in the specific case file.
  - b) Statutory petition (for example those requesting a referendum on having an elected Mayor). In such cases the Petitioner should contact the Democratic Services Manager.
  - c) Petition submitted in response to a consultation being carried out by the Council. Those petitions will instead be passed to the relevant Council department for inclusion in that consultation process.
  - d) Petition relating to the responsibilities of one of the Council's partners or West Sussex County Council. Those petitions will be passed to the relevant body for their consideration.
  - e) Petition from a third-party website which do not meet the criteria set out in Paragraph 6.
  - f) Petition relating to other matters where there is already an existing right of appeal or a separate complaints procedure.
- 2.3. The Council holds the right to reject any petition which:
  - a) Is substantially the same as a petition presented within the last six months.
  - b) It deems to be libellous, offensive, defamatory, time-wasting or otherwise inappropriate.

### 3. WHAT WILL HAPPEN WITH PETITIONS

- 3.1. How the Council deals with a petition will depend on the type of petition submitted. Relevant petitions fall in to three categories:
  - a) **Petitions to Hold an Officer to Account:** If at closure a petition to hold a Chief Officer to account has between 50 and 999 signatures, it will be considered by the Overview and Scrutiny Commission before it is reported to the appropriate decision maker for a response directly to the person who submitted the petition.

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- b) **Ordinary Petitions:** If at closure a petition has between 50 and 999 signatures, it will be considered by the Overview and Scrutiny Commission before it is submitted to the appropriate decision maker for a response directly to the person who submitted the petition.
- c) **Petitions for Debate:** If at closure a petition has more than 1000 signatures, it will be presented at a meeting of the Full Council for debate (*NB. All petitions to hold an officer to account will be dealt with in accordance with the procedure detailed in Paragraph 3.1(a)*).
- 3.2. Where more than one petition is received in time for a particular meeting, each supporting the same outcome, each person submitting the petition will be treated independently. However, only the petitioner whose petition was received first will be invited to address the relevant meeting.
- 3.3. The Petitions Officer may delay the progress of a relevant petition to a formal Council meeting if its consideration would fall during the Pre-Election Period (period of heightened sensitivity) and could be deemed politically sensitive.

## 4. VALIDATING SIGNATURES AND VERIFYING THE PETITION

- 4.1. A petition will only be accepted if the person registering/submitting the petition (Principal Petitioner) lives, works or studies in the Borough.
- 4.2. A signature is deemed to be 'valid' where the given address is verified as being within the Borough of Crawley's administrative area. The given address can be for a person's home, workplace, or place of study.
- 4.3. The Council holds the right to carry out any checks it deems necessary to verify the number of signatures on a petition. These checks can include verifying addresses, checking the names of signatories, ensuring there are no duplicate signatories, etc, with the view to amending the final signature count as necessary.

## 5. PAPER PETITIONS

- 5.1. In order for a paper petition to be considered in accordance with this Scheme, the following information must be present and legible:
- A clear statement of the petition's aim on the top of each sheet made available for signing.
  - The name, address and contact details for the person submitting the petition (only the name of the person submitting the petition will be published on the Council's website).
  - A name, address (home, work or study), and signature for each signatory.
- 5.2. The Council recommends that petitioners use the templates provided for both the petition signature sheet and the covering submission sheet. Both templates are available via the Council's Petitions webpage.

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## 5.3. Paper petitions must be sent to:

Head of Governance, People & Performance (Petitions Officer)  
Crawley Borough Council  
Town Hall  
The Boulevard  
Crawley  
West Sussex RH10 1UZ

## 6. E-PETITIONS

### 6.1. E-petitions will only be accepted and considered in accordance with this Scheme, when the following information is provided:

- A clear statement of the petition's aim.
- The name, address and email address for the person registering the petition (only the name of the person submitting the petition will be published on the Council's website).
- A name, address and postcode (home, work or study) for each signatory (these details will only be visible to the person who registered the petition and the Council officers administering the e-petition facility).

### 6.2. To ensure the validity of the petition signatories, the Council prefers e-petitions to be submitted through its own e-petition facility.

### 6.3. E-petitions created on sites hosted by third parties will be accepted as long as the information in Paragraph 6.1 is provided through a CSV file and is presented to the Council. If the person registering such an e-petition would like the Council to consider their petition, it is their responsibility to submit it (with the CSV file) to the Council.

### 6.4. It is necessary for the Council to check that the content of an e-petition is suitable before it is made available for signatures. Therefore, when an e-petition is created, it may take ten working days before it is published online.

### 6.5. To ensure that e-petitions are dealt with efficiently, only electronic signatures submitted within three months following the publication of the petition will be accepted.

## 7. ADDITIONAL GUIDANCE FOR PETITIONS

### 7.1. The Council will, from time-to-time, publish or amend additional guidance for the submission of petitions on its website. This guidance must be considered when submitting a petition.

## 8. APPEAL

### 8.1. If a petitioner considers that their petition has not been administered in accordance with this Scheme, they may submit a complaint under the Council's Complaints Procedure.

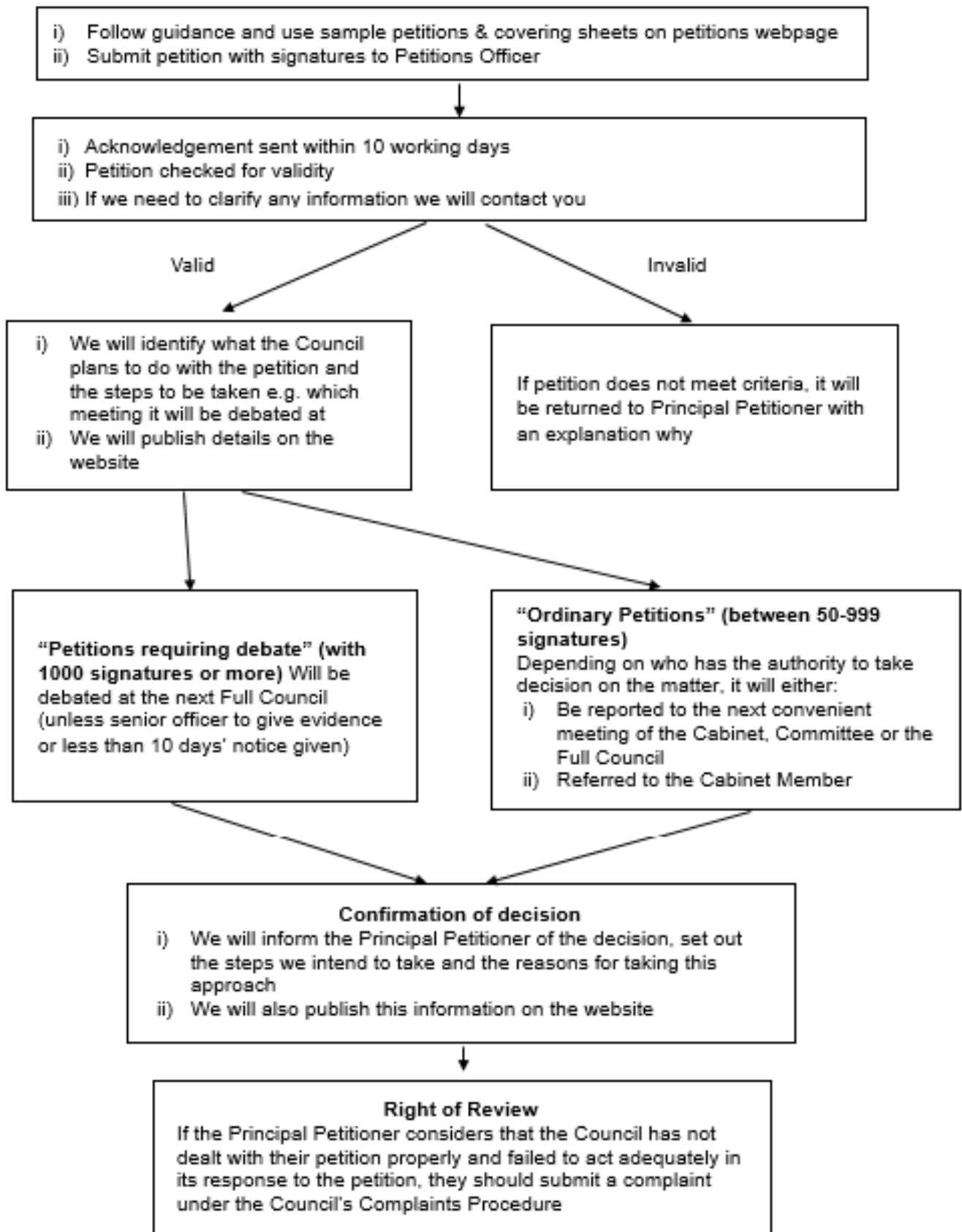
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## 9. DOCUMENTS RELATED TO THE PETITIONS SCHEME

- [Council's Petitions Webpage](#)
- [Crawley Borough Council's E-Petition Facility](#)
- [Information on the Council's Complaints Procedure](#)

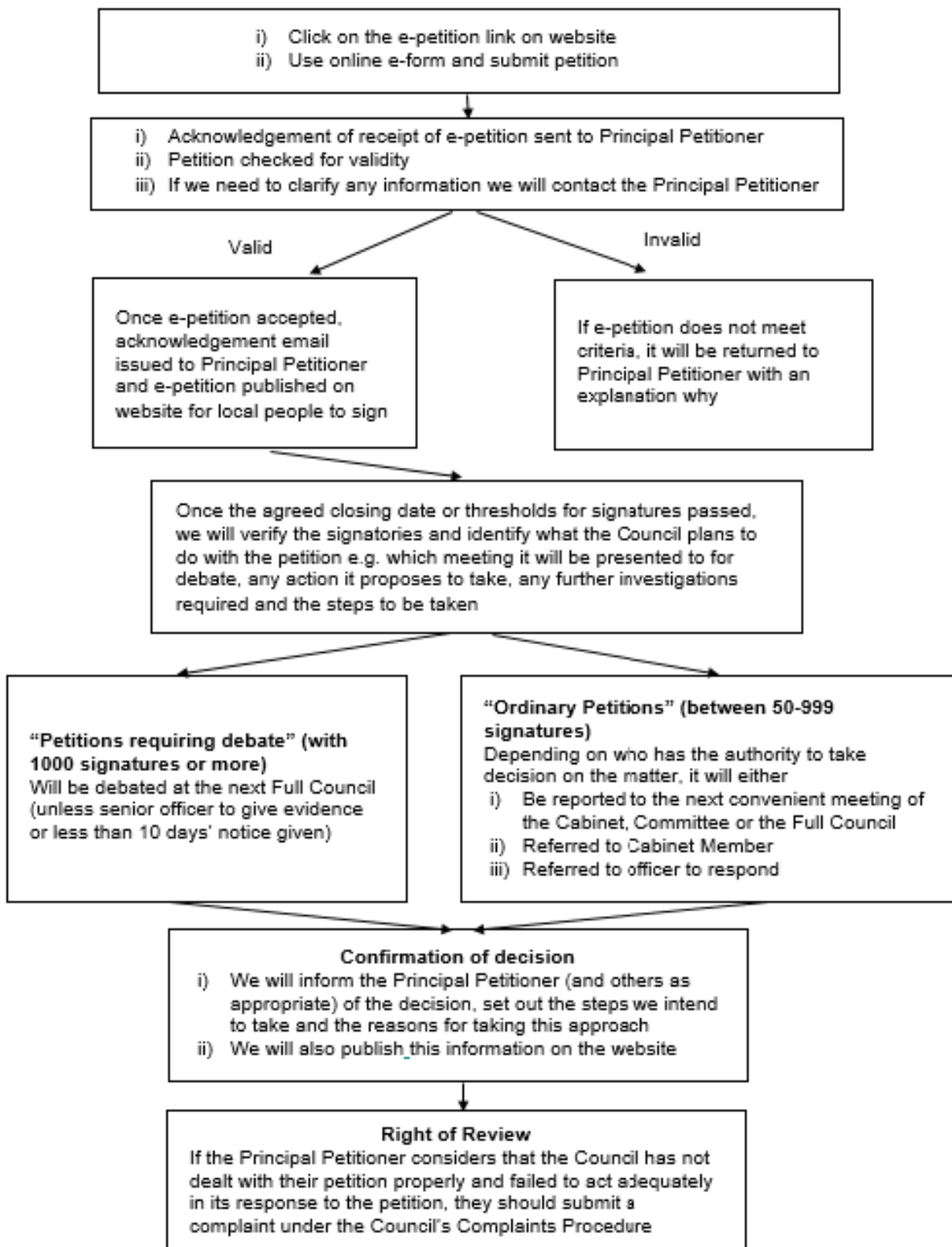
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## PAPER PETITIONS FLOWCHART



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## E-PETITIONS FLOWCHART





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## **COUNCILLORS' ALLOWANCES SCHEME 2023/2024 to 2026/2027 (From 27 May 2023 to 28 May 2027)**

This Scheme may be cited as the Crawley Borough Council Councillors' Allowances Scheme and shall have effect from 27 May 2023 to 28 May 2027.

In this Scheme:

"Councillor" means a Member of Crawley Borough Council who is a Councillor.

"Year" means the approximate 12 month period beginning on the day following the Council's annual meeting and ending on the day of the Council's annual meeting in the following municipal year.

### **1. BASIC ALLOWANCE**

- 1.1. Subject to paragraph 8, for each year the basic allowance specified in schedule 1 to this Scheme shall be paid to each Councillor.

### **2. SPECIAL RESPONSIBILITY ALLOWANCES**

- 2.1. 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, including those of the Mayor and Deputy Mayor, that are specified in Schedule 1 to this Scheme.
- 2.2. Subject to paragraph 8, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.

### **3. INDEXATION**

- 3.1. All allowances set out in Schedule 1 (with the exception of that of the Independent Person(s)) shall be subject to an indexation. The annual officers' pay increase (for the previous year) is to be applied, unless:
  - (a) The officers' pay increase is not agreed before the beginning of the forthcoming municipal year, or
  - (b) The officers' pay increase is a figure rather than a percentage, or
  - (c) The officers' pay increase is a percentage which is higher than the amount by which the Council's fees and charges are to increase in the forthcoming financial year.

And in any of these cases the percentage by which fees and charges shall be increasing in the forthcoming financial year shall instead be applied to the allowances.

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## 4. TRAVELLING AND SUBSISTENCE ALLOWANCES

4.1. 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.
  - (ii) If the authority is not so divided, it is a meeting to which at least two councillors 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 Councillor or councillors 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 sub-section are specified in Schedule 2 to this Scheme).

4.2. The level of travelling allowances payable to councillors and co-opted members shall be based on the HM Revenue & Customs approved mileage rates, as set out below. If any changes are made to the approved HMRC rates, the figures below shall be amended accordingly to remain in line with these rates:

	<b>First 10,000 miles</b>	<b>Each mile over 10,000</b>
<b>Cars and vans</b>	45p	25p
<b>Motor cycles</b>	24p	24p
<b>Bicycles</b>	20p	20p

In addition, Councillors 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.

Councillors may also claim costs incurred when travelling by public transport.

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- 4.3. The level of subsistence allowances payable to councillors and co-opted members shall be the same as those paid to Crawley Borough Council officers. If any changes are made to the officers' rates, the figures below shall be amended accordingly to remain in line with these rates:

<b>Subsistence</b>	<b>Rate</b>
Tea (more than four hours absence including the period from 3.00pm to 6.00pm)	£3.53
Evening Meal (more than four hours absence ending after 7.00pm)	£11.03

- 4.4. 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 Governance, People & Performance being empowered to authorise a higher amount in specific instances where suitable accommodation cannot be found within the limit.

## **5. DEPENDANTS' CARERS' ALLOWANCE**

- 5.1. A Dependants' Carers' Allowance of the actual cost up to £10.52 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.
- 5.2. The Dependants' Carers' Allowance shall only be payable in relation to duties described in paragraph 4 (a) to (g) above.
- 5.3. The rate of Dependants' Carers Allowance shall be amended, upon increase of the National Living Wage, to remain 10 pence above the National Living Wage.

## **6. LOCAL GOVERNMENT PENSION SCHEME**

- 6.1. As of 1 April 2014 no new councillors are able to join the Local Government Pension Scheme. Scheme membership for existing councillors was protected until the end of their then current 4 year term of office.

## **7. CO-OPTED MEMBERS**

- 7.1. Co-opted members shall receive travelling and subsistence allowances and any special responsibility allowance which might apply.

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## 8. RENUNCIATION

- 8.1. A Councillor may, by notice in writing given to the Head of Corporate Finance, elect to forego any part of their entitlement to an allowance under this Scheme.

## 9. PART-YEAR ENTITLEMENTS

- 9.1. The provisions of this paragraph shall have effect to regulate the entitlements to basic and special responsibility allowances (including those of the Mayor and Deputy Mayor) 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.

- 9.2. 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.

- 9.3. 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.

- 9.4. 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.

- 9.5. 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.

- 9.6. 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.

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## 10. PAYMENTS

- 10.1. Payments by direct bank credit shall be made in respect of basic and special responsibility allowances and pensions in monthly instalments and are usually paid on the 20<sup>th</sup> of each month. Where the 20<sup>th</sup> 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).

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## 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:

Office Holder	Allowance Payable 2023/24 (£)*
Basic allowance (all Councillors)	6,948
Leader of the Council	16,679
Cabinet Portfolio Holders	8,339
Chair of Overview and Scrutiny Commission	7,461
Chair of any Scrutiny Panel	1,325
Chair of Planning Committee	6,948
Chair of Licensing Committee	5,726
Chair of Governance Committee	2,781
Chair of Audit Committee	2,781
Chair of Budget Advisory Group (payable provided the post holder is not a Cabinet Member)	1,325
Leader(s) of minority group(s) (differential rates depending on number of members in that Group): <ul style="list-style-type: none"><li>• basic allowance</li><li>• additional payment per group Member</li></ul>	2,570 320
Mayor	6,679
Deputy Mayor	1,002
Independent Person(s) (Standards) and Independent Member (Audit Committee)**	750

All councillors receive the basic allowance and any relevant special responsibility allowance.

No Councillor is entitled to more than one special responsibility allowance.

\* All allowances shown have been subject to an increase of 5% on the 2022/23 rates as per paragraph 3.1 of this Scheme. The rates are valid for the 2023/24 municipal year only.

\*\* 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 Persons / Independent Member and to review annually thereafter.

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## SCHEDULE 2

**The following are approved duties for the payment of travelling, subsistence and dependants' carers' allowances in accordance with sub-section 4 (1) (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.

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# Agenda Item 36

## **PROTOCOL ON APPOINTMENT OF HONORARY ALDERMEN/WOMEN AND HONORARY FREEMEN/WOMEN**

### **1. CRITERIA FOR NOMINATIONS OF HONORARY ALDERMEN/WOMEN**

- 1.1. Nominees for Honorary Aldermen/women should be former Councillors who have served a minimum total length of 20 years in that capacity. Their length of service is normally 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 deems appropriate.

### **2. CRITERIA FOR NOMINATIONS OF HONORARY FREEMEN/WOMEN**

- 2.1. Nominees for Honorary Freeman/women 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.
- 2.2. These honours will be given infrequently as they are a reward for exceptional service.

### **3. PROCEDURE FOR NOMINATING HONORARY ALDERMEN/WOMEN**

- 3.1. Following any Borough election, the Head of Governance, People & Performance will consult with each Group Leader to decide whether to put forward any eligible former Councillors for consideration of Honorary Alderman honours. If any names are proposed for nomination, the first Governance Committee post-Borough election will consider a report which details the names and total length of service of those former Councillors.
- 3.2. This Governance Committee would be expected to recommend that the Mayor convene an Extraordinary Meeting of the Full Council to bestow the title of Honorary Alderman/woman on those former Councillors (this Extraordinary Meeting will usually be convened to take place immediately before, or at the conclusion of, the July meeting of the Full Council).
- 3.3. Before an Extraordinary Meeting of the Full Council is convened, the Head of Governance, People & Performance will contact any nominees to ensure they would like to receive the honour.

### **4. PROCEDURE FOR NOMINATING HONORARY FREEMEN/WOMEN**

- 4.1. Before a nomination is made, the Head of Governance, People & Performance should be contacted, who will then consult the Mayor (as a matter of courtesy) and the Leader of each political group.
- 4.2. If the Head of Governance, People & Performance is satisfied that the person nominated is likely to receive the support of the Full Council, they will take a report to the Governance Committee for its consideration.

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- 4.3. This Governance Committee would be expected to recommend that the Mayor convene an Extraordinary Meeting of the Full Council to bestow the title of Honorary Freeman/woman.
- 4.4. Before any formal arrangements are made, the Head of Governance, People & Performance will contact the nominated person to ensure they would like to receive the honour.

## **5. APPOINTMENT OF HONORARY ALDERMEN/WOMEN OR HONORARY FREEMEN/WOMEN**

- 5.1. Nominations for both Honorary Aldermen/women and Honorary Freeman/women will be considered at an Extraordinary Meeting of the Full Council which has been convened for the sole purpose of considering the nominations.
- 5.2. Any resolution by the Full Council to bestow these honours must be passed by no less than two thirds of the Councillors voting on the matter.