



**New Forest**  
DISTRICT COUNCIL



# CONSTITUTION

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**SECTION 1**  
**SUMMARY AND EXPLANATION**

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## SUMMARY AND EXPLANATION

### The Council's Constitution

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

### Amending the Constitution

Unless anything in this Constitution provides otherwise, only the Council may amend this Constitution. The Council shall take into account a recommendation from the Cabinet, and the views of any Overview and Scrutiny Panels and Committees that will be affected by the amendment. The Cabinet shall make a recommendation to the Council in respect of any proposal for amendment submitted to it by an Overview and Scrutiny Panel or Committee. All amendments shall comply with the requirements of the Local Government Acts and regulations thereunder. If the Constitution is found not to comply, the Chief Executive and the Monitoring Officer can take all necessary steps to ensure compliance without recourse to full Council, the Cabinet or Panels.

### Purpose

The Constitution is divided into sections, which together set out the basic rules for governing the Council's business.

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in promoting their environmental, economic and social well being, in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to account;
- (f) ensure that no-one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of improving the delivery of services to the community.

### How the Council operates

The Council is composed of 48 Councillors elected every four years. Councillors are democratically accountable to residents of their wards. The overriding duty of councillors is to the whole community, but they have a special duty to all their constituents.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties.

All councillors meet together as the Council. Meetings of the Council are open to the public, except in some special circumstances. The Council decides its overall policies and sets the budget and council tax each year. The Council appoints the Chairman and the Vice-

Chairman of the Council, and also the political leader (known as the Leader of the Council). The Leader of the Council decides the size of the Cabinet, the content of Cabinet portfolios, and appoints the members of the Cabinet.

### **How Decisions are made**

The Cabinet is the part of the Council that is responsible for most day-to-day decisions. The Cabinet is made up of the Leader of the Council and a number of Cabinet members, also known as Portfolio Holders. The Leader of the Council is appointed by the Council, and the Leader appoints the members of the Cabinet. When major, or “key” decisions are to be discussed or made, these are published in the forward plan, in so far as the discussions can be anticipated. Meetings of the Council, the Cabinet and most other meetings are open to the public, except where confidential or exempt matters are being discussed. The Cabinet has to make decisions that are in line with the Council’s overall policies and budget. Individual Cabinet Members also have the power to take decisions within their ‘Portfolio’ responsibilities. If the Cabinet or a Portfolio Holder wishes to make a decision which is outside the budget and outside certain financial tolerances allowed by the Council’s Financial Regulations, the matter must be referred to the Council to decide.

### **Overview and Scrutiny**

Overview and Scrutiny Panels support the work of the Cabinet and the Council as a whole. They advise the Cabinet on policy decisions and on other important issues such as the budget. They may also hold investigations into matters of local concern. These can lead to reports and recommendations that advise the Cabinet and the Council as a whole on policies, budget and service delivery. The Panels also monitor the decisions of the Cabinet. They can “call in” a decision which has been made by the Cabinet but which may not yet have been implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsiders the decision. They may also review the work of the Committees of the Council.

### **Committees**

There are a number of functions of the Council which may not be the responsibility of the Cabinet. These are, broadly, regulatory matters such as planning and licensing applications, health and safety, audit, elections and electoral registration matters, making bye-laws, and various other miscellaneous functions. These are dealt with by Committees of the Council.

### **The Council’s Employees**

The Council has people (called “officers”) working for it 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. A code of conduct governs the relationships between officers and members of the Council.

### **Citizens’ Rights**

Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council’s own practices. Where members of the public use specific Council services, for example as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- (a) Vote at local elections if they are registered;
- (b) Contact their local councillor about any matters of concern to them;
- (c) Obtain a copy of the Constitution;
- (d) Attend meetings of the Council, the Cabinet, Committees and Panels except where, for example, personal or confidential matters are being discussed;
- (e) Petition to request a referendum on a mayoral form of executive;
- (f) Speak at meetings of the Cabinet, Committees and Panels, in accordance with the scheme of public participation agreed by the Council;
- (g) Find out, from the forward plan, what key decisions are to be discussed by the Executive or decided by the Cabinet or officers, and when;
- (h) See reports and background papers, and records of decisions made by the Council, the Cabinet, Committees, Panels and Officers;
- (i) Complain to the Council if they feel that the Council or its employees have acted inappropriately;
- (j) Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- (k) Complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- (l) Inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact Democratic Services:-

By telephone, no. (023) 8028 5834

By e-mail: [democratic@nfdc.gov.uk](mailto:democratic@nfdc.gov.uk)

Or if you wish to write, at  
 Chief Executive's Department  
 New Forest District Council  
 Appletree Court  
 Beaulieu Road  
 Lyndhurst  
 Hampshire  
 SO43 7PA

### **Interpretation**

For the purposes of this Constitution, the following definitions, except where otherwise stated, shall apply:-

**Budgets** – means the preparation of the annual budget of the Council which is to be used for the purposes of setting the Council Tax, all the components of the budget, such as budgetary allocations to different services and projects, proposed taxation levels, contingency funds (reserves and balances), and any plan or strategy for the control of the Council's borrowing or capital expenditure.

**Cabinet** – means the formal body consisting of the Leader, and those councillors appointed to the executive by the Leader.

**Chief Executive** – The Head of the Council's Paid Service under Section 4 of the Local Government Housing Act 1989.

Chief Finance Officer – means the Officer appointed by the Council under Section 151 of the Local Government Act 1972 with responsibility for the proper administration of the Council's Officers.

Committees – means Committees comprising of only Councillors as voting Members established by the Council to undertake any of its functions.

Council – means the Members of the Council acting together at formal meetings convened under the provisions of the Local Government Act 1972 or its successors.

Forward plan – means a document containing particulars of matters on which key decisions are likely to be made, as prescribed in the Local Authorities ((Executive Arrangements) (Meetings and Access to Information) Regulations.

Key decision – means an executive decision which is likely either:

- a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area.

For the purposes of (a) above, "significant" is defined by the Council as being a financial decision which required a Cabinet decision in accordance with the Council's Financial Regulations.

Key Policy Framework – means a list of plans and strategies which are relevant to the Council's functions and are required by law to be determined by the Council, in addition to plans and strategies that the Council wishes to add.

Leader – means the Councillor elected as leader of the executive by the Council.

Monitoring Officer – means the Officer appointed under Section 5 of the Local Government and Housing Act 1989.

Panel – means Overview and Scrutiny Panel.

Portfolio Holder – means a Councillor appointed by the Leader as responsible for a specific Portfolio, also known as a Cabinet Member.

Portfolios – means activities which are the responsibilities of Portfolio Holders.

Council  
48 Members

Regulatory Committees

- Appeals Committee
- General Purposes & Licensing Committee
- Planning Committee

*Regulation  
Adjudication*

Other Committees

- Audit Committee
- HR Committee

*Monitoring*

Cabinet

*Executive Decision  
Making*

- Task & Finish Groups

Overview & Scrutiny  
Panels

- Housing & Communities
- Place & Sustainability
- Resources & Transformation

*Policy Development  
Scrutiny Reviews*

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**SECTION 2**  
**RESPONSIBILITY FOR**  
**FUNCTIONS**

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## **THE COUNCIL (NON-EXECUTIVE FUNCTIONS)**

### **1. Full Council**

In addition to any responsibilities described or referred to elsewhere in this Constitution, the Council shall discharge those functions and make decisions on all matters which legislation specifically requires the full Council to make.

### **2. Delegations by Council, Committees and Sub-Committees to Officers**

The Council, and every Committee and Sub-Committee of the Council, shall be empowered to delegate any of its functions to officers of the Council, as laid out in Section 2 of this Constitution.

### **3. Ceremonial Duties - Chairman and Vice-Chairman**

The Chairman of the Council shall be, and known to be, the Civic Head of the Council. The Chairman of the Council shall represent the Council, or shall be entitled to appoint another Councillor to represent the Council, at all formal ceremonial occasions within and outside the District. Role descriptions for the Chairman and Vice-Chairman are set out in Section 3 of the Constitution.

### **4. Council's Role in setting Strategy, Policy, and the Budget**

The Council shall be responsible for determining the strategic direction, overall budgets and taxation levels of the Council. The responsibilities for setting the budget and key policy framework are described in Section 2 of the Constitution.

### **5. Disputes between Council and Executive**

If the Council is unwilling to adopt a policy, proposal or a budget submitted to it by the Executive, the arrangements for resolving the disagreement shall be as set out in Section 4.

### **6. Area Committees**

The Council may appoint Area Committees only on the recommendation of the Executive. Before making any recommendation to Council in relation to Area Committees, the Executive will have consulted the Council's Overview and Scrutiny Panels and Committees.

If the Council decides to appoint Committees for any area of the District, the procedures shall be as laid down in Standing Orders for Meetings.

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## **KEY POLICY FRAMEWORK**

### **1. INTRODUCTION**

- 1.1 By law, the Council must have a Key Policy Framework. This is a list of plans and strategies which are relevant to the Council's functions and are required by law to be determined by the Council, usually on the recommendation of the Cabinet.
- 1.2 The framework also includes plans and strategies that the Council has decided to approve. Unless otherwise agreed by the Council, revisions to the plans and strategies within the Key Policy Framework shall be determined by the Council.

### **2. THE FRAMEWORK**

- 2.1 Key Policy Framework comprises:

#### **1. Corporate**

- a. Corporate Plan
- b. Access to Information Policy
- c. Compulsory Purchase Plan
- d. Pay Policy Statement
- e. ICT Strategy
- f. Digital Strategy
- g. Strategic Risk Register
- h. Risk Management Policy

#### **2. Financial / Budgets**

- a. Medium Term Financial Plan (MTFP)
- b. Financial Regulations
- c. Asset Investment Strategy
- d. Asset Maintenance and Replacement Programme and General Fund Capital Programme
- e. Capital Strategy
- f. Housing Revenue Account Budget and Housing Public Sector Capital Expenditure Programme
- g. Council Tax Base
- h. Council Tax Reduction Scheme
- i. Council Tax Premiums and Discounts
- j. Treasury Management Strategy
- k. Investment Strategy

#### **3. Communities**

- a. Air Quality Strategy
- b. Community Strategy
- c. Contaminated Land Strategy
- d. Health and Wellbeing Plan
- e. Health and Safety Enforcement Policy
- f. Food Law Enforcement Plan
- g. Safer New Forest Partnership Plan
- h. Statement of Licensing Policy
- i. Statement of Gambling Policy

**4. Housing**

- a. Housing Strategy
- b. Homelessness / Rough Sleeping Strategy
- c. Housing Allocation Policy
- d. Empty Homes Strategy
- e. Greener Housing Strategy
- f. Private Sector Housing Strategy
- g. Shared Ownership Policy

**5. Place**

- a. Cemeteries Plan
- b. Coastal Strategy
- c. Coastal Management Plan
- d. Economic Development Strategy
- e. Plans and alterations which together comprise the Development Plan
- f. Minerals and Waste Plan
- g. Waste Strategy
- h. Joint Municipal Waste Management Strategy

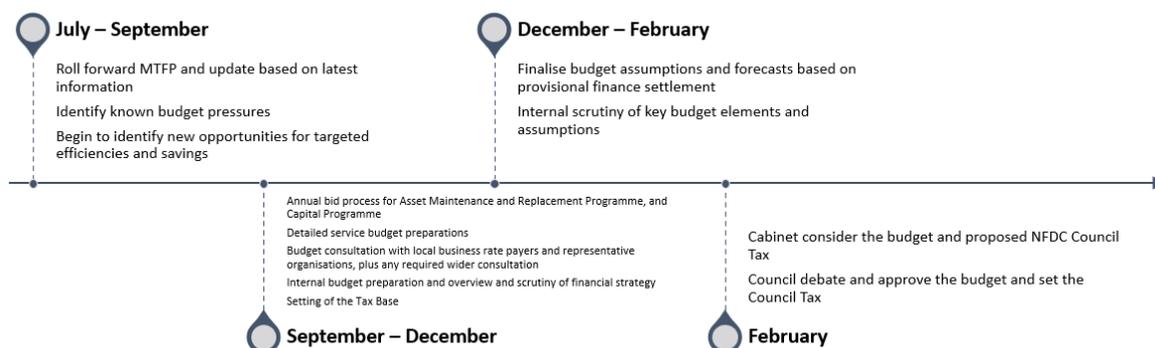
- 6. Any other plan or strategy (whether statutory or non-statutory) in respect of which the Council from time to time determines that the decision on its adoption or approvals should be taken by Council rather than the Cabinet.**

**All other matters not falling within the above list will be for the Executive to decide, unless they are required by law to be decided by the Council, or are deemed to be Non-Executive functions as a matter of law.**

## BUDGET SETTING

### 1. INTRODUCTION

- 1.1 This section of the Constitution considers how the Council plans its finance and agrees its annual budget.
- 1.2 The Local Government Act 2000 states that it is the responsibility of the Council, on the recommendation of the Cabinet, to approve the budget and related council tax demand. Every councillor has a role to play in the budget setting process. The Cabinet has the responsibility to draft proposals for the Council's expenditure and income for the financial year ahead. Councillors serving on Overview and Scrutiny Panels also have an important role in considering the proposed annual budget.
- 1.3 In addition, in line with statutory requirements, the Council's S151 Officer will formally consult on its budget with local business rate payers and representative organisations, with the results taken into account when the Council finally sets the budget.
- 1.4 The diagram below sets out a summary of the steps that will be taken by the Council when devising and agreeing its annual budget.



### 2. BUDGET CONSULTATION

#### 2.1 Within the Council

- 2.1.1 Overview and Scrutiny Panels will have the opportunity to consider key elements of the draft budget proposals, assumptions, forecasts, financial strategy and Medium Term Financial Plan.

#### 2.2 External consultation

- 2.2.1 The Council will run an annual budget consultation with business rate payers, and organisations representing businesses during October/ November in any given year. The Council will attempt different methodologies to promote awareness and completion of the annual consultation.

### **3. FEES AND CHARGES**

- 3.1 Fees and charges have a significant role to play in assisting the Council achieve a balanced budget. All Portfolio Holders, on behalf of the Cabinet, will review their discretionary fees and charges annually. Fees and charges for adoption from April each year will be approved as part of the Medium Term Financial Plan and budget setting process for the forthcoming year.
- 3.2 Any 'In year' changes to the approved fees and charges can be made by the Cabinet or relevant Portfolio Holder(s) subject to such changes not exceeding the last published CPI rate of Inflation. Any 'In year' decisions outside of these limits will be referred to the Council.

### **4. FINANCIAL PLANNING AND THE MEDIUM TERM FINANCIAL PLAN (MTFP)**

- 4.1 In addition to the annual setting of the budget, there will be twice yearly reporting to the Cabinet of the Council's Medium Term Financial Plan (MTFP). This is a regularly updated projected financial plan setting out the expected income and expenditure and corresponding pressures and challenges, as well as opportunities, over at least, the following three years. The MTFP will be consistent with the Council's work plans and strategies, particularly the Corporate Plan.

#### **4.2 Financial Monitoring**

- 4.2.1 Regular Financial Monitoring is an important feature in the management of the Council's finances as it gives an opportunity to reflect on variations as against the latest set budget and reflect on the impact that these variations may have over the period covered by the Council's MTFP.

#### **4.3 Financial Regulations**

- 4.3.1 The Council's Financial Regulations can be found in Section 4 of the Constitution. The Regulations govern the application of the overall financial strategy of the Council.

## **DELEGATIONS FROM COUNCIL TO COMMITTEES**

1. The powers and duties of the Council set out in the second column of the Schedule below shall be executed and performed by, and are hereby delegated to the respective Committees and Panels of the Councils as set out in the first column of the Schedule, until such time as this obligation shall be revoked or amended by resolution of the Council.
2. Where any proposal implies or requires the introduction of a new policy or strategy or the variation of an existing part of the Key Policy Framework, or would be expected to result in a variation of the approved budget in excess of any variation permitted by Financial Regulations the proposals shall be submitted to Council with a recommendation for consideration. Where any proposal is made by a Committee or Panel and relates to executive functions the matter shall be referred to the Executive before it is considered by Council.
3. This Scheme of Delegations shall not extend to powers, duties or functions with respect to the levying of the Council Tax nor for levying or issuing a rate or precept for a rate, nor to the borrowing of money, nor to any powers, duties or functions for which the Council must retain responsibility.
4. Notwithstanding the foregoing, in the event of war or a national defence emergency declared by the Crown or HM Government, all the powers, duties and functions of the Council without reservation are hereby delegated to the Chief Executive, who shall have authority and power to delegate such powers, duties and functions to a Sub-Committee.

### **THE SCHEDULE**

#### **COMMITTEES AND PANELS**

#### **POWERS, DUTIES OR FUNCTIONS DELEGATED**

Overview and Scrutiny Panels

All the powers, duties and functions as contained, mentioned or referred to generally in the Terms of Reference of each of the Panels.

Audit Committee

All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions which are described generally and specifically in the Terms of Reference of the Committee.

**COMMITTEES AND PANELS****POWERS, DUTIES OR FUNCTIONS DELEGATED**

General Purposes and Licensing Committee

All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions which are described generally and specifically in the Terms of Reference of the Committee.

Planning Committee

All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions which are described generally and specifically in the Terms of Reference of the Committee.

Except where, in respect of an application made on behalf of the Council, the Committee is unwilling to approve an application, or wishes to impose conditions which are unacceptable to the applicant, the application shall be submitted to a meeting of full Council for determination, the report for which shall be prepared by the Executive Head of Planning.

HR Committee

All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions which are described generally and specifically in the Terms of Reference of the Committee.

Appeals Committee

All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions which are described generally and specifically in the Terms of Reference of the Committee and the Authority to initiate, hear and determine on behalf of the Council, any appeals against decisions of the Executive, Committees or Officers.



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## **THE CABINET (EXECUTIVE)**

### **1.1 Form of Executive**

The Executive shall be in the form of a Leader and Cabinet executive as provided in section 11 (2A) of the Local Government Act 2000.

#### **1.1A Responsibilities of the Cabinet**

The terms of reference of the Cabinet, alongside the Local Choice Functions annex at Section 2 of the Constitution shows the general responsibilities of the Cabinet, alongside the extent of the Executive's responsibilities for functions that Schedule 2 to the Local Authorities (Functions and Responsibilities) Regulations 2000 provides may be (but need not be) the responsibility of the executive.

The Council's Key Policy Framework at Section 2 of the Constitution show the extent of the Executive's responsibilities for functions that Schedules 3 and 4 to the Regulations provides are not to be the sole responsibility of the executive. (These are plans or strategies specified in the Regulations, and includes other plans or strategies that the Council has determined it should decide whether to adopt or approve).

### **1.2 Membership and Powers of Cabinet**

The Cabinet shall comprise the Leader and a minimum of two other Councillors appointed to it by the Leader, up to a maximum within the limits laid down by legislation.

The Leader shall decide the extent to which Executive powers are to be discharged by themselves, by the Cabinet, by a member or members of the Cabinet, or by an officer of the authority. The Leader may amend their decisions in this respect at any time by giving notice to the Chief Executive. These Delegations are set out in Section 2 of the Constitution.

The Cabinet may delegate any of its functions to a committee of the Cabinet or to officers of the Council, subject to compliance with legislation and this Constitution.

Arrangements for executive decision making are set out in Section 2 of the Constitution.

### **1.3 Cabinet Meetings**

Procedures for holding and convening Cabinet meetings are laid down in the Council's Standing Orders for Meetings.

### **1.4 Leader - Duties and Appointment**

The Leader of the Council shall be the principal political leader in all respects.

The Leader of the Council shall be appointed by the Council under the procedures in Standing Orders for Meetings. The Leader of the Council shall be eligible for re-election.

The Council may terminate the appointment of the Leader under the procedures in Section 4 of the Constitution, provided that no proposal to terminate their appointment shall be made solely for the purpose of resolving a single dispute under paragraph 1.14 below.

### **1.5 Cabinet members - Duties and Appointment**

The procedure for:

- i) deciding the content of Portfolios,
- ii) appointing, and terminating the appointment of, Cabinet members, and
- iii) deciding the duties and responsibilities of Cabinet members,

shall be as set out in Standing Orders for Meetings.

Members of the Cabinet shall take collective responsibility for those issues determined by Cabinet.

### **1.6 Deputy Leader - Duties and Appointment**

The Leader shall appoint a Deputy Leader, as set out in Standing Orders for Meetings. In addition to any other responsibilities arising from their membership of the Cabinet, if the Leader is for any reason unable to act, or the office of Leader is vacant, the Deputy Leader must act in their place.

### **1.7 Notification of Cabinet Appointments**

The Chief Executive shall make arrangements to notify all Councillors of Cabinet appointments and make such other arrangements as are necessary to bring the appointment and responsibilities of those councillors to the attention of the public.

### **1.8 Decision making by the Executive**

Arrangements for Executive Decision Making are set out in Section 2 of the Constitution.

The specific duties of the Leader, Cabinet and Portfolio Holders and set out in Section 3 of the Constitution.

### **1.9 Absence of Cabinet member from Cabinet meeting**

Where a Cabinet Member is absent from a Cabinet meeting, the procedures laid down in Standing Orders for Meetings shall apply.

### **1.10 Interests of Cabinet Members**

Standing Orders for Meetings lay down the procedure where a Cabinet member has a disclosable pecuniary interest or a non-pecuniary interest in a matter which is to be considered by the Cabinet.

Where a decision in which they have a disclosable pecuniary interest, or a non-pecuniary interest and Standing Orders do not permit them to make the

decision, is delegated to the Cabinet member personally, it shall be referred to the Leader. The Leader may either:

- i) make the decision themselves, or
- ii) refer the matter to Cabinet for determination, or
- iii) delegate responsibility to another Cabinet member or an Officer.

The Deputy Leader shall deal with any matters in which the Leader has an interest of the above nature.

In all cases the member with the interest shall take no part in consideration of the issue, either at its determination or in discussions or negotiations leading up to the decision being made, and shall comply in all respects with the requirements of the law and the Council's Standing Orders.

### **1.11 Decisions outside or not wholly in accordance with Policy and Budget, and key decisions not in the forward plan**

Subject to the provisions relating to urgent decisions in the Constitution, all Executive decisions shall be in accordance with the Council's approved policies and budgets (or authorised under Financial Regulations if not within budget).

#### Urgent decisions:

Section 4 prescribes the procedure where it is considered that a decision on any matter that is contrary to, or not wholly in accordance with, policy or budget and Financial Regulations, is required urgently in the interests of the functions and services administered by the Council.

Section 4 also prescribes the procedure for making a decision which is a key decision and which has not been included in the forward plan for decision at the appropriate time.

### **1.12 Scrutiny of Executive Decisions**

Executive decisions may be reviewed under the "call-in" provisions in Section 4.

### **1.13 Executive's role in setting Strategy, Policy, and the Budget**

The Council shall be responsible for determining the strategic direction, policies and strategies, overall budgets and taxation levels of the Council. The Executive shall make recommendations to the Council on these matters.

### **1.14 Disputes between Council and Executive**

If the Council is unwilling to adopt a policy, proposal or a budget submitted to it by the Executive, the arrangements for resolving the disagreement shall be as set out in Section 4.

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## TERMS OF REFERENCE OF CABINET

1. The Leader will prepare a Scheme of Delegation in which they will confirm the councillor they have appointed Deputy Leader of the Council; the number and content of the Portfolios; and the name of the councillor they have appointed to each Portfolio. Each Portfolio Holder is authorised to take any executive decisions individually on any matter within their area of responsibility, subject to the procedures set out in the Constitution and in accordance with the Council's Financial Regulations.
  
2. The following functions make up the general responsibilities of the Cabinet:-
  - (a) To make recommendations to Full Council for approval as part of the Budget and Key Policy Framework, major new policies, changes to or revisions of existing policies or any other plan or strategy which Full Council decides it shall adopt or approve;
  - (b) To recommend to Full Council the overall financial strategy of the Council, including the annual Capital and Revenue Budgets and the level of Council Tax and the Council Tax Base;
  - (c) To take in-year decisions on resources and priorities, to deliver the Key Policy Framework, Corporate Plan and Budget;
  - (d) To make Key Decisions, as published in the Cabinet Forward Plan
  - (e) To consider and respond to recommendations and reports from the Council, Committees and Overview and Scrutiny Panels;
  - (f) To consider the reports of external review bodies on key aspects of overall Council service delivery;
  - (g) To decide all Local Choice Functions which Full Council has decided should be undertaken by the Cabinet (see annex);
  - (h) To carry out those executive functions of the Council not delegated to other bodies, individual Cabinet Members or Officers in accordance with one of the schemes of delegation;
  - (i) To resolve disputes between Cabinet Members including those where there is no agreement between Portfolio Holders relating to cross portfolio issues;
  - (j) To make the final decision on joint arrangements and delegations to other councils which relate to Executive Functions; and
  - (k) To liaise with other councils, government departments, statutory bodies, voluntary bodies, and other external agencies.

**ANNEX****Local Choice Functions**

1. Any matter under a local Act
2. Discharge of any functions relating to contaminated land.
3. The discharge of any function relating to control of pollution or management of air quality.
4. The service of an abatement notice in respect of a statutory nuisance.
5. The passing of a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
6. The inspection of the authority's area to detect any statutory nuisance under Section 79 of the Environmental Protection Act 1990.
7. The investigation of any complaint as to the existence of a statutory nuisance under Section 79 of the Environmental Protection Act 1990.
8. The appointment of any individual:-
  - (a) to any office other than an office in which he is employed by the authority;
  - (b) to any body other than
    - (i) the authority,
    - (ii) a joint committee of two or more authorities;or to any Committee or Sub-Committee of such a body,and the revocation of any such appointment.
9. The making of agreements for the execution of highways works
10. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities
11. Any function of the Council in its capacity as a harbour authority (to the extent that the function does not fall within paragraph 1. of this Annex)
12. The obtaining of information as to interest in land, or of particulars of persons interested in land, under section 330 of the Town and Country Planning Act 1990 or section 16 of the Local Government (Miscellaneous Provisions) Act 1976, in connection with the functions of the Executive.

## **EXECUTIVE DECISION MAKING**

### **1. GENERAL CONDITIONS**

- 1.1 The Leader and any Portfolio Holder may make a decision only if all the following conditions are satisfied:
- a) The actions prior to reaching a decision set out in this document have been complied with (including those actions that apply if a decision needs to be made urgently).
  - b) The decision is wholly in accordance with the Council's approved budget and policy framework. For these purposes, a decision shall be regarded as being within the approved budget if it is a decision that does not require approval of Full Council in the financial regulations.
  - c) If, in the opinion of the Monitoring Officer, the matter significantly affects one other Portfolio, the relevant Portfolio Holder has been consulted and agrees in writing with the decision.
  - d) In the opinion of the Monitoring Officer, the decision does not significantly affect more than one other Portfolio. If it does, the full Cabinet must take the decision.
  - e) The decision is not reserved for the Cabinet by legislation or statutory guidance.
  - f) The Monitoring Officer and the appropriate professional advising officer consider that it is prudent for the Portfolio Holder to decide the matter under his delegated authority.
- 1.2 So long as the above conditions are complied with, individual Portfolio Holders are hereby authorised to take executive decisions, and to provide political vision and leadership, on each of the service areas contained within their Portfolio as set out in the Leader's Scheme of Delegation.
- 1.3 A key decision as defined by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, is as follows:-
- (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- 1.4 For the purposes of (a) above, "significant" is defined by the Council as being a financial decision which requires a Cabinet decision in accordance with the Council's Financial Regulations.

### **2. ACTION PRIOR TO REACHING A DECISION - CABINET**

- 2.1 The provisions of Standing Orders for Meetings relating to convening meetings and issue of documentation shall apply to all meetings of the Cabinet.

### **3. ACTION PRIOR TO REACHING A DECISION – PORTFOLIO HOLDERS**

- 3.1 In all cases, prior to taking any decision on any matter, the Portfolio Holder shall be responsible for:-
- (a) ensuring that the decision to be made is within their delegated-powers;
  - (b) obtaining, in writing (which may be transmitted electronically) a summary of the issues from the Service Manager responsible for the matter under consideration;
  - (c) obtaining confirmation that any course of action proposed is within the Council's legal powers and complies with the Council's strategies, policies and budgets;
  - (d) determining whether the proposed action has any effect on the responsibilities of other Portfolio Holders;
  - (e) ensuring that where the matter affects a specific part of the District Council's area, the views of the relevant Ward Members, and where appropriate, the local Parish or Town Council's views have been obtained and taken into account in reaching a decision; and
  - (f) if the decision is a key decision:
    - i) ensuring that details of the subject of the decision are contained in the relevant forward plan for consideration at that time, and if they are not that the relevant provisions for urgent decisions of this Constitution are followed;
    - ii) ensuring that any report or other written information that they intend to take into consideration when they make the decision was available for public inspection as soon as reasonably practicable after they received it, and has been so available for at least five clear working days before the decision is made; and
    - iii) ensuring that any report or other written information that they intend to take into consideration when they make the decision has been forwarded to the Chairman of the relevant Overview and Scrutiny Panel.
- 3.2 Where any matter considered by a Portfolio Holder is outside their delegated powers, the matter shall stand referred to the Leader for consideration whether to determine it themselves or whether to refer it to the Cabinet. No action that commits the Council shall be taken on that matter until after the issue has been determined by the Leader or Cabinet.
- 3.3 Where any matter considered by a Portfolio Holder is outside the legal powers of the Council or contrary to the Council's strategies, policies or budgets, no action that commits the Council shall be taken on that matter until after the issue has been determined by the Cabinet.  
EXCEPT that where a decision which does not comply with the Council's strategies or policies, or would not be wholly in accordance with the budget, or is a key decision which a forward plan does not specify is for decision at that time, is required urgently, that matter may be determined in accordance with the urgency provisions of this Constitution.
- 3.4 Where a decision would have an effect on the responsibilities of another Portfolio Holder or has implications which might affect the corporate strategies of the Council, the Portfolio Holder shall consult with any other Portfolio Holder and the Leader prior to reaching any decision.

#### **4. ACTION PRIOR TO REACHING A KEY DECISION – OFFICERS**

4.1 In all cases, prior to taking a key decision on any matter, the Officer shall be responsible for:-

- (a) ensuring that the decision to be made is within their delegated powers;
- (b) obtaining confirmation that any course of action proposed is within the Council's legal powers and complies with the Council's strategies, policies and budgets;
- (c) ensuring that details of the subject of the decision are contained in the relevant forward plan for consideration at that time, and if they are not that the relevant urgency provisions of this Constitution are followed;
- (d) ensuring that any report that they intend to take into consideration when they make the decision was available for public inspection as soon as reasonably practicable after they received it, and has been so available for at least five clear working days before the decision is made;
- (e) ensuring that any report that they intend to take into consideration when they make the decision has been forwarded to the Chairman of the relevant Overview and Scrutiny Panel; and
- (f) ensuring that where the matter affects a specific part of the District Council's area, the views of the relevant Ward Members, and where appropriate, the local Parish or Town Council's views have been obtained and taken into account in reaching a decision.

#### **5. ACTION AT POINT OF DECISION MAKING – PORTFOLIO HOLDERS**

5.1 In reaching a decision on any matter referred to them the Portfolio Holder shall:-

- (a) take into consideration the views expressed by the Service Manager responsible for the matter under consideration;
- (b) where appropriate, take account of the views of other Portfolio Holders, the Leader, the Ward Members and the local Parish or Town Council;
- (c) endorse the written documentation prepared by the appropriate Service Manager with their decision and where that decision is contrary to the Officer's recommendation or views submitted by the Ward Member or local Town or Parish Council, the reasons for reaching the different conclusion; and
- (d) endorse all written documentation giving options considered with the reasons why particular options were rejected.

#### **6. ACTION AFTER DECISION - CABINET**

6.1 As soon as reasonably practicable after a meeting, the Chief Executive or Monitoring Officer shall ensure that a written statement that includes the information set out below is produced in respect of every decision made at that meeting:

- (a) a record of the decision;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the Cabinet at the meeting;
- (d) a record of any conflict of interest in relation to the matter decided which is declared by any member of the Cabinet; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted.

6.2 The Chief Executive or Monitoring Officer shall also:-

- (a) maintain copies, which may be held electronically, of all the reports and supporting papers taken into account by the Cabinet in making a decision;
- (b) make the notice prepared under 6.1, the reports and supporting papers (including a list of background papers) available for inspection at the Council's main office by any Member of the Council during normal office hours; and
- (c) make the notice, reports and supporting papers (including a list of background papers), except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office during normal office hours, and on the Council's website. No charge shall be made for inspection of such papers.

## **7. ACTION AFTER DECISION – PORTFOLIO HOLDERS**

7.1 On reaching a decision the Portfolio Holder shall:-

- (a) give instructions to the appropriate Service Manager to take the necessary action to implement the decision;
- (b) personally, or arrange for the proper officer to, notify Members of the decision taken;
- (c) ensure that the decision is not implemented until such time as the period for, and the conditions of, the procedures for calling in executive decisions have been complied with;  
and;
- (d) supply a copy of all papers (which may be transmitted electronically) considered by them to the Chief Executive – together with a copy of the decision with reasons.

7.2 Upon notification of a decision, the Head of Service will:-

- (a) subject to compliance with the procedure for calling in executive decisions in, ensure implementation within any specified time scales and, if none given, within a reasonable period;
- (b) ensure that a copy of the decision and appropriate supporting papers are placed on the relevant file;
- (c) where instructed by the Portfolio Holder to arrange for a report on the decision taken to be circulated to all Members of the Council.
- (d) immediately notify Parish & Town Councils, together with any other persons or organisations, consulted about the proposals, of the decision taken.

7.3 As soon as reasonably practicable after a decision is taken the Chief Executive or Monitoring Officer shall ensure that a written statement that includes the information set out below is produced in respect of that decision:-

- (a) a record of the decision
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the time by the Portfolio Holder when he made the decision;
- (d) a record of any conflict of interest in relation to the matter decided which was declared by any Cabinet member who the Portfolio Holder making the decision consulted; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted.

7.4 The Chief Executive or Monitoring Officer shall also:-

- (a) maintain a register or registers, which may be held in electronic form, of decisions taken by Portfolio Holders under delegated powers;
- (b) maintain copies, which may be held electronically, of all the reports and supporting papers provided by the Portfolio Holder;
- (c) make the notice under 7.3, the register, reports and supporting papers (including a list of background papers) available for inspection at the Council's main office by any Member of the Council during normal office hours;  
and;
- (d) make the notice, register, reports and supporting papers (including a list of background papers), except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office during normal office hours, and on the Council's website. No charge shall be made for inspection of such papers.

## **8. ACTION AFTER KEY DECISION – OFFICERS**

8.1 As soon as reasonably practicable after an officer has made an Executive decision, or a non-executive decision where the following action is required by the Openness of Local Government Bodies Regulations, they shall produce a written statement that includes the information set out below:-

- (a) a record of the decision;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by them at the time they made the decision;
- (d) a record of any conflict of interest in relation to the matter decided which was declared by any member.

8.2 The Chief Executive or Monitoring Officer shall:-

- (a) maintain a register or registers, which may be held in electronic form, of the above decisions taken by officers under delegated powers;
- (b) maintain copies, which may be held electronically, of all the reports and supporting papers taken into account by an officer in making a key decision;
- (c) make the notice under 8.1, the register, reports and supporting papers (including a list of background papers) available for inspection at the Council's main office by any Member of the Council during normal office hours; and
- (d) make the notice, register, reports and supporting papers (including a list of background papers), except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office during normal office hours, and on the Council's website. No charge shall be made for inspection of such papers.

## **9. KEY DECISIONS – OVERVIEW AND SCRUTINY PANELS**

9.1 If a decision is taken that was not treated as a key decision, but the relevant Overview and Scrutiny Panel considers that it should have been treated as a key decision, the Panel may require the Leader, or the person responsible for the decision, within a reasonable period specified by the Panel, to submit a report to the Council setting out:-

- (a) the decision and reasons for it;

- (b) the body or individual who took the decision; and
- (c) why it was not considered a key decision.

This is in addition to any other rights of Overview and Scrutiny Panels in relation to executive decisions contained elsewhere in this Constitution.

## **10. URGENT DECISIONS**

- 10.1 Where in the opinion of the Leader, or Head of Service and Monitoring Officer, a decision is required urgently on any matter, whether by the Cabinet or delegated to a Portfolio Holder, the requirements :-
- (a) relating to the information, and (in the case of Portfolio Holder decisions) decision being in writing or electronic form;
  - (b) relating to consultations with Ward Members and where appropriate the local Parish or Town Council;  
  
shall apply only if there is sufficient time to follow these procedures without prejudicing the decision or the Council; provided that as soon as practicable after the matter has been determined, a written record of the issues and the action taken shall be made and circulated in accordance with the remaining provisions of this procedure; and
  - (c) the provisions for Call-In in this constitution, so far as they relate to the date on which the decision may be implemented, shall not apply, and the decision may be implemented immediately.
- 10.2 Where a Portfolio Holder makes a decision urgently and is unable to endorse any written documentation at the time of making the decision as required in paragraph 5.1 above, he shall instead endorse, as soon as reasonably practicable, the written statement prepared under paragraph 7.3 above.
- 10.3 Where a decision which is not within policy or budget, or is a key decision which a forward plan does not specify is for decision at that time, is required, the provisions of the procedure at Chapter 7 of this Constitution shall apply.

## **11. VARIATION OF PROCEDURE**

- 11.1 This procedure may be varied at any time by the Leader by giving written notice to the Chief Executive, provided any variations comply with legislative requirements.

## **CABINET FORWARD PLAN**

### **1. TIMING OF FORWARD PLANS**

- 1.1 The Chief Executive will prepare a forward plan each month. Forward plans may be prepared or updated more frequently than monthly if this is necessary to comply with paragraph 2.2.

### **2. CONTENTS OF FORWARD PLANS**

- 2.1 The forward plan will contain information on matters which are intended to be the subject of a key decision to be taken by the Cabinet, any Committee of the Cabinet, individual Portfolio Holders or Officers in the course of the discharge of an executive function.

- 2.2 Information on key decisions will be included in a forward plan at least 28 clear days before the decision is made.

- 2.3 Forward plans will include the following particulars:

- (a) That a key decision(s) is/are expected to be made;
- (b) The matter on which a decision is to be made;
- (c) Where the decision is to be taken by an individual, his or her name and title (if any). Where the decision is to be taken by a body, its name and details of membership;
- (d) The date on which, or the period within which, the decision will be taken;
- (e) A list of the documents submitted to the decision maker for consideration in relation to the matter;
- (f) The address from which (subject to any prohibition or restriction on their disclosure) copies of, or extracts from, any document listed under (v) is available;
- (g) that other documents may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

- 2.4 Where a key decision is intended to be made, but the public may be excluded from a meeting at which it is to be discussed and/or documents related to it need not be disclosed to the public because confidential or exempt information would likely be disclosed, the forward plan will contain particulars as in paragraph 2.2, but excluding any confidential or exempt information.

### **3. PUBLICATION OF FORWARD PLANS**

- 3.1 The forward plan will be available for inspection at the Council's offices during office opening hours, and will be published on the Council's website.

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I, Jill Cleary, Leader of New Forest District Council, have decided on the following number and content of Cabinet Portfolios and have appointed the Portfolio Holders so named to those Portfolios:-

1) Leader – Portfolio Holder Cllr Jill Cleary

- Political Structures
- Devolution and Local Government Reorganisation
- Employee Engagement
- Corporate Plan and performance
- Transformation
- Elections and Electoral Registration
- Resident Insight, Communications and Design
- Health and Safety
- Democratic Services
- Key Stakeholder Engagement (HCC, NFNPA)

2) Planning and Economy – Portfolio Holder Cllr Derek Tipp

- Local Plan
- Planning Policy
- Development Management
- Building Control
- Street Naming and Numbering
- Listed Buildings and Conservation
- Land Charges
- Town Centre Regeneration
- Solent Local Enterprise Partnership
- Economic Development and Skills
- Support for New Forest Businesses
- High Streets
- Go New Forest Liaison

3) Environment and Sustainability – Portfolio Holder Cllr Geoffrey Blunden

- Waste Strategy
- Refuse & Recycling Collection
- Streetscene, grounds maintenance and litter collection
- Bereavement Services including Cemeteries
- Parking Strategy, car parking and Operations
- Highways liaison including road closures
- Climate and Sustainability
- Green Infrastructure, Nature Recovery and Biodiversity
- Land Drainage
- Coastal Protection
- Beach Huts and Keyhaven Harbour
- Trees

- Open Spaces
- Public Conveniences
- Flytipping
- Abandoned Vehicles
- Pest Control

4) Housing and Homelessness – Portfolio Holder Cllr Steve Davies

- Solent Freeport (Deputy Leader function)
- Strategic Housing function
- Council Affordable Housing Delivery Programme
- Housing Maintenance and Compliance
- Housing Tenant and Neighbourhood Management
- Housing Allocations and Options
- Homelessness
- Private Sector Housing including HMO licensing
- Disabled Facilities Grants
- Tenant Engagement
- Housing Service Performance

5) Community, Safety and Wellbeing – Portfolio Holder Cllr Dan Poole

- Community engagement and development including town and parish councils
- Health and Wellbeing
- Culture and Arts development
- Leisure and Sports development
- Environmental health and regulatory services
- Licensing
- Community Safety including Safer New Forest Community Safety Partnership
- Anti-social behaviour
- CCTV and Careline
- Community Grants and Support
- Unauthorised encampments
- Welfare Funerals
- Emergency Planning including Business Continuity
- PSPOs
- Assets of Community Value

6) Finance and Corporate – Portfolio Holder Cllr Jeremy Heron

- Medium Term Financial Plan
- Finance and Resources including Treasury Management
- Accountancy
- Revenue and Benefits
- Estates and Asset Management
- Human Resources
- Information Governance, FOI and GDPR
- Investment strategy and oversight including Appletree Housing
- Facilities Management
- Administration of government grant initiatives

- ICT and Digital Strategy
- Customer Strategy and Services
- Legal Services
- Procurement
- Health and Leisure Contract Management
- Eling Tide Mill
- New Forest Enterprise Centre

I hereby authorise the above Portfolio Holders to take any executive decisions individually on any matter falling within the service areas and functions as set out within their respective portfolios, subject to the procedures set out in the Constitution.

Additionally, I have decided that the Scheme of Delegations to Officers relating to executive functions that existed prior to 12 March 2025 will become the new Scheme of Delegations to Officers relating to executive functions from 12 March 2025, subject to the necessary consequential changes arising from this decision.

In the event that there have been legislative changes in respect of these delegated powers, I hereby authorise the Chief Executive, Strategic Directors, Assistant Directors and Service Managers to take all day to day decisions in respect of services within policy and budget, in accordance with the procedures allowed for in the Council's Constitution.

In respect of other executive functions or when an individual executive member or officer declines to or is unable to take an executive decision under their individual powers, such matters will be referred to the Cabinet (or to me, if I consider it appropriate).

Further, I appoint Cllr Steve Davies as Deputy Leader of the Council.

I make the above decisions in accordance with Part 1A of the Local Government Act 2000 (as amended).

Signed

CLLR JILL CLEARY

Date

12 March 2025

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## TERMS OF REFERENCE OF OVERVIEW AND SCRUTINY PANELS

The statutory overview and scrutiny functions of the Council shall be undertaken by Overview and Scrutiny Panels. The Council has appointed the following Overview and Scrutiny Panels it deems necessary to ensure that effective arrangements are in place to facilitate the involvement of all Members who are not Members of the Cabinet and to ensure that the decisions and policies of the Cabinet can be investigated. Each Panel shall have a particular responsibility for the overview and scrutiny of the following Council services:-

### 1. Housing and Communities Overview and Scrutiny Panel

- (a) Housing Estate Management and Support
- (b) Housing Maintenance and Compliance
- (c) Housing Options, Rents, Support and Private Sector Housing
- (d) Housing Strategy and Development
- (e) Environmental and Regulation (including licensing, health and wellbeing and Arts and Culture)
- (f) This Panel will also be the Crime and Disorder Scrutiny Committee under Section 19 of the Police and Justice Act 2006, with power to co-opt representatives of the Crime and Disorder Reduction Partnership onto the Panel when it reviews Partnership matters, and to agree terms of such co-option.

### 2. Place and Sustainability Overview and Scrutiny Panel

- (a) Coastal
- (b) Waste and Transport
- (c) Environmental Enforcement and Amenities
- (d) Grounds and Streetscene
- (e) Sustainability and Climate Change
- (f) Planning Development Management
- (g) Planning Policy and Infrastructure
- (h) Economic Development
- (i) Building Control

### 3. Resources and Transformation Overview and Scrutiny Panel

- a) Finance
- b) Estates and Valuation
- c) Revenues and Customer Services
- d) Human Resources
- e) ICT
- f) Elections
- g) Transformation and Improvement
- h) Performance and Insight
- i) Communications
- j) Democratic Services
- k) Legal Services
- l) Information Governance and Complaints

The general terms of reference of Overview and Scrutiny Panels appointed by the Council shall be as follows:-

1. To review 'called in' decisions in accordance with the procedures set out in the Constitution.
2. To prepare, implement, and regularly review a Work Programme.
3. To report annually to Full Council on the output of the Overview and Scrutiny Panel, providing an assessment of the value added by the work undertaken.
4. To establish work as appropriate after taking into account the availability of resources, the work programme and the matter under review.
5. To undertake policy reviews, making recommendations to the Cabinet to assist in the development of future policies and strategies.
6. To scrutinise the decisions of the Cabinet, offering advice or making recommendations on the matter.
7. To monitor the implementation of decisions to examine their effect and outcomes.
8. Subject to compliance with any provisions within legislation and the Council's Constitution, to delegate any of the functions of the Panel to an officer of the Council.

## **OVERVIEW AND SCRUTINY PANELS – OPERATIONAL RIGHTS AND RIGHTS OF ACCESS TO INFORMATION**

### **1. INTRODUCTION**

1.1 This Chapter defines the operational rights and the rights of access to information to be afforded to the Overview and Scrutiny Panels. It is to be read in conjunction with and is supportive of other elements of the Council's Constitution.

1.2 For the purposes of this Chapter, the following definitions shall apply:-

- Council – means all Members of the Council acting together at formal meetings convened under the provisions of the Local Government Act 1972;
- Committees – means the Planning Committee, the Audit Committee, the General Purposes and Licensing Committee, the HR Committee and any other Committees comprising of only Councillors as voting Members established by the Council to undertake any of its functions.
- Corporate Plans – means the Council's Corporate Plan and such other similar documents and policies as the Council may determine should be prepared;
- Prepare – includes the initial preparation, review, amendment or any modification thereof, of any document or papers relating to Corporate Plans, policies or budgets;
- Budgets – means the preparation of the annual budget of the Council which is to be used for the purposes of setting the Council Tax.

1.3 Where any review to be undertaken by a Panel affects one or more other Panels the Chairmen of the Panels shall agree which shall undertake the review and in the event of disagreement, the disagreement shall be referred to Council for determination.

### **2. AREAS OF ACTIVITY**

2.1 The Panels shall have the right to be involved in and consulted on:-

- Policy Development
- Policy Review
- Budget Setting
- Service Scrutiny
- Reactive Reviews

### 3. TIMING OF INVOLVEMENT

3.1 The following principles shall apply:-

#### a. Policy Development

- Where the Cabinet decides to develop new policies, it shall after its initial consideration of any proposal, supply details to the relevant Panel prior to any recommendation being made to Council. Where the Council gives instructions to the Cabinet to undertake development of a new policy, it shall at the same time instruct the Cabinet to consult with the appropriate Panel during development of the new policy.
- Adequate time shall be allowed to Panels to respond to consultations from the Cabinet but, as a general principle, the period for response will not normally be less than one month.
- For topics included in any annual or other programme approved by the Council, target dates will be included within the programme.

#### b. Policy Review

- After initial consideration by the Cabinet and before any report by the Cabinet to Council details of the review will be supplied to the relevant Panel.
- As a general principle, this should always be determined having regard to the nature and complexity of topic but a minimum period of one month should normally be allowed.
- For topics included in the annual or other programme approved by Council, target dates will be set within the programme.
- Where a Member of a Panel has sought, and the Panel has agreed, to undertake a review of existing policy, the Panel shall set its own timetable for completion of the work details of which shall be reported to Council.

#### c. Budget Setting

- See specific provisions for budget setting at Section 2 of the Constitution.

#### d. Service Scrutiny

- Each Panel shall maintain a programme identifying the service reviews it proposes to undertake in the forthcoming year and

shall submit such programme to the Council and the Executive.

- Within the annual programme, each Panel shall identify the full extent of the service reviews including the specific area of activity and the purpose of the review – together with a timetable showing the commencement and completion dates for such reviews.
- The annual programme shall identify the overall resources likely to be required for completion of the review.
- Upon receipt of the annual programme or at any time during the year, the Council or the Executive may request a Panel to undertake a specific service review. Upon making such request, the Council or the Executive shall identify the objective of the review and the timescales, which will normally not be less than one month, for completion of the review.
- Panels shall not include within their annual programme, or commence work on any service review under this paragraph where such service is also subject to a formal review agreed through the medium term financial plan process during that year, except where, with the agreement of the relevant Head of Service, the Panel considers that the review of part of a service would be beneficial or is necessary.

**e. Reactive Reviews**

- Arrangements for Call-In are set out in Section 2 of the Constitution.

**4. ACCESS TO INFORMATION**

4.1 To enable Panels to undertake their duties under the terms of this Chapter, each Panel shall have timely access to:-

- All reports and supporting papers, including exempt information, considered by the Cabinet at a meeting or by a Portfolio Holder when making a decision;
- Supporting papers, including documents prepared or supplied by Officers which had an effect on the decision taken including any papers containing information about options rejected by the Cabinet.
- Such other information and reports as the Panel may request Strategic Directors to supply or prepare, subject to the right of the Chief Executive to refer the need for such work to the Council for agreement.

- 4.2 Where documents or information are requested, they must be provided as soon as reasonably practicable, and in any case no later than 10 clear days after the request is received.
- 4.3 Members of Panels shall respect the confidentiality of confidential and exempt information and shall not provide or disclose it to any person who is not a Councillor and in particular shall not discuss the information in the presence of non-voting Members of the Panel.
- 4.4 Paragraphs 4.1 and 4.2 above apply to reports and supporting papers taken into account by officers when making decisions under delegated powers, as well as to reports and supporting papers considered by Members.

## **5. ATTENDANCE OF CABINET MEMBERS AT PANEL MEETINGS**

### **Call-in of Cabinet Decisions**

- 5.1 In consideration of any decision taken by the Cabinet, Panels shall have the absolute right to require the decision-maker, or a Member of the Cabinet where the decision was taken in a Cabinet meeting, to attend any meeting called to review the decision of the Cabinet. Where it is not reasonable to expect an individual decision-maker himself or herself to attend the meeting:
  - a. where the decision was made by a Portfolio Holder, another member of the Cabinet; or
  - b. where the decision was made by an officer, a member of the Cabinet or another officer to whom the decision-maker reports,
 shall attend on the decision-maker's behalf.
- 5.2 A decision of the Cabinet shall not be implemented until such time as the Member of the Cabinet or its representative has attended a meeting of the Panel or the Panel has reported on the decision to the full Council at its next ordinary meeting.
- 5.3 A Panel may request copies of information or documents to enable it to review a decision of the Cabinet. If such papers have not been supplied at least two days prior to the meeting of the Panel, the Cabinet's decision shall stand deferred to a further meeting of the Panel which shall be arranged as soon as practicable.

### **Other Matters that are the Responsibility of the Cabinet**

- 5.4 To enable them to undertake their duties effectively, Panels shall also have the absolute right to require the appropriate Portfolio Holder to attend any Panel meeting in order to discuss any subject the Panel has raised with the Cabinet, subject to a minimum of two calendar weeks' notice being given to the Portfolio Holder.

- 5.5 Where the Portfolio Holder is unable to attend the meeting, the Panel Chairman may, at his or her discretion, decide to postpone consideration of the matter to a later programmed Panel meeting, or to a special Panel meeting.
- 5.6 Where 5.5 applies, and the Portfolio Holder is also unable to attend the subsequent meeting, or the Panel Chairman decides that consideration of the issue should not be postponed, another Cabinet Member shall attend the Panel meeting on the Portfolio Holder's behalf.
- 5.7 A Portfolio Holder who is unable to attend a Panel meeting that he or she has been requested to attend must inform the Panel Chairman of this fact, and of his or her arrangements for alternative representation (if appropriate) no later than two days before the meeting.

## **6. ATTENDANCE OF OFFICERS AT PANEL MEETINGS**

- 6.1 Each Panel shall be entitled to require any Officer to attend its meetings who:-
- (i) Took a decision on behalf of the Cabinet;
  - (ii) Was involved in providing information to enable a decision to be reached by another Officer or by the Cabinet or has some material information that will assist the Panel in reviewing the decision.
- 6.2 Where any Officer fails to attend a meeting of the Panel without good cause, they may be subject to action under the Council's disciplinary rules.
- 6.3 In determining which Officers to call to provide information, the Panel shall have due regard to the seniority of Officers and shall normally only invite those Officers to give evidence who hold supervisory and management posts.
- 6.4 Officers shall only be required to give evidence on questions of fact when called to attend meetings of Panels. They should not be expected, or required, to comment on the merit of any options considered by the Cabinet, except insofar as the decision being reviewed is that taken by the Officer.

## **7. ATTENDANCE OF OTHER PERSONS AT PANEL MEETINGS**

- 7.1 Where a Panel considers it necessary to enable it to undertake a review of any matter coming before it, it shall:-
- (i) be entitled to call any person who is not a Councillor or Officer to provide information to assist in its deliberations;
  - (ii) make reasonable travel and subsistence payments to any such persons attending meetings to provide information.

**8. ADDITIONAL SUPPORT**

- 8.1 A Panel shall be entitled to appoint a Consultant, other person or organisation to undertake research or other tasks on its behalf subject to budget provision having been made for that purpose and the cost not exceeding £1000, or such other amount as may be agreed by Council.

**9. VARIATION OF CHAPTER**

- 9.1 This Chapter may be amended at any time by the Council upon a recommendation from the Cabinet following consultation with the Council's Overview and Scrutiny Panels and Committees.

## TERMS OF REFERENCE OF COMMITTEES

1. The Council has appointed the following Committees as it has deemed necessary to undertake its non-executive functions. The Terms of Reference of these Committees, other than the Overview and Scrutiny Panels, shall be in accordance with:-
 

|  |   |         |
|--|---|---------|
| Audit Committee                          | – | Annex 1 |
| Planning Committee                       | – | Annex 2 |
| General Purposes and Licensing Committee | – | Annex 3 |
| HR Committee                             | – | Annex 4 |
| Appeals Committee                        | – | Annex 5 |
  
2. The Committees referred to in Paragraph 1 above shall be entitled to appoint such Sub-Committees or Panels as they deem necessary for the proper performance of their duties, provided that Area Committees shall not be established without the prior consent of the Council.
  
3. The Terms of Reference of the Committees may be amended at any time by the Council, at its sole discretion, subject to the Council having considered the views of the Committee affected by any proposed changes.

**Annex 1****AUDIT COMMITTEE****TERMS OF REFERENCE****Accounts**

1. To approve the Authority's statement of accounts and specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statement or from the audit that need to be brought to the attention of the Council
2. To consider the external auditor's report to those charged with governance on issues from the audit of accounts.
3. To review, during the year, the Council's financial progress, including variances from budget, and bring any relevant findings to the attention of the Council, the Cabinet, the Portfolio Holder or Overview & Scrutiny Panel as appropriate.

**Audit Activity*****External***

4. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
5. To consider specific reports as agreed with the external auditor.
6. To consider the annual programme of work and associated fees for the external auditors and provide challenge as appropriate.

***Internal***

7. To consider the annual report and opinion of Internal Audit, and a summary of audit activity (actual and proposed) and the level of assurance it can give over the Council's governance arrangements.
8. To approve (but not direct) internal audit's strategy, plan and monitor performance.
9. To consider summaries of specific internal audit reports as requested.
10. To consider a report from internal audit on agreed high priority recommendations not implemented within a reasonable timescale.
11. To consider reports dealing with the management and performance of the Council's internal audit service, including the effectiveness of internal audit in accordance with the Accounts and Audit Regulations 2011.

**Regulatory Framework**

12. To monitor the effective development and operation of risk management and governance in the council.
13. To approve council policies on Whistleblowing and Anti-Fraud and Corruption and Bribery.
14. To approve the authority's Annual Governance Statement.

15. To consider the Council's compliance with its approved Treasury Management Strategy.
16. To consider the Council's arrangements for governance and to agree necessary actions to ensure compliance with best practice.
17. To consider the Council's compliance with its own and other published standards and controls.

**Annex 2****PLANNING COMMITTEE****TERMS OF REFERENCE**

1. To determine all matters and applications for planning permission, lawful development certificates, footpath and bridleway creation, stopping up and diversion orders, advertisement consents, listed building consents, tree preservation orders (including the power to confirm, modify or not to confirm Orders), work orders and hazardous substances consents under the Town and Country Planning Act 1990; the Planning (Listed Buildings and Conservation Areas) Act 1990; the Planning (Hazardous Substances) Act 1990; and the Town and Country Planning General Regulations 1992, The Conservation of Habitats and Species Regulations 2010, Planning and Compulsory Purchase Act 2004; and any related or amended statutes, including the determination of any application involving a departure from the development plan.
2. To take appropriate decisions on breaches of planning control including the service of Enforcement Notices, Breach of Condition Notices, Stop Notices and Injunctions under the Town and Country Planning Act 1990 and in respect of any contraventions under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990, the Planning Compulsory Purchase Act 2004 and any related or amended statutes.
3. To serve Section 215 Notices (proper maintenance of land) under the Town and Country Planning Act 1990.
4. To determine applications for Certificates of Appropriate Alternative Development under the Land Compensation Act 1961.
5. To authorise the preparation of planning obligations under Section 106 of the Town and Country Planning Act 1990.
6. To undertake all functions relating to the protection of important hedgerows under The Hedgerows Regulations 1997.
7. To authorise the requisition of information as to interests in land in connection with all functions delegated to the Committee.
8. To respond to Executive consultations in the preparation of Development Plans and where appropriate to make recommendations thereon to Council.
9. To respond as consultees on issues relating to the:-
  - a) protection of the rights of public use of highways.
  - b) maintenance and review of the definitive map and statement of footpaths and bridleways.
  - c) reclassification of roads used as public paths.
  - d) limestone pavement orders.
10. To make recommendations to Council on estimates of income, fees and charges, expenditure and the budget required by the Committee to undertake its functions.

11. Subject to compliance with any provisions within legislation and the Council's Constitution, to delegate any of the functions of the Committee to an officer of the Council.
12. To respond on behalf of the Council to consultation papers on matters falling under the specific terms of reference of the Committee.

## Annex 3

**GENERAL PURPOSES AND LICENSING COMMITTEE****TERMS OF REFERENCE**

1. To be the licensing committee established by the Council under section 6 of the Licensing Act 2003 and to discharge the licensing authority functions under that Act and the Gambling Act 2005.
2. To keep the Council's Statement of Licensing Policy and Statement of Gambling Principles under review and recommend changes to the Executive and/or Council, as appropriate.
3. To provide regular reports to the Planning Committee and Overview and Scrutiny Panels, as appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol and gaming related crime and disorder.
4. To determine the procedure to be followed at hearings of the Licensing Sub-Committee.
5. To be responsible for all matters relating to the licensing and registration functions determined by the Council under Part B, and the functions relating to public rights of way determined by the Council under Part I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
6. Except in relation to the Council as an employer, to advise the Council on functions under any relevant statutory provision within the meaning of Part 1 (health, safety and welfare in connection with work and control of dangerous substances) of the Health and Safety at Work etc., Act 1974 under Part C of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
7. To advise the Council on all matters, including the appointment of appropriate Officers, relating to:-
  - a) electoral registration and elections
  - b) establishment, dissolution, grouping and any other matters relating to Parishes and Parish Councils
  - c) declarations of vacancy in certain offices
  - d) the name, status of areas and individuals
  - e) the making, amendment, revocation or re-enactment of byelaws
  - f) the promotion or opposition to local or personal Bills
  - g) Local Government pensions

under Parts D,E,F,G and H of Schedule 1 to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
8. To authorise the requisition of information as to interests in land in connection with the functions delegated to the Committee.

9. To respond, as consultee, on issues relating to sea fisheries.
10. Where appropriate, to advise the Council on appointments to Committees, Sub-Committees and Joint Committees.
11. To advise the Council on standing orders for meetings and other matters.
12. To make recommendations to Council on estimates of income, fees and charges, expenditure and the budget required by the Committee to undertake its functions.
13. To vary the maximum hackney carriage fares applicable in the District.
14. Subject to compliance with any provisions within legislation and the Council's Constitution, to delegate any of the functions of the Committee to an officer of the Council.
15. To respond on behalf of the Council to consultation papers on matters falling under the specific terms of reference of the Committee.
16. To consider and make recommendations to the Council on any other matters not specifically set out in this Committee's, or any other Committee's, terms of reference that are not a function or responsibility of the Executive

**Annex 4****HR COMMITTEE****TERMS OF REFERENCE**

1. To advise the Council on the local pay and reward strategy for employees and their terms and conditions.
2. To make recommendations to Council on the Pay Policy Statement.
3. To receive regular updates on Health, Safety and Welfare of the Council's employees.
4. To respond on behalf of the Council to consultation papers on matters falling under the specific terms of reference of the Committee.
5. Subject to compliance with any provisions within legislation and the Council's Constitution, to delegate any of the functions of the committee to an officer of the Council.

**Annex 5****APPEALS COMMITTEE****TERMS OF REFERENCE**

1. To agree procedures, including arrangements for persons affected to be heard by a panel of Members, for the determination of appeals or objections against decisions of the Executive, Committees or Officers in respect of the areas set out below.

Provided that the procedures shall specify that no member shall sit on a Panel that determines an appeal or objection if that member was present at a meeting of the Executive or a Committee that considered the matter about which the appeal or objection has been made.

2. Subject to any criteria and in accordance with any procedures the Council and the Committee might set, to determine, through Panels of up to five Members of the Committee, as determined by the Chief Executive, appeals or objections against decisions of the Executive, Committees or Officers in respect of the following:-

- a. **Discipline and grievance**

- (i) Disciplinary issues that have to be dealt with by Councillors in accordance with the provisions of the Council's Disciplinary Rules.
- (ii) Appeals by employees that have to be dealt with by a Panel of Councillors under the provisions of the Council's grievance procedure.
- (iii) Appeals by employees selected for redundancy under the Council's policy for redundancy.

- b. **Housing Matters**

Appeals or requests for review of decisions in respect of tenancies, right to buy, improvement, renovation or other grants, discretionary housing payments, homelessness matters, or possession proceedings in cases where the tenant is above the statutory retirement age.

- c. **Non-Domestic Rate Relief**

Appeals against decisions by the Executive in respect of applications for discretionary relief from non-domestic rates.

**d. Licensing Matters**

Where there is no specific statutory right of appeal to external bodies, to determine appeals against any decisions of Officers in relation to the grant, renewal, transfer, variation, refusal, revocation, suspension or imposition of conditions of licences granted by the Council.

3. In accordance with procedures set by the Council, through a Panel of three members determined by the Chief Executive, to conduct hearings into complaints that a member of the District Council or of a Parish or Town Council in New Forest District has failed to comply with the relevant Council's Code of Conduct.
4. Subject to compliance with any provisions within legislation and the Council's Constitution, to delegate any of the functions of the Committee to an officer of the Council.
5. To respond on behalf of the Council to consultation papers on matters falling under the specific terms of reference of the Committee.

# DELEGATION OF POWERS TO OFFICERS

## General

1. Notwithstanding any specific Delegation of Powers to Officers resolved by the Council, a Committee or the Executive, Officers have the authority to make all day to day and operational decisions, (including taking any actions or decisions pursuant to any statutory powers), on Executive, Non-Executive and Regulatory functions that fall within their scope of responsibility.

As this places a broad functional responsibility, this Delegation to Officers should be taken to assume powers, and duties, within all present and future legislation, and all powers incidental to that legislation.

2. It is deemed that the power to take decisions falls within the scope of an Officer's responsibility in any of following instances:-
  - a) They have been specifically authorised by Council, the Leader, Cabinet, a Committee or Sub-Committee to make a decision.
  - b) As a Senior Officer, they are responsible and accountable for producing and maintaining a Service Plan and the decision relates to a function or responsibility for a service identified within that plan.
  - c) They are carrying out statutory duties pursuant to being a statutory postholder.
  - d) It is a function or responsibility within the Officer's job description.

## Limitations

3. Officers may only exercise delegated powers in accordance with:-
  - (a) The Standing Orders and Financial Regulations of the Council; and
  - (b) Approved policies, plans, strategies, schemes or directions, where they exist; of the Council, Cabinet or any Committee.

## Sub-Delegation

4. Administrative functions ancillary to the exercise of delegated powers are deemed to be authorised to be carried out by any officer within the remit of the relevant service area.

## Further Provisions

5. It shall always be open to an Officer not to exercise their delegated powers but to refer the matter to the Council, Cabinet, or relevant Committee (as appropriate) for decision.
6. For the avoidance of doubt, where the Council, Cabinet or a Committee has settled a policy, plan or budget for a matter, each Strategic Director, Assistant Director, Service Manager (or others that they shall direct), shall be empowered to deal with all such matters that are necessary to bring the policy, plan or budget into effect.

### **Delegation in the case of absence or inability to act**

7. If any officer having delegated authority under the Scheme is absent or otherwise unable to exercise their delegation, the Chief Executive, or a Strategic Director, are hereby authorised to make such decisions and initiate such actions as they deem necessary in the interests of the Council's functions and services.

### **Specific Provisions and Statutory Postholders**

8. The Following specific designations shall apply:-
  - (a) **Head of Paid Service** – Chief Executive
  - (b) **Monitoring Officer** – Assistant Director – Strategy and Engagement
  - (c) **Section 151 Officer** – Strategic Director – Corporate Resources and Transformation
  - (d) **Returning Officer** – Chief Executive
  - (e) **Electoral Registration Officer** – Chief Executive

## APPOINTMENT AND DISMISSAL OF EMPLOYEES (EXCEPT CHIEF EXECUTIVE AND CHIEF OFFICERS)

1. In accordance with the provisions of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations, appointment and dismissal of staff is not a function of the executive. Standing Orders for General Procedures deal with procedures for appointing employees at Chief Officer level.
2. The functions of appointment, dismissal and related matters for all employees below Chief Officer level shall be dealt with by the Chief Executive and Heads of Service, or such other employees as they may authorise in accordance with the following delegations or such other delegations as may be approved:-

| FUNCTION  | COMMENTS  |
|---|---|
| Appointment   | All posts within approved establishment   |
| Making Job Offers/ Approving Contracts of Employment                                    |   |
| Filling a post without advertisement in exceptional circumstances                       | Subject to prior consultation with the Trade Union.                                       |
| Granting of Leave Concessions   |   |
| Extending period of sick leave entitlement  | Subject to consultation with the Council's Occupational Health Adviser wherever possible. |
| Approval of planned overtime payments including employees above spinal column point 33. |   |

|  |  |
|--|--|
| Approval of local amendments to National Conditions of Service/General Conditions of Employment. | Subject to expenditure being contained within budget and consultation with the Head of Human Resources.  |
| Dismissal, including during probationary period.   | Head of Service concerned in consultation with employees' side representatives and Head of Human Resources.  |
| Approval of retirement termination of employment due to ill health or permanent incapacity.      | Head of Service concerned in consultation with Head of Human Resources and employees' side representatives and subject to report of the Council's Occupational Health Adviser. |
| Approval of voluntary redundancy and voluntary early retirement in the interests of efficiency.  | Head of Service concerned in consultation with the Head of Human Resources and employees' side representatives.  |
| Approval of compulsory redundancy.   | Head of Service concerned in consultation with the Chief Executive, Head of Human Resources and the employees' side representatives.   |

# **SECTION 3**

## **ROLE DESCRIPTIONS**

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## **ROLE OF THE CHAIRMAN OF THE COUNCIL**

### **1. MAIN ROLE**

- (a) Be the first citizen of the District.
- (b) Represent the Council as the Civic Head of the Council at public and private functions.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Preside over meetings of the Council ensuring equality of opportunity for all Members to participate in the decision making process.
- (b) Promote the District as its first citizen and ambassador.
- (c) Lead official civic visits by the Council.
- (d) Represent the Council at non-political ceremonies, social occasions and services of prayer and remembrance.
- (e) On behalf of the Council, act as host to visitors, including members of the Royal Family, overseas visitors and other civic dignitaries.
- (f) Nominate charities for his/her year of office and organise or co-ordinate activities for such causes during this period.

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## **ROLE OF THE VICE-CHAIRMAN OF THE COUNCIL**

### **1. MAIN ROLE**

- (a) Support the Chairman of the Council in their role as the first citizen of the District.
- (b) Represent the Council as necessary as the Deputy to the Civic Head of the Council at public and private functions.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Preside over meetings of the Council in the absence of the Chairman ensuring equality of opportunity for all Members to participate in the decision making process.
- (b) Be an ambassador for and promote the District as the deputy to the first citizen.
- (c) Deputise for, or assist, the Chairman in leading official civic visits by the Council.
- (d) Represent the Chairman of the Council at non-political ceremonies, social occasions and services of prayer and remembrance when the Chairman is unable to attend.
- (e) Deputise for, or support, the Chairman in their role when acting as host to visitors, including members of the Royal Family, overseas visitors and other civic dignitaries.
- (f) Support the charities chosen by the Chairman for their year of office and assist as necessary in organising or co-ordinating activities for such causes during this period.

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# **ROLE OF THE LEADER OF THE COUNCIL**

## **1. MAIN ROLE**

- a) Lead the Council in the identification of its vision, core values and strategic objectives.
- b) Lead the Council to provide visible political leadership in relation to residents, stakeholders and partners in the design, preparation and implementation of Council policies, strategies, budgets and service delivery.
- c) Lead the Council to work in the overall best interests of the local community.
- d) Lead the development of local, regional, National and European policy and strategic partnerships.
- e) Lead on the development and implementation of the Council's principal policies and plans.
- f) Lead all arrangements for the Council's political and management structures.
- g) Promote the development of the local economy.
- h) Promote the Council's core values and objectives.
- i) Maintain effective working relationships with the Chief Executive, Chief Officers and all employees of the Council.

## **2. DUTIES AND RESPONSIBILITIES**

- a) To appoint members to the Cabinet and to assign to each such Cabinet Member responsibility for a Portfolio.
- b) To chair the Cabinet.
- c) To be the principal political Leader of the Council in developing strategic partnerships with residents, other local authorities, statutory and non-statutory organisations, the Government and its agencies and other stakeholders in relation to the development and implementation of strategic objectives and policies and delivery of services.
- d) To have overall political responsibility for:-
  - (i) Strategic policy innovations
  - (ii) Design, preparation, implementation and monitoring of the Council's principal policies and plans.
  - (iii) Strategic financial management including the revenue and capital budgets and financial monitoring.
  - (iv) Communications with Councillors, employees, residents, stakeholders and all other external organisations.

- (v) Implementation of new political and management structures to meet any legislative duties placed upon the Council to ensure open and accountable decision-making and effective delivery of services.
  - (vi) Development of arrangements to facilitate community consultation and involvement in the Council's decision-making processes.
  - (vii) Human resource planning, with particular reference to ensuring maintenance of good employee relations, employee training and development policies and implementing systems for performance appraisal of all employees.
- e) To undertake those tasks and take those decisions in respect of the duties for which the Leader assumes personal responsibility.

# **ROLE OF CABINET MEMBERS**

## **1. MAIN ROLE**

- a) All Cabinet Members are publicly accountable for the executive functions of the Council. This will include a specific responsibility for matters within the scope of their portfolio.

## **2. DUTIES AND RESPONSIBILITIES**

- a) To make decisions in accordance with the Council's agreed procedures within the Constitution.
- b) To make decisions consistent with the Council's Key Policy Framework.
- c) To make decisions within approved budgets or in accordance with the Council's Financial Regulations.
- d) To make decisions which do not compromise any existing or proposed policy.
- e) To refer to the Leader any matter considered by the Portfolio Holder that is deemed to be too cross cutting or sensitive to be decided within the Portfolio.
- f) To agree decisions with other Portfolio Holders where the matter is a cross-portfolio.
- g) To give public account of the functions and decisions made within the Portfolio areas of responsibility.
- h) To maintain clear communication with the Chairs of the relevant Overview and Scrutiny Panels.
- i) To represent the Council with external bodies and agencies in order to promote the work of the Council the Council's interests, its agreed policies and improve Council influence with external bodies.
- j) To lead, alongside the Chief Executive, the development of clear, affordable policies and strategies for services which are consistent with the Council's wider Corporate Plan objectives.
- k) To set clear priorities which are consistent with the Council's policies and strategic objectives.
- l) To ensure that resources are efficiently managed within allocations set by Council and that risk is well managed.

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## **ROLES OF COMMITTEE CHAIRMEN**

1. The roles to be undertaken by Chairmen of Committees shall be in accordance with:-

|  |         |
|--|---------|
| Audit Committee                          | Annex 1 |
| Planning Committee                       | Annex 2 |
| General Purposes and Licensing Committee | Annex 3 |
| HR Committee                             | Annex 4 |
| Appeals Committee                        | Annex 5 |

2. Where the Chairman of a Committee is unavailable for any reason, the Vice-Chairman, if appointed, shall undertake the role of Chairman.

## **CHAIRMAN OF AUDIT COMMITTEE**

### **1. MAIN ROLE**

- (a) Lead the Council's activities in relation to those functions covered by the Terms of Reference of the Audit Committee.
- (b) Ensure that the Committee deals with its functions in a fair and proper manner having regard to the Council's policies and statutory provisions relating thereto, including the rules of natural justice.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Chair meetings of the Committee.
- (b) Ensure that appropriate processes are adopted to enable the Committee to undertake its functions in a fair and even-handed manner within the Council's approved policies.
- (c) Ensure that all Members of, and Officers servicing, the Committee take full and proper account of the legislative framework in setting policies, rules, regulations, processes and in the determination of any matter.
- (d) Ensure that mechanisms are put in place to regularly measure the efficiency and quality of the arrangements for dealing with the functions of the Committee.
- (e) Ensure Members of, and Officers servicing, the Committee comply with the rules relating to declaration of interests.
- (f) Ensure that appropriate Member training programmes and seminars are arranged to enhance Members' knowledge and ability to carry out the Committee's functions in accordance with legislation, the Council's policies and other codes and rules affecting such functions.

## **CHAIRMAN OF PLANNING COMMITTEE**

### **1. MAIN ROLE**

- (a) Lead the Council's activities in relation to those functions covered by the Terms of Reference of the Planning Committee.
- (b) Ensure that the Committee deals with its functions in a fair and proper manner having regard to the Council's policies and statutory provisions relating thereto.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Chair meetings of the Committee.
- (b) Ensure, in relation to each function of the Committee, that appropriate policies, rules, regulations and processes are adopted to enable the Committee to undertake its functions in a fair and even-handed manner within the Council's approved policies.
- (c) Liaise closely with the Executive and in particular the relevant Portfolio Holder in the preparation, alteration and adoption of Development Plans.
- (d) Ensure that all Members of, and Officers servicing, the Committee take full and proper account of the legislative framework in setting any relevant policies, rules, regulations and processes and in the determination of any applications.
- (e) Work closely with the Executive and in particular the relevant Portfolio Holder in determining any applications that may have an effect on the economic health of the District or any part of it.
- (f) Ensure that mechanisms are put in place to regularly measure the efficiency and quality of the arrangements for dealing with the functions of the Committee.
- (g) Ensure Members of, and Officers servicing, the Committee comply with the rules relating to declaration of interests.
- (h) Take the lead in setting the Committee's budgets, fees and charges and put effective budget monitoring procedures in place.
- (i) Ensure that appropriate Member training programmes and seminars are arranged to enhance Members' knowledge and ability to carry out the Committee's functions in accordance with legislation, the Council's policies and other codes and rules affecting such functions.

## **CHAIRMAN OF GENERAL PURPOSES AND LICENSING COMMITTEE**

### **1. MAIN ROLE**

- (a) Lead the Council's activities in relation to those functions covered by the Terms of Reference of the Committee.
- (b) Ensure that the Committee deals with its functions in a fair and proper manner having regard to the Council's policies and statutory provisions relating thereto, including the rules of natural justice.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Chair meetings of the Committee.
- (b) Ensure, in relation to each function of the Committee, that appropriate policies, rules, regulations and processes are adopted to enable the Committee to undertake its functions in a fair and even-handed manner within the Council's approved policies.
- (c) Ensure that all Members of, and Officers servicing, the Committee take full and proper account of the legislative framework in setting policies, rules, regulations, processes in relation to its functions.
- (d) Make all necessary arrangements to ensure legislative provisions, and in particular the rules of natural justice are followed in determining applications.
- (e) Ensure that mechanisms are put in place to regularly measure the efficiency and quality of the arrangements for dealing with the functions of the Committee.
- (f) Ensure Members of, and Officers servicing the Committee, comply with the rules relating to declaration of interests.
- (g) Take the lead in setting the Committee's budgets, fees and charges and put effective budget monitoring procedures in place.
- (h) Ensure that appropriate Member training programmes and seminars are arranged to enhance Members' knowledge and ability to carry out the Committee's functions in accordance with legislation, the Council's policies and other codes and rules affecting such functions.

## **CHAIRMAN OF HR COMMITTEE**

### **1. MAIN ROLE**

- (a) Lead the Council's activities in relation to those advisory functions covered by the Terms of Reference of the HR Committee.
- (b) Ensure that the Committee's advisory and negotiating functions are undertaken in a fair and proper manner having regard to the Council's policies and statutory provisions relating thereto, including the rules of natural justice.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Chair meetings of the Committee.
- (b) Ensure, in relation to each function of the Committee, that appropriate processes are adopted to enable the Committee to undertake its functions in a fair and even-handed manner within the Council's approved policies.
- (c) Ensure that all Members of, and Officers servicing the Committee, take full and proper account of the legislative framework in setting policies, rules, regulations and processes and in the determination of any matter.
- (d) Ensure that mechanisms are put in place to regularly measure the efficiency and quality of the arrangements for dealing with the functions of the Committee.
- (e) Ensure Members of, and Officers servicing the Committee, comply with the rules relating to declaration of interests.
- (f) Ensure that appropriate Member training programmes and seminars are arranged to enhance Members' knowledge and ability to carry out the Committee's functions in accordance with legislation, the Council's policies and other codes and rules affecting such functions.

## **CHAIRMAN OF APPEALS COMMITTEE**

### **1. MAIN ROLE**

- (a) Lead the Council's activities in relation to those functions covered by the Terms of Reference of the Appeals Committee.
- (b) Ensure that the Committee deals with its functions in a fair and proper manner having regard to the Council's policies and statutory provisions relating thereto, including the rules of natural justice.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Chair meetings of the Committee.
- (b) Ensure, in relation to each function of the Committee, that appropriate policies, rules, regulations and processes are adopted to enable the Committee to undertake its functions in a fair and even-handed manner.
- (c) Ensure that all Members of, and Officers servicing, the Committee take full and proper account of the legislative framework in setting policies, rules, regulations, processes and in the determination of any appeals.
- (d) Liaise closely with the Council's Chief Executive, Monitoring Officer and Chief Finance Officer in connection with the adoption, implementation and review of all arrangements for dealing with appeals and other matters considered by the Committee or a Panel of the Committee.
- (e) Ensure that mechanisms are put in place to regularly measure the efficiency and quality of the arrangements for dealing with the functions of the Committee.
- (f) Ensure Members of, and Officers servicing, the Committee comply with the rules relating to declaration of interests.
- (g) Take the lead in setting the Committee's budgets, fees and charges and put effective budget monitoring procedures in place.
- (h) Ensure that appropriate Member training programmes and seminars are arranged to enhance Members' knowledge and ability to carry out the Committee's functions in accordance with legislation, the Council's policies and other codes and rules affecting such functions.

## **ROLE OF OVERVIEW AND SCRUTINY PANEL CHAIRMAN**

### **1. MAIN ROLE**

- (a) To lead on the scrutiny of strategic policy and budget proposals by the Cabinet for the service areas under the jurisdiction of the Panel.
- (b) To lead on scrutinising the activities and performance of the Cabinet and Officers in relation to the services under the jurisdiction of the Panel.
- (c) To lead the Panel's activities relating to performance management reviews.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Chair the Overview and Scrutiny Panel.
- (b) Co-ordinate the activities of the Overview and Scrutiny Panel and take a lead role in its work.
- (c) Lead investigations into policy proposals referred to the Panel by the Council or the Cabinet or selected by the Panel and in particular:-
  - In the determination of the overall manner in which the work will be undertaken.
  - Arranging provision of preliminary background information.
  - On the selection of witnesses and whether evidence is to be given orally or in writing.
  - On the determination and selection of consultants (where appropriate) for particular areas of research.
  - In the completion of the investigation within the approved timetable.
- (d) Lead investigations in respect of those policy decisions taken by the Cabinet or Officers and in particular:-
  - On the determination of the extent of the investigation to be undertaken.
  - On commissioning appropriate research and the provision of preliminary background information for the Panel.
  - By co-ordinating the preparation of any lists of questions to be asked during the investigation.
  - By providing a list of issues to be discussed or requests for detailed statistical and other information to the Cabinet or Officer prior to any meeting of the Panel.
  - On the determination and selection of consultants (where appropriate) for particular areas of research.
  - In the selection of witnesses and whether evidence is to be given orally or in writing.

- Ensuring that, upon completion of the investigation, a report on the outcome of the investigation is prepared and submitted to the Cabinet and/or Council as appropriate.
- (e) Ensure that the Panel undertakes, in conjunction with the Cabinet and/or its Members, appropriate reviews of service performance under the Council's performance management arrangements.
  - (f) Take the lead on reviews of the Council's involvement in and support of outside organisations which fall within the Terms of Reference of the Overview and Scrutiny Panel.
  - (g) Take the lead on consideration and review of external audit reports which relate to the matters within the Terms of Reference of the Overview and Scrutiny Panel.
  - (h) Take the lead in ensuring that training requirements of the Panel Members are considered and appropriate training programmes or seminars are arranged.
  - (i) Encourage Panel Members to deal with all issues placed before them in an unbiased manner. Where Members have received advice or directions from their group leader, or the group, as to the views any Councillor should express on a particular issue, ensure that those Members disclose such facts at the meeting at which the matter is being discussed.
  - (j) Encourage Members to disclose all pecuniary and non-pecuniary interests in any matters placed before the Panel.

## **ROLE OF OPPOSITION GROUP LEADERS**

### **1. MAIN ROLE**

- (a) Provide for residents, stakeholders and partners, visible political leadership in relation to the opposition group's views on the design, preparation and implementation of the Council's policies, strategies, budgets and service delivery.
- (b) Lead the opposition group in endeavouring to ensure that the Council works in the best interests of the local community.
- (c) Act as the group's spokesperson on:-
  - The development of local, regional, national and European policy and strategic partnerships.
  - Development and implementation of the Council's principal policies and plans.
  - The Council's political and management structures.
  - Development of the local economy.
- (d) Maintain effective working relationships between Members of the opposition group and the Chief Executive, Chief Officers and all employees of the Council.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Work with the controlling group and other opposition groups to ensure that the Council's duties and responsibilities can be carried out.
- (b) Act as a focus for political opposition to the controlling group on behalf of the relevant group.
- (c) Act as the group's lead spokesperson on proposals for developing strategic partnerships with residents, other Local Authorities, statutory and non-statutory organisations, the Government and its agencies and other stakeholders in relation to the development and implementation of strategic objectives and policies and delivery of services.
- (d) To have overall political responsibility for the particular group's views on:-
  - Strategic policy innovations.
  - Design, preparation, implementation and monitoring of the Council's principal policies and plans.
  - Strategic financial management including the revenue and capital budgets and financial monitoring.
  - Communications with Councillors, employees, residents, stakeholders and all other external organisations.
  - Setting the Council's business strategy to achieve best value.

- Implementation of new political and management structures to meet any legislative duties placed upon the Council to ensure open and accountable decision-making and effective delivery of services.
- Development of arrangements to facilitate community consultation and involvement in the Council's decision-making processes.
- Human resource planning, with particular reference to ensuring maintenance of good employee relations, employee training and development policies and implementing systems for performance appraisal of all employees.
- To be responsible for nominating Members of the group to serve on Committees, Panels, Sub-Committees and outside bodies for consideration by Council.
- To lead the group' dealings with the media.

## **ROLE OF ALL MEMBERS AS ELECTED REPRESENTATIVES**

### **1. MAIN ROLE**

- (a) To represent effectively the interests of the Ward for which the Councillor was elected and all of its constituents.
- (b) To contribute in a positive manner to the effective government of the District, and the direct, or indirect, provision of services to all residents, visitors and other stakeholders.
- (c) To encourage the involvement and participation of individual citizens and the community generally in the development and review of the Council's decision making processes.

### **2. DUTIES AND RESPONSIBILITIES**

- (a) Meet regularly with constituents, Local Councils and other stakeholders, seeking and listening to their views on issues to be considered by or proposed to the Council.
- (b) Act as the interface between the local community and the Council ensuring that their views and needs are taken into account when strategy, policy and budget issues are considered by the Council.
- (c) Ensure that the local communities' views are properly expressed and argued when specific decisions affecting them are considered by Council.
- (d) Use local knowledge and information to assist in the determination of policy proposals and in decision making.
- (e) Act as a disseminator of information from the Council to constituents, Local Councils and other Stakeholders.
- (f) Participate in Member training programmes and seminars to enhance the ability to undertake a fully effective role as an Elected Representative.

### **3. KEY TASKS**

- (a) Discuss issues to be determined by the Council with constituents, Local Councils and other stakeholders.
- (b) Participate in any local area machinery established for the Councillor's Ward by the Council to facilitate good communication with residents.

- (c) Develop and maintain a good working knowledge of the organisations, services, activities and hopes and aspirations of the community for the Ward for which the Member was elected.
- (d) Champion causes and issues on behalf of the Member's constituents.
- (e) Ensure that constituents are kept informed about:-
  - Services in their area.
  - Decisions that may affect them.
  - The reasons why decisions have been taken by the Council.
  - Their rights relating to service provision, appeals against decisions and access to meetings and information.
- (f) Carry out casework on behalf of constituents and represent their interests to the Council.
- (g) Participate fully in the activities and decision making processes (where appropriate) of any outside body to which the Councillor is appointed by:-
  - Providing two-way communication between the Council and the outside body.
  - Developing and maintaining a working knowledge of the Council's policies and priorities, particularly in so far as they might affect the outside body.
  - Ensuring that the outside body takes account of the needs and aspirations of the community affected by the work and services of that outside body.
- (h) Contribute constructively to community planning initiatives and in particular to assist in the achievement of open government and democratic renewal by actively encouraging the community to participate in the government of the area and take up their roles in terms of effective citizenship.

# ROLE AND RESPONSIBILITIES OF THE MONITORING OFFICER

## 1. GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES

- 1.1 The Monitoring Officer is a statutory appointee under section 5 of the Local Government and Housing Act 1989. This Code of Practice provides some general information on how the Monitoring Officer's function will be discharged in New Forest District Council.
- 1.2 The Monitoring Officer undertakes to discharge their statutory responsibilities in a manner that enhances the overall reputation of the Council. In doing so they will, so far as possible, safeguard Members and Officers acting in their official capacities from legal difficulties and/or criminal sanctions.
- 1.3 A summary of the statutory responsibilities is at Annex 1. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will largely depend on Members and Officers:-
- a) complying with the law of the land (including any relevant Codes of Conduct);
  - b) complying with any Local Codes adopted by the Council;
  - c) complying with any general guidance issued from time to time by the Monitoring Officer;
  - d) making lawful and proportionate decisions; and
  - e) not taking action that would bring the Council, their offices or professions into disrepute.

## 2. WORKING ARRANGEMENTS

- 2.1 Excellent working relations between the Monitoring Officer and Members and Officers will help them discharge their statutory responsibilities and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will help them fulfill their responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and their staff) to discharge the Council's statutory and discretionary responsibilities.
- 2.2 The following arrangements are designed to ensure the effective discharge of the Council's business and functions.

The Monitoring Officer will:-

- (a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including in particular issues about legal powers to do something or not, ethical standards, probity, propriety, procedural or

other constitutional issues that are likely to (or do) arise;

- (b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of Members or of the Executive Management Team at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken);
- (c) have the right to attend any meeting of Members or of the Executive Management Team (including the right to be heard) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- (d) in carrying out any investigation(s) have unqualified access to:
  - i. any information held by the Council and
  - ii. any Officer who can assist them in the discharge of their functions;
- (e) ensure the other statutory officers (Head of Paid Service and the Chief Finance Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (f) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (g) report to Members, as and when necessary, on any necessary or desirable changes to the Council's Constitution following consultation with other officers as appropriate;
- (h) report to Members, as and when necessary, on the staff, accommodation and resources they require to discharge their statutory functions;
- (i) have a relationship of respect and trust with the Chairman and Vice-Chairman of the Council, the Leader and Deputy Leader of the Council, Portfolio Holders, the Leaders of Opposition Groups, and the Chairmen of the Regulatory Committees and Overview and Scrutiny Panels, with a view to ensuring the effective and efficient discharge of Council business;
- (j) develop an effective working relationship with the Council's external Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information,

whether confidential or otherwise, through appropriate procedures, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council;

- (k) maintain the statutory registers for the declaration of members' interests (including those for Parish and Town Councils in the District);
  - (l) give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint)
  - (m) in consultation, as necessary, with the Chairman of the Council and the Executive, defer making a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
  - (n) make arrangements to ensure effective communication between their office and the Clerks to Parish and Town Councils in the District on Monitoring Officer and ethical issues;
  - (o) have sufficient resources to enable them to address any matters concerning their Monitoring Officer functions;
  - (p) be responsible for preparing any training programme for Members and/or officers of the District Council and/or of Parish and Town Councils on ethical standards and Code of Conduct issues; and
  - (q) nominate a deputy during any period of absence from work, and keep the deputy briefed on any relevant issues that they may be required to deal with.
- 2.3 To ensure the effective and efficient discharge of the arrangements set out in paragraph 2.2 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other constitutional concerns to the Monitoring Officer, as soon as practicable.
- 2.4 The Monitoring Officer is also available for Members and Officers to consult on any issues about the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (such as Standing Orders, policy framework, terms of reference, scheme of delegations etc).
- 2.5 To ensure the effective and efficient discharge of this Code of Practice, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

**3. SANCTIONS FOR BREACH OF THE CODE OF CONDUCT AND THIS CODE OF PRACTICE**

- 3.1 Complaints about any breach of the Council's Code of Conduct must be referred to the Monitoring Officer who will arrange for them to be dealt with under the Council's agreed procedures. Complaints against any breach of this Code of Practice by a Member will be referred to the Monitoring Officer and, if the Member is a member of a Political Group, to the Leader of that Group. Complaints against any breach of this Code of Practice by an Officer will be referred to the relevant Head of Service, Executive Director and/or the Chief Executive.

## SUMMARY OF MONITORING OFFICER FUNCTIONS

|    | Description  | Source   |
|----|--|--|
| 1  | Report on contraventions or likely contraventions of any enactment or rule of law  | Section 5 Local Government and Housing Act 1989                        |
| 2  | Report on any maladministration or injustice where Ombudsman has carried out an investigation  | Section 5 Local Government and Housing Act 1989                        |
| 3  | Appointment of Deputy  | Section 5 Local Government and Housing Act 1989                        |
| 4  | Report on resources  | Section 5 Local Government and Housing Act 1989                        |
| 5  | Advise on the Public Interest Disclosure Act 1998 concerning disclosure of information in the public interest                            | Whistleblowing at Work Policy in Council Constitution                  |
| 6  | Investigate misconduct in compliance with Code of Conduct and Council's agreed procedures  | Section 28 Localism Act 2011   |
| 7  | Establish and maintain registers of members' interests   | Section 29 Localism Act 2011   |
| 8  | Advice to members on interpretation of Code  | Code of Conduct  |
| 9  | Key role in promoting and maintaining high standards of conduct  | Section 27 Localism Act 2011   |
| 10 | Ethical framework functions in relation to Parish Councils   | Chapter 7 Localism Act 2011  |
| 11 | Compensation for maladministration   | Local Government Act 2000 Section 92                                   |
| 12 | Advice on constitutional issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members | Statutory Government Guidance on Council Constitutions, paragraph 8.21 |

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# ROLES AND RESPONSIBILITIES OF THE CHIEF FINANCE OFFICER (S151 OFFICER)

## 1 STATUTORY RESPONSIBILITIES OF THE COUNCIL

- 1.1 The Council recognises its responsibilities under Section 151 of the Local Government Act 1972 (LGA; this imposes a requirement on every local authority in England and Wales to **'make arrangements for the proper administration of their financial affairs and to secure that one of their officers has responsibility for the administration of those affairs'**. This role is referred to as the Chief Finance Officer (CFO).
- 1.2 Section 114 of the Local Government Finance Act 1988 in England and Wales significantly extended the duties of the CFO, requiring that officer to report to all elected members of the local authority, in consultation with the Monitoring Officer, any unlawful expenditure incurred or to be incurred or an unbalanced budget.
- 1.3 The Council recognises its responsibilities under Section 113 of the Local Government Finance Act 1988 in England and Wales (LGFA) that requires **that the officer with the designated responsibility for financial administration (i.e. the CFO) be a member of a specified accountancy body**. The Council will therefore delegate the duties of the CFO to a member of one of the professional accountancy bodies identified in section 113 of the LGFA 1988.
- 1.4 The Accounts and Audit Regulations places the responsibility for maintaining an adequate and effective system of internal audit with the authority. The Council will delegate the discharge of this responsibility to the S151 Officer.
- 1.5 The Local Government Act 2000 places the responsibility for advising the Council whether particular decisions are likely to be contrary to the policy framework jointly with the CFO and Monitoring Officer.
- 1.6 The Local Government Act 2003 imposes a statutory responsibility on the Council to set and arrange its affairs to remain within prudential limits for borrowing and capital investment. The CFO will be given additional powers to ensure that the legal requirements are complied with in discharging their responsibilities for capital finance.
- 1.7 The Act also requires the CFO to report to the Council, at the time the budget is considered and the council tax set, on the robustness of the budget estimates and adequacy of financial reserves. The Council recognises the independent responsibility of the CFO to report in a public forum on these specific issues and will adopt the relevant professional Codes of Practice in relation to the management of these functions.

## 2. FINANCIAL ADMINISTRATION AND STEWARDSHIP ROLE FOR THE SECTION 151 OFFICER

- 2.1 The Council recognises that it is the trustee of the local tax-payers' money, and the CFO has a prime duty of stewardship on behalf of the general public to ensure that the local authority's resources are properly managed.
- 2.2 It also recognises that this responsibility extends into partnerships, joint ventures and controlled companies that the local authority is engaged in.
- 2.3 In ensuring proper financial administration and stewardship of the Council's affairs, the following duties are vested in the Section 151 Officer:
- **Securing effective systems of financial administration** to meet the requirements of the law and of other authorities.
  - **Securing effective arrangements for treasury management** of the cash flows, borrowing and investments of the Council's own funds, ensuring effective management of risk together with pursuit of optimum performance
  - **Ensuring financial management arrangements are in line with broad policy objectives** by providing advice on implementing effective financial management arrangements within changing service delivery arrangements.
  - **Advising on effective systems of internal control** which provide assurance of effective and efficient operations, internal financial controls and compliance with laws and regulations
  - **Ensuring effective systems of internal financial control are in place** which encompass budgetary systems, accounting procedures, information systems, segregation of duties, authorisation processes, physical safeguards, management reviews.
  - **Ensuring anti-fraud and anti-corruption strategies are adopted** to deter, prevent, detect and investigate allegations of fraud and corruption by external parties or from within the Council.
  - **Advising on corporate risk management and profiling, including safeguarding assets, risk avoidance and insurance** by assisting the Council to develop an appropriate risk strategy and procedures
  - **Preparation of statutory and other accounts and grant claims** ensuring compliance with the law, appropriate regulations and approved accounting standards

- **Ensuring there is an effective internal audit function** which has sufficient authority to undertake duties in accordance with professional standards
- **Advising management in providing effective arrangements for financial scrutiny**
- **Ensuring a prudential financial framework is in place** that ensures the Council maintains its commitments in balance with available resources.

2.4 In addition to these responsibilities, the Council requires the Chief Finance Officer:

- To support the democratic process by providing impartial advice to all councillors as individuals, to all political groups, and to both executive and scrutiny functions, maintaining the confidentiality of that advice where appropriate.
- To contribute to corporate management by assisting the Council to put in place appropriate corporate governance arrangements, appropriate codes of conduct and an ethical framework which define the standards of behaviour to which all councillors and employees subscribe

### **3. ROLE OF THE RESPONSIBLE CHIEF FINANCE OFFICER UNDER SECTION 114 OF THE LGFA 1988**

3.1 The Council acknowledges the statutory responsibilities of the CFO within section 114 of the LGFA 1988 and will provide the designated officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this Act to be performed.

3.2 The Council acknowledges that the CFO will make a report under this section if it appears to them that the Council, a committee or officer of the Council, or a joint committee on which the Council is represented:

- (a) has made or is about to make a decision which involves the Council incurring expenditure which is unlawful;
- (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council;
- (c) is about to enter an item of account, the entry of which is unlawful, or
- (d) has incurred or proposes to incur expenditure in a financial year which is likely to exceed the resources (including sums borrowed) available to meet that expenditure.

- 3.3 The Council acknowledges that the report prepared by the CFO under Section 114 will not be subject to approval by the Executive or called in under the Council's scrutiny arrangements and will be sent to the Council's external auditor and every member of the Council at that time.

#### **4 ROLE OF THE CFO AND MONITORING OFFICER UNDER THE LOCAL GOVERNMENT ACT 2000**

- 4.1 The Council recognises the need to ensure that the CFO and Monitoring Officer have access as necessary to meetings and papers and that members must consult these officers regularly.
- 4.2 The Council acknowledges the mandatory standing order by the Secretary of State, to provide statutory protection in relation to the dismissal of the CFO.
- 4.3 To ensure the CFO is able to fully undertake the statutory functions delegated by the Council, and particularly to ensure the legality of all financial transactions, the CFO will be entitled to receive copies of all reports prepared by officers or members which contain any financial implications for the current or future years. This will be provided in sufficient time (as to be determined by the CFO) to enable proper consultation with the Council's Monitoring Officer and advice to be formulated for the Executive or Council.

**SECTION 4**  
**PROCEDURE RULES**

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## STANDING ORDERS FOR MEETINGS

### 1. Interpretation

In these Standing Orders –

“the 1972 Act” means the Local Government Act 1972, as amended

“Cabinet” is the collective term for the members of the executive

“Chief Executive” means the Head of the Council’s Paid Service

“Committee” means any Committee appointed by the Council

“executive” has the meaning assigned by Part II of the Local Government Act 2000

“Leader” means the Councillor appointed by the Council to be its principal political leader and is the “executive leader” within the meaning of the Local Government Act 2000

“Monitoring Officer” means the person appointed under section 5 of the Local Government and Housing Act 1989

“opposition group” means any political group, excluding the political group which contains the largest number of Council members

“Panel” means Overview and Scrutiny Panel (except where the term “Appeals Panel” is used)

“political group” means a group of Councillors who:

wish to associate together for the allocation of Committee and Panel places; and

inform the Chief Executive of that fact in writing

“portfolio” means an activity which is the responsibility of a single cabinet member

“portfolio holder” means the Councillor responsible for a specific portfolio

“Sub-Committee” means any group, whether or not called a Sub-Committee, which is appointed by the Leader, Cabinet, a Committee or Panel for specified purposes. (\*See Note for Guidance below)

“working day” means Mondays to Fridays, excluding days of public holiday; and a working day ends when the Council’s offices at Appletree Court, Lyndhurst close for normal business on that day

“writing” includes the use of electronic means as the primary form to transmit information

“year” means municipal year – that is the year starting with the Annual Council Meeting in May, and ending with the Annual Council meeting the following year.

\* Note for Guidance

When Sub-Committees are appointed they are generally termed “Sub-Committee”, “Working Party”, “Advisory Group” or “Consultative Group”, depending on their constitution and terms of reference.

The membership of Sub-Committees consists of Councillors, with voting rights and the power to make decisions.

The membership of Working Parties includes Councillors, and may also include non-Councillors. Working Parties have an investigative role to research and make recommendations, but no power to make decisions.

The membership of Advisory or Consultative Committees is made up of Councillors and non-Councillors. They have a continuous advisory role to a decision making body.

## **APPOINTING AND ELECTING MEMBERS TO PARTICULAR POSITIONS**

### **2. Rules for Election/Appointment – Chairman, Vice-Chairman, Leader, Deputy Leader**

- 2.1 The **Chairman of the Council** shall be elected at the Annual Council Meeting. This election shall be the first business for that meeting.
- 2.2 The **Vice-Chairman of the Council** shall be appointed by election at the Annual Council Meeting.
- 2.2A Neither the Chairman nor the Vice-Chairman of the Council shall be a member of the Cabinet.
- 2.3 Any political group may submit to the Chief Executive nominations for the Chairman and Vice-Chairman of the Council for the following year. Nominations must be submitted at least 10 working days before the last Council meeting of the year. The Chief Executive shall report all nominations received to the last Council meeting of the year. That meeting shall make nominations to the next Annual Council Meeting.
- 2.4 The **Leader of the Council** shall be elected at the first Annual Council Meeting following the ordinary election of Councillors. The Council may terminate the appointment at any time, as provided in the Council’s Constitution. Subject to this, the Leader shall hold office for four years, until the day of the first Annual Council Meeting following the next ordinary election of Councillors.
- 2.5 The Leader of the Council shall not be the Chairman or Vice-Chairman of the Council.
- 2.6 The Leader of the Council shall be the Chairman of the Cabinet.
- 2.7 The Leader of the Council shall appoint a **Deputy Leader of the Council** from among the Cabinet members, and notify the appointment to the Chief Executive, within 5 working days of the Annual Council Meeting. The Leader may remove the Deputy Leader from office at any time. Subject to this, unless they resign as Deputy Leader or cease to be a member of the Council, the Deputy Leader shall hold office until the end of the Leader’s term of office.
- 2.8 The Deputy Leader of the Council shall be the Vice-Chairman of the Cabinet.

### **3. Constitution of Cabinet**

3.1 Within 5 working days of their election, the Leader shall:

- (a) decide the number of Cabinet members;
- (b) decide the number, and content, of Cabinet portfolios; and
- (c) appoint Cabinet members to those portfolios.

The number of Cabinet members must comply with the limits laid down in legislation.

3.2 The Leader may at any time:

- (a) amend the number of members who form the Cabinet (within limits set down by legislation);
- (b) amend the number, and content, of Cabinet portfolios;
- (c) terminate the appointment of any Cabinet member;
- (d) appoint a new member or members to the Cabinet;
- (e) transfer Cabinet members between portfolios; or
- (f) terminate the appointment of the Deputy Leader and appoint a new Deputy Leader.

3.3 Where any changes are made under 3.2 above, the Leader shall notify them to the Chief Executive immediately.

### **3A. Constitution of Committees and Panels**

3A.1 At its first Annual Council Meeting after the ordinary election of Councillors, the Council shall appoint Standing Committees and Panels with the following membership, and provide for their constitution:

| <b>Committee or Panel</b>                              | <b>Number of Members</b> |
|--|--------------------------|
| Appeals Committee                                      | 13                       |
| General Purposes and Licensing Committee               | 13                       |
| Planning Committee                                     | 13                       |
| Audit Committee  | 9                        |
| HR Committee   | 9                        |
| Resources and Transformation Overview & Scrutiny Panel | 9                        |
| Housing and Communities Overview & Scrutiny Panel      | 9                        |

The Council may also appoint such other Committees as are necessary to undertake its non-executive functions.

3A.2 The Council may at any time:

- a) terminate any Committee or Panel; or
- b) establish any further Committee or Panel it deems appropriate; or
- c) amend the terms of reference of any Committee or Panel,

subject to ensuring that all the Council's services and functions (apart from any non-executive functions specifically excluded under the Panels' general terms of reference) can be scrutinised by at least one Panel.

### **3B. Leader Unable to Act**

3B.1 Subject to 3B.2, if the Leader is for any reason unable to act, or the office of Leader is vacant, the Deputy Leader must act in their place.

3B.2 If, in the circumstances in 3B.1, the Deputy Leader is for any reason unable to act, or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or must arrange for a Cabinet member to do so.

## **4. Appointment of Group Leaders, Committees and Panels**

4.1 Subject to 4.2, each political group shall inform the Chief Executive in writing of:

- a. its name; and
- b. the name of its Leader

within 5 working days after the day of the ordinary election of Councillors.

4.2 Where a political group is formed later than 5 days after the day of the ordinary election of Councillors, the group shall inform the Chief Executive in writing of

- a. its name; and
- b. the name of its Leader

as soon as practicable.

4.3 The group leader shall nominate to the Chief Executive members to serve on Committees and Panels.

- 4.4 Subject to 4.5 below, a political group may at any time terminate the appointment of its Leader and appoint a new Leader. It shall inform the Chief Executive immediately of the name of its new Leader.
- 4.5 If a group leader whose appointment is terminated under Standing Order 4.4 is also the Leader of the Council, the termination of their appointment as group leader shall not affect their appointment as Leader of the Council. Their appointment as Leader of the Council may only be terminated under the Procedure for Removing the Leader of the Council laid down in the Constitution.
- 4.6 A member appointed to a Committee or Panel shall normally hold office for the whole of their term of office as a Councillor. However, the Council may alter appointments at any time on the relevant Group Leader's recommendation.
- 4.7 In making appointments the Council shall ensure that as far as practicable the political composition of each Committee or Panel reflects the political composition of the Council. The following rules apply:
- Rule 1.** A political group which has a majority on the Council shall have a majority on each Committee and Panel.
- Rule 2.** If there is more than one political group, at least two groups shall have seats on each Committee and Panel.
- Rule 3.** Subject to Rules 1 and 2, the total number of seats for each political group on all Committees and Panels shall be, as nearly as possible, in proportion to the number of Council members in that group.
- Rule 4.** Subject to Rules 1, 2 and 3, the number of seats for each political group on each Committee and Panel shall be as nearly as possible in proportion to the number of Council members in that group.
- 4.8 Councillors who are not members of a political group shall be allocated Committee and Panel places as nearly as possible in proportion to the number of those members on the Council.
- 4.9 In allocating Committee and Panel places, regard shall be had to the desirability of achieving geographical representation on each Committee and Panel wherever appropriate. Competence should be the over-riding consideration.
- 4.10 The Leader and Cabinet members shall not be appointed to:
- any Panel;
  - any Panel Sub-Committees; or
  - any Committee exercising non-executive functions.
- 4.11 The Leader and Cabinet members may be appointed to any of the Committees referred to in 3A. (Subject to the restrictions on Cabinet members undertaking non-executive functions at Standing Order 4.10).

- 4.12 Any alteration in Committee or Panel membership shall be made directly by the Council, on nominations submitted in accordance with this Standing Order.
- 4.13 Non-Councillors with particular skills or experience may be:
- a) appointed to a Panel or Panels by the Council; or
  - b) co-opted onto a Panel by the appropriate Panel.

Such members, whether appointed by the Council or co-opted by the Panel, shall not be entitled to vote at Panel meetings.

- 4.14 The Council may adopt a Protocol which identifies arrangements for Substitute Members on Overview and Scrutiny Panels.

## **5. Appointment of Sub-Committees**

- 5.1 The Leader, the Cabinet, and every Committee and Panel the Council appoints, may appoint Sub-Committees. The Cabinet, Committee or Panel shall specify the purpose of each Sub-Committee, and the extent of its delegated powers.
- 5.2 A member appointed to a Sub-Committee shall normally hold office for the whole of their term of office as a Councillor. However, the appointing body may alter appointments at any time.
- 5.3 When appointing a Sub-Committee, the Leader, Cabinet, Committee or Panel may also appoint a named substitute member for each political group represented on the Sub-Committee. Substitute members for Leader or Cabinet appointed Sub-Committees may only be appointed from among Cabinet members. Substitute members for Licensing Sub-Committees are permitted only from within the membership of the General Purposes and Licensing Committee.
- 5.4 The substitute member may speak and vote at a Sub-Committee meeting if any Sub-Committee member from the same political group is absent.
- 5.5 The Leader may appoint Sub-Committees of the Cabinet, which are committees of the executive within the meaning of section 14 (2)(b)(iii) of the Local Government Act 2000. Where the Leader appoints a Sub-Committee, they shall specify the purpose of the Sub-Committee and the extent of its delegated powers. The Leader may amend appointments to Cabinet Sub-Committees at any time by notifying the Chief Executive in writing.

## **6. Appointments to Outside Bodies**

- 6.1 A member appointed to serve as the Council's representative on an outside body under the terms of the Council's Constitution shall be appointed for the whole of their term of office as a Councillor, unless the appointing body, or the outside body, approves the appointment for a different period.
- 6.2 An appointment to an outside body, or any alteration in an appointment, shall as far as reasonably practicable follow the principles of Standing Order 4.6 to 4.8.

## **7. Election of Chairmen of Committees, Panels and Sub-Committees**

### Committees and Panels

- 7.1 Subject to 7.4A, the Chairman and Vice-Chairman of each Committee and Panel shall be elected annually by the Council at the Annual Council Meeting.
- 7.2 The Chairman or Vice-Chairman of the Council shall take the Chair for the first meeting of each Committee or Panel referred to in 7.1, until the Chairman of the Committee or Panel has been elected and takes the Chair. While in the Chair the Chairman or Vice-Chairman of the Council shall not vote, nor exercise a casting vote, in the election of the Committee or Panel Chairman, unless they are a member of the Committee or Panel.
- 7.3 If equality of voting means that a Chairman for the year is not elected, a Chairman may be elected for the meeting.
- 7.4 If a Committee or Panel has not elected a Chairman for the year before the end of its first programmed meeting after the meeting referred to in 7.1, the Chairman of the Committee or Panel shall be elected at the next ordinary Council meeting.
- 7.4A Where a Committee includes voting members who are not elected Councillors, the Chairman shall be elected, and the Vice-Chairman appointed, at the first programmed meeting of the Committee.
- 7.5 The Cabinet member responsible for planning policy issues shall not be the Chairman or Vice-Chairman of the Planning Committee.
- 7.6 The Chairman or Vice-Chairman of the Appeals Committee shall not be the Chairman or Vice-Chairman of the General Purposes and Licensing Committee.

### Sub-Committees

- 7.8 Every Sub-Committee appointed under Standing Order 5.1 or 5.5 shall elect a Chairman at its first meeting each year, as the first item of business.
- 7.9 If equality of voting means that a Chairman for the year is not elected, a Chairman may be elected for the meeting.
- 7.10 If a Sub-Committee has not elected a Chairman for the year before the end of its first meeting in any year, the Chairman of the Sub-Committee shall be elected at the next ordinary meeting of the Cabinet, Committee or Panel that appointed it. In the case of a Sub-Committee appointed by the Leader, the Chairman shall in these circumstances be appointed by the Leader.
- 7.11 A Sub-Committee may at any time appoint a Vice-Chairman.

## **FIXING AND CONVENING MEETINGS, AND ISSUING DOCUMENTS BEFORE MEETINGS**

### **8. Council Meetings - Dates**

- 8.1 The Annual Council Meeting shall be held in May. The Council shall approve the date. The meeting shall be held at the Council's offices at Appletree Court Lyndhurst and shall start at 6.30 pm. The Council may decide on a different location or start time.
- 8.2 The Council shall decide the date, time and place for ordinary Council meetings.

### **9. Extraordinary Council meetings - Calling**

- 9.1 The Chairman of the Council may call an extraordinary meeting at any time.
- 9.2 Any five Council members may present a requisition to the Chairman to call an extraordinary Council meeting. If the Chairman either:
  - (a) refuses to call an extraordinary Council meeting after a requisition for that purpose signed by five Council members has been presented to them; or
  - (b) does not call an extraordinary meeting within 7 days after the requisition has been presented to them

then on the Chairman's refusal, or on the expiration of the seven days, any five Council members may call an extraordinary meeting immediately. See also Standing Order 14.4.

### **10. Cabinet, Committee and Panel Meetings – Dates**

- 10.1 The Cabinet, each Committee and Panel shall fix dates and times for its meetings at least one year ahead.
- 10.2 The Chairman of the Cabinet, Committee or Panel may for good reason alter the fixed date or time. As much notice as possible of any alteration shall be given to members of the Cabinet, Committee or Panel.
- 10.3 The Council may decide that some Cabinet, Committee or Panel meetings shall be held in the evenings.

### **11. Special Cabinet Meetings - Calling**

- 11.1 The Chief Executive shall call a special Cabinet meeting:
  - at any time at the request of:
    - the Leader of the Council; or
    - when an emergency or special circumstances arise.

## **12. Special Committee and Panel meetings - Calling**

12.1 The Chief Executive shall call a special Committee or Panel meeting:

at any time at the request of:

the Chairman of the Council; or

the Chairman of the Committee or Panel; or

any six members of the Committee or Panel; or

when an emergency or special circumstances arise.

12.2 A special Panel meeting shall not be called by the Chairman of the Council, or the Chairman of the Panel, for the purpose of calling in an executive decision. (See Standing Order 13).

## **13. Special Panel Meetings – Calling**

13.1 The Chief Executive shall call a special meeting of a Panel for the purpose stated in 13.2 at any time at the request of any two non-executive members of the Council.

13.2 A meeting under 13.1 shall be called to enable the Panel to review an executive decision in accordance with the call-in procedures in the Council's Constitution. An executive decision includes any executive decision made under delegated powers (apart from decisions by officers that are not key decisions).

## **14. Convening Council Meetings**

14.1 The Chief Executive shall sign the summons to attend a Council meeting. The summons shall be sent to each member by electronic means. The summons shall state the business to be transacted at the meeting.

14.2 A meeting shall not be invalid if a summons is not sent to every member.

14.3 The Chief Executive shall publish notice of the time and place of the meeting on the Council's website.

14.4 Where a Council meeting has been called by Councillors under Standing Order 9.2, the notice of meeting shall:

(a) be signed by those members, and

(b) state the business it is proposed to transact at the meeting.

## **15. Convening Cabinet, Committee and Panel Meetings**

- 15.1 The Chief Executive shall issue all notices for Cabinet, Committee, Panel and Sub-Committee meetings.
- 15.2 Notices of meeting shall state the business to be transacted at the meeting. No matter shall be included on the notice of meeting without the prior agreement of the Chief Executive or their representative. The Chief Executive or their representative shall first be given a written report on the matter, or full details of any intended verbal report.

## **16. Circulation of Notices of Meeting and Reports for Meetings**

- 16.1. The Chief Executive shall circulate all Notices of Meeting and officers' and other reports for Cabinet, Committee, Panel, and Sub-Committee meetings to members of the Cabinet, that Committee, Panel or Sub-Committee. At the same time, they shall circulate all Notices of Meeting, without officers' and other reports, to all members of the Council. This shall not apply if the member has indicated they do not wish to receive such Notices.
- 16.2 The Chief Executive shall circulate all officers' and other reports for Committee, Panel, and Sub-Committee meetings to all members of the Cabinet.
- 16.3 The Chief Executive shall circulate all officers' and other reports for Sub-Committee meetings to each member of the Committee or Panel that formed the Sub-Committee.
- 16.4 Other than as provided in 16.2 and 16.3, officers' and other reports for Cabinet, Committee, Panel and Sub-Committee meetings shall only be circulated to a member who is not a member of the Cabinet, a Committee, Panel or Sub-Committee on their request.

## **17. Reports and Recommendations from Cabinet, Committee and Panel Meetings**

- 17.1 Any reports containing recommendations from Cabinet, Committee and Panel meetings where the Council is the decision maker, shall be sent to each Council member with the Council summons and agenda. In case of urgency they may be issued between the summons dispatch and the Council meeting.
- 17.2 When a report refers to a plan or document not issued to all members, any member may inspect the plan or document between the summons dispatch and the Council meeting.

## **18. Cabinet, Committee and Panel Minutes**

- 18.1 Copies of all Cabinet, Committee and Panel minutes shall be sent to each Council member not later than 5 working days before the next ordinary Council meeting. Any minutes not available at that time shall be sent to each member as soon as practicable afterwards.
- 18.2 Copies of all Cabinet, Committee, Panel and Sub-Committee minutes shall be sent to each member of the Cabinet, Committee, Panel and Sub-Committee, as appropriate, not less than 5 working days before the next ordinary meeting of the Cabinet, Committee,

Panel or Sub-Committee. Any minutes not available at that time shall be sent to each member as soon as practicable afterwards.

- 18.3 Minutes of Council, Cabinet, Committee, Panel and Sub-Committee minutes shall be referred for approval to the next suitable meeting of the Council, Cabinet, Committee, Panel or Sub-Committee, as appropriate. For these purposes the next suitable meeting excludes any extraordinary or special meeting.
- 18.4 When a minute refers to a plan or document not issued to all members, any member may inspect the plan or document.

**19. Officers' Reports – Confidential Information**

- 19.1 Any relevant confidential information known about an item to be considered at a meeting shall be included in a report marked "Not for Publication" and circulated to members with the agenda for the meeting. The content of such reports shall not be discussed outside the meeting, or disclosed to applicants, objectors or the press.

**RAISING BUSINESS FOR MEETINGS IN ADVANCE**

**20. Special business for Cabinet, Committee, Sub-Committee and Panel meetings:**

- 20.1 A member of the Cabinet, a Committee or Panel who wishes to raise any special business in the Cabinet, Committee or Panel shall give the Chief Executive notice of their wish at least 8 working days before the meeting. If this requirement is complied with, the Chief Executive shall place the subject matter on the agenda.

**21. Notices of motion for Council meetings**

- 21.1 Some motions may be moved at Council meetings without notice (see Standing Order 44). Notice of every motion which does not fall within Standing Order 44 shall be:

given in writing; and

signed by the member or members giving the notice; and

received by the Chief Executive's office, at least seven clear working days before the next Council meeting.

The Chief Executive shall:

date it; and

number it in the order in which it is received; and

enter it into an electronic file which any Council member may inspect.

- 21.2 Every motion shall be relevant to some matter in which the Council has powers or duties, or which affects the District.

21.3 Subject to 21.4, the Chief Executive shall set out in the summons for the Council meeting all motions of which notice has been given as in 21.1 above, in the order in which they were received, UNLESS the member who gave it:

stated in writing at any time before the summons is issued that they propose to move it at a later meeting; or

has since withdrawn it in writing.

21.4 A notice of motion shall not be included in the business to be conducted at an extraordinary or special Council meeting unless, in the Chief Executive's opinion, it is relevant to a subject specified or to be specified on the summons for that meeting. If in their opinion it is not so relevant, the Chief Executive shall set it out in the summons for the next ordinary Council meeting.

Note: See Standing Order 41 for dealing with notices of motion at Council, and Standing Order 28.6 for the mover of a motion's right to attend a meeting if the motion is referred on.

## **22. Questions for Council meetings**

22.1 A Council member may ask the Leader, any Cabinet Member or the Chairman of any Committee or Panel:

In the case of the Leader, any question on any matter on which the Council has powers or duties, or which affects the District;

in the case of a Chairman of a Committee or Panel, any question on any function of that committee or panel; and

in the case of any Cabinet Member, any question on any function of the Council that is the responsibility of the Executive, by giving the Chief Executive notice in writing by 12.00 noon, two clear working days prior to the Council meeting. The question should identify the Member or Portfolio Holder to whom it is addressed.

Note: Members may ask questions on items that are the subject of recommendations to the Council without giving notice (see Standing Order 41).

22.2 Questions under Standing Order 22 shall not be put to the Annual Council Meeting.

22.3 A question under Standing Order 22 shall not be put to an extraordinary or special Council meeting unless, in the Chief Executive's opinion, it is relevant to a subject specified or to be specified on the summons for that meeting.

Note: See Standing Order 41 for the procedure for asking questions at meetings.

## **DISPUTES BETWEEN CABINET AND COUNCIL**

### **23. Resolving Disputes between the Council and Cabinet**

- 23.1 The mechanism for resolving disputes between the Council and Cabinet shall be as stated in Section 4 of the Council's Constitution. That Chapter shall comply with the requirements of The Local Authorities (Standing Orders) (England) Regulations 2001.

### **24. Panels – Call-In Procedures**

- 24.1 The circumstances in which a Panel may call in a decision made by the Leader, Cabinet, or a Portfolio Holder, including a decision made on their behalf under delegated powers, shall be as stated in the Council's Constitution.

## **ATTENDANCE AT MEETINGS**

### **25. Attendance Record**

- 25.1 Every Council member attending a Council, Cabinet, Committee, Sub-Committee or Panel meeting shall sign their name if a register is provided. The names of all members attending shall be recorded in the minutes of the meeting.

### **26. Non-members Attending Cabinet, Committees, Sub-Committees and Panels**

- 26.1 Subject to 26.2 and/or any statutory provision, the Chairman, Vice-Chairman, Leader and Deputy Leader of the Council, and the leaders of the opposition groups, may attend and speak (but not vote unless they are a member) at any meeting of a Committee, Sub-Committee or Panel.
- 26.2 A member of the Cabinet may not speak at a meeting of any Panel except at the invitation of the Chairman of the Panel.
- 26.3 The Leader of the Council may for any purpose invite any member or any other person to attend and speak (but not vote) at a Cabinet meeting.
- 26.4 A Panel may require a member of the Cabinet to attend a meeting of the Panel in accordance with the Council's Constitution.
- 26.5 A member of the Cabinet shall be entitled to attend a Panel meeting called for the purpose of Standing Order 24.
- 26.6 The Chairman of the Cabinet, a Committee or a Panel which has appointed a Sub-Committee may attend and speak (but not vote unless they are a member) at any meeting of the Sub-Committee.
- 26.7 A Council member who has moved a motion which has been referred to the Cabinet, any Committee, Sub-Committee or Panel, shall:

be given notice of the meeting at which it is proposed to consider the motion; and  
have the right to attend the meeting; and, if they attend  
be given an opportunity to explain the motion.

26.8 A Council member who is not a member of a particular Committee, Sub-Committee or Panel, may attend a meeting of that Committee, Sub-Committee or Panel. If the Chairman permits they may speak (but not vote) on any item of business discussed at that meeting.

26.9 The Chairman of a Committee, Sub-Committee or Panel may invite any member of the Council, who is not a member of the Committee, Sub-Committee or Panel, to speak on any item of business discussed at a meeting of the Committee, Sub-Committee or Panel. The Chairman may limit the speech to five minutes.

## **27. Cabinet member(s) absent from Cabinet meeting**

27.1 Where a Cabinet member is absent from a Cabinet meeting:

- a) decisions may be taken in their absence providing there is a quorum. The Leader (or Chairman of the meeting if the Leader is absent) shall be responsible for ensuring that any action that would fall to an absent member is taken; and
- b) the Leader (or Chairman of the meeting if the Leader is absent) may invite any person, who need not be a Councillor, to attend a Cabinet meeting to speak on behalf of an absent Cabinet member. A person so invited may not vote.

## **28. Substitute members at Sub-Committees**

28.1 See Standing Orders 5.3 and 5.4. It shall be the responsibility of the member who is unable to attend a meeting to inform any substitute member of the need to attend.

28.2 When a member attends a meeting as a substitute, they shall tell the Chief Executive or their representative that they are attending as a substitute immediately before the start of the meeting, (or on the member's arrival, if later).

28.3 A substitute member attending a meeting shall take no part in the proceedings if the appointed member also attends, unless invited by the Chairman to speak (but not vote).

## **29. Quorum**

29.1 Subject to 29.2, a Council meeting shall not transact business unless at least one quarter of the whole number of members is present, except in the circumstances described in paragraph 45 of Schedule 12 to the 1972 Act (more than one-third of members disqualified at the same time).

29.2 A motion to remove the Leader of the Council under Section 4 of the Constitution (Procedure for Removing and Replacing the Leader of the Council) shall not be considered unless at least three quarters of the whole number of members is present.

29.3 Except where:

(a) statute authorises, or

(b) the Council orders; or

(c) in the case of a Sub-Committee, the person or body that which appointed it orders:

a Cabinet, Committee, Panel or Sub-Committee meeting shall not transact business unless there is a quorum.

29.4 For the purpose of 29.3, a quorum of the Cabinet, a Committee or Panel (other than an Appeals Panel) is:

one quarter of the total number of the Cabinet, Committee or Panel; or

at least three members of the Cabinet, Committee or Panel, whichever is greater.

29.5 A quorum of an Appeals Panel is three members, drawn from the Appeals Committee.

29.6 A quorum of a Licensing Sub-Committee is three members, drawn from the General Purposes and Licensing Committee.

29.7 For the purpose of 29.3, a quorum of other Sub-Committees is:

one quarter of the whole number of the Sub-Committee; or

at least three members of the Sub-Committee, whichever is greater.

29.7 If, during any meeting, the presiding Chairman declares that a quorum is not present:

the Chairman shall adjourn the meeting; and

the names of the members present, and absent, shall be recorded in the minutes.

29.8 Any business not transacted when a meeting is adjourned shall be considered at another meeting of the same body, held at a time and place the Chairman fixes when the meeting is adjourned. If the Chairman does not fix a time, the business shall be considered at the next ordinary meeting of the Council, Cabinet, that Committee, Sub-Committee or Panel as appropriate.

## PROCEDURE AT MEETINGS

### **30. Meetings to be in Public**

- 30.1 All meetings of the Council, the Cabinet (including any Committees or Sub-Committees of the Cabinet and Sub-Committees appointed by the Leader), Panels and Committees shall be held in public, except when confidential or exempt information within the meaning of the Local Government Act 1972 sections 100A to 100K, or the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations, is being considered.
- 30.2 A meeting may only consider confidential or exempt information where the provisions of regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations have first been complied with.

### **31. Chairman to Preside**

- 31.1 The Chairman of the Council, Cabinet, a Committee, Panel or Sub-Committee shall, if present, preside at any meeting of the Council, Cabinet, the Committee, Panel or Sub-Committee. If the Chairman is absent, the Vice-Chairman, if present and if one has been appointed, shall preside.
- 31.2 If the Chairman, (and Vice-Chairman if appointed), are not present, another member of the Council, Cabinet, Committee, Panel or Sub-Committee shall be elected as Chairman for the meeting. This shall be the first item of business for the meeting.
- 31.3 If a member has been elected as in 31.2, and the Chairman (or Vice-Chairman) later attends the meeting, the Chairman (or Vice-Chairman) shall take the Chair on arrival.

### **32. Time Limit on Meetings**

- 32.1 All meetings shall end by 10.00 pm or, on a majority vote of those Members present, 10.30 pm.
- 32.2 Any business not transacted when a meeting is adjourned shall be considered at another meeting of the same body, held at a time and place the Chairman fixes when the meeting is adjourned. If the Chairman does not fix a time, the business shall be considered at the next ordinary meeting of the Council, or of that Committee, Sub-Committee or Panel as appropriate.

### **33. Public Participation at Meetings**

- 33.1 The Council may approve, and amend, a scheme or schemes allowing persons who are not Council members to speak at meetings. Those who are not Council members, and are not co-opted members of the Committee, Panel or Sub-Committee which is meeting, may speak at meetings only under the rules of the scheme in force at the time of the meeting.

### 34. Order of Business

Those marked \* apply to Council meetings only. The rest apply to all meetings.

- 34.1 Subject to Standing Order 35, the order of business at every meeting shall be:
- (a) To receive any apologies for absence.
  - (b) To choose a person to preside if the Chairman and Vice-Chairman is absent.
  - (c) To deal with any business statute requires to be done before any other business.
  - (d) To allow members to declare pecuniary and non-pecuniary interests **(Standing Order 36)**.
  - (e) To approve as a correct record and sign the minutes of the last meeting **(Standing Order 37)**.
  - (f) To deal with any business statute expressly requires to be done.
  - (g) Chairman's announcements.
  - (h) \* Leader of the Council's announcements **(Standing Order 38)**
  - (i) To receive petitions requiring consideration by the Council under the Council's Petitions Scheme.
  - (j) To dispose of any business remaining from the last meeting.
  - (k) \* To review decisions taken at a previous Council meeting where the Council has not adopted any recommendation of the Cabinet.
  - (l) \* To receive and consider recommendations of:
    - (i) The Cabinet
    - (ii) Committees
    - (iii) Panels **(Standing Order 40)**.
  - (m) \* To answer questions asked under Standing Order No. 22 **(Standing Order 41)**.
  - (n) \* To consider motions of which notice has been received under Standing Order 21 **(Standing Order 42)**.
  - (o) Any other business stated in the summons.
  - (p) Any other items which the Chairman decides are urgent **(Standing Order 43)**.

### **35. Varying order of business**

35.1 The order of business under (a), (b) or (c) of Standing Order 34.1 shall not be varied. Subject to this, the order of business may be varied:

- (a) by the Chairman at their discretion; or
- (b) by a resolution on a motion. The motion need not be in writing and shall be moved, seconded, and put without discussion.

### **36. Members' Interests – Declaration at Meetings**

Note: This Standing Order is additional to Standing Orders for General Procedures No 2, which concerns registration of disclosable pecuniary interests and non-pecuniary interests

36.1 Any member who has a disclosable pecuniary interest, or a non-pecuniary interest within the meaning of Standing Orders for General Procedures (No. 2), in any matter that a meeting is considering, shall disclose the existence and nature of that interest to the meeting. The disclosure shall be at the beginning of the consideration of the matter, or when the interest becomes apparent.

36.2 If the interest is a disclosable pecuniary interest the member shall not speak or vote on the matter unless a dispensation has been granted enabling them to do so.

36.3 A member of the Cabinet who has a disclosable pecuniary interest in any matter on which they are empowered to make a decision, shall disclose that interest to the Monitoring Officer and shall not take any steps in relation to the matter other than enabling the matter to be dealt with by another member of the Cabinet.

36.4 A member who has a non-pecuniary interest in any matter that a meeting is considering must disclose that interest to the meeting, and may speak and vote, unless prohibited from doing so by common law principles relating to bias and predetermination (see 36.7 below).

36.5 A member of the Cabinet who has a non-pecuniary interest in any matter that they are empowered to decide, may make a decision on the matter subject to disclosing the interest in writing at the time of making the decision, unless prohibited from doing so by common law principles relating to bias and predetermination, in which case the member shall not take any steps in relation to the matter other than enabling the matter to be dealt with by another member of the Cabinet.

36.6 Where a relative, friend or close associate of a member has an interest in a matter coming before a meeting of the Council and that interest is of the same nature as a disclosable pecuniary interest set out in legislation, and the member is aware of the existence of that interest, the member shall disclose the existence and nature of that interest to the meeting. The member may only participate in the meeting to the extent permitted by the rules set out in 36.7, relating to participation in situations where the common law rules of bias and predetermination apply.

- 36.7 Where a member is prohibited from participating in a decision under the common law rules relating to bias and predetermination, the member must move to the area of the meeting room set aside for members of the public, declare their position and explain that they will not be voting. They may then make a statement and answer any questions, and may remain in the meeting for the duration of the business. As well as not voting, the member must not move or second any recommendation.

### **37. Confirming Minutes of Previous Meeting**

- 37.1 The Chairman shall put the question that the minutes of the meeting of the Council, Cabinet, Committee or Panel, as appropriate, held on the.....day of ..... be approved as a correct record.
- 37.2 The minutes shall not be discussed, except their accuracy. Any question of their accuracy shall be raised by motion. The Chairman shall sign the minutes as a correct record, and initial each separate leaf of the minutes and of all reports considered by the meeting, as soon as any such question has been disposed of.
- 37.3 The minutes of any meeting shall be signed at the time, or at the next suitable meeting of the Council, Cabinet, Committee or Panel, as appropriate. The next suitable meeting excludes any extraordinary or special meeting.

### **38. Leader of the Council's Announcements**

- 38.1 At the Council meeting:

The Leader of the Council, or in their absence the Deputy Leader, may make announcements on matters concerning New Forest District Council. A time limit of five minutes shall apply to any such announcements.

At the conclusion of the Leader of the Council's announcements, members of the Council may ask questions of the Leader on the topics which have been the subject of their announcements.

### **39. Presenting Petitions**

- 39.1 Where a petition containing the required number of signatures under the Council's Petitions Scheme is received, and subject to compliance with other requirements of the Petitions Scheme, the petition organiser or their nominee may present the petition for a maximum of five minutes. No more than two persons may present a petition. If both persons speak, the length of both speeches added together shall not exceed five minutes.
- 39.2 Councillors may debate the petition for a maximum of 15 minutes.
- 39.3 No more than two petitions may be presented at a meeting of the Council.

39.4 Where a petition affects the Council's approved strategies, policies or budgets, the Council shall not make a final decision until the Cabinet has had the opportunity to consider and made recommendations on the issue to the Council.

#### **40. Receiving recommendations of Cabinet, Committees and Panels at Council**

40.1 At the Council meeting:

The Leader of the Council, or a nominated Cabinet Member, shall present and move the adoption of any reports containing recommendations from Cabinet meetings where the Council is the decision maker.

The Chairman of a Committee or Panel, or in their absence the Vice-Chairman of a Committee or Panel shall present and move the adoption of any reports containing recommendations from Committee and Panel meetings where the Council is the decision maker.

These motions shall be seconded.

40.2 If both the Leader and Deputy Leader of the Council are absent, another member of the Cabinet shall move such reports and their recommendations.

If both the Chairman and the Vice-Chairman of any Committee or Panel are absent, any other member of that Committee or Panel shall move such reports and their recommendations.

40.3 Once the recommendations have been moved and seconded, a member who:

wishes to speak or ask a question on that recommendation; or

has a motion or amendment to a recommendation,

shall:

raise an arm, and

remain with arm raised, until acknowledged by the Chairman or the Vice-Chairman.

See Standing Order 48.9 concerning a member's right to speak once on each item.

40.4 The Chairman of the Council shall disallow any question they consider is unsuitable in form, frivolous or derogatory to the dignity of the Council.

40.5 A member speaking on a recommendation under this Standing Order shall comply with the provisions of Standing Order 48 concerning rules of debate.

40.6 When all speeches have been made and questions dealt with under an item, the Chairman of the Council shall put the recommendations to the Council. Once put to the Council, recommendations shall be voted on without further discussion.

## **41. Questions for Council Meetings**

This Standing Order applies to questions of which notice has been given under Standing Order 22.

See Standing Order 40 for questions on recommendations of the Cabinet, a Committee or Panel.

- 41.1 A maximum period of 30 minutes in total will be allowed for questions under this Standing Order.
- 41.2 Questions will be dealt with in order of receipt (subject to 41.3 below).
- 41.3 More than one question may be submitted by a member. Any member submitting more than one question must indicate their first and subsequent preferences. A member's first preference question will be dealt with in order of receipt. Second and subsequent preferences will be dealt with after all members submitting questions have asked their only, or first preference, question. The Chairman may use their discretion in changing the order in which questions may be asked where they consider a question to be of particular topical relevance.
- 41.4 Every question shall be put and answered without discussion. The Member answering will have a maximum of three minutes to reply. The member who asked the original question may ask one supplementary question arising from the answer. A maximum of two minutes will be allowed for the supplementary question and answer. Every supplementary question shall be put and answered without discussion.
- 41.5 Once all written questions have been disposed of, and provided the 30 minute time period has not elapsed, the Chairman may, at their discretion, permit members to ask further questions.
- 41.6 The Chairman of the Council shall disallow any question or supplementary question they consider is unsuitable in form, frivolous or derogatory to the dignity of the Council.

## **42. Motions to Council of which Notice has been given**

### **Automatic reference to Committee**

- 42.1 Subject to 42.2 and 42.3, a motion of which notice has been given under Standing Order 21 shall be moved and seconded without speeches. It shall then be referred without discussion to:

the Cabinet, Committee(s) or Panel(s) within whose terms of reference the subject matter of the motion comes, or

the Cabinet, or such Committee(s) or Panel(s) as the Council may determine

The Cabinet, Committee(s) or Panel(s) to which it is referred shall consider it and report to the next Council meeting.

- 42.2 The Chairman may allow the motion to be dealt with at the meeting at which it is brought forward if:

they consider it urgent, convenient, or conducive to the despatch of business;  
and

the motion does not affect matters which are the Cabinet's responsibility, unless the Cabinet are in agreement with the motion being brought forward.

The rules of debate for Council meetings (Standing Order No. 48) will apply.

42.3 A motion which affects the Council's approved strategies, policies or budgets shall be referred to the Cabinet for consideration and report to the next Council meeting, in addition to being referred to any Committee or Panel.

42.4 If a motion set out in the summons is not moved by:

the member who gave notice of it; or

some other member on their behalf,

it shall be:

treated as withdrawn, and shall not be moved without fresh notice; or

postponed by consent of the Council.

#### **43. Matters not on the Summons or Agenda**

43.1 Except under 43.2, business shall not be transacted at a Council, Cabinet, Committee, Panel or Sub-Committee meeting unless it is stated on a Summons or agenda which has been available to the public

(a) for 5 clear working days before the date of the meeting; or

(b) if the meeting has been convened or the business added to the agenda at shorter notice, from the time the meeting was convened or the business added.

43.2 The exception referred to in 43.1 is where, after taking advice, the Chairman of the meeting considers that due to special circumstances the item should be considered as a matter of urgency under section 100B(4) of the 1972 Act. The special circumstances shall be stated in the minutes of the meeting.

43.3 The exception in 43.2 does not apply to meetings of the Cabinet, or any Cabinet Sub-Committee.

#### **44. Confidential Business – Exclusion of the Public and Press**

44.1 The public and press shall be excluded from a meeting while it considers any business which would involve the likely disclosure of confidential information within the meaning of section 100A(2) of the 1972 Act.

44.2 The majority of members present and voting at a meeting may resolve to exclude the public and press from the meeting while it considers any business which would involve the likely disclosure of exempt information within the meaning of section 100A(4) of the 1972 Act.

**45. Motions and Amendments which may be Moved without Notice**

**(Those marked \* apply to Council meetings only. The remainder apply to all meetings)**

45.1 The following motions and amendments may be moved without notice:

1. Election of a Chairman of the meeting
2. Motions relating to the accuracy of the minutes.
3. That the order of business be varied (subject to Standing Order 35.2).
4. \* Remission to the Cabinet, Committee or Panel
5. \* Appointment of a Committee or a Panel or members of a Committee or Panel, due to an item mentioned in the summons.
6. \* Adoption of reports and recommendations of Committees, Panels or officers.
7. That leave is given to withdraw a motion.
8. \* Extending the time limit for speeches.
9. Amendments to motions.
10. That the meeting proceed to the next business.
11. That the question now be put.
12. That the debate now be adjourned.
13. That the meeting now adjourn.
14. \* That the Council continue beyond 10.00 p.m.
15. \* Suspending Standing Orders, in accordance with Standing Order 64
16. To exclude the public under section 100A(4) of the 1972 Act
17. That a member named under Standing Order 57 not be further heard, or leave the meeting.
18. \* Giving consent of the Council where such consent is required by these Standing Orders.

#### **46. Motions Affecting Council Employees**

- 46.1 If a question arises at any meeting open to the public about the appointment, promotion, conduct, dismissal, salary, superannuation or conditions of service of any Council employee or former employee, the Chairman shall move that the public and press be excluded under Section 100A (4) of the 1972 Act. The motion shall be seconded and put without debate.

#### **47. Motions on Expenditure**

- 47.1 Any motion which:

is not in support of a recommendation of the Cabinet, a Committee, or Panel; and  
if carried, would

materially increase expenditure on any service; or

materially reduce the revenue under the management of the Cabinet, Committee, or Panel; or

involve capital expenditure,

shall, when proposed and seconded, be referred without discussion to the Cabinet or the next ordinary meeting of the appropriate Committee or Panel.

#### **48. Rules of Debate**

**Note: This Standing Order applies to Council, Cabinet, Committee, Panel and Sub-Committee meetings, except where any provision specifically states that it applies only to a particular type of meeting.**

#### **Council in Committee mode**

- 48.1 The Chairman may, at their absolute discretion, relax the requirements of this Standing Order to enable the Council to consider a matter in Committee mode. When the Council is in Committee mode, the parts of this Standing Order which apply only to Council meetings shall not apply. In particular, members may be permitted to speak more than once, and officers may be invited or permitted to speak.

#### **Motions and amendments**

- 48.2 A motion or amendment shall not be discussed unless it has been proposed and seconded.

If the Chairman requires, a motion or amendment shall be put into writing before it is discussed or put.

### **Secunder's speech on Motions to Council**

48.3 A member seconding a motion to Council under Standing Order 22 may reserve their speech until later in the debate, if they state this intention when seconding.

(Note: This paragraph applies to motions under Standing Order 22 where they are being dealt with by Council. If a motion is referred to the Cabinet or a Committee, the rules of debate for Cabinet/Committee meetings apply so a member may speak more than once)

### **Only one member to speak at a time**

48.4 A member who wishes to speak shall raise an arm. If two or more members raise an arm, the Chairman shall call on one to speak at a time.

### **Reply to Questions at Council Meetings**

48.5 The person moving the adoption of recommendations at a Council meeting will reply to questions on a particular item after all questions on that item have been raised.

### **Content and Length of Speeches**

48.6 At Council meetings, a member shall direct their speech to the question under discussion, or to a personal explanation, or to a point of order (see 48.18). No speech shall exceed five minutes in the case of the mover of a motion, and three minutes in all other cases, except with the meeting's consent following a motion under Standing Order 44.8.

(Note: In so far as it refers to a single speech, this paragraph applies to motions under Standing Order 22 where they are being dealt with by Council. If a motion is referred to the Cabinet or a Committee, the rules of debate for Cabinet/Committee meetings apply so a member may speak more than once)

48.7 No members shall impute motives or use offensive expressions.

48.8 A member may include their support or otherwise but the Chairman may curtail any repetition of points already made.

### **When a member may speak again at Council**

48.9 A member who has spoken on any motion or item raised at a Council meeting shall not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member,
- (b) if the motion has been amended since they last spoke, to move a further amendment,

- (c) if their first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which they spoke was carried,
- (d) as a right of reply under Standing Order 48.15,
- (e) on a point of order,
- (f) by way of personal explanation.

### **Amendments to motions**

48.10 An amendment shall be relevant to the motion and shall be either:

- (a) at a Council meeting, to refer a subject of debate to the Cabinet, or to a Committee or Panel for consideration or re-consideration,
- (b) to leave out words,
- (c) to leave out words and add others,
- (d) to add words,

but any omission or addition of words shall not negative the existing motion.

48.11 Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of. Provided that the Chairman may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of business.

48.12 If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion, and shall become the motion on which any further amendment may be moved.

### **Alteration to motion of which notice was given under Standing Order 22**

48.13 A member may:

- (a) alter a motion to Council of which they have given notice under Standing Order 22 or
- (b) with the consent of their seconder, alter a motion to Council under Standing Order 22 which they have moved

if (in either case) the alteration could be made as an amendment under 48.10.

### **Withdrawal of motion**

48.14 A motion or amendment may be withdrawn by the mover if their seconder consents. No member may speak upon it after the mover has withdrawn it.

### **Rights of reply**

48.15 The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment. They shall not otherwise speak on the amendment at a Council meeting. The mover of the amendment shall have a right of reply before the mover of the original motion replies to the debate on the amendment.

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

48.16 When a motion is under debate no other motion shall be moved except the following:

- (a) to amend the motion,
- (b) to adjourn the meeting,
- (c) to adjourn the debate,
- (d) to proceed to the next business,
- (e) that the question be now put,
- (f) that a member be not further heard,
- (g) by the Chairman under Standing Order 58.2 that a member leave the meeting,
- (h) a motion under section 100A (4) of the 1972 Act.

### **Closure motions**

48.17 A member may move without comment at the end of another member's speech:

- (a) "That the meeting proceed to the next business"; or
- (b) "That the question now be put"; or
- (c) "That the debate now be adjourned"; or
- (d) "That the meeting now adjourn".

If the motion is seconded the Chairman shall proceed as follows:

For motions under (a) and (b), the Chairman shall first consider whether the matter has been sufficiently discussed. If they consider that it has the following rules shall apply:

(a) Motion to proceed to the next business:

The Chairman shall give

- (i) the mover of any amendment; and then
- (ii) the mover of the original motion

a right of reply before putting the motion to proceed to next business to the vote.

(b) Motion that the question now be put:

The Chairman shall first put to the vote the motion that the question now be put. If it is passed, they shall give

- (i) the mover of any amendment; and then
- (ii) the mover of the original motion

a right of reply under 48.15.

They shall then put the amendment (if applicable) or the original motion to the vote.

(c) Motion to adjourn the debate or the meeting:

The Chairman shall first consider:

- (i) whether the matter has been sufficiently discussed; and if it has not
- (ii) whether it can reasonably be sufficiently discussed on that occasion.

If it cannot, they shall put the adjournment motion to the vote without giving the mover of any amendment or the mover of the original motion a right of reply.

**Points of order**

48.18 A member may speak on a point of order or in personal explanation, and shall be heard immediately.

Point of order:

This relates only to an alleged breach of a Standing Order or statutory provision. The member shall state the Standing Order or statutory provision, and the way in which they consider it has been broken. It does not include providing information.

Personal explanation:

This shall be confined to some material part of a former speech by the member which may have been misunderstood in the present debate.

- 48.19 The Chairman's ruling on a point of order, or on the admissibility of a personal explanation, shall not be open to discussion.

**Respect for Chair**

- 48.20 If the Chairman stands during a debate at a Council meeting, a member who is speaking shall cease and the Council shall be silent.

**VOTING**

**49. Questions to be decided by simple majority**

- 49.1 Unless legislation requires otherwise, all questions coming before a Council, Cabinet, Committee, Panel or Sub-Committee meeting shall be decided by a majority of members present and voting.

**50. Rescinding Previous Council Resolution**

- 50.1 No member shall propose a motion:

to rescind any Council resolution passed within the preceding six months, or which would have the same effect as a motion which was rejected within the preceding six months,

**UNLESS**

notice of the motion is given under Standing Order 22; and

the notice is signed by at least one-third of the members of the Council.

Where a motion under this Standing Order affects the Council's approved policies and budgets, Standing Order 42.3 also applies.

When the Council has disposed of any motion under this Standing Order, no member may propose a similar motion within a further six months.

- 50.2 Standing Order 50.1 shall not apply to motions moved in pursuance of a recommendation of the Cabinet, a Committee or Panel.

**51. Voting at Council**

- 51.1 The mode of voting at meetings of the Council shall be show of hands, subject to Standing Order 51.2 and 52.
- 51.2 At the Chairman's discretion, the mode of voting shall be by electronic means if available to the Council. The Chairman shall inform the Council if a vote is to be taken electronically, immediately before the vote is taken.

## **52. Recorded Votes at Council (other than Votes under Standing Order 52A)**

- 52.1 Before a vote is taken any member may request that it is recorded. Members who support the request shall raise an arm. If 11 other members are in support, the vote shall be taken as follows:

At the Chairman's discretion, the mode of a discretionary recorded vote shall be by electronic means if available to the Council. The Chairman shall inform the Council if a recorded vote is to be taken electronically, immediately before the vote is taken.

Alternatively, the Chief Executive, or their representative, shall call the name of each member in turn.

Those members:

- (a) voting for the proposition shall respond "for";
- (b) voting against the proposition shall respond "against";
- (c) not voting shall respond "abstain".

The manner in which each member voted shall be recorded in the minutes.

## **52A. Recorded Votes at Council – Key Budget Decisions**

- 52A.1 This Standing Order applies where the Council votes on any proposition related to making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A or 52ZF of the Local Government Finance Act 1992 (Council Tax requirement, Council Tax base, and other Council Tax calculations).
- 52A.2 At the Chairman's discretion, the mode of voting on a matter under 52A.1 shall be by electronic means if available to the Council. The Chairman shall inform the Council if a recorded vote is to be taken electronically, immediately before the vote is taken. Alternatively, where a vote is taken on a matter under 52A.1, each member shall state whether they have voted for the proposition, or against the proposition, or have abstained from voting.

The manner in which each member voted shall be recorded in the minutes.

## **53. Voting at Cabinet, Committees, Sub-Committees and Panels**

- 53.1 Standing Order 52 applies to voting in the Cabinet, Committees, Sub-Committees or Panels, except that a vote shall be recorded if at least one quarter of the other members of the Cabinet, Committee, Sub-Committee or Panel who are present support the member who requests the recorded vote.

#### **54. Voting on Appointments**

- 54.1 Whenever two or more persons are nominated for any position to be filled by the Council, a ballot shall be held. All votes shall be in writing. At the Chairman's discretion, the mode of voting shall be by electronic means if available to the Council. The Chairman shall inform the Council if a vote is to be taken electronically, immediately before the vote is taken.

If the result of the ballot is that there is no overall majority of votes in favour of one person, the name of the person having the least number of votes shall be struck off the list. A fresh ballot shall then be taken. This process shall be repeated until an overall majority of votes is given in favour of one person.

#### **55. Equality of Votes**

- 55.1 If votes are equal, the Chairman of the meeting shall have a second or casting vote.

#### **56. Recording Individual Votes**

- 56.1 If any member requests it immediately after the vote is taken, the minutes of the meeting shall show how they voted, or whether they abstained from voting.

#### **57. Declaring Whipping – Panels**

- 57.1 A member of a political group who has received advice from their group or group leader on the views they should express, or the way they should vote, at a Panel meeting, shall disclose that fact as provided in the Council's Constitution. The disclosure shall be recorded in the minutes of the meeting.

### **DISORDERLY CONDUCT**

#### **58. Disorderly conduct – Members**

- 58.1 If the Chairman of any meeting considers that any member:

persistently disregards the Chairman's ruling; or  
behaves irregularly, improperly, or offensively; or  
wilfully obstructs the business of the meeting,

the Chairman shall inform the meeting of this.

The Chairman, or any other member, may then move "That the member named be not further heard during the meeting".

If the motion is seconded, it shall be determined without discussion.

The Chairman cannot be named.

### **Continuing misconduct by a named member**

- 58.2 If the member named continues their misconduct after a motion under 58.1 has been carried, the Chairman shall:

EITHER move "That the member named do leave the meeting for its duration" (in which case the motion shall be put and determined without seconding or discussion),

OR adjourn the meeting for a period, or to a place, as in their discretion they shall decide.

### **General disturbance**

- 58.3 If there is a general disturbance, which the Chairman considers makes the due and orderly dispatch of business impossible, the Chairman may adjourn the meeting for a period, or to a place, as in their discretion they shall decide. This is in addition to any other power vested in the Chairman.

## **59. Public Disturbance**

- 59.1 If a member of the public interrupts the proceedings at any meeting, the Chairman shall warn them. If they continue the interruption, the Chairman shall order their removal from the meeting room for the duration of the meeting. In case of general disturbance in any part of the meeting room open to the public, the Chairman shall order that part to be cleared.

## **AFTER THE MEETING**

### **60. Record of Cabinet Decisions**

- 60.1 As soon as reasonably practicable after a Cabinet decision is made (including decisions made under delegated powers), a record of the decision shall be produced in accordance with the Council's Constitution.

### **61. Retention of Minutes, Reports, and Documents relating to Decisions**

61.1 The minutes of all Council, Cabinet, Committee, Panel and Sub-Committee minutes shall be recorded on loose leaves consecutively numbered.

61.2 The following documents shall be kept in perpetuity:

minutes, and all officers' and other reports considered at any Council, Cabinet, Committee, Panel or Sub-Committee meeting; and

all documents which contain material relating to a decision made by the Leader or by any member of the Cabinet under delegated powers.

## **62. Public Inspection of Documents**

62.1 The public shall have the right to inspect the agenda, and officers' and other reports, for each Council, Committee, Panel and Sub-Committee meeting in advance of the meeting, as provided in sections 100B and 100E of the 1972 Act.

62.2 Following any meeting of the Council, Committee, Panel or Sub-Committee, the public shall have the right to inspect documents and background papers as provided in sections 100C and 100D of the 1972 Act.

62.3 Where a decision has been made by the Leader or by any member of the Cabinet under delegated powers, the public shall have the right to inspect documents and background papers relating to that decision, as provided in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations and the Council's Constitution.

## **GENERAL PROVISIONS**

### **63. New Cabinet, Committees, Sub-Committees and Panels to take up Former Business**

63.1 The Cabinet, every Committee, Sub-Committee and Panel shall take up all matters referred to the Cabinet, Committee, Sub-Committee or Panel which was previously appointed, and which has not been fully dealt with.

### **64. Financial Administration**

64.1 The Cabinet, every Committee, Sub-Committee, Panel, Councillor and officer of the Council shall comply with the Financial Regulations made by the Council under section 151 of the 1972 Act.

### **65. Suspension of Standing Orders**

65.1 Subject to 65.2, the Council may agree to suspend any of these Standing Orders for the purpose of any business at the Council meeting where the suspension is moved.

65.2 A motion to suspend Standing Orders under 65.1 shall not be moved without notice (i.e. under Standing Order 44), unless least one half of the whole number of the members of the Council are present.

**66. Standing Orders to apply to non-members**

66.1 These Standing Order shall apply to all members of the Cabinet, Committees, Panels and Sub-Committees, whether or not they are members of the Council.

**67. Interpretation of Standing Orders**

67.1 The Chairman may rule on the construction or application of any of these Standing Orders, after consulting with the officers. Their ruling shall not be challenged at any meeting.

**68. Variation and Revocation of Standing Orders**

68.1 Any proposal to add to vary or revoke these Standing Orders, whether on a motion or otherwise, shall be referred to the General Purposes and Licensing Committee. The General Purposes and Licensing Committee shall make a recommendation on it to the Council.

## **PROCEDURE FOR PUBLIC PARTICIPATION AT MEETINGS**

This procedure is agreed as provided for in the Standing Orders for Meetings. Members of the public may speak at meetings of Councillors on the terms set out below.

### **1. FULL COUNCIL MEETINGS**

- 1.1 Members of the public may not speak at meetings of the full Council, except:
- a) When presenting a petition in accordance with the Council's Petitions Scheme; or
  - b) if the Council votes to suspend Standing Orders to enable them to do so.

### **2. APPEALS PANEL AND LICENSING SUB-COMMITTEE MEETINGS**

- 2.1 This procedure does not apply to Appeals Panel or Licensing Sub-Committee meetings. Those Panels and Sub-Committees carry out quasi-judicial functions, and have agreed procedures laying down the rules under which members of the public may address them.

### **3. CABINET, COMMITTEE AND OVERVIEW & SCRUTINY PANEL MEETINGS (INCLUDING SUB-COMMITTEES OF THOSE BODIES EXCEPT LICENSING SUB-COMMITTEES)**

- 3.1 Members of the public may speak at formally convened meetings of the Cabinet, a Committee, or an Overview and Scrutiny Panel (including any formally constituted Sub-Committees of those bodies), under the rules set out below.

3.2 Where:

- a) a meeting is to debate an issue which, in the opinion of the Chief Executive, is of extraordinary public interest; and
- b) the Chief Executive is of the view that the rules in this procedure will not allow an adequate opportunity for public participation,

the Chief Executive, in consultation with the Chairman of the body which is to debate the issue, may agree special arrangements for public participation on the issue.

- 3.3 Where, following consultation with the Chairman of the body which is to debate the issue, the Chief Executive is of the opinion that public participation in any or all of the items on the agenda for that meeting would be inappropriate or unnecessary, having regard to other opportunities for the public to express their views to Councillors, they may decide that public participation will not be permitted for all or any of the items on the agenda for that meeting.

3.4 Paragraphs 3.5 to 3.7 do not apply to Planning Committee meetings. See paragraphs 3.8 to 3.10 for the rules for that Committee.

### **3.5 Meetings at which the Public may Speak**

3.5.1 Members of the public may not speak at the Annual Meeting (held in May) of the Cabinet, Committees or Overview and Scrutiny Panels.

3.5.2 Members of the public may speak at special meetings of these bodies, but only on items that are on the agenda for the meeting.

3.5.3 Members of the public may speak at any other ordinary or programmed meetings of these bodies, on any matter within the terms of reference of the body, whether or not the matter is on the agenda for the meeting.

### **3.6 Time at which Public may Speak**

3.6.1 All public remarks not relating to an agenda item shall be made under the agenda item 'public participation'.

3.6.2 All public remarks relating to an agenda item shall be made immediately after the Chairman calls the relevant item, before members have started to debate it.

### **3.7 Rules and Time Limits for Public Participation**

#### General rules

3.7.1 Time will be allocated on a first come, first served, basis. Members of the public are therefore encouraged to give as much notice as possible of their wish to speak and must do so no later than 12.00 noon, two clear working days before the meeting. For the avoidance of doubt, the deadline will be published on the agenda for the meeting.

3.7.2 No member of the public may speak for more than 3 minutes.

3.7.3 A member of the public may not speak more than once on the same subject at the same meeting, unless the Chairman of the meeting invites them to clarify their remarks.

3.7.4 Members of the public may not speak on items that are confidential or exempt from publication under legislation.

3.7.5 Members of the public may not participate in the Councillors' debate.

3.7.6 The Chairman of the meeting may rule that any public remarks are not appropriate and will not be accepted; for example if they are defamatory, insulting, frivolous or offensive. In such an instance the Chairman may disallow a person from speaking or continuing to speak.

Public participation not relating to an agenda item (3.6.1 above)

- 3.7.7 The public participation period not relating to agenda items shall not exceed 15 minutes.

Public participation on agenda items (3.6.2 above)

- 3.7.8 Where the public are speaking on an agenda item, the maximum time for public participation is 9 minutes, divided as follows:

Supporters of the recommendation in the report – 3 minutes

Objectors to the recommendation in the report – 3 minutes

Town or Parish Councils – 3 minutes.

The Chairman may limit the number of speakers from each of these three groups so that each person who is permitted to speak has an adequate opportunity to express their views. (As a guideline, three speakers from each group is normally the practical limit).

**3.8 Planning Committee – Meetings at which the Public may Speak**

- 3.8.1 Members of the public may not speak at the Annual Meeting of the Committee held in May.
- 3.8.2 Members of the public may speak at other meetings of the Committee, but only on items that are on the agenda for the meeting.

**3.9 Planning Committee – Time at which Public may Speak**

- 3.9.1 Initial remarks by members of the public and representatives of town and parish councils shall be made immediately after the Chairman calls the relevant agenda item and any essential additional update information has been given, before the Members start their debate.
- 3.9.2 Each public speaker may also exercise a right of reply, at the close of the debate, and before the vote is taken, in accordance with the rules set down in paragraph 3.10

**3.10 Planning Committee – Rules and Time Limits for Public Participation**

- 3.10.1 A member of the public may speak only if they:
- a) have written to the Council, at least 10 days before the meeting, about the matter in question; and
  - b) have notified the Council of their wish to speak by 12.00 noon one clear working days before the date of the meeting.
- 3.10.2 No member of the public may speak for more than 3 minutes.

- 3.10.3 Each member of the public and representatives of town and parish councils may speak once at the start of the deliberation on a planning application and also speak again at the end of the debate, before the vote is taken. They may also respond to questions from Members of the Committee, but otherwise may not speak within the debate.
- 3.10.4 Members of the public may not speak on items that are confidential or exempt from publication under legislation.
- 3.10.5 Members of the public may not participate in the Councillors' debate.
- 3.10.6 Members of the public may not introduce new evidence at the meeting, or use visual display aids such as photographs or slides.
- 3.10.7 The Chairman of the meeting may rule that any public remarks are not appropriate and will not be accepted; for example if they are defamatory, insulting, frivolous or offensive. In such an instance the Chairman may disallow a person from speaking or continuing to speak.
- 3.10.8 The maximum time for public participation at the start of the item is 9 minutes, divided as follows:

Applicants/Agents/Supporters of the application – 3 minutes.  
Objectors to the application – 3 minutes.  
Town or Parish Councils – 3 minutes.

The Chairman may limit the number of speakers from each of these three groups so that each person who is permitted to speak has an adequate opportunity to express their views. (As a guideline, three speakers from each group is normally the practical limit).

- 3.10.9 At the end of the debate, before the mover and seconder of any motion before the Committee sum up and/or exercise their right of reply, the persons who have spoken in the initial public participation period may also sum up and reply to the debate in the following order:

Applicants/Agents/Supporters of the application – 1 minute.  
Objectors to the application – 1 minute.  
Town or Parish Councils – 1 minute.

### **3.11 Planning Committee – Local Ward Councillors**

- 3.11.1 To provide for equitable public participation, the Chairman of the meeting may rule that Councillors who are not Committee Members (for example Local Ward Councillors), are limited to the time limits within these public participation rules.

## PETITIONS SCHEME

### 1. PETITIONS

The Council welcomes petitions from people who live, work or study in the area. We recognise that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition, and is signed by at least 10 people who live, work, or study in the area.

The Council encourages members of the public to create and sign petitions online, by following this link to the Council's e-petitions page:-

<https://democracy.newforest.gov.uk/mgEPetitionListDisplay.aspx?bcr=1>

Paper petitions may be sent to:-

The Service Manager – Democratic and Support Services  
New Forest District Council,  
Appletree Court,  
Beaulieu Road,  
Lyndhurst, SO43 7PA

Petitions that contain the required number of signatures as set out in paragraph 5 below can also be presented to a meeting of the Council. These meetings take place approximately every 2 months, dates and times can be found on the [Council's Meetings Calendar](#). If you would like to present your petition to the Council, or would like your councillor or someone else to present it on your behalf, please contact a member of the Democratic Services team on 023 8028 5072, or by emailing [Democratic@nfdc.gov.uk](mailto:Democratic@nfdc.gov.uk) at least 10 working days before the meeting and they will provide you with guidance.

### 2. WHAT ARE GUIDELINES FOR SUBMITTING A PETITION?

Petitions submitted to the Council **must** include

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- the name and address and signature of any person supporting the petition. These should be people who live, work or study in the area.

Petitions should be accompanied by contact details, including an address for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will **not** be placed on our website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently. If this is the case we will explain the reasons and discuss the revised timescales which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

### **3. WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?**

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on [Petitions Received](#).

If we can do what your petition asks for, the acknowledgment may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence (see paragraph 6), then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published, unless it is considered inappropriate to do so.

#### **4. HOW WILL THE COUNCIL RESPOND TO PETITIONS?**

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- a. taking the action requested in the petition
- b. considering the petition at a council meeting
- c. holding an inquiry into the matter
- d. undertaking research into the matter
- e. holding a public meeting
- f. holding a consultation
- g. holding a meeting with petitioners
- h. referring the petition for consideration by the appropriate Overview and Scrutiny Panel\*
- i. calling a referendum
- j. writing to the petition organiser setting out our views about the request in the petition

\* Overview and Scrutiny Panels are committees of councillors who are responsible for scrutinising the work of the Council - in other words, they have the power to hold the Council's decision-makers to account.

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we may consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

If your petition is about something that a different council is responsible for we will consider what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

#### **5. FULL COUNCIL DEBATES**

If a petition contains more than 1,700 signatures (approximately 1% of the population of the District) it will be debated by the full Council unless it is a petition asking for a senior officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given

5 minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation in to the matter, for example by a relevant committee. Where the issue is one on which the Cabinet is required to make the final decision (the Cabinet is responsible for the executive functions of the Council), the Council will refer the matter to the Cabinet. The Council will decide whether to make recommendations to the Cabinet to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **6. OFFICER EVIDENCE**

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 850 signatures (approximately 0.5% of the population) and gives grounds for your request (which must relate to the discharge of functions for which the officer is responsible), the relevant senior officer will give evidence at a public meeting of the relevant \*Overview and Scrutiny Panel. Senior staff who can be called to give evidence are the Council's Chief Executive, the Strategic Director or the Service Manager as considered appropriate by the Chairman of the appropriate Overview and Scrutiny Panel.

You should be aware that the Overview and Scrutiny Panel may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition. The Panel may also decide to call a relevant councillor to attend the meeting. Councillors will ask the questions at this meeting, but you will be able to suggest questions to the chairman of the Panel by contacting the chairman up to three working days before the meeting.

(\*Overview and Scrutiny Panels are committees of councillors who are responsible for scrutinising the work of the Council - in other words, they have the power to hold the Council's decision-makers to account.)

## **7. WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that a relevant Overview and Scrutiny Panel reviews the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the Council's

response is not considered to be adequate.

The relevant Panel will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Panel determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council executive (Cabinet) and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

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## **STANDING ORDERS FOR GENERAL PROCEDURES**

**(THESE STANDING ORDERS DO NOT RELATE TO PROCEEDINGS AT MEETINGS)**

### **1. Interpretation**

In these Standing Orders –

“the 1972 Act” means the Local Government Act 1972, as amended

“Chief Executive” means the Head of the Council’s Paid Service

“Chief Officer” means -

the Chief Executive;

the Monitoring Officer;

the officer responsible for the proper administration of the Council’s financial affairs under section 151 of the 1972 Act; and

any other person the Council designates as a Chief Officer, and whose name is entered as such in a list which may be inspected by the public.

“Executive” has the meaning assigned by Part II of the Local Government Act 2000

“Monitoring Officer” means the person appointed under section 5 of the Local Government and Housing Act 1989

“Panel” means an Overview and Scrutiny Panel

“Sub-Committee” means any group, whether or not called a Sub-Committee, which is appointed by the Executive, a Committee or Panel for specified purposes.

## **STANDING ORDERS RELATING MAINLY TO MEMBERS**

### **2. Members' Disclosable Pecuniary and Non-Pecuniary Interests**

All members shall disclose to the Monitoring Officer their disclosable pecuniary interests, as required by legislation.

All members shall disclose to the Monitoring Officer their membership, or position of general control or management, of any body:

- (a) to which the Council has appointed or nominated them; or
- (b) exercising functions of a public nature; or
- (c) directed to charitable purposes; or
- (d) one of whose principal purposes includes the influence of public opinion or policy.

The Monitoring Officer shall record all such disclosures in a Register of Interests. The Register shall be open to public inspection.

Members shall notify any changes to the interests referred to in this Standing Order to the Monitoring Officer within 28 days of the change occurring, and the Monitoring Officer will amend the Register accordingly.

(Note: this is in addition to the requirement to disclose interests at meetings referred to in Standing Orders for Meetings)

### **3. Voluntary Disclosure of Interests**

- 3.1 Members may voluntarily disclose their membership of associations, clubs, and societies, other than those they are required to disclose under the law or Standing Orders. The Monitoring Officer shall record any voluntary disclosures in a Register of Interests. Any member of the Council may inspect the Register during office hours.

#### **3A. Disclosure of Gifts and Hospitality**

All members shall disclose to the Monitoring Officer, within 28 days of receipt, any gifts or hospitality they receive in their official capacity with an estimated value of £50 or more.

The Monitoring Officer shall record all such disclosures in a Register of Interests. The Register shall be open to public inspection.

#### **4. Members' Allowances**

- 4.1 Members shall be entitled to be paid allowances under the terms of a scheme agreed by the Council, in exercise of powers conferred by the Local Authorities (Members' Allowances) Regulations and any other relevant legislation, following an independent review. A copy of the agreed scheme shall be sent to all members.

#### **5. Member/Officer Relations**

- 5.1 The Council shall approve a Local Code for Member/Officer relations.

#### **6. Inspection of Documents**

- 6.1 Some documents which the Council, the Cabinet, a Committee, Sub-Committee or Panel considers are not available for public inspection. A Council member may inspect such a document for the **proper performance** of their duty as a member, but not otherwise. The member shall notify the Chief Executive of their desire to inspect the document, and the Chief Executive shall supply them with a copy. The member's right to inspect any document is subject to Standing Order 6.3.
- 6.2 A member shall not knowingly inspect, and shall not request a copy of, any document under 6.1 which relates to a matter:
- in which they are professionally interested; or
  - in which they have any disclosable pecuniary interest.
- 6.3 The Chief Executive or the Monitoring Officer may not allow inspection of any document which is, or in the event of legal proceedings would be, protected by privilege arising from a Solicitor/client relationship.
- 6.4 Any member of the Council may inspect reports or minutes kept by the Cabinet, any Committee, Sub-Committee or Panel as soon as the Cabinet, Committee, Sub-Committee or Panel has completed its action on the matter to which the reports or minutes relate. Reports or minutes kept by the Cabinet include any documents which contain material relating to a decision made on the Cabinet's behalf under delegated powers.

#### **7. Inspection of Land, Premises etc**

- 7.1 No member shall issue any order concerning works which are being carried out by or on behalf of the Council, nor inspect or enter any land or premises, solely because of their Council membership.

## **8. Confidentiality**

- 8.1 All agenda, reports and other documents, and all proceedings of the Cabinet, Committees, Sub-Committees and Panels, shall be treated as confidential unless and until they become public in the ordinary course of the Council's business.

See also Standing Orders for Meetings No 19 concerning discussion of confidential reports outside a meeting.

## **9. Canvassing of and Recommendations by Members**

- 9.1 Canvassing members of the Council, the Cabinet or any Committee or Panel, either directly or indirectly, for any appointment under the Council shall disqualify the candidate concerned for that appointment. The effect of this paragraph shall be included on all application forms.

- 9.2 A member of the Council shall not solicit for any person any appointment under the Council. This shall not preclude a member from giving a written testimonial of a candidate's ability, experience, or character for submission to the Council with an application for appointment.

See also Standing Order 17.1(d) concerning relationships between members and candidates for Council posts.

## **10. Standing Orders to be given to members**

- 10.1 The Chief Executive shall ensure each Council member has access to:

these Standing Orders; and

any statutory provisions which regulate Council proceedings and business,

when the member declares acceptance of the office of Councillor after the first time they are elected to the Council.

## **STANDING ORDERS RELATING MAINLY TO OFFICERS**

### **11. Discharge of Functions by Officers**

- 11.1 Subject to any express provision in the Local Government Acts, the Council may arrange for named Council officer(s) to discharge any of its functions.

### **12. Custody of Seal**

- 12.1 The Chief Executive shall keep the Common Seal of the Council in a safe place.

### **13. Sealing of Documents**

- 13.1 The Common Seal of the Council shall be fixed to a document when the affixing of the Seal is required following a decision by the Council, Cabinet (including a decision made on its behalf under delegated powers), a Committee, Panel or Sub-Committee, or a decision by an officer under delegated powers, which authorises the action set out in that document. For the avoidance of doubt, the affixing of the Seal may be undertaken electronically.
- 13.2 The Chief Executive, Strategic Directors, Assistant Directors, Service Managers (and such other officers as they authorise), may attest the seal.
- 13.3 Every sealing shall be recorded, consecutively numbered, in a register kept for the purpose, which shall record the name of the officer attesting the seal.

### **14. Interest of Officers in Contracts**

- 14.1 The Chief Executive shall record in a register details of any notice a Council officer gives of a pecuniary interest under Section 117 of the 1972 Act. Any Council member may inspect the Register during office hours.
- 14.2 Council officers may voluntarily disclose their membership of associations, clubs, and societies, including such organisations as the Freemasons, Trades Unions, voluntary bodies and political parties. The Chief Executive shall record any voluntary disclosures in a register. Any member of the Council may inspect the register during office hours.

### **15. Appointment of Chief Officers and Monitoring Officer - Advertisement, Shortlist and Interview**

- 15.1 Where the Council proposes to appoint a Chief Officer, and does not propose that the appointment shall be made exclusively from among existing Council officers, it shall:
  - (a) draw up a statement specifying:
    - (i) the duties of the officer concerned, and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in (a) to be sent to any person on request.

The General Purposes and Licensing Committee may take this action where the Chief Executive is to be appointed. The Chief Executive may take this action where any other Chief Officer is to be appointed.

- 15.2 (a) Where a post has been advertised as 15.1(b), the Council shall:
- (i) interview all qualified applicants for the post, or
  - (ii) select a short list of qualified applicants and interview those included on the short list.
- (b) Where no qualified person has applied, the Council shall make further arrangements for advertisement under 15.1(b).

The Council may authorise a Committee, Sub-Committee or the Chief Executive to take this action on its behalf.

- 15.3 Standing Order 15A also applies when it is proposed to appoint a Chief Officer (except the Monitoring Officer).

**15A. Appointment of Chief Officers and deputy chief officers, and notification of proposals to the Executive.**

- 15A.1 This Standing Order applies to appointments to the following posts:

Chief Officers, as defined in Standing Order 1, but excluding the Monitoring Officer;

non-statutory chief officers within the meaning of section 2(7) of the Local Government and Housing Act 1989; and

deputy chief officers within the meaning of section 2(8) of the Local Government and Housing Act 1989.

The Chief Executive shall maintain a list of posts falling within the definition of non-statutory chief officer, and deputy chief officer.

- 15A.2 The Council shall approve the appointment of every Chief Officer before an offer of appointment is made.

The Council, a Committee, Sub-Committee or officer, as appropriate, shall appoint other officers to whom this Standing Order relates. Normally, the appointment shall be made by an officer. If, exceptionally, the appointment is made by a Committee or Sub-Committee, at least one member of the Executive shall be a member of that Committee or Sub-Committee.

- 15A.3 When an officer (or the Council, a Committee or a Sub-Committee) wishes to make an offer of appointment to any of the posts to which this Standing Order applies, they shall inform the Head of Human Resources of:

- (a) the name of the person to whom they wish to make the offer, and
- (b) any other particulars which they consider relevant to the appointment.

- 15A.4 The Head of Human Resources shall notify to every member of the Cabinet:

- (a) the information in 15A.3 (a) and (b) above; and
- (b) that the Leader of the Council, on behalf of the Cabinet, should inform the Head of Human Resources of any objection to the making of the offer, and that any objection must be received by the Head of Human Resources within 5 working days from the date of the notification.

15A.5 The offer of appointment in 15A.3 shall not be made until either:

- (a) the Leader has notified the appointing person or body that no member of the Executive objects to the offer being made; or
- (b) the Head of Human Resources has notified the appointing body or person that no objection was received from the Leader within 5 working days of the notification to the Executive; or
- (c) if an objection from the Leader has been received within the 5 working day period, the appointing person or body is satisfied that any objection is not material or not well-founded.

**15B. Appointment of Monitoring Officer**

15B.1 The Council shall appoint a Monitoring Officer. The Monitoring Officer shall not be the Chief Executive. Standing Order 15A shall not apply to the appointment of the Monitoring Officer.

**15C. Other Appointments**

Subject to these Standing Orders, appointments of all employees shall be made in accordance with the Council's agreed procedures (as contained in the Management Advice Notes). Appointment of persons whose posts do not fall within the definition in Standing Order 15A.1 shall be made by the Chief Executive or an officer nominated by them.

**16A. Dismissal of Chief Officers and deputy chief officers, and notification of proposals to the Executive.**

16A.1 This Standing Order applies to dismissals from the following posts:

Chief Officers, as defined in Standing Order 1;

non-statutory chief officers within the meaning of section 2(7) of the Local Government and Housing Act 1989; and

deputy chief officers within the meaning of section 2(8) of the Local Government and Housing Act 1989.

The Chief Executive shall maintain a list of posts falling within the definition of non-statutory chief officer, and deputy chief officer.

16A.2 The Council must approve the dismissal of every Chief Officer before notice of dismissal is given to them.

The Council, a Committee, Sub-Committee or officer, as appropriate, shall approve the dismissal of other officers to whom this Standing Order applies. Normally, the dismissal shall be made by an officer. If, exceptionally, the dismissal is made by a Committee or Sub-Committee, at least one member of the Cabinet shall be a member of that Committee or Sub-Committee.

16A.3 When an officer (or the Council, a Committee or a Sub-Committee) proposes to dismiss an employee from any of the posts to which this Standing Order applies, they shall inform the Head of Human Resources of:

- (a) the name of the officer they propose to dismiss, and
- (b) any other particulars which they consider relevant to the dismissal.

16A.4 The Head of Human Resources shall notify to every member of the Cabinet:

- (a) the information in 16A.3 above; and
- (b) that the Leader of the Council, on behalf of the Cabinet, should inform the Head of Human Resources of any objection to the dismissal, and that any objection must be received by the Head of Human Resources within 5 working days from the date of the notification.

16A.4 Notice of dismissal shall not be given until either:

- (a) the Leader has notified the dismissing person or body that no member of the Cabinet objects to the dismissal; or
- (b) the Head of Human Resources has notified the dismissing body or person that no objection was received from the Leader within 5 working days of the notification to the Cabinet; or
- (c) if an objection from the Leader has been received within the 5 working day period, the dismissing person or body is satisfied that any objection is not material or not well-founded.

**16B Dismissal of Statutory Chief Officers**

16B.1. This Standing Order applies to the Chief Executive, the Monitoring Officer, and the officer responsible for the proper administration of the Council’s financial affairs under section 151 of the 1972 Act (“the Statutory Chief Officers”).

- (a) In this Standing Order:  
  
“independent person” means a person appointed under section 28(7) of the Localism Act 2011;

“local government elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;

“the Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of the Statutory Chief Officers of the Council;

“relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a Statutory Chief Officer.

- (b) The Council may not dismiss a Statutory Chief Officer unless the procedure set out in the following paragraphs is complied with.
- (c) The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel. “Relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- (d) Subject to (e) below, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph (c) in accordance with the following priority order—
  - (i) a relevant independent person who has been appointed by the Council and who is a local government elector;
  - (ii) any other relevant independent person who has been appointed by the Council;
  - (iii) a relevant independent person who has been appointed by another authority or authorities.
- (e) The Council is not required to appoint more than two relevant independent persons in accordance with paragraph (d), but may do so.
- (f) The Council must appoint any Panel at least 20 working days before the relevant meeting.
- (g) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular—
  - (i) any advice, views or recommendations of the Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the officer who is the subject of the proposed dismissal.
- (h) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the Localism Act 2011.

## **16C. Other Officer Dismissals and Disciplinary Action**

16C.1 Subject to these Standing Orders, dismissals of and disciplinary action in respect of all employees shall be made in accordance with the Council's agreed procedures (as contained in the Management Advice Notes). Dismissal of and disciplinary action against persons whose posts do not fall within the definition in Standing Order 16A.1 shall be made by the Chief Executive or an officer nominated by them.

## **17. Relatives of Members of Officers**

- 17.1 (a) A candidate for any Council appointment who knows that they are related to any member or senior officer of the Council, shall disclose that relationship to the appointing Strategic Director or Service Manager when they apply for the post. A candidate for the post of Chief Executive or Strategic Director shall disclose the relationship to the Leader of the Council.
- (b) The appointing Strategic Director/Service Manager or the Leader shall notify the Head of Human Resources in writing of the disclosure.
- (c) A candidate who fails to disclose such a relationship shall be disqualified for the appointment and, if appointed, shall be liable to dismissal.
- (d) Every member and senior officer of the Council shall disclose to the appointing Strategic Director/Service Manager or the Leader any relationship they know to exist between themselves and any person who they know is a candidate for an appointment under the Council.

17.2 The effect of Standing Order 17.1 shall be included on all application forms.

17.3 For the purpose of this Standing Order

'senior officer' means:

any Chief Officer;

any other post the Chief Executive so designates, and a list of posts so designated shall be kept, and shall be made available for public inspection.

"partner" means persons who are legally married, in a civil partnership, or living together as co-habitees

An applicant is "related" to a member or senior officer if the applicant or their partner has any of the following relationships with the member/senior officer, or with the member/senior officer's partner:

son or daughter

grandson or granddaughter

brother or sister

nephew or niece.

See also Standing Order 9 – Canvassing of and recommendations by Members.

**18. Variation and Revocation of Standing Orders**

- 18.1 Any proposal to add to vary or revoke these Standing Orders, whether on a motion or otherwise, shall be referred to the General Purposes and Licensing Committee. The General Purposes and Licensing Committee shall make a recommendation on it to the Council.

**19. Interpretation of Standing Orders for General Procedures**

- 19.1 The Monitoring Officer may rule on the construction or application of any of these Standing Orders for General Procedures. Their ruling shall not be challenged.

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## **PROCEDURE FOR REMOVING AND REPLACING THE LEADER OF THE COUNCIL**

1. The Leader of the Council is elected by the Council at the first Annual Meeting following the quadrennial election of Councillors for a term of four years, and can only be removed by resolution of the full Council in the circumstances set out below.
2. The Council may only consider removing the Leader on a motion of which notice has been given as in paragraphs 6 to 8 below.
3. When voting on a motion to remove the Leader, a quorum of the Council is at least three quarters of the total number of members of the Council.
4. A Council resolution to remove the Leader shall not have the effect of removing the Deputy Leader and Portfolio Holders. Portfolio Holders shall continue in their roles pending decisions by the newly elected Leader under paragraph 9 below.
5. If the Council resolves to remove the Leader, it may elect a new Leader at the same Council meeting as the next item of business. If it does not do so, the Deputy Leader shall assume all the powers and duties of Leader until the Council elects a new Leader.

### **Notice of motion to remove Leader**

6. A motion to remove the Leader shall be:
  - a) given in writing; and
  - b) signed by at least one third of the total number of Council members; and
  - c) received by the Chief Executive's office; and
  - d) state why the signatories consider the Leader should be removed.
7. If the motion is received by the Chief Executive less than 15 clear working days before the next programmed Council meeting:

the motion shall be considered at the next programmed Council meeting.
8. If the motion is received by the Chief Executive 15 or more clear working days before the next programmed Council meeting:

the Chief Executive shall, within 5 working days of receiving the motion, summon a special Council meeting for the purpose of considering the motion. No other business shall be conducted at that meeting, other than election of a new Leader if the motion succeeds. The special meeting shall take place within 10 working days of the date of the summons.

### **Duty of newly elected Leader**

9. A new Leader elected under this procedure shall, within 5 working days of their election:
  - a) appoint a Deputy Leader,
  - b) decide the content of Portfolios and appoint a Portfolio Holder for each, and
  - c) inform the Chief Executive of the names of the Deputy Leader, the content of each Portfolio, and the names of the Portfolio Holders.

# PROCEDURE FOR RESOLVING DISPUTES BETWEEN COUNCIL AND THE EXECUTIVE

## INTERPRETATION

1. In this document, "plan or strategy" means a plan or strategy referred to in the Council's Key Policy Framework in Section 2 of the Constitution, subject to the separate provisions relating to the statutory components of the budget in paragraph 10.
2. Where notification is required to be submitted to any Councillor or officer of the Council under this procedure, the notification may be transmitted electronically.

## PROCEDURE FOR DEALING WITH RECOMMENDATIONS FROM EXECUTIVE

3. The Executive is responsible for formulating or preparing plans or strategies, or alterations to plans or strategies, for submission to the full Council.
4. The full Council is responsible for approving plans and strategies. In doing so, it shall in all cases consider a written recommendation from the Executive.
5. The procedure in this document lays down the action that must be taken where the Executive has submitted a draft plan or strategy, or amendments to an existing plan or strategy, to full Council for consideration, and, following consideration of the draft plan or strategy, or the amendments, the Council has any objections to the Executive's proposals.
6. Before the Council adopts, approves, amends or modifies the plan or strategy, it must instruct the Chief Executive to take the action in paragraph 7.
7. As soon as reasonably practicable, and in all case within two working days, after the meeting at which the Council objected as in paragraph 5 above, the Chief Executive shall give written notification to the Leader of the Council in the following terms:

"[NAME OF PLAN OR STRATEGY]

At its meeting on [date] full Council objected to this plan or strategy as recommended to it by the Executive for [adoption][approval][amendment]. The objections agreed by Council were:

[ ]

Under legislation and the Council's Constitution, the Executive must reconsider the [name of plan or strategy] in the light of the Council's objections.

The Executive must either:

- (a) submit a revised [name of plan or strategy], with its reasons for any amendment, to the Council for its consideration; or
- (b) inform the Council of any disagreement it has with any of the Council's objections, and its reasons for the disagreement.

The Executive must take this action by [date (1)\*]

[It is proposed that this item is placed on the agenda for the Cabinet meeting already arranged for [date and time]]

OR

[I will contact you separately to arrange a date and time for a special Cabinet meeting]

OR

[As discussed, a special Cabinet meeting to consider this matter is being arranged for [date and time]]

OR

[Please notify me by [date] of any revisions the Executive proposes to the [name of plan or strategy], with reasons, and/or the Executive's reasons for any disagreement with the Council's objections]."

\* The date at (1) must be not less than 5 working days from and including the day after the Leader receives this notification.

8. When the Executive has reconsidered the matter in the light of the Council's objections, the Chief Executive shall arrange for the plan or strategy to be referred to the next full Council meeting or, if necessary, a special Council meeting. The reference to the Council meeting shall include all of the following information that has been received from the Executive by the date at (1) in paragraph 7 above:
  - a) any amendments to the draft plan or strategy proposed by the Executive;
  - b) the reasons for those amendments;
  - c) any disagreement the Executive has with the Council's objections to the plan or strategy; and
  - d) the reasons for that disagreement.
9. The Council shall take the information in 8 (a) to (d) into account when it adopts, approves, amends or modifies the plan or strategy. The Council's decision, whether it be to follow or to reject the views of the Executive, shall be implemented immediately.
10. Where, before 8 February in any financial year, the Executive submits to full Council for consideration in relation to the following financial year the statutory components of the budget (defined below\*), the procedure in paragraphs 5 to 9 above shall also apply before the Council makes a calculation, or issues a precept, under any of the legislation included in the definition. The Chief Executive's notification to the Leader shall be in similar terms to that in paragraph 7 of this Chapter.

\*The "statutory components of the budget" means:

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992

but not

- (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; or
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

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# PROCEDURE FOR MAKING URGENT DECISIONS OUTSIDE POLICY AND/OR BUDGET, AND URGENT KEY DECISIONS

## 1. INTRODUCTION

- 1.1 The Executive has been empowered, subject to compliance with the Council's policies and budgets, to make decisions on behalf of the Council in accordance with the provisions of this Constitution.
- 1.2 This Chapter describes the procedures to be followed where a decision which:
  - does not comply with Council policy or budget; or
  - is contrary to or not wholly in accordance with policy and budget; or
  - is a key decision of which it was impracticable to give at least 28 days written notice (an "urgent key decision"),is required urgently.
- 1.3 Where any decision will give rise to expenditure exceeding £50,000 (or such other sum as may be prescribed from time to time in financial regulations) no action shall be taken to implement that decision until the matter has been considered by Council.
- 1.4 In sections 2 and 3 of this Chapter the expression 'Executive' refers to the Leader, the Cabinet, a Committee or Sub-Committee of the Cabinet or to the appropriate Portfolio Holder where any powers have been delegated.

## 2. URGENT DECISIONS OUTSIDE POLICY OR BUDGET - ACTION PRIOR TO DECISION

- 2.1 Where it appears to the Executive that a decision, which is outside the Council's approved policies or budget, is required urgently and it is not reasonable to delay the decision making to the next or a special meeting of the Council, the Executive shall:-
  - (i) Obtain confirmation from the Chief Executive, the Monitoring Officer and other appropriate professional advising Officer, that a decision is required urgently;
  - (ii) Carry out, so far as is reasonable, consultations with Ward Members and other Stakeholders; and
  - (iii) Consult with the Chairman of the Overview and Scrutiny Panel whose terms of reference relate to such function, on the need for action to be taken urgently.

- 2.2 In the event of a matter affecting more than one Overview and Scrutiny Panel, the Chief Executive or Monitoring Officer shall determine which Chairman shall be consulted.
- 2.3 Where the Chairman of the Overview and Scrutiny Panel is not available for whatever reason, the Chairman of the Council, or in his/her absence, the Vice-Chairman of the Council shall be consulted.
- 2.4 Where the Chairman of the Overview and Scrutiny Panel, or in his/her absence, the Chairman or Vice-Chairman of the Council, as the case may be, agrees in writing that the decision is urgent, the Executive shall be empowered to implement such decision.
- 2.5 For the purposes of this paragraph, consultations may be made:-
- In writing,  
Electronically, or  
Orally,
- depending upon the need to ensure effective and timely decision making.
- 2.6 If the decision is an urgent key decision, as well as a decision outside policy or budget, section 3 below also applies.

### **3. URGENT KEY DECISIONS – ACTION PRIOR TO DECISION**

- 3.1 Where it appears to the Executive or officer with delegated powers to make the decision, that a key decision is required urgently, and it is not reasonable to delay the decision until at least 28 days written notice of it can be given, the following action shall be taken:
- (i) The Chief Executive or Monitoring Officer shall inform the Chairman of the relevant Overview and Scrutiny Panel, (or, if there is no such person, each member of the Committee), by notice in writing, of the matter about which the decision is to be taken;
  - (ii) The Chief Executive or Monitoring Officer shall make a copy of the written notice in (i) available for public inspection at the Council's offices and publish it on the Council's website;
  - (iii) The Chief Executive or Monitoring Officer shall also make available for public inspection, and publish on the Council's website, a notice setting out the reasons why at least 28 days notice of the decision could not be given;

- (iv) The Executive or officer, as appropriate, shall take the decision only after five clear working days have elapsed after the notice in (ii) has been available for public inspection and the notice in (iii) has been published.
- 3.2 For the purpose of paragraph 3.1, in the event of a matter affecting more than one Overview and Scrutiny Panel, the Chief Executive or Monitoring Officer shall determine which Chairman shall be consulted. Where the Chairman of the Panel is not available for whatever reason, the Vice-Chairman of the relevant Panel shall be consulted.
- 3.3 If, exceptionally, it is impracticable to comply with the requirements of paragraph 3.1, the decision may only be taken if the decision maker has obtained agreement from the Chairman of the relevant Overview and Scrutiny Panel that the decision must be made urgently and cannot reasonably be deferred.
- 3.4 For the purpose of paragraph 3.3, in the event of a matter affecting more than one Overview and Scrutiny Panel, the Chief Executive or Monitoring Officer shall determine which Chairman shall be consulted.
- 3.5 For the purpose of paragraph 3.3, where the Chairman of the Overview and Scrutiny Panel is absent or unable to act for whatever reason, the Chairman of the Council, or in his/her absence, the Vice-Chairman of the Council, shall be consulted.
- 3.6 For the purposes of paragraphs 3.3 to 3.5, consultations may be made:-
- In writing,  
Electronically, or  
Orally,
- depending upon the need to ensure effective and timely decision making.
- 3.7 The Chief Executive or Monitoring Officer shall also make available for public inspection, and publish on the Council's website, a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.
- 3.8 If the decision is outside policy or budget, as well as an urgent key decision, section 2 above also applies.

#### **4. ACTION AFTER DECISION**

4.1 As soon as reasonably practicable after a decision has been made under this procedure, the person or body responsible for taking the decision must provide a written report to the full Council explaining:-

- (i) The decision;
- (ii) The reasons a decision was required;
- (iii) The reasons why the decision was required urgently, and (in the case of a decision outside policy or budget) could not have been brought to the Council for determination; and
- (iv) The manner, timing of consultation and office of person consulted prior to the decision being taken.

4.2 Where the decision was made by an officer under delegated powers, the written report in 4.1 shall be referred to the Leader and then to the Council.

#### **5. VARIATION OF PROCEDURE**

5.1 This procedure may be varied by resolution of the Council upon a recommendation from the Executive. No such recommendation shall be made until the Executive has consulted the Overview and Scrutiny Panels.

# CALL IN PROCEDURES FOR EXECUTIVE DECISIONS

## 1. DECISIONS COVERED BY THIS PROCEDURE

- 1.1 This procedure shall apply to the following decisions taken by or on behalf of the Executive:

All decisions by the Cabinet  
All decisions by the Leader and Portfolio Holders  
Key decisions (as defined in the main Constitution document) by officers.

These are described below as "Executive decisions".

- 1.2 This procedure shall not apply to recommendations made by the Executive to full Council. Such recommendations are not Executive decisions, and all members of the Council are entitled to contribute to the debate, and to vote, on the recommendation at the appropriate Council meeting.

## 2. ARRANGEMENTS FOR NOTIFYING MEMBERS OF EXECUTIVE DECISIONS

- 2.1 Section 2 of the Constitution identifies the arrangements for Executive Decision Making.
- 2.2 When an Executive decision has been made, the proper officer shall publish, and circulate to all Members of the Council, notice of:
- a. the decision,
  - b. the reasons for it, and
  - c. any options considered and rejected by the decision maker at the time the decision was made.
- 2.3 The decision notice in 2.2 above shall be published as soon as reasonably practicable, normally within two working days of the date of the decision.
- 2.4 The decision notice shall also state:
- a. The names of the "appropriate Panel" (or Panels). This is the Overview and Scrutiny Panel or Panels which, in the opinion of the Monitoring Officer, is/are responsible for overview and scrutiny functions relating to the subject matter of the decision, and is/are therefore entitled to review the decision; and

- b. The date by which any member of the Council (apart from members of the Executive) who wishes to review the decision must give notice of that fact to the Monitoring Officer. This date shall be five working days after the date on which the decision notice is first published. Unless both the Monitoring Officer and the appropriate Head of Service are satisfied that it must be implemented urgently, the decision shall not be implemented until the date stated in the notice has expired.

### **3. HOW TO CALL IN AN EXECUTIVE DECISION**

- 3.1 Any member who is not a member of the Executive may call in an Executive decision. The member must inform the Monitoring Officer in writing, or by e-mail, of:
  - a. the decision he or she wishes to call in; and
  - b. the reason he or she wishes to call in the decision.

The Monitoring Officer must receive the notification before the Council offices close for normal business (5.15 pm) on the date stated in paragraph 2.4.b above.

- 3.2 If two or more members wish to call in a decision, they may notify the Monitoring Officer individually as in paragraph 3.1 above, or they may submit a joint notification in writing.

### **4. ACTION WHEN AN EXECUTIVE DECISION HAS BEEN CALLED IN**

- 4.1 If **one member** calls in an executive decision the matter shall be placed on the agenda for the next programmed meeting of the appropriate Panel or Panels for discussion. If the member is not a member of the appropriate Panel or Panels, he or she shall be invited to the meeting(s) and shall be entitled to speak on that item, but not vote. Implementation of the decision shall not be affected.
- 4.2 If **two or more members** wish to call in an Executive decision, the following arrangements shall be made:
  - a. Subject to the provisions relating to urgent decisions in paragraph 7.1 below, the decision shall not be implemented until the procedure laid down in the remainder of this Chapter is complete.
  - b. The decision shall be considered at a meeting of the appropriate Panel to be held within ten working days of the date specified in the decision notice (paragraph 2.4.b). If any member who called in the decision is not a member of the appropriate Panel or Panels, he or she shall be invited to the meeting and shall be entitled to speak on that item, but not vote. If necessary to meet this timescale, a special Panel meeting shall be held. The Monitoring Officer shall be responsible for arranging any special meeting.

- c. If there is more than one "appropriate Panel", the Monitoring Officer may decide, after taking into account the subject matter of the decision and the reasons why it has been called in, that a joint meeting of some or all of the appropriate Panels should be held.
- d. If, after a decision has been called in but before the appropriate Panel or Panels have considered it, the Cabinet or the person who made the decision reconsiders it and reaches a conclusion that satisfies the members who have called it in, the item shall be withdrawn from the agenda for the Panel meeting. If there is no other business to be transacted the Panel meeting shall be cancelled.

## **5. CONSIDERATION OF DECISION BY OVERVIEW AND SCRUTINY PANEL**

5.1 Where a decision is reviewed under paragraph 4.1 above (at the next programmed meeting because only one member has called it in), the Panel shall consider whether:

- a. the decision was within the Council's policy and budget; and
- b. if it was, whether the policy or budget should be reviewed.

It shall report its views direct to the Leader and the Council.

5.2 Where a decision is reviewed under paragraph 4.2 above (two or more members have called in the decision, and implementation has been delayed subject to the provisions relating to urgency set out in paragraph 7.1 below), the Panel or Panels shall either:

- a. Accept the decision (in which case it may be implemented immediately);  
or
- b. Request the decision-maker to reconsider the decision, giving reasons for the request. The decision-maker shall reconsider the decision as soon as reasonably practicable, (which in the case of a Cabinet decision shall normally be interpreted as at its next meeting). After reconsideration the decision, whether amended or not, may be implemented immediately, and may not be called in for a second time under the procedures in this Chapter; or
- c. Where the decision is of particular high local significance or public interest, refer the decision to full Council for debate at a Council meeting to be held within ten working days of the Panel meeting. If necessary to meet this timescale, a special Council meeting shall be held. The Monitoring Officer shall be responsible for arranging this. The decision-maker shall reconsider the decision as soon as reasonably practicable after the Council meeting (which in the case of a Cabinet decision shall normally be interpreted as at its next meeting), in the light of the Council debate.

After reconsideration the decision, whether amended or not, may be implemented immediately, and may not be called in for a second time under the procedures in this Chapter.

## **6. ATTENDANCE OF EXECUTIVE AT PANEL MEETINGS**

- 6.1 Where an Executive decision is being reviewed at a Panel meeting, a Member of the Executive shall have the right to represent the Executive at the Panel meeting. The Executive may also call upon the appropriate professional officer to provide information to the Panel.
- 6.2 The Panel shall have the right to require Executive members, or officers, to attend the meeting.

## **7. IMPLEMENTATION OF DECISION THAT HAS BEEN CALLED IN**

- 7.1 An Executive decision that has been called in by two or more members shall not be implemented until the procedures in paragraphs 4.2 and 5.2 have been completed unless, in the opinion of both the Monitoring Officer and the appropriate Head of Service, it is, or it becomes, essential to implement the decision before those procedures are complete in the interests of the proper conduct of the Council's business. Where a decision is implemented under this paragraph, the Monitoring Officer shall be responsible for ensuring that an explanation is sent to members.
- 7.2 Where a decision is implemented under paragraph 7.1 before the procedures in paragraphs 4.2 and 5.2 have been completed, the Panel shall still be entitled to consider whether:
  - a. the decision was within the Council's policy and budget; and
  - b. if it was, whether the policy or budget should be reviewed,and report its views direct to the Leader and the Council.



## FINANCIAL REGULATIONS



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## 1. GENERAL MATTERS OF FINANCIAL ADMINISTRATION

- 1.1 The Council shall approve the overall financial strategy. The Cabinet, Portfolio Holders, Committees and Scrutiny Panels may act within the powers delegated to them by the Council and within these Regulations.
- 1.2 These regulations apply to the Council, its members, and officers in all its functions. This includes functions carried out under Section 151 of the Local Government Act 1972, the Local Government Finance act 1988, the Local Government and Housing Act 1989 and the Accounts and Audit Regulations 2015.
- 1.3 The Section 151 Officer may set aside these regulations if they consider it necessary. Any decision to suspend Financial Regulations will be reported to the Council. In the event of a civil emergency the deputy Section 151 Officer may set aside these regulations if they consider it necessary.
- 1.4 Where the Council performs works under an agency agreement with another authority or body, the financial regulations of the principal authority shall take precedence over these regulations, unless otherwise agreed.
- 1.5 These regulations shall be read in conjunction with Standing Orders as to Contracts.
- 1.6 Except for regulations 2.1, 2.1.1 and 3.1, the Section 151 Officer may nominate an officer to exercise any power or duty these regulations confer on them. In addition to the statutory Register of Delegations maintained by the Chief Executive, the Section 151 Officer shall maintain a register of the powers and duties they confer, and the job titles of the officers on whom they have conferred each power or duty.
- 1.7 Where these regulations give a Strategic Director, Assistant Director, or Senior/Service Manager power to authorise an officer to exercise a power or duty, the Strategic Director, Assistant Director, or Senior/Service Manager shall maintain a register of all authorisations and the job titles of the officers who are authorised.
- 1.8 Reports under these regulations shall, where practical, be in writing. In writing includes email communication but formal budget authorisation may only be achieved by completing fully the proper control document or through the formal Cabinet/Council process.
- 1.9 The Section 151 Officer will issue supporting financial practice notes from time to time. These should be read in conjunction with these regulations.

## 2. ACCOUNTING PROCEDURES AND RESPONSIBLE FINANCIAL OFFICER

### GENERAL PRINCIPLES

### PRACTICES, PROCEDURES AND SYSTEMS

- 2.1 The Section 151 Officer is responsible for the proper administration of the Council's financial affairs for the purposes of section 151 of the Local Government Act 1972.
- They are directed by the Council.
- They are authorised to determine the financial practices, procedures and systems required.

- 2.1.1 The Section 151 Officer will report to each Member of the Council and to the Council's external auditors if the Council, the Cabinet, Portfolio Holder, Committee, or an Officer:
- (a) has made, or is about to make, a decision which involves or would involve the Council incurring unlawful expenditure; or
  - (b) has taken, or is about to take, a course of action which if pursued to its conclusion would be unlawful and likely to cause a loss to the Council; or
  - (c) is about to enter an item of account unlawfully.

This is required by section 114 of the Local Government Act 1988.

- 2.2 Strategic Directors, Assistant Directors and Senior/Service Managers shall ensure proper financial control of the parts of the budget for which they are responsible. They are authorised to commit revenue or capital expenditure:
- (a) which is authorised through the Council's approved revenue and capital budgets; or
  - (b) by virement or tolerances permitted by section 4 of these Regulations.

- 2.2.1 Strategic Directors, Assistant Directors and Senior/Service Managers may authorise **other** officers to exercise financial authority. Such authorisation does not reduce the overall responsibility of Strategic Directors, Assistant Directors, and Senior/Service Managers.
- 2.2.2 Details of such delegations shall be sent to the Chief Executive, who shall include the delegations in the Register of Delegations.

- 2.3 The Cabinet, Portfolio Holder, Committee, Panel or Council must consider a report which clearly identifies the costs and benefits before it takes a decision on any new proposals which include any material financial implications.

- 2.3.1 Any financial proposals must:
- (a) be approved by the Section 151 Officer and,
  - (b) comply with these regulations.

## 2. ACCOUNTING PROCEDURES AND RESPONSIBLE FINANCIAL OFFICER

### GENERAL PRINCIPLES

### PRACTICES, PROCEDURES AND SYSTEMS

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2.4 Where expenditure is urgently required outside the regulations set out in Section 4, the Section 151 Officer, in consultation with the Chief Executive, the Portfolio Holder with responsibility for Finance and the Portfolio Holder with responsibility for the relevant service area, may authorise approval.

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2.4.1 The action taken must be reported to the next meeting of the Council.

### 3. AUDIT ARRANGEMENTS AND FRAUD INVESTIGATIONS

#### REGULATIONS 3.1 AND 3.1.1 TO 3.1.2 COMPLEMENT THE ACCOUNTS AND AUDIT REGULATIONS 2015

##### GENERAL PRINCIPLES

3.1 The Section 151 Officer is the Responsible Financial Officer. They shall maintain an adequate and effective internal audit of the Council in accordance with relevant legislation.

##### PRACTICES, PROCEDURES AND SYSTEMS

- 3.1.1 In carrying out their duties under 3.1, the Section 151 Officer, or their authorised representative, may:
- (a) enter any Council premises or land at any reasonable time, subject to any statutory requirements;
  - (b) have access to all records and documents concerning any past or prospective financial transactions of the Council;
  - (c) require, and receive, any necessary explanations concerning any matter under examination;
  - (d) require any employee of the Council to produce any Council property under their control.
- 3.1.2 All employees have a duty to report suspected fraud or irregularities immediately to the Section 151 Officer. They shall take the steps they consider necessary under the Council's Anti-Fraud, Bribery and Corruption Strategy, and Anti-Money Laundering Policy.
- 3.1.3 Any suspected fraud or irregularity concerning the Section 151 Officer must be reported to the designated deputy Section 151 Officer and the Chief Executive.

## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

#### Revenue Budget Preparation

- 4.1 The Leader of the Council shall ensure preparation of detailed budgets of both income and expenditure for all services, for approval by the Cabinet and the Council.

### PRACTICES, PROCEDURES AND SYSTEMS

#### Revenue Budget Preparation

- 4.1.1 In preparing detailed budgets for expenditure and income, the overall financial strategy and spending priorities approved by the Council must be adopted.
- 4.1.2 The Section 151 Officer shall determine the timetable and procedures for budget preparation.
- 4.1.3 No budgets shall be created without the consent of the Section 151 Officer.
- 4.1.4 Budgets may not include contingency sums for unplanned expenditure. These regulations contain enough flexibility to meet unplanned expenditure.
- 4.1.5 Business Units should aim to recover all their costs in accordance with guidelines issued by the Section 151 Officer.
- 4.1.6 Budgets must identify the gross sums for each item of income and expenditure.

- 4.2 The Section 151 Officer shall determine financing arrangements for all approved expenditure.

- 4.2.1 Expenditure which:
- (a) involves any leasing, hire purchase, or rental agreements, and
  - (b) may have implications for the Council under the Government's capital expenditure controls,
- may not be incurred without the Section 151 Officer's approval.

## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

#### Revenue Expenditure – Budget Movements

- 4.3 Budget provision may be moved from one budget heading to another by Senior/Service Managers.

The Section 151 Officer will determine whether a budget movement (where there is no increase in overall budget) can take place either as a transfer as a virement.

Budget Transfers are movements between similar budget priorities and will require adherence to 4.3.1 – 4.3.4.

Budget Virements are movements between different budget priorities and will require adherence to 4.3.1 – 4.4.5.

The relevant Service Accountant must be informed of all budget movements to ensure that the Financial Information System budget position is accurate, to assist budgetary control.

**The Section 151 Officer must be consulted on all transfer proposals before expenditure is committed and can veto any proposed budget movements.**

### PRACTICES, PROCEDURES AND SYSTEMS

#### Revenue Expenditure – Budget Movements

- 4.3.1 Virements or budget transfers may not be made from headings for Support Services or Capital Financing. Virement from Capital Charges may only be undertaken with the prior approval of the Section 151 Officer, irrespective of the value.
- 4.3.2 Virement or budget transfers from Employee allocations may only be undertaken with the agreement of the source Service Manager, irrespective of the value.
- 4.3.3 Virement or budget transfers from income will generally constitute a Supplementary Budget request.
- 4.3.4 All requests for virements or budget transfers must be made using the proper control document.

## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

#### Revenue Expenditures - Budget Movements (Cont.)

- 4.4 All proposals for virement shall be approved in line with the requirements outlined in 4.4.1 – 4.4.5.

**The Section 151 Officer must be consulted on all virement proposals before expenditure is committed and can veto any proposed budget movements.**

### PRACTICES, PROCEDURES AND SYSTEMS

#### Revenue Expenditures - Budget Movements (Cont.)

- 4.4.1 **Sums up to £50,000 vired between individual service cost centres:** requires the approval(s) of the Senior/Service Manager(s) in consultation with their Assistant Director(s) (or Strategic Director(s)).
- 4.4.2 **Sums between £50,000 and £150,000:** require the approval(s) of the relevant Strategic Director(s) in consultation with the Portfolio Holder(s) with responsibility for the Service(s) to/from which the virement is made.
- 4.4.3 **Sums between £150,000 and £450,000:** require approval of the Cabinet.
- 4.4.4 **Sums over £450,000:** require approval of the Council.
- 4.4.5 **More than one request for virement to or from the same budget in the same financial year:** sums must be aggregated to decide which of regulations 4.4.1 to 4.4.4 applies.

- 4.5 Virement must not commit the Council to increased net expenditure in future years. Particular care is required if the virement is to an employee budget.

- 4.5.1 Virement authorisation must identify whether the virement is for one year only or is ongoing. Ongoing requests that will lead to increasing expenditure in future years on a particular budget heading must identify the budget(s) for matching reductions for future years. Otherwise, the request must be considered as a supplementary budget rather than a virement.

## BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

### PRACTICES, PROCEDURES AND SYSTEMS

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**Revenue Expenditures - Budget Movements (Cont.)**

**Revenue Expenditures - Budget Movements (Cont.)**

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4.6 Virement between revenue and capital budgets is not generally permitted. Any exceptional proposals require the prior approval of the Section 151 Officer.

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## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

#### Revenue Expenditure – Supplementary Budgets

- 4.7 There is no authority to spend in excess of an approved budget. If this becomes necessary **and a budget movement is not possible** then a supplementary budget must be obtained.

The base for supplementary budgets is the lowest service cost centre level identified in the approved Policy budget.

For example: -

- Cemeteries
- Applemore Health and Leisure Centre
- Public Conveniences
- HRA Reactive Maintenance

Any proposal for a supplementary budget must be approved in line with the requirements outlined in 4.7.2 – 4.7.6 **before** expenditure is committed.

**The Section 151 Officer must be consulted on all supplementary budget proposals before expenditure is committed and can veto any proposed supplementary budgets.**

### PRACTICES, PROCEDURES AND SYSTEMS

#### Revenue Expenditure – Supplementary Budgets

- 4.7.1 All requests for supplementary budgets must be made using the proper control document and must follow the procedures below.
- 4.7.2 **Sums up to £25,000:** require the approval(s) of the Senior/Service Manager(s) in consultation with their Assistant Director (or Strategic Director).
- 4.7.3 **Sums between £25,001 and £150,000:** require the approval(s) of the Strategic Director(s) in consultation with the Portfolio Holder for Finance and the Portfolio Holder(s) with responsibility for the Service(s).
- 4.7.4 **Sums between £150,001 and £450,000:** require approval of the Cabinet.
- 4.7.5 **Sums over £450,000:** require approval of the Council.
- 4.7.6 **More than one request for supplementary budget for the same budget in the same financial year:** sums must be aggregated to decide which of regulations 4.7.2 to 4.7.5 applies.

## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

#### Capital Budget Preparation

- 4.8 The Leader of the Council shall ensure preparation of detailed budgets of both income and expenditure for all services, for approval by the Cabinet and the Council.
- 4.9 The strategic objectives and priorities for capital expenditure and asset utilisation will be identified annually in the Council's Capital Strategy and Asset Management and Replacement Plans.

### PRACTICES, PROCEDURES AND SYSTEMS

#### Capital Budget Preparation

- 4.8.1 In preparing detailed proposals for capital schemes, the overall strategy and spending priorities approved by the Council must be adopted.
- 4.9.1 The Section 151 Officer will determine
- (a) the definition of capital and revenue expenditure; and capital memorandum items, i.e. assets to be acquired under lease arrangements.
  - (b) the timetable and procedures for capital budget preparation, and
  - (c) de-minimis levels for capital expenditure.
- 4.9.2 Each scheme bid must be supported by a business case. This must include a proper project appraisal, all options considered, forecast of revenue implications for each year during implementation, and for future years and, where appropriate, the incidence of expenditure.
- 4.9.3 Each scheme must clearly identify proposed expenditure on each significant element of the project.

## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

#### Capital Budget Preparation (cont.)

- 4.10 The Section 151 Officer will determine the financial arrangements for all approved expenditure.

### PRACTICES, PROCEDURES AND SYSTEMS

#### Capital Budget Preparation (cont.)

- 4.10.1 Expenditure which:
- (a) involves any leasing, hire purchase or rental agreements, and
  - (b) may have implications for the Council under the Government's capital expenditure controls,
- may not be incurred without the approval of the Section 151 Officer.
- 4.10.2 The availability of sources of external funding should be identified at the time the capital expenditure is proposed, together with any future financial implications for this Council.
- 4.11 Supplementary Budget rules do not apply in instances where external funding received allows an increase in, or new scheme specific expenditure.
- 4.11.1 If new or increased grant or contributions are received towards specific schemes, the Capital expenditure budget will be grossed up accordingly and retrospectively reported for information as appropriate via Financial Monitoring. If increased NFDC resources are required, Virement and Supplementary Budget rules will apply as usual.

## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

### PRACTICES, PROCEDURES AND SYSTEMS

#### Capital Expenditure – Budget Movements

#### Capital Expenditure – Budget Movements

4.12 Budgetary provision may be moved from one capital scheme to another providing the proposals achieve the Council's strategic objectives outlined in the Capital Strategy.

4.13 The Section 151 Officer will determine whether a budget movement (where there is no increase in overall budget) can take place either as a transfer as a virement.

Budget Transfers are movements between similar budget priorities and will require adherence to 4.13.1 – 4.13.2.

Budget Virements are movements between different budget priorities and will require adherence to 4.13.1 – 4.14.5.

The relevant Service Accountant must be informed of all budget movements to ensure that the Financial Information System budget position is accurate, to assist budgetary control.

**The Section 151 Officer must be consulted on all transfer proposals before expenditure is committed and can veto any proposed budget movements.**

4.13.1 External funding and approvals which are scheme specific are not available for virements unless prior approval has been obtained from the external funder/approver.

4.13.2 All requests for virement must be made using the proper control document.

## 4. BUDGETS AND FINANCIAL CONTROL

### PRACTICES, PROCEDURES AND SYSTEMS

#### GENERAL PRINCIPLES

##### Capital Expenditure –Budget Movements (Cont.)

- 4.14 All proposals for virement shall be approved in line with the requirements outlined in 4.14.1 – 4.14.5.

**The Section 151 Officer must be consulted on all virement proposals before expenditure is committed and can veto any proposed budget movements.**

##### Capital Expenditure –Budget Movements (Cont.)

- 4.14.1 **Sums up to £50,000:** require the approval(s) of the Senior/Service Manager(s) in consultation with their Assistant Director (or Strategic Director).
- 4.14.2 **Sums between £50,001 and £150,000:** require the approval(s) of the relevant Strategic Director(s) in consultations with the Portfolio Holder(s) with responsibility for the Service(s).
- 4.14.3 **Sums between £150,001 and £450,000:** require the approval(s) of the relevant Strategic Director(s), in consultation with the Portfolio Holder for Finance and the Portfolio Holder with responsibility for the Service(s).
- 4.14.4 **Sums over £450,000:** require approval by the Council.
- 4.14.5 **More than one request for virement to or from the same scheme in the same financial year: sums must be aggregated to decide which of regulations 4.14.1 to 4.14.4 applies.**

## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

#### Capital Expenditure – Supplementary Budgets

- 4.15 There is no authority to spend in excess of an approved budget. If this becomes necessary **and a budget movement is not possible** then a supplementary budget must be obtained.

Any proposal for a supplementary budget must be approved in line with the requirements outlined in 4.15.2 – 4.15.5 **before** expenditure is committed.

**The Section 151 Officer must be consulted on all supplementary budget proposals before expenditure is committed and can veto any proposed supplementary budgets.**

### PRACTICES, PROCEDURES AND SYSTEMS

#### Capital Expenditure – Supplementary Budgets

- 4.15.1 All requests for supplementary budgets must be made using the proper control document and must follow the procedures below.
- 4.15.2 **Sums up to £25,000:** require the approval(s) of the Senior/Service Manager(s) in consultation with their relevant Assistant Director(s) (or Strategic Director(s)).
- 4.15.3 **Sums between £25,001 and £450,000:** require the approval(s) of the relevant Strategic Director(s), in consultation with the Portfolio Holder for Finance and the Portfolio Holder(s) with responsibility for the Service(s).
- 4.15.4 **Sums over £450,000:** require approval of the Council.
- 4.15.5 **More than one request for supplementary budget for the same budget in the same financial year:** sums must be aggregated to decide which of regulations 4.15.2 to 4.15.4 applies.

## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

#### Budgetary Control/Reporting

- 4.16 Expenditure may only be committed from a budget for the purpose for which it was approved.

### PRACTICES, PROCEDURES AND SYSTEMS

#### Budgetary Control/Reporting

- 4.16.1 Budget Responsible Officers and Senior/Service Managers will:
- (a) monitor actual performance on each budget regularly; and
  - (b) take appropriate steps to ensure budgets are not overspent.
- 4.17 The Section 151 Officer will report regularly to the Executive Management Team, Portfolio Holders, Scrutiny Panels, and the Cabinet, on overall financial performance, predicted gross capital expenditure and net revenue expenditure for the current financial year.
- 4.17.1 Senior/Service Managers will provide data or supporting information for all budgetary control reports.
- 4.17.2 Senior/Service Managers will identify opportunities for savings and additional income and shall ensure these are included promptly in the appropriate monitoring reports and budget plans.
- 4.17.3 Senior/Service Managers will identify, at the earliest opportunity, potential expenditure for which there is no budget provision. They shall also identify proposed sources of finance for meeting additional expenditure, either by movements or supplementary budget (regulations 4.3 to 4.15).
- 4.17.4 Budget Responsible Officers are responsible for carrying out budgetary control and for informing Senior/Service Managers of any potential budget variations at the earliest opportunity, in order to allow Senior/Service Managers to fulfil their obligations.

## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

### PRACTICES, PROCEDURES AND SYSTEMS

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#### Budgetary Control/Reporting (cont.)

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#### Budgetary Control/Reporting (cont.)

- |  |  |
|--|--|
| <p>4.18 Unspent revenue budgetary provision may not be carried forward between financial years, unless regulation 4.18.1 has been applied.</p> | <p>4.17.5 The Section 151 Officer's financial monitoring report will identify material budget movements and supplementary budgets.</p> <p>4.17.6 Any budget changes which impact on the employee establishment must also be notified by the Budget Responsible Officer to the Human Resources Section to ensure that the HR system is updated.</p> <p>4.17.7 In circumstances where the regulations in section 4 cannot be complied with, for instance where expenditure needs to be incurred before Cabinet or Council approval is obtained, regulation 2.4 should be applied.</p> <hr/> <p>4.18.1 The Section 151 Officer may approve earmarking of funds to meet approved expenditure in the following financial year, subject to a written request by a Strategic Director, Assistant Director, or Senior/Service Manager.</p> |
|--|--|
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## 4. BUDGETS AND FINANCIAL CONTROL

### GENERAL PRINCIPLES

#### Budgetary Control/Reporting (cont.)

- 4.19 Exceptionally, schemes may be moved between financial years. This is termed “rephasing” and is subject to the approval of the Section 151 Officer.

The inclusion of items in the expenditure plans outside of the current financial year is an intention to spend only. Budget provision does not exist for those items, other than when it relates to a scheme already committed to in the current year’s budget, or when the annual budget identified is part of a medium term strategy and so is indicative for the current fiscal year and not fixed.

### PRACTICES, PROCEDURES AND SYSTEMS

#### Budgetary Control/Reporting (cont.)

- 4.19.1 Any proposals to rephase a capital scheme or part of a capital scheme from the current financial year to a future financial year must be included in the regular financial monitoring reports presented to Cabinet. If there are any adverse financial consequences of such proposals a separate report detailing reasons for the rephasing, and the consequences must also be presented. The Section 151 Officer will consider the financial position of the relevant budget and strategic targets for the financial year before deciding whether to support the recommendation.
- 4.19.2 For spend in line with the fulfilment of an adopted medium term strategy, the Section 151 officer may approve additional spend in any one given year above the identified indicative annual budget.
- 4.19.3 Any proposal to bring forward new scheme expenditure from future years to the current financial year should be considered as a supplementary budget and follow the regulations set out in section 4.7 and 4.15.

#### Use of Provisions and Reserves

- 4.20 Provisions and earmarked reserves may only be used for the purpose for which they were originally approved.

#### Use of Provisions and Reserves

- 4.20.1 The Section 151 Officer must approve all proposals before expenditure is incurred.

## 5. INCOME

### GENERAL PRINCIPLES

- 5.1 The Section 151 Officer shall approve arrangements for collecting income due to the Council.

### PRACTICES, PROCEDURES AND SYSTEMS

- 5.1.1 The Section 151 Officer must be notified promptly of:
- (a) all money due to the Council outside of the course of ordinary business;
  - (b) contracts, leases, and other agreements entered into which involve the Council receiving money.
- 5.1.2 The Section 151 Officer will have the right to inspect any documents or other evidence.
- 5.1.3 Any agreement which allows the extension of credit payment facilities must be agreed in advance by the Section 151 Officer.
- 5.1.4 The Section 151 Officer will be responsible for ordering, issuing, and controlling all receipt forms.
- 5.1.5 An official receipt must be made available for all cash received on the Council's behalf. An accounting record in a form acceptable to the Section 151 Officer shall be made for any other remittance received.
- 5.1.6 All money received must be banked intact at frequent, regular intervals. The procedures issued by the Section 151 Officer must be followed.
- 5.1.7 Personal cheques must not be cashed out of money held on the Council's behalf.

## 5. INCOME

### GENERAL PRINCIPLES

5.2 At least once a year each Senior/Service Manager will review all fees and charges for services they are responsible for.

5.3 The Section 151 Officer shall be authorised to write off uncollectable or cancelled debt and will delegate approval for write-offs up to a certain level to authorised Senior/Service Managers.

### PRACTICES, PROCEDURES AND SYSTEMS

5.2.1 The review will be undertaken in conjunction with the Section 151 Officer and the Portfolio Holder and changes approved in accordance with the prevailing policy.

5.3.1 The Section 151 Officer will review and write-off debts above the levels delegated to Senior/Service Managers.

5.3.2 The Section 151 Officer shall report written off debt to Audit Committee annually.

## 6. INSURANCE

### GENERAL PRINCIPLES

- 6.1 The Deputy Section 151 Officer and Customer Services shall arrange insurance cover to meet the Council's requirements. They shall be responsible for registering any claims.

### PRACTICES, PROCEDURES AND SYSTEMS

- 6.1.1 Senior/Service Managers shall consult with, and inform, the Deputy Section 151 Officer immediately of: -
- (a) all new risks and liabilities which may need to be insured;
  - (b) any changes which may affect existing insurances;
  - (c) anything which may lead to a claim by or against the Council;
  - (d) any interest in property granted by or to the Council which may involve a transfer of insurance cover; or
  - (e) the terms of any indemnity the Council is requested to give.
- 6.1.2 Contractors or agents acting for the Council must have insurance arrangements which adequately indemnify the Council against any third-party claim. Senior/Service Managers shall consult with the Deputy Section 151 Officer to ensure this.

## 7. INVENTORIES, SECURITY AND DISPOSAL OF ASSETS

### GENERAL PRINCIPLES

7.1 The Senior/Service Manager responsible for Estates will ensure a register of land and buildings owned by, or leased to, the Council is maintained.

### PRACTICES, PROCEDURES AND SYSTEMS

7.1.1 The register of land and buildings will record:

- (a) the purpose for which the land and buildings are held;
- (b) the location;
- (c) the extent;
- (d) the plan reference;
- (e) the purchase details;
- (f) the particulars and nature of the interest;
- (g) rents payable, and
- (h) tenancies granted.

7.1.3 Senior/Service Managers shall supply the Section 151 Officer with the information necessary to maintain the Council's asset register of other assets (for example Vehicles & Plant).

7.2 The Section 151 Officer will ensure safe custody of the title deeds of property owned by, or mortgaged to, the Council.

7.2.1 The Senior/Service Manager responsible for Legal Services acts on behalf of the Section 151 Officer for this purpose.

## 7. INVENTORIES, SECURITY AND DISPOSAL OF ASSETS

### GENERAL PRINCIPLES

### PRACTICES, PROCEDURES AND SYSTEMS

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7.3 Senior/Service Managers will keep inventories of all items of moveable furniture, equipment, minor Vehicles & Plant, where the individual item value is greater than £500 but less than the capital de-minimus level.

7.3.1 Senior/Service Managers will arrange an annual check of inventories.

7.3.2 The Senior/Service Manager responsible for ICT Operations will be responsible for maintaining an inventory of the ICT equipment.

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7.4 Senior/Service Managers will ensure that proper security is always maintained for all assets under their control, both leased and purchased.

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7.5 Senior/Service Managers will aim for maximum utilisation of assets.

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7.6 The Section 151 Officer will determine procedures for disposing of assets, both leased and purchased.

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## 8. STOCKS AND STORES

### GENERAL PRINCIPLES

### PRACTICES, PROCEDURES AND SYSTEMS

8.1 Senior/Service Managers are responsible for the receipt, safe custody, proper security, and issue, of stocks and stores within their service areas.

8.1.1 Stocks and stores records must be maintained in a form agreed with the Section 151 Officer.

8.1.2 Senior/Service Managers shall supply the Section 151 Officer with the information they require for the Council's financial records.

8.1.3 Senior/Service Managers shall arrange for 'independent' physical counts of stocks at least once a year.

8.2 Stocks must be maintained at the lowest level which meets operational requirements.

8.3 Senior/Service Managers shall notify the Section 151 Officer immediately if:

- (a) a deficiency of stocks and stores occurs; or
- (b) obsolete items are identified.

...if above the delegated levels as documented in the Council's write-off policy.

8.3.1 The Section 151 Officer shall decide on the course of action where a deficiency, or obsolete items, are identified. They may authorise any value of write-off. Depending on the sums involved, they may report to the Cabinet or Council, as appropriate.

8.3.2 Disposal of surplus or obsolete stocks and stores must comply with "Disposal of Surplus Items Procedures."

## 9. BANKING ARRANGEMENTS, TREASURY MANAGEMENT, INVESTMENTS AND TRUST FUNDS

### GENERAL PRINCIPLES

9.1 The Section 151 Officer is authorised to make all arrangements for banking services, and to determine banking procedures.

9.2 The Section 151 Officer is authorised to:

- (a) borrow and lend all monies; and
- (b) arrange for the investment of funds, either directly, or through a delegation to a third party

### PRACTICES, PROCEDURES AND SYSTEMS

9.1.1 All bank accounts shall be in the name of the Council, related parties, or wholly owned subsidiaries.

9.1.2 The Section 151 Officer shall take measures to prevent misappropriation or misuse of Council funds.

9.2.1 The Section 151 Officer is required to act in accordance with the adopted CIPFA Code for Treasury Management in Local Authorities.

9.2.2 The Section 151 Officer shall report to the Audit Committee annually on how they have exercised his delegated Treasury Management powers.

9.2.3 All investments shall be made in the name of the Council, except bearer securities and trust funds.

9.2.4 All officers who act as trustees of trust funds because of their official position must give the Section 151 Officer all title documents concerning the trust.

## 9. BANKING ARRANGEMENTS, TREASURY MANAGEMENT, INVESTMENTS AND TRUST FUNDS

### GENERAL PRINCIPLES

### PRACTICES, PROCEDURES AND SYSTEMS

9.3 The Council will agree the Treasury Management Strategy annually.

9.3.1 The Section 151 Officer will:

- (a) recommend the Strategy to the Council after approval of the Audit Committee, and,
- (b) implement the Strategy.

9.4 The Council will set the following borrowing limits before the start of the financial year:

- (a) an amount of money (the 'authorised limit') which is the maximum amount the Council may have outstanding as borrowing;
- (b) an amount which is a part of the authorised limit (the 'operational limit'), which is the average amount the Council may have outstanding as borrowing; and
- (c) a limit on the proportion of the total amount of interest payable by the Council which:
  - i. is at a rate or rates which can be varied by the person to whom it is payable, or
  - ii. can vary by reference to external factors.

The Council may vary these limits at any time.

9.4.1 The Section 151 Officer will report to the Council if borrowing reaches a level which may result in the limits being breached.

9.4.2 The Section 151 Officer will be authorised to exercise the Council's statutory borrowing powers, and act as the registrar of loan instruments.

9.4.3 They may borrow amounts which can be contained within the limits of the Council's capital financing requirement.

9.4.4 They will maintain records of all money the Council borrows. Any borrowing must be in an appropriate manner and on appropriate terms and conditions.

9.4.5 The borrowing limits must not exceed the maximum prescribed.

## 10. ORDERS FOR GOODS AND SERVICES

### GENERAL PRINCIPLES

- 10.1 Official orders must be issued for all goods and services required by the Council, except for:
- (a) public utilities;
  - (b) purchases from imprest accounts or petty cash;
  - (c) works or services provided under a contract, where Standing Orders as to Contracts apply;
  - (d) purchases made through corporate credit cards, gateway procurement cards or through the Internet

### PRACTICES, PROCEDURES AND SYSTEMS

- 10.1.1 The Section 151 Officer shall approve the form of official orders.  
A separate Code of Practice will be issued by the Section 151 Officer for the use of corporate credit cards, gateway procurement cards and the Internet, for purchases of goods and services. All purchases must be in accordance with this Code.
- 10.1.2

## 11. PAYMENT OF ACCOUNTS

### GENERAL PRINCIPLES

- 11.1 Senior/Service Managers, or their authorised officers, will certify all payments for goods, supplies, or services.

### PRACTICES, PROCEDURES AND SYSTEMS

- 11.1.1 The Section 151 Officer will approve manual and electronic procedures for certifying payments. The current thresholds are as follows:

|                                  |                  |
|----------------------------------|------------------|
| Budget Administration Officer    | up to £10,000    |
| Budget Responsible Officer       | £10,000-£50,000  |
| Senior/Service Manager           | £50,000-£450,000 |
| Assistant Director               | £450,000-£2m     |
| Strategic Director               | £2m - £5m        |
| Chief Executive and S151 Officer | over £5m         |

- 11.1.2 A Senior/Service Manager may authorise an officer in their department to certify official orders, accounts for payment and salary and wages records.
- 11.1.3 Senior/Service Managers shall keep a record of the specimen signatures or passwords of officers who are authorised to certify accounts for payment. The record must be in a form acceptable to the Section 151 Officer. Senior/Service Managers must send copies of specimen signatures or passwords to the Section 151 Officer.
- 11.1.4 Senior/Service Managers shall immediately notify the Section 151 Officer when an authorised officer leaves the employment of the Council.
- 11.1.5 All payments for goods, supplies or services must be invoiced.

## 11. PAYMENT OF ACCOUNTS

### GENERAL PRINCIPLES

### PRACTICES, PROCEDURES AND SYSTEMS

- 11.1.6 Certification by an authorised officer means that:
- (a) the expenditure has been properly incurred, and there is budget provision or authority to spend; and
  - (b) the goods, supplies or services have been received or carried out, checked for quantity and quality, and approved; and
  - (c) appropriate entries have been made in inventories or stores records; and,
  - (d) the prices, discounts and other allowances are correct, and extensions and calculations accord with the Section 151 Officers' Invoice Certification guidance notes; and
  - (e) the invoice is an original (not a copy or duplicate) and, where appropriate, is a proper VAT (not a proforma) invoice; and,
  - (f) in the case of public utility charges, standing charges are correct and the consumption recorded is reasonable.

- 11.1.7 To maintain internal control:

- (a) the authorising officer must not normally be the person who ordered or received the goods; and
- (b) another authorised officer must certify any reimbursement of personal expenditure.

## 12. PETTY CASH IMPRESTS AND CHANGE FLOATS

### GENERAL PRINCIPLES

- 12.1 The Section 151 Officer will authorise change floats and imprest accounts for defraying minor expenditure.

### PRACTICES, PROCEDURES AND SYSTEMS

- 12.1.1 Petty cash payments will be limited to:
- (a) the maximum approved limit, and
  - (b) minor items of expenditure.
- They must be supported by receipts, including proper VAT receipts where appropriate.
- 12.1.2 All income received on the Council's behalf must be banked or paid as provided in regulation 5.1. It may not be paid into an imprest account.
- 12.1.3 Reimbursements to imprest accounts must be made at least monthly.
- 12.1.4 Imprest holders are personally responsible for the custody of petty cash and shall ensure its safekeeping. On request they shall give the Section 151 Officer evidence of the state of the account.

## 13. SALARIES

### GENERAL PRINCIPLES

13.1 The Senior/Service Manager responsible for Human Resources will pay all salaries and other emoluments to all current and former Council employees.

13.2 Senior/Service Managers, or their authorised officers, will ensure that all employee appointments accord with Council policy and the approved budget, grades, and rates of pay.

### PRACTICES, PROCEDURES AND SYSTEMS

13.1.1 Senior/Service Managers, or their authorised officers, will notify the Senior/Service Manager responsible for Human Resources as soon as possible of all matters affecting such payments. The Senior/Service Manager responsible for Human Resources may specify the form of the notification.

13.2.1 Senior/Service Managers will maintain a record of the specimen signatures of officers currently authorised on their behalf to certify relevant pay documents and time sheets. The record shall be in a form acceptable to the Senior/Service Manager responsible for Human Resources. Copies of specimen signatures shall be sent to the Senior/Service Manager responsible for Human Resources.

13.2.2 All time sheets or other pay documents must be:

- (a) certified by or on behalf of the Senior/Service Manager; and
- (b) in a form approved by the Senior/Service Manager responsible for Human Resources.

## SCHEDULE 1 – SUMMARY OF REQUIRED APPROVALS FOR BUDGET TRANSFERS, VIREMENTS AND SUPPLEMENTARY BUDGETS

| Value   | S151 Officer | Senior/ Service Manager (Band 10-11) | Assistant* Director | Strategic Director | Portfolio Holder | Finance Portfolio Holder | Cabinet | Council |
|---|--------------|--------------------------------------|---------------------|--------------------|------------------|--------------------------|---------|---------|
| <b>Transfers: Any Value</b>   | C            | D                                    |                     |                    |                  |                          |         |         |
| <b>Virements:</b>   |              |                                      |                     |                    |                  |                          |         |         |
| <b>&lt;= £50,000</b>  | C            | D                                    | C*                  |                    |                  |                          |         |         |
| <b>£50,001 - £150,000</b>   | C            | R                                    | R                   | D                  | C                |                          |         |         |
| <b>£150,001 - £450,000 revenue</b>  | C            | R                                    | R                   | R                  |                  |                          | D       |         |
| <b>£150,001 - £450,000 capital</b>  | C            | R                                    | R                   | D                  | C                | C                        |         |         |
| <b>&gt; £450,000</b>  | C            | R                                    | R                   | R                  |                  |                          | C       | D       |
| <b>Supplementary Budgets:</b>   |              |                                      |                     |                    |                  |                          |         |         |
| <b>&lt;= £25,000</b>  | C            | D                                    | C*                  |                    |                  |                          |         |         |
| <b>£25,001 - £150,000</b>   | C            | R                                    | R                   | D                  | C                | C                        |         |         |
| <b>£150,001 - £450,000 revenue</b>  | C            | R                                    | R                   | R                  |                  |                          | D       |         |
| <b>£150,001 - £450,000 capital</b>  | C            | R                                    | R                   | D                  | C                | C                        |         |         |
| <b>&gt; £450,000</b>  | C            | R                                    | R                   | R                  |                  |                          | C       | D       |
| R = Requester   |              |                                      |                     |                    |                  |                          |         |         |
| D = Decision maker  |              |                                      |                     |                    |                  |                          |         |         |
| C = Consultee   |              |                                      |                     |                    |                  |                          |         |         |
| *Note: should your organisational structure not include an Assistant Director then you must consult your Strategic Director |              |                                      |                     |                    |                  |                          |         |         |

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## **CONTRACT STANDING ORDERS RELATING TO PROCUREMENT**

**APPLICABLE FOR PROCUREMENTS AFTER 24 FEBRUARY 2025**

### **Part 1 Introduction & Compliance**

1. Introduction
2. Compliance
3. Exemptions
4. Conflicts of Interest, Bribery and Corruption

### **Part 2 Orders**

5. Budgetary Provisions and Gateway Review Process
6. Estimate of total contract value (TCV)
7. Tendering thresholds
8. Content of Invitations to Quote or Tender
9. Climate Change and Sustainability
10. Collaborative Procurement
11. Submission and Opening of Tenders and Quotations
12. Evaluating Tenders and Quotations
13. Award Notifications and Entering into Contracts
14. Form and Contents of Legal Terms and Conditions (Contracts)
15. Performance Bond / Parent Company Guarantee
16. Contracts Register
17. Breaches of Contract Standing Orders

- 18. Waivers of Contract Standing Orders
- 19. Contract Modifications
- 20. Contract Mobilisation and Monitoring
- 21. References and Testimonials

**Part 3 Appendices**

- 22. Annex A – Threshold & Sourcing Quick Guide
- 23. Procurement Contract Definitions
- 24. Contract Value Calculation
- 25. Annex B – Scheme of Delegation vs Contract Value

| <b>Version Control:</b> | <b>Amendment record:</b>  | <b>Date</b>             |
|-------------------------|---|-------------------------|
| <b>V1</b>               | <b>New CSOs</b>   | <b>28 October 2024</b>  |
| <b>V2</b>               | <b>Amendments following go-live of the Procurement Act 2023</b>   | <b>24 February 2025</b> |
| <b>V3</b>               | <b>Amendments to Scheme of Delegation following review of Financial Regulations approved by Council 14 April 2025</b> | <b>19 May 2025</b>      |
|                         |   |                         |
|                         |   |                         |
|                         |   |                         |
|                         |   |                         |

## **Part 1 – Introduction & Compliance**

### **1. Introduction**

- 1.1. Procurement operates in a complex legal framework set by the UK Government under the Procurement Act 2023. All local authorities are required by law under the Local Government Act 1972 to draw up a set of Contract Standing Orders (CSO's) for the procurement of goods, services and works. Contract Standing Orders are part of the Councils Constitution (section 4/10).
- 1.2. By following these Contracts Standing Orders in dealing with the Councils procurement, officers can be sure that they have acted in an appropriate manner and are protected from any accusation of corruption, fraud, illegality or misuse of public funds.
- 1.3. These Contract Standing Orders provide the framework for the procurement of all works, goods and services and must be complied with by all Members, Officers, Consultants and other external Agents appointed to act on behalf of the Council in procurement matters.
- 1.4. The Procurement Team will provide advice to Officers on CSO considerations as well as best practice procurement relative to the specific project being planned.
- 1.5. All monetary values referred to in these rules are total contract values, not annual values, and exclude VAT unless otherwise stated. They cover expenditure contracts and income generating contracts.
- 1.6. Governance of Contract Standing Orders: The Functions and Responsibility Regulations 2000 set out that Contract Standing Orders as to contracts are expressly excluded as matters that the Executive Management Team can decide upon, therefore any changes will be presented to full Council for ultimate decision.

### **2. Compliance**

- 2.1. Every Member of the Council and every officer and employee of the Council must comply with these Contract Standing Orders.
- 2.2. Any other person who is engaged in the letting, management or supervision of a contract on behalf of the Council must comply with these Rules as if s/he were an officer of the Council.
- 2.3. These Rules apply to all procurement decisions, regardless of the source of funding, or the status of the contractor (i.e. they apply equally to selection of both main contractors and nominated sub-contractors or suppliers).

- 2.4. Every contract must be let in compliance with the Procurement Act 2023 and domestic legal requirements.
- 2.5. Where the Council has established in-house expertise in a function with suitable capacity, whether it be direct works (engineering, building, grounds maintenance, etc.) or professional services (accountancy, legal, surveying, etc.) all relevant works and services shall normally be delivered by that service.
- 2.6. These Rules are supplemented by a quick guide to the Councils Procurement Thresholds and Sourcing Matrix (See Annex A).

### **3. Exemptions**

- 3.1. The following contracts are exempt from the requirements of these Rules:
  - 3.1.1. Employment contracts
  - 3.1.2. Contracts for the disposal or acquisition of an interest in land, existing buildings or other immovable property
  - 3.1.3. Legal advice sought by the Legal Services Manager, connected with the business of the Council.
  - 3.1.4. Arbitration or conciliation services.
  - 3.1.5. Financial advice sought by the section 151 officer in connection with council business.
  - 3.1.6. Central bank services
  - 3.1.7. Public contracts between entities within the public sector
  - 3.1.8. Grants to external organisations

### **4. Conflicts of Interest, Bribery and Corruption**

- 4.1. All officers involved with the award of contracts must comply with the Council's Anti-Fraud, Bribery and Corruption Strategy.
- 4.2. No gifts or hospitality, other than simple refreshments, shall be accepted by Officers or members from any tenderers to any contract being let by the Council until the time that the contract has been awarded.
- 4.3. No contract can be wholly awarded or managed by an officer who has other interests in the arrangement.

- 4.4. If it comes to the knowledge of a member or officer of the Council that a contract in which s/he has a pecuniary interest has been or is proposed to be entered into by the Council, s/he shall immediately inform the Monitoring Officer.

## Part 2 – Orders

### 5. Budgetary Provision and Gateway Review

- 5.1. No quotation or tender shall be invited or order placed unless there is sufficient approved budgetary provision.
- 5.2. A **Gateway Review** shall be conducted on all procurement contracts with an estimated value **in excess of £25,000**. The Gateway Review is carried out at two key stages of the Procurement Sourcing Process. Gateway Review forms can be found on the ForestNet Procurement Pages.
- 5.3. **Gateway 1 – Project Outline & Procurement Planning.** The Gateway 1 sets out the project scope, aims and objectives, confirms budget provision, describes the procurement procedure to be used and requires relevant Senior/Service Manager and Accountancy approval in order to proceed to formal tendering. Note: Invitations to quote or tender will not proceed without a Senior/Service Manager signed off Gateway 1.
- 5.4. **Gateway 2 – Contract Award Proposal & Approval.** The Gateway 2 reports on the outcome of the tendering activity, proposes way forward including how the contract will be monitored and confirms Senior/Service Manager and Accountancy approval to award contract. Note: Formal contract award letters will not be issued without a Service Manager signed off Gateway 2.



### 6. Contract Value (Estimation of)

- 6.1. All monetary values referred to in these Rules relating to estimation of contract value are total lifetime contract values, not annual values and applies to all expenditure contracts and income generating contracts.
- 6.2. Estimation of “below UK Threshold” (See [7.1-7.4](#) herein) contract values should be calculated exclusive of VAT.

- 6.3. Estimation of “above UK Threshold” (See 7.5 herein) contract values should be calculated inclusive of VAT.
- 6.4. Advertising of Contracts. Where applicable, under the Councils transparency rules (See 7: Tendering Thresholds herein) PPN 10/21 also states that for the purposes of advertising, the estimated contract value will continue to be provided exclusive of VAT. Similarly contract award notices will continue to be published exclusive of VAT.
- 6.5. Guidance on how to calculate the value of a contract can be found in the CSO Thresholds and Sourcing Matrix set out in Annex A herein.
- 6.6. Contracts must be packaged appropriately to achieve maximum value for the Council. They should not be split in order to avoid quotation or tendering limits in these Rules or UK public procurement thresholds or packaged in a way to reduce the potential for fair and open competition.

## **7. Tendering Thresholds**

Different procedures apply based on the estimated contract value:

### **7.1. Contracts valued below £15,000**

Where the estimated contract value is less than £15,000, Service teams will adopt the procedure that is most appropriate to provide best value to the Council. Details of the method used to obtain price checks, benchmark the market or any quotations received will be documented and retained electronically for 12 months (or length of supply agreement plus additional 12 months) to support and justify the ordering decision. Senior/Service Manager approval to award contract is required. NFDC terms and conditions should be used unless otherwise agreed with Legal Services.

### **7.2. Contracts valued between £15,000 and £25,000**

Where the estimated value of a contract is between £15,000 and £25,000 a minimum of three quotations must be invited (via desk-top quotation) for a works, goods or services contract. NFDC terms and conditions should be used unless otherwise agreed with Legal Services. Alternatively, an electronic quotation issued via the Procurement team can be requested to save officer time and make use of our e-procurement system.

### **7.3. Contracts valued between £25,000 and £100,000**

Where the estimated value of a works, goods or services contract is between £25,000 and £100,000, the Procurement team will advise and agree, in conjunction with the service team, the most appropriate procurement route depending on the contract and the market. Nevertheless, the minimum requirement will be to request three quotations,, at least one of

which must be from a local supplier (where possible). A local supplier is defined, for this purpose, as operating within the SO, BH and SP postcode regions. Procurement will invite quotations via the e-procurement system. However, the option to convert from restricted to open advertising will be used if a wider supplier search would benefit the Council.

#### 7.4. Contracts valued between £100,000 and UK Threshold\*

The Councils standing orders require transparent advertising of any contract with an estimated value of £100,000 or more. Procurement will “openly” advertise such contract opportunities on the Council's e-Tendering platform, the South East Business Portal (SEBP) and in addition the Governments Contracts Finder (CF) portal and for above UK threshold (see Annex A) the Find a Tender Service (FTS) to seek expressions of interest and tender responses from suitably qualified suppliers. Note: ALL procurement documentation must be available from date of publication of contract notice (advert).

Advertising of contracts below £100,000 is not required and Officers in conjunction with Procurement will carry out soft market testing to identify local economy, regional and national suppliers prior to the issue of restricted quotations. However, the option to convert from restricted to open advertising will be used if a wider supplier search would benefit the Council.

#### 7.5. Contracts valued in excess of UK Threshold\*

Where the estimated contract value (inclusive of VAT) for a works, goods or services contract exceeds the relevant UK public procurement threshold (\*see Annex A for UK threshold £ values) any contract must be issued by the Procurement team in compliance with the relevant legal requirements, in particular the Procurement Act 2023 and these Rules.

Procurement will arrange for the issue of a Contract Notice (advert) in the UK FTS (Find a Tender Service) to be followed by an invitation to tender using one of the mandated procedures set out in the Procurement Act 2023 (namely; open; or competitive flexible). Procurement will advise on the most appropriate procedure to be followed. Where there is a conflict between legislation and these Rules, the legislation will prevail.

## **8. Content of Invitations to Quote or Tender**

8.1. Procurement will oversee the contents of all invitation to tender or requests for quotation to ensure they include:

- A description of the works, goods or services being procured
- A specification indicating the outcomes required
- Terms and conditions of contract
- The evaluation criteria including any weightings
- The Cost (pricing) mechanism and instructions for completing the tender sum response
- The Quality and Service requirements and associated response form
- Where there is a potential transfer of employees, the Council's view on whether TUPE will apply

- The form and content of any method statements to be provided

## **9. Climate Change and Sustainability**

- 9.1. On 6 October 2021 NFDC declared a climate change and nature emergency for the district. As such for every procurement, the environmental impact must be considered.
- 9.2. For all contracts above £100,000, a minimum of 5% of the evaluation weighting must be allocated to climate change and sustainability actions.

## **10. Collaborative Procurement**

- 10.1. Where procurement is undertaken in collaboration with one or more other public authorities the Contract Standing Orders of one of the other authorities may be used in place of these Rules.
- 10.2. An invitation to tender or to submit quotations may be made for supply to other authorities (including New Forest Town and Parish Councils) in addition to New Forest District Council on similar terms.

## **11. Submission and Opening of Tenders and Quotations**

- 11.1. All invitations to tender or submit a quotation must specify requirements for their submission. Such requirements shall include a time by which tenders or quotations must be received by the Council.
- 11.2. All quotations with an estimated value below £25,000 must be opened, recorded and retained by the nominated officer of relevant Service Team (who is independent of the quotation process). Quotation instructions shall clearly state that the quotations must be returned to the nominated officer only. This can be by email or by post. Returned quotations must be held securely and unopened by the nominated officer until the specified return date. The Contract Administrator must supply the details of the suppliers that have been invited to quotation to the nominated officer prior to the quotations being received.
- 11.3. All quotations and tenders with an estimated value in excess of £25,000 (or any issued by Procurement via the Councils e-procurement system) must be opened by Procurement. Audit history of the opening process will be maintained by the e-procurement system.
- 11.4. Any quotations / tenders received after the specified opening date whether by post or email should not be opened or included in the evaluation.
- 11.5. In the case of quotations / tenders received via the e-procurement system Procurement and Legal Services can agree to accept a late quotation / tender

response received via the e-Procurement system in exceptional cases.

- 11.6. If a Quotation or Tender exercise fails to return more than 1 bid response, then the Contract Administrator and Procurement should decide whether the bid represents value for money and delivers the specification in full. A decision to proceed to award based on single bid OR suspension of the procurement exercise should be agreed, documented and approved via the Gateway 2 review. If the procurement exercise is suspended a decision to a) revise the project and re-tender OR b) abandon the whole project should be set out in the Gateway 2 review.

## 12. Evaluating Quotations and Tenders

- 12.1. Tenders and quotations will be evaluated as per the agreed evaluation criteria set out in the quotation or tender documentation. Procurement provides an evaluation matrix (spreadsheet) for this purpose.
- 12.2. The Contract Administrator must ensure that evaluation of tenders takes place involving suitably experienced officers to form “the evaluation panel”. The results of the evaluation must reflect the consensus of the panel and be approved by the appropriate Senior/Service Manager by sign off Gateway Stage 2. When forming the panel, please refer to the following table as a minimum requirement:

| <b>Tendering Threshold (Excluding VAT)</b> | <b>Evaluation Panel</b>                                     | <b>Moderator</b>                       |
|--|---|--|
| Up to £15k                                 | Officer   | None                                   |
| £15k - £25k                                | Officer and Line Manager                                    | None                                   |
| £25k - £100k                               | Officer and Line Manager                                    | None (Procurement Team if Open Tender) |
| £100k – UK Threshold                       | Officer and Line Manager (including Senior/Service Manager) | Procurement Team                       |
| UK Threshold +                             | Officer and Line Manager (including Senior/Service Manager) | Procurement Team                       |

- 12.3. It is permissible to use consultants to assist with tender evaluation, but the final decision must be made by an NFDC officer with delegated authority.
- 12.4. If during the evaluation of tenders, the panel requires post-tender clarifications from any or all of the tenderers, this must be communicated via the e-procurement system messaging function by the Procurement team).

- 12.5. The results of the evaluation must be retained for the period of SLP from the end of the contract. A copy of the approved evaluation matrix will be provided to Procurement to store electronically in the e-procurement system (along with the award decision letters and final contract documents).

### **13. Award Notifications and Entering into Contracts**

- 13.1. Signing and entering into contracts must be strictly in accordance with the Councils scheme of delegations set out in **Annex B**
- 13.2. The notification of the outcome of a desk-top quotation for contracts below £25,000 will be administered by the relevant Contract Administrator. Senior/Service Manager approval to award contract is required. All tenderers (successful and unsuccessful) will be notified on the same date along with details of their evaluation scores. Template letters are available from Procurement.
- 13.3. The notification of the outcome of a quotation or tender for contracts issued and received via the e-procurement system will be administered by Procurement. All tenderers (successful and unsuccessful) will be notified along with details of their evaluation scores. **Note:** Senior/Service Manager approval of **Gateway Stage 2** is required prior to formal award of contract.
- 13.4. Suppliers / Contractors are required to hold and maintain appropriate levels of insurance during the period of any contract awarded by the Council. Evidence of the insurance cover held must be confirmed prior to the award of contract. See [Insurance Cover Guidance](#) in ForestNet Procurement for advice and guidance.
- 13.5. An official purchase order will be issued (unless otherwise agreed with Procurement) to awarded supplier(s) to call-off goods or services, cross referencing the Councils contract number and awarded suppliers quotation number (if available). Works orders will be instructed as set out in the works contract documents, with payment certificates used to authorise payments. The terms and conditions of contract will be as set out in the quotation / tender pack.

### **14. Form and contents of Legal Terms and Conditions (contracts)**

- 14.1. The choice of contract terms applicable for a Procurement project should be decided at the start of the process by seeking advice from Procurement and/or Legal Services. A range of standard contract type templates are available from ForestNet, others can be provided by Legal Services to suit need.
- 14.2. The decision whether a contract for Works, Goods or Services (with a value below the UK threshold for Goods / Services (See Annex A)) should be signed under hand or sealed as a deed, should be discussed and agreed with Legal / Procurement. The decision will depend upon the use of Statutory Limitation Period (SLP). A contract

signed under hand provides 6 years SLP from end of contract term. A contract executed as a deed and sealed provides 12 years SLP from end of contract term.

- 14.3. Contracts for Works, Goods or Services with a value exceeding the UK threshold for Goods / Services (See Annex A) must be sent to Legal Services to determine if they need to be sealed.
- 14.4. Contracts for Works, Goods and Services with a value NOT exceeding the UK threshold for Goods / Services (See Annex A) may be signed under hand and must be signed by an officer nominated with that level of responsibility as set out in Annex B.

## **15. Performance Bond / Parent Company Guarantee**

- 15.1. As part of the evaluation of short-listed tender responses the Contract Administrator will request from Procurement an independent financial appraisal report.
- 15.2. The financial appraisal provides the Council with an overall financial risk score (referred to as failure score) used to assess the applicant's financial standing. The failure score ratings (0 poor to 100 good) are matched to a pass/fail result as detailed below:
  - Score of 0 to 10 will mean automatic **"FAIL"** and the suppliers will be excluded from the procurement process.
  - Score of 11 to 50 will be a **"PASS – SUBJECT TO"** provision of a performance bond or parent company guarantee if/when deemed appropriate.
  - Score of 51 and over is a **"PASS"** meaning the Council will not request a performance bond or parent company guarantee (although this can be overruled on a case-by-case basis).
- 15.3. A performance bond (PB) or parent company guarantee (PCG) provides the Council with a financial guarantee, typically limited to 10% of the contract price to protect against losses and/or damages as result of the Contractor failing to perform its contractual obligations up to practical completion. A performance bond is a tripartite agreement between the Contractor, its surety (a bank / insurer) and the Council. Likewise, a parent company guarantee is a tripartite agreement between the Contractor, its Parent Company and the Council.
- 15.4. The decision to seek the assurance of a performance bond (PB) or parent company guarantee (PCG) will depend on the risk factors related to the specific contractor and proportionate to the contract value and cost to the Council of the assurance. Advice from Procurement, Accountancy and Legal should be sought by the Contract Administrator where a contractor's financial appraisal highlights concerns. Please see ForestNet for an NFDC template performance bond or parent company guarantee.

## **16. Maintenance of the Contracts Register**

- 16.1. Under Government Transparency Law the Council must publish and maintain details of ALL “live” contracts. To achieve this requirement, Procurement will add details of all contracts to the e-procurement systems contract register accessible via a link on the Councils website for enquiries.
- 16.2. The e-procurement systems contract register allows for “private” documents to be stored. Procurement will add an electronic copy of the final signed / sealed contract and any relevant documents. This will be accessible to Council officers linked to the procurement.
- 16.3. All original sealed deed contract documents must be held centrally by Legal Services for the term of the contract (including any agreed extension periods), plus the statutory limitation period (12 years for sealed deeds). They must be referenced back to the Central Register.
- 16.4. All original signed under hand contracts must be held by the relevant Service unit for the term of the contract (including any agreed extension periods), plus the statutory limitation period (6 years for contracts under hand). They must be referenced back to a Service based register.
- 16.5. Senior/Service Managers are responsible for ensuring that:
  - The original signed/sealed copies of the contract and any subsequent signed variations have been stored as set out in 16.3 and 16.4.
  - Summary details of any contract that has been entered into, that binds the Council to the terms and conditions of the contract plus a .pdf copy of the signed / sealed contract is provided to Procurement to be entered on the Contracts Register administered by Procurement.
  - An electronic copy of the contract and any subsequent variations to the contract that are entered into during its lifetime are stored in their service filing areas (working copy);

Procurement will maintain the online Contracts Register (via the electronic procurement system) to ensure the Council complies with the obligations of the Local Government Transparency Code (2015).

## **17. Breaches of Contract Standing Orders**

- 17.1. Breaches of these Contract Standing Orders are extremely serious matters and will be fully investigated and reported on following referral or discovery. Any breach of these Orders could lead to disciplinary action being taken against the individual(s) concerned.

- 17.2. Strategic Directors, Assistant Directors, Service Managers and Senior Managers are responsible for reporting all known or discovered breaches of these Orders to the Statutory Officers Group as soon as they become aware of such instances.
- 17.3. Any breaches reported to the Statutory Officers Group will be reported to the Audit Committee on an annual basis.

## **18. Waivers of Contract Standing Orders**

- 18.1. A waiver is the process to follow where circumstances mean that Contract Standing Orders cannot be adhered to, in accordance with the following rules:
- 18.2. A waiver must not result in a breach of UK Public Procurement Regulations for contracts within the UK tendering thresholds or of procurement law below UK public procurement thresholds.
- 18.3. An officer may request a waiver by completing the waiver eForm which can be found on the procurement pages on ForestNet.
- 18.4. All waiver requests will be presented to the Monitoring Officer. The arbiter of a waiver decision shall be the Section 151 Officer.
- 18.5. Alternative options should have firstly been explored and exhausted with Procurement by Senior/Service Managers prior to seeking a waiver. This should be documented as part of the waiver request.
- 18.6. All approved waivers where a contract award is sanctioned shall be added to the Contracts Register by Procurement to ensure compliance with the Local Government Transparency Code.
- 18.7. All approved waivers will be subject to scrutiny of the Audit Committee on an annual basis.

## **19. Contract Modifications**

- 19.1. Under the Procurement Act 2023 (Reg 74 and section 8), a modification to an existing pre-tendered contract may be possible, without the need to re-advertise or re-tender, under the following circumstances.
- 19.2. The Contract Administrator, following legal advice, has included a modification (or review) clause in the original contract Terms & Conditions at tender stage providing the possible options for a modification (or variation) to the contract (if required) based on quantity, time or monetary value. Any such modification clause must be clear, precise and unequivocal and must not alter the overall nature of the contract. Legal approval is required to invoke any modification clause.

- 19.3. Where no modification clause was added at tender stage, a modification to the contract may be undertaken providing that:
- the additional costs incurred are below 15% (if Works) or 10% (if Goods / Services) of the current contract value; or
  - Where there are “unforeseen circumstances”, and the increase is not greater than 50%; or
  - Where additional works have become necessary and to change suppliers would not be practical and would cause significant inconvenience or duplication of costs, and the increase is not greater than 50%.
- 19.4. Certain other factors may also permit contract modifications, such as for minor changes or as a result of corporate restructuring. Please seek advice from Legal Services. In any event, any contract modifications must be in adherence to the Financial Regulations.
- 19.5. Gaining approval for modification of a contract: Any modification to an existing pre-tendered contract must be documented by amendment of the original Gateway Review 2 form. The Contract Administrator will document the reason for the modification. The Gateway 2 amendment must be approved and signed by the appropriate Senior/Service Manager to confirm the budget increase, confirm the extension does not exceed that allowed for in this clause and provide formal approval to proceed. If the modification results in the total contract value reaching the next threshold of the Scheme of Delegation, authorisation will also be required by the relevant officer as per section 11.1.1 of the Council’s Financial Regulations. The signed Gateway 2 amended form should be scanned and sent to Procurement to store alongside the original documents in the Contract Register. The contract variation between the Council and the supplier / contractor can then be arranged by the Contract Administrator.
- 19.6. Contract modifications will be tracked by the Procurement team and reported to the Executive Management Team twice yearly.

## **20. Contract Mobilisation and Monitoring**

- 20.1. The Contract Administrator should establish regular reviews with the awarded supplier(s) to monitor the performance of the contract and ensure the cost, service and quality elements of the supplier offer meet (or improve upon) the tendered specification. The contract monitoring regime should be commensurate and proportionate to the contract and should include the use of simple and effective performance measurement. The proposed arrangement to mobilise and monitor the contract throughout its lifetime should be set out in Gateway Review Stage 2 (contract award proposal & approval).

- 20.2. Senior/Service Managers are accountable for ensuring the performance monitoring regime for awarded contracts is maintained in line with the contract documents and the Gateway Review Stage 2.

## 21. References and Testimonials

- 21.1. The Council officers may be asked to provide a reference or testimonial for an organisation with which the Council is in a contractual relationship or partnership. As public entities, district councils are expected to follow certain principles of transparency, fairness, and accountability.
- 21.2. A **reference** is considered a business-to-business communication and should be kept confidential by both parties. It is reasonable to accept requests for references, especially if the supplier has performed well and/or has exceeded expectations. Any opinions offered must be accurate and backed by contemporaneous records. For example, if commenting on supplier performance, such evidence might include performance against KPIs. Subjective assessments should be avoided, and officers should avoid providing “open” references (i.e., a general statement about a supplier not related to any specific contract). Officers need to exercise great care when a request for a reference may result in negative comments about a contractor. It may be appropriate to decline to give a reference in such situations. If in doubt, take advice from the council’s procurement team.
- 21.3. A **testimonial** is considered a communication that may be advertised to the public. The general rule is that officers should not be providing testimonials for marketing purposes to contractors or suppliers. There may be occasions when you are asked to supply a logo or agree to a sign having information such as ‘working with / for New Forest District Council’ which may be appropriate to agree to for a pre-defined period, after which it should be removed.
- 21.4. If you are in any doubt, please contact your Senior/Service Manager and/or the procurement contract relationship officer.

## Part 3 – Appendices

### 22. **Annex A – Contract Standing Orders (Thresholds & Sourcing Matrix)** **CONTRACT STANDING ORDER (QUICK GUIDE)**

| Estimated Contract Value (Excl VAT) | Type of Procurement   | Advert Required                | Sourcing Method to be Used   |
|-------------------------------------|---|--------------------------------|--|
| Less than £15,000                   | Best Value Price Check (BV)<br><i>via desk-top</i>                    | NO                             | <ul style="list-style-type: none"> <li>Use a National / Regional Framework, <i>or</i></li> <li>Use an existing NFDC Corporate contract, <i>or</i></li> <li>Undertake price checks to demonstrate best value for the Council. Document and retain price checks. Senior/Service Manager Approval required.</li> </ul>  |
| £15,000 - £25,000                   | Request for Quotation (RFQ)<br><i>via desk-top OR via Procurement</i> | NO                             | <ul style="list-style-type: none"> <li>Use a National / Regional Framework.</li> <li>Use an existing NFDC Corporate contract.</li> <li>Invite a minimum of 3 written Quotations via your desk-top (eMail), inviting a minimum of 1 Local supplier, using templates available from Procurement if required.</li> <li><b>OR</b> contact Procurement who will run a “restricted” Quotation via the South East Business Portal.</li> </ul>   |
| £25,000 - £100,000                  | Request for Quotation (RFQ)<br><i>via Procurement Team</i>            | NO<br><i>(with Yes option)</i> | <ul style="list-style-type: none"> <li>Gateway Review to be approved by Senior/Service Manager.</li> <li>Discuss with Procurement (Add to Procurement Pipeline).</li> </ul> <p>Procurement options are;</p> <ul style="list-style-type: none"> <li>Use a National / Regional Framework.</li> <li>Use an existing NFDC Corporate contract.</li> <li>Work with Procurement who will advise and agree the appropriate procurement route. The minimum requirement is to run a “restricted” Quotation exercise inviting nominated suppliers via the South East Business Portal, inviting a minimum of 1 Local supplier. <i>Note: the use of an “open” Quotation is optional where potential tenderers are unknown.</i></li> </ul> |
| £100,000 upto *UK Threshold         | Invitation to Tender (ITT)<br><i>via Procurement Team</i>             | YES<br>(SEBP & CF)             | <ul style="list-style-type: none"> <li>Gateway Review to be approved by Senior/Service Manager.</li> <li>Discuss with Procurement (Add to Procurement Pipeline).</li> </ul> <p>Procurement Options are;</p> <ul style="list-style-type: none"> <li>Use a National / Regional Framework.</li> <li>Contact Procurement who will fully manage an “open” Tender process via the South East Business Portal (SEBP) and Contracts Finder (CF).</li> </ul>  |
| *ABOVE UK Threshold & above         | Invitation to Tender (ITT)<br><i>via Procurement Team</i>             | YES<br>(SEBP, CF & FTS)        | <ul style="list-style-type: none"> <li>Estimate contract value inclusive of VAT</li> <li>Gateway Review to be approved by Senior/Service Manager.</li> <li>Discuss with Procurement (Add to Procurement Pipeline).</li> </ul> <p>Procurement Options are;</p> <ul style="list-style-type: none"> <li>Use a National / Regional Framework.</li> <li>Contact Procurement who will fully manage a “UK compliant” Tender process via the “Find a Tender Service” (FTS), Contracts Finder (CF) and the South East Business Portal (SEBP).</li> </ul>  |

Please see The Procurement Act 2023 <https://www.legislation.gov.uk/ukpga/2023/54/contents>

\*UK Thresholds @ 10/09/24 = Goods/Services £214,904; Works £5,372,609 (inc VAT)

Please refer to Procurement Rules, Regulations & Contract Standing Orders on Forestnet >>  
<http://forestnet/article/2591/NFDC-Procurement-Documents>

## 23. Procurement Contract Definitions

- 23.1. **Works:** These contracts relate to construction, demolition, building and civil engineering work and completion work such as joinery, plastering and decoration. It includes major repairs or complete refurbishment. (e.g. building affordable housing, repairing building structures, resurfacing a car park, repairing a roof, installing a heating system.)
- 23.2. **Goods / Supplies:** These contracts relate to the purchase, hire, siting or installation of goods, but not their maintenance. (e.g. equipment, clothing, vehicles & spare parts, office stationery, consumables, gas, electricity, IT Hardware/Software)
- 23.3. **Services:** These contracts relate to the provision by a person or other entity to provide services. (e.g. Provision of maintenance services, professional services (consultancy), financial services, cleaning services, servicing an installed product or system)
- 23.4. **Senior/Service Manager:** Member of the Senior Leadership Team as agreed from time to time by the Chief Executive.

## 24. Contract Value Calculation

- 24.1. The contract value should be the summation of the whole life costs of the contract on offer. e.g. the complete life cycle from start to finish.
- 24.2. **Contract Value = Initial non-recurring elements** (e.g. capital items, materials, supplies, training, refurbishments & labour, set-up costs, etc.) **+ recurring costs over the contract duration** (e.g. materials, parts, maintenance, labour, annual licences, upgrading and ultimate decommissioning / disposal, etc.) for the term duration (e.g. 3 / 4 years). **Note: All estimates for "Above UK Threshold" contracts should include VAT at applicable rate.**
- 24.3. If the contract is a one-off purchase, then the total value will be quite easy to estimate, based on "should cost" or benchmarked comparisons.
- 24.4. If the contract is spread over a number of years (i.e., 3 years + 2 years optional extension), the contract value is the total whole life cost value over the maximum contract duration.
- 24.5. If you intend to buy similar goods or services year-on-year but you do not know the length of the contract or it is indefinite, you will need to estimate the total value of your purchasing over the next 48 months (4 years) to arrive at a Contract value.
- 24.6. Contracts over 5 years duration should be approved by Legal Services in conjunction with Procurement. Single supplier / multi supplier Framework Agreements cannot exceed 4 years duration. Provision should be made for long term agreements

whereby an extension period beyond the initial term may be beneficial to the Council in the future.

- 24.7. Contracts must be packaged appropriately to achieve maximum value for the Council. They should not be split in order to avoid quotation or tendering limits in Contract Standing Orders or UK public procurement thresholds, or be packaged in a way to reduce the potential for fair and open competition.

## 25. Annex B - NFDC Scheme of Delegations Vs. Procurement Contracts

| Process                        | Covers   | Strategic Procurement Manager | Budget Responsible Officer (BRO)               | Senior/Service Manager            | Assistant Director (AD)           | Strategic Directors               | Chief Exec & S151 Officer         |
|--------------------------------|--|-------------------------------|--|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| <b>Awarding a Contract</b>     | Award a contract following a quotation or tender exercise to a supplier with whom orders can be placed (in accordance with procurement rules).<br><br>Select the winning tender from a procurement exercise.   | Up to £50k                    | Up to £50k                                     | Up to £1M                         | Up to £3M                         | Unlimited                         | Unlimited                         |
| <b>Signing a Contract</b>      | Sign under hand a contract awarded under a request for quotation or tender process.<br><br>Sign up to an agreement which ties the council into expenditure (e.g. maintenance agreement).<br><br>Sign up to an agreement which ties the council into a set of terms and conditions (e.g. grant agreement, IT facility agreement). | Up to £50k                    | Up to £50k                                     | Up to £1M                         | Up to £3M                         | Unlimited                         | Unlimited                         |
| <b>Sealing a Deed</b>          | All contracts estimated over the value of £213,477 (the UK Threshold effective from 01 Jan 2022 for Goods/Services) must be referred to Legal Services to confirm whether they require sealing.  | N/A                           | N/A  | Up to £1M<br><br>(Legal Services) | Up to £3M<br><br>(Legal Services) | Up to £5M<br><br>(Legal Services) | Unlimited<br><br>(Legal Services) |
| <b>Purchase Order Approval</b> | Purchases Orders (PO) are mandatory for the supply of works, goods or services. Use Finance Mgt System to create PO once contract is signed / sealed.  | N/A                           | BROfficer = Upto £50k<br>BRAdmin = Up to £10k  | Up to £450K                       | Up to £2M                         | Up to £5m                         | Unlimited                         |
| <b>Invoice payment</b>         | All works, goods and services invoices must be checked and approved for payment (via GRN process) being processed for payment by Accounts Payable. Supplier Invoice must quote a valid NFDC PO number.   | N/A                           | BROfficer = Up to £50k<br>BRAdmin = Up to £10k | Up to £450K                       | Up to £2M                         | Up to £5m                         | Unlimited                         |

\* Values are excluding VAT

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**SECTION 5**  
**CODES OF CONDUCT**

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**NEW FOREST DISTRICT COUNCIL**  
**CODE OF CONDUCT (From 5 May 2023)**

**EXPLANATORY NOTE FOR COUNCIL MEMBERS**

By law, all Councillors are required to follow their Council's Code of Conduct when acting in their capacity as a Councillor.

The Code set out below has been adopted by New Forest District Council to fulfil its obligations under section 27 (2) of the Localism Act 2011, and is consistent with the following principles of public life set out in the Act: selflessness; integrity; objectivity; accountability; openness; honesty, and leadership.

If you have any doubt about whether any action you propose to take may be in breach of the Code, you should seek advice from the Monitoring Officer beforehand. However, please remember that responsibility for your actions remains at all times with you.

Anyone who considers you have failed to comply with this Code may make a formal complaint about you. The Council has adopted procedures for dealing with complaints. If a complaint is upheld, this may lead to your formal censure, adverse publicity ("naming and shaming"), or the Council removing you from a Committee or other position.

Apart from the provisions of this Code, members are required to register and disclose both pecuniary and non-pecuniary interests, as set out in the law and the Council's Standing Orders. Failure to comply with the law as it applies to disclosable pecuniary interests is a criminal offence.

(This explanatory note does not form part of the Code).

## **NEW FOREST DISTRICT COUNCIL**

### **CODE OF CONDUCT**

Whenever you are acting in your capacity as a Councillor:

1. You must not use, or try to use, your position improperly to obtain an advantage or disadvantage for yourself or any other person or body.
2. You must not use your Council's resources improperly for political purposes or any other purposes forbidden by your Council.
3. You must not do anything that compromises, or is likely to compromise, the impartiality of those who work for the Council.
4. You must not bully anyone.  
(Bullying is offensive, intimidating, malicious, insulting or humiliating behaviour that is directed at someone over whom you have some actual or potential influence).
5. You must not intimidate, or try to intimidate, anyone who has complained about you or who may be involved with a complaint about you.
6. You must not disclose information that you know, or ought to know, is confidential, without authority or a legitimate reason.
7. You must not prevent, or try to prevent, anyone from obtaining information to which they are entitled by law.
8. You must not do anything that may cause your Council to breach any of the Equality laws that prohibit discrimination on grounds such as age, sex, race, disability, religion/belief, sexual orientation or pregnancy.

## CODE OF CONDUCT

### LOCALISM ACT 2011 SECTION 28 - ARRANGEMENTS FOR DEALING WITH ALLEGATIONS

#### 1. Making complaints

Any complaint that a member has failed to comply with the Code of Conduct should be addressed to:

The Monitoring Officer  
New Forest District Council  
Appletree Court  
Beaulieu Road  
LYNDHURST  
SO43 7PA.

Or by email: [democratic@nfdc.gov.uk](mailto:democratic@nfdc.gov.uk)

A form for making complaints is available. Its use is encouraged, but is not essential providing the complaint includes all the necessary information.

#### 2. Initial action by Monitoring Officer (MO)

On receiving the complaint the MO may dismiss it without further action if:

- (a) The person complained about is no longer a member of the relevant Council; or
- (b) The MO considers the complaint does not relate to behaviour in the member's official capacity as a Councillor; or
- (c) The matter being complained about happened more than 12 months before the complaint was received; or
- (d) The matter being complained about came to the complainant's notice more than 6 months before the complaint was received.

The MO will inform the complainant and the member accordingly.

If the MO does not dismiss the complaint on one of the above grounds, they will acknowledge it and inform the complainant of the procedure to be followed. The MO may ask the complainant for further information or clarification.

The MO will (except in exceptional circumstances where they consider that it is in the public interest not to do so) send the member complained about a copy of the complaint, and invite the member to submit initial written comments within 10 working days.

The MO will also:

- (a) Ask the member if they wish the views of an Independent Person (IP) appointed under section 28 of the Localism Act 2011 to be taken into account when the complaint is initially examined, and
- (b) Ask the member any specific questions the MO considers will assist the initial assessment of the complaint.
- (c) As an alternative to the above action, the MO may, if they consider it appropriate, refer the complaint to the Police and take no further action under this procedure unless and until informed by the Police that they will not proceed.

### **3. Initial assessment of the complaint**

Initial assessment will, if practicable, take place within 15 working days of receipt of the member's written comments under section 2 above.

The decision on the initial assessment will be made by the Monitoring Team. This will comprise the MO and Chief Executive and, if the member has requested their involvement or the MO considers their involvement appropriate, the IP.

If the MO considers that it is not appropriate for them to act, the Deputy MO will take their place. If the Chief Executive considers that it is not appropriate for them to act, a Strategic Director, Assistant Director or Service Manager will take their place.

Before the Monitoring Team considers the complaint, the MO will send the Chief Executive and (if participating) the IP

- (a) A copy of the complaint;
- (b) A copy of the member's comments in response to the complaint; and
- (c) Any other information in the MO's possession that they consider relevant.

The Monitoring Team's decision on the initial assessment, with reasons and the views of the IP (if involved) will be given in writing to the member, the complainant, and the Clerk to the Parish/Town Council (if the complaint was about a Parish/Town Councillor) within 5 working days.

There will be no right of appeal.

The decision will be available for public inspection.

#### **4. Decision Options at Initial Assessment**

The Monitoring Team may decide:

- (a) To take no action (see Annex 1); or
- (b) To attempt to resolve the matter informally between the complainant and member, either in writing, by face-to-face meeting, or by any other method they consider appropriate. In this case there will be no formal decision as to whether or not there was a breach of the Code of Conduct. If an attempt to resolve the matter in this way is not achieved to the satisfaction of the member and the complainant, options (a), (c) and (d) will remain open; or
- (c) To arrange a hearing before a Panel of 3 members drawn from the Appeals Committee and the IP, at which the member and complainant can state their case and, if appropriate, call witnesses. Procedures are set out at Annex 2. The hearing will reach a formal decision as to whether the member breached the Code of Conduct; or.
- (d) If the complaint is potentially complex, to arrange for a formal investigation to be undertaken, including interview of appropriate witnesses, and to seek the view of the investigator as to whether there has been a breach of the Code of Conduct. If the investigator considers there has been a breach of the Code, a hearing will be arranged as in (c). If the investigator considers that there has not been a breach of the Code, the MO will issue a formal finding to that effect.

## ANNEX 1

No action will be taken where any of the following apply:

- a. the Monitoring Team considers that there is no prima facie evidence that the Code has been breached;
- b. taking into account the nature of the allegation. the Monitoring Team considers that using public funds to examine the matter further would be disproportionate;
- c. the Monitoring Team considers that the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
- d. the conduct complained about has already been the subject of investigation or enquiry by another public body;
- e. the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and the Monitoring Team considers that there is nothing further to be gained;
- f. the Monitoring Team considers that there is not enough information to take the matter further;
- g. the complaint was made anonymously;
- h. the complainant has requested that their identity as complainant be withheld from the member, and the Monitoring Team considers that the matter cannot reasonably be taken further in these circumstances;
- i. the member has already apologised for the action that was the subject of the complaint, and the Monitoring Team considers that this is sufficient to dispose of the complaint;
- j. the Monitoring Team considers that the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual member(s).

### PROCEDURE FOR HEARINGS

#### **General:**

Hearings will where possible be held within 2 months of the initial assessment decision where there is no prior investigation, and within 2 months of receipt by the MO of the investigator's report where there has been a prior investigation.

The hearing will be before a Panel of 3 members drawn from the Appeals Committee. One of the members will be elected Chairman.

The Independent Person [IP] appointed under section 28 of the Localism Act 2011 will also be present. Their views will be requested and taken into account by the Panel, but by law they cannot vote.

The MO or deputy MO will be present as legal advisor to the Panel

Both the member and complainant will be invited to appear. They may present their own case or they may be represented.

They may bring witnesses (of a number the Panel considers is reasonable), in which case written statements from the witnesses must be lodged with the MO at least 8 working days before the hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted.

The cost of any attendance/representation must be borne by the party concerned.

All written evidence will be circulated to the Panel, the IP, the member and the complainant at least 5 working days before the hearing.

Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.

The legal advisor can speak at any time to advise the Panel on technical matters or ask questions of any party.

#### **Proceedings:**

The complainant can address the Panel and call witnesses (if any).

The member can ask the complainant and witnesses questions.

The Panel and IP can ask the complainant and witnesses questions.

The member can address the Panel and call witnesses (if any)

The complainant can ask the member and witnesses questions.

The Panel and IP can ask the member and witnesses questions.

The complainant can make a closing statement.

The member can make a closing statement.

All those present except the Panel, the IP, the legal advisor and Clerk will leave the room while the Panel makes its decision.

The Panel's decision will be announced orally as soon as possible.

A written report of the hearing and decision, with reasons, will be prepared, usually within 5 working days. A copy will be sent to all those present at the hearing and to the Clerk of the Parish/Town Council if the complaint was about a Parish/Town Councillor.

The written report will be available for public inspection.

### **Decisions open to the Panel:**

These are:

- (a) That the member did not fail to comply with their Council's Code of Conduct;
- (b) That the member did fail to comply with their Council's Code of Conduct, and that
  - (i) No action need be taken; or
  - (ii) The member be censured; and/or
  - (iii) Whatever publicity the Panel considers appropriate be given to their findings; and/or
  - (iv) It be recommended to the Council (or to the member's political group where Committee appointments are made by political groups) that the member be removed from a specific Committee(s), or from any other position to which the Council has appointed them.

The Panel may also make any recommendations it considers appropriate to the Council concerned on procedural amendments that might assist members generally to follow the Code of Conduct.

# **CODES OF CONDUCT FOR EMPLOYEES**

## **Conduct**

The Council has various Codes of Conduct in operation which relate to confidentiality and general conduct. These include; Gifts and Hospitality, Financial and Non-Financial Interests, Council Owned Vehicles together with a Code for Member/Officer Relations. Some of the key points are mentioned below:

As an employee of the Council, you must remember that you are employed to serve our customers and must behave, at all times, according to the high standards which they are entitled to expect.

The Council, as the employer, is entitled to expect a high standard of integrity, conduct and loyalty from its employees.

You must not communicate to anyone, especially those outside of the Council the proceedings of any member or employee meeting held in private session, nor the contents of any document or other proceedings relating to the Council unless required by law or authorised to do so by your Service Manager.

Information concerning another employee's private affairs must not be supplied to any person outside the service of the Council unless the consent of that employee is first obtained.

You must ensure that your conduct is conducive with these high expectations of our customers. You are a representative of the Council at all times and should act accordingly. You are expected to conduct yourself in the course of your duties to the high standards of courteous and polite behaviour our customers, members, colleagues and suppliers expect.

## **Code of Conduct on Declaring Interests, Gifts and Hospitality**

### **1. GENERAL CONSIDERATIONS**

- 1.1 Local government employees must at all times be seen to act fairly and impartially. Your conduct is open to public scrutiny, and you should not be embarrassed to explain it to anyone. The public should never have reason to suspect your work-related actions or decisions are influenced by your private interests.
- 1.2 You must not engage in any additional employment or outside activity that conflicts with the Council's interests or could damage public confidence.
- 1.3 This Code sets out the general rules all employees should follow in two main areas:
  - (a) Pecuniary and other interests (that is, where something in your private life may be affected by an action or decision of the Council); and
  - (b) Offers of gifts or hospitality.
- 1.4 The examples given cannot cover every situation that may arise. If you are in any doubt, seek advice from your Service Manager and/or the Monitoring Officer.

## **INTERESTS**

### **2. Pecuniary Interests in Contracts – The Law**

- 2.1 You have a pecuniary interest if any of the following people or organisations has something to gain or lose financially from a contract the Council has entered into or proposes to enter into:
- (a) you
  - (b) your husband/wife or civil partner
  - (c) a company or body or partnership in which you or your husband/wife/civil partner is a member or partner
  - (d) an employer of you, or your husband/wife/civil partner.
- 2.2 If you have an interest of this type you must notify your Service Manager and the Monitoring Officer in writing or by email as soon as you know of it. Details will be entered in a register which District Councillors (but not the public at large) can see.

Note: If you fail to disclose an interest of this type of which you are aware you could be committing an offence.

### **3. Pecuniary Interests - General**

- 3.1 You have a pecuniary interest if you, or your husband/wife/personal partner, has something to gain or lose financially from any matter the Council is dealing with. Examples might be:
- (a) applications for planning permission to the Council;
  - (b) applications for statutory licences from the Council (e.g., liquor or taxi licences).
  - (c) applications for grants from the Council.
  - (d) whether an area of land is to be designated for development.
- 3.2 You do not have a pecuniary interest under paragraph 3.1 where the matter affects the public at large (e.g., the level of Council Tax, or charges for parking or use of leisure facilities).
- 3.3 If you have a pecuniary interest in a matter the Council is dealing with you must notify your Service Manager and the Monitoring Officer in writing or by email as soon as you know of it. Details will be entered in a register.
- 3.4 If the interest is significant in relation to your position within the Council, you should also consider whether it would be appropriate to notify a pecuniary interest of a relative (other than your spouse/partner) or a close friend or associate, or an organisation you are a member of.

### **4. Other Interests**

- 4.1 These can arise where a person or organisation close to you could gain or lose from a matter the Council is dealing with.
- 4.2 You need **ONLY** declare an interest of this type if in the normal course of your job you or a member of your team would be responsible for dealing with the matter. If this is the case, you should notify your Service Manager.
- 4.3 Examples of personal interests are where a close friend or family member (other than your spouse/partner), or a club or organisation you are a member of, has an interest of a type listed in 3.1 above.

## **5. GIFTS AND HOSPITALITY**

- 5.1 The general rule is that, by law, you must not accept any fee or reward from an external source for carrying out your duties. You may commit an offence if you do so.
- 5.2 If you are offered a gift or hospitality because of your work for the Council, the following rules apply. If in doubt, seek advice from your Service Manager and/or the Monitoring Officer.
  - 5.2.1 You can accept the following without having to disclose their receipt:
    - (a) refreshments in the form of “working lunches” or similar,
    - (b) small items of low value (e.g., diaries, pens, stationery) where the donor freely gives these to a variety of customers.
  - 5.2.2 You can accept the following, but you must notify receipt (in writing or by email) to your Service Manager and the Monitoring Officer
    - (a) Hospitality (including for your spouse/partner) where you are representing the Council and, in the opinion of your Service Manager or Line Manager, the level and type of hospitality is not excessive
    - (b) Invitations where hospitality is included as part of the event and there is a genuine need to represent or impart information on behalf of the Council
    - (c) Modest gifts (e.g., chocolates, flowers), especially if these are intended as thanks for good service and refusal may cause embarrassment.
  - 5.2.3 You should never accept the following
    - (a) any expensive gift.
    - (b) any offer of a gift or hospitality if you suspect the giver has an ulterior motive (for example, that they are about to apply for planning permission).
    - (c) travel or accommodation when visiting an actual or potential customer, client, or contractor of the Council, unless approved by your line manager.
- 5.3 Officers in senior positions, or those whose duties include the power to influence the outcome of applications for planning permission, licences, grants etc, should consider whether it would be appropriate in a particular case to notify instances where a gift or hospitality has been offered but refused.

## **6. DEALINGS WITH MEMBERS**

- 6.1 For guidance on dealing with members of the Council, see the Local Code for Member/Officer Relations

## **7. CONCERNS ABOUT IMPROPER CONDUCT OF OTHERS**

- 7.1 If you have any concerns about fraudulent or corrupt acts concerning the Council, see the Council’s Anti-Fraud, Money Laundering and Whistle Blowing at Work Policies.

## **Code of Conduct for Member/Officer Relations**

### **INTRODUCTION**

- 1.1 The purpose of this code is to guide members and officers of the Council in their relations with one another to ensure the smooth running of the Council. In particular it:
  - a. offers guidance on some of the issues that most commonly arise.
  - b. serves as a guide to dealing with issues that are not specifically covered in this Code.
  - c. should ensure that members receive objective and impartial advice.
  - d. should ensure that officers are protected from accusations of bias and undue influence from members.
- 1.2 Much of this Code reflects the principles underlying the statutory Code of Conduct for members. The object of that Code is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct by elected members.

### **2. STATUTORY CODE OF CONDUCT FOR MEMBERS**

- 2.1 The Council's Code of Conduct for Members is at Chapter 32 of the Constitution. Various provisions of the Code are relevant to member/officer relations. These are shown below.
- 2.2 The Code of Conduct requires members:
  - a. not to use their position improperly to obtain an advantage to themselves or any other person or body.
  - b. not to use Council resources improperly for political purposes or any other purposes forbidden by the Council.
  - c. not to do anything likely to compromise the impartiality of officers.
  - d. not to bully anyone, by displaying any offensive, intimidating, malicious, insulting or humiliating behaviour.
  - e. not to disclose any information that is confidential without authority or a legitimate reason.
  - f. not to prevent anyone from obtaining information to which they are entitled by law; and
  - g. not to do anything that may cause the Council to breach any of the Equality laws that prohibit discrimination on grounds such as age, sex, race, disability, religion/belief, sexual orientation of pregnancy.
- 2.3 It is important that any dealings between members and officers should observe these reasonable standards of courtesy and professionalism, and that neither party should seek to take unfair advantage of their position.

### **3. Member concern about officer's conduct or capability**

- 3.1 Members should not raise matters relating to the conduct or capability of a Council employee, or of employees collectively, at meetings held in public. This is a long-standing tradition in public service. Employees have no means of responding to criticisms like this in public.
- 3.2 If a member feels that an officer has not treated him with proper respect or courtesy or has any concern about the conduct or capability of a Council employee, he should initially consider whether it would be appropriate to raise the matter through direct discussion with the employee concerned. Whether this is appropriate will depend largely on the nature and seriousness of the conduct, and the level of seniority of the employee. If the member fails to resolve the matter through discussion with the employee or feels that such an approach would not be appropriate, he should raise the matter with the relevant Executive Head. The Executive Head will look into the facts and report back to the member. If the member continues to feel concerned, he should then report the facts to the Chief Executive who will look into the matter afresh.

### **4. Officer concern about member's conduct**

- 4.1 Where an officer:
  - a. feels a member has not treated him with respect and courtesy, or
  - b. is concerned about any action or statement by a member relating to himself, or to a colleague, he should raise the matter with the member concerned, or with his/her own Line Manager, Executive Head, or the Chief Executive, as appropriate. Line Managers should normally refer matters reported to them to their Service Manager. Where the matter is raised with an Executive Head or Chief Executive, he will take appropriate action which may include approaching the individual member and/or Group Leader. If the Executive Head or Chief Executive considers that the member has been in breach of the Code, he will discuss the matter with the Monitoring Officer who will consider reference to the Standards Committee.

### **5. Candidates for appointment to the Council**

- 5.1 The Council's Standing Orders for General Procedures (Chapter 27) lay down procedures to be followed where a candidate for appointment to the Council is related to a member or senior officer. Standing Orders also specifically prevent candidates for appointment from canvassing members, and members from soliciting an appointment for any person.

### **6. Close Personal Relationships between officers and members**

- 6.1 Mutual respect between members and officers is essential to good local government. However, close personal familiarity between individual members and officers can damage this relationship and prove embarrassing to other members and officers.
- 6.2 The Council recognises that in a large organisation it is inevitable that there may be close social or personal relationships between members and officers. These relationships may have commenced before, or after, a councillor is elected to the Council or before, or after, a person becomes employed by the Council. The councillor should disclose any such relationship to his Group Leader and the Monitoring Officer, and the employee to his Service Manager. The Monitoring Officer and appropriate Service Manager will arrange for the relationship to be entered in the Register of Member and Officer Interests respectively. In order to maintain the integrity of the individuals concerned and the Council such relationships should never be hidden. To do so can lead to suspicion and mistrust. The Group Leaders and Executive Head should take what steps they reasonably can to ensure that neither the member nor the employee is placed in a

position where their relationship will be seen to conflict with this Code or with the Council's Code of Conduct.

## **7. Officers and "senior" members - working relations**

- 7.1 It is clearly important that there should be a close working relationship between Cabinet members, Group Leaders and Committee or Panel Chairmen, and Executive Heads and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal with other members and other party groups.
- 7.2 A Member of the Cabinet, or the Chairman of a Panel or Committee will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting. Sometimes an officer will be under a duty to submit a report to a meeting on a particular matter. An Executive Head or other senior officer will always be fully responsible for the contents of any report submitted by his/her Service. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council or Chairman of the Panel or Committee, as appropriate. If a report is issued in the name of a member of the Executive, it should make clear that any views or recommendations they contain are those of the member (or of the Cabinet as a whole, if appropriate).
- 7.3 In addition to the briefing before any meeting, minority group representatives will also be afforded the opportunity of a briefing through their appropriate spokesman.
- 7.4 Except where the Council's scheme of delegations enables a decision to be taken by a Cabinet member, the law only allows for decisions to be taken by the Council, Cabinet, a Committee, a Sub-Committee or an officer. If a meeting resolves to authorise a named officer(s) to take action in consultation with a member(s), it must be recognised that it is the officer, not the member, who takes the action and the officer who is accountable for it.
- 7.5 Where a Portfolio Holder takes a decision under delegated powers, the Portfolio Holder is personally accountable for the decision.
- 7.6 Officers within a Service are accountable to their Service Manager.
- 7.7 While officers should always seek to assist Portfolio Holders and Chairmen (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Manager. Members should not put staff in a position that could give rise to conflict between them and their Manager and/or Service Manager.

## **8. Officer Advice to Political Groups**

- 8.1 Officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council.
- 8.2 It is common practice for political groups to give preliminary consideration to Council business before the matter is considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to deliberations by party groups, and the support provided can take many forms, ranging from a briefing meeting with a Chairman or spokesman before a formal meeting, to a presentation to a full party group meeting. However, the following rules must be followed:
- a. Officers must at all times maintain political neutrality.

- b. Officers must treat all political groups and individual members in a fair and even-handed manner. Whilst in practice support is likely to be in most demand from whichever party group is for the time being in control of the Council, support is available to all party groups.
- c. Requests for officers to attend any party group meeting must be made through the appropriate Service Manager. The Service Manager will advise the Chief Executive of any requests made.
- d. Officer support must not extend beyond providing information and advice on Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or part of meetings when matters of party business are to be discussed.
- e. Conclusions reached at party meetings must not be interpreted or acted upon as decisions on behalf of the Council.
- f. Officers must interpret any request for advice, and advice given, as confidential and not accessible to any other political group. They must not relay the content of any discussions at which they are present to another political group. However, factual information upon which the advice is based will, if requested, be available to all political groups.
- g. An officer's advice to a political group or member, or help in formulating a policy, must not be assumed to be support by the officer for the policy.
- h. Officers' advice to a party group cannot be a substitute for providing all necessary information and advice to the Cabinet, Panel or Committee when the matter in question is considered.
- i. Unless otherwise agreed in advance with the Chief Executive, officers will not attend party group meetings that include persons who are not members of the Council. Where, exceptionally, attendance in these circumstances has been agreed by the Chief Executive, officers must exercise special care in providing information and advice. Persons who are not Councillors will not be bound by the Code of Conduct, in particular, the provisions concerning the declaration of interests and confidentiality. For this and other reasons officers may not be able to provide the same level of information and advice as they would to a members only meeting.

8.3 Any particular cases of difficulty or uncertainty in this area must be raised with the Chief Executive, who will discuss them with the relevant group leader(s).

## **9. Support Services to Members and Political Groups**

- 9.1 The only basis on which the Council can lawfully provide support services (e.g., stationery, typing, printing, photocopying, transport etc) to members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 9.2 In particular the post distribution system should only be used by members for circulating correspondence and literature relating specifically to Council business. This can include Group correspondence directly relating to Council business.
- 9.3 Apart from accommodation and services that are specifically dedicated to members, the Council's offices, services and sources of information may be used only through the officers. Members should not go into, or use, any offices or sources of information without an officer in attendance.

## **10. Ceremonial Events**

- 10.1 Any member taking part in a ceremonial event (see section 15 below) must not seek disproportionate personal publicity or use the occasion for party political advantage, bearing in mind that he or she is representing the Council as a whole.
- 10.2 See also section 11 concerning members' rights of access to information.
- 10.3 Any information not in the public domain provided by the Council to a member must only be used for the purpose for which it was provided, i.e., in connection with the proper performance of the member's duties as a member of the Council. Any member who obtains any information or documents from any source provided to another member should not make use of, or release that information or document(s), without the consent of the member for whom it was intended. Any information relating to employee matters should always be regarded as confidential. Confidential information provided to members should not be discussed with, or released to, any other persons. Confidential information provided to an individual member should not be discussed with other members without the permission of the person giving the information. In particular, confidential information should never be disclosed or used for the personal advantage of a member or of anyone known to him, or to the disadvantage or the discredit of the Council or anyone else.
- 10.4 It should be noted that agenda and reports for Council, Cabinet, Panel and Committee meetings are to be treated as confidential unless and until they become public in the ordinary course of the Council's business (see Standing Orders for General Procedures No. 8). Reports may be amended, or withdrawn from agenda, at any time up to agenda issue. If a member obtains an advance copy of a report, its contents should not be made public until the agenda containing it is issued.

## **11. OTHER LEGISLATIVE PROVISIONS CONCERNING MEMBER/OFFICER RELATIONS**

### **11.1 Members' Rights of Access to Information and to Council Documents**

- 11.2 The legal rights of members to inspect Council documents is covered partly by statute, and partly by common law. The following paragraphs give guidance on the circumstances in which members may legitimately require officers to give them access to Council documents.
- 11.3 It is however important to note that these rights only apply where members are undertaking Council business. Where a member has a private or personal interest in a matter, the member will only be entitled to the same access to documents as would be the case for a private individual. In these circumstances the member must make it clear to the employee that he is acting on his own behalf and not acting as a Councillor.
- 11.4 Members may approach any Council Service to obtain such reasonable information, explanation and advice about that Service's functions to assist in discharging their role as members of the Council or any particular role, e.g., representative on an outside body to which they have been appointed by the Council. This can range from a request for general information or research about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the Service Manager or another senior officer of the Service concerned. In cases of doubt, the appropriate Service Manager or the Monitoring Officer should be asked for assistance.
- 11.5 Members have a statutory right to inspect any Council document, including any relevant background papers, containing material relating to any business which is to be transacted in

public at a Council, Cabinet, Panel, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of any of the bodies concerned.

- 11.6 This statutory right does not, however, apply to documents or background papers appearing as private session items on agenda for meetings. Therefore, members not on the particular Committee etc do not have a statutory right to inspect confidential or exempt information, for example that relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations. The only exception relates to Overview and Scrutiny Panels. Members of Overview and Scrutiny Panels have the right to exempt or confidential information that is in the possession or under the control of the Executive and contains material relating to:
- a. business transacted at a meeting of a decision-making body; or
  - b. a Portfolio Holder decision; or
  - c. a key decision made by an officer

if the information is relevant to an action or decision the Panel is reviewing, or to a review contained in the Panel's work programme.

- 11.7 The common law right of members is much broader. It is based on the principle that any member has a prima facie right to inspect Council documents provided his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.
- 11.8 The exercise of this common law right therefore depends upon the member's ability to demonstrate that he/she has the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know".
- 11.9 This question must initially be determined by the particular Service Manager whose Service holds the document in question (with advice from the Monitoring Officer). A member will be expected to justify the request in specific terms. In the event of dispute, the question falls to be determined by the Standards Committee.
- 11.10 There will be a range of documents which, because of their nature, are either not accessible by members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft reports, the premature disclosure of which might be against the Council's and the public interest.

- 11.11 The term “Council document” is very broad. It includes, for example, any document produced with Council resources, but it is accepted by convention that a member of one-party group will not have a “need to know” and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 11.12 Further and more detailed advice regarding members’ rights to inspect Council documents may be obtained from the Monitoring Officer.

## **12. Public Relations and News Releases**

- 12.1 The Council’s Public Relations Officer serves the Council as a whole and must operate within the limits of the Code of Recommended Practice on Local Authority Publicity issued under the Local Government Act 1986. Broadly, the 1986 Act prohibits the Council from publishing material that appears designed to affect public support for a political party.
- 12.2 Officers draft news releases on behalf of the Council. They will often contain quotations (within the limits of the Act and Code of Recommended Practice) from the Leader and/or Deputy Leader of the Council, a Portfolio Holder, the Chairman or Vice-Chairman of a Committee, or the Chairman and Vice-Chairman of the Council about ceremonial events. Such news releases are issued on behalf of the District Council and it would not, therefore, be appropriate when repeating quotations from members to indicate their party-political affiliation.

## **13. OTHER LOCAL CONVENTIONS GOVERNING MEMBER/OFFICER RELATIONS**

### **13.1 Correspondence**

- 13.2 An officer should not normally copy correspondence between an individual member and an officer on a matter relating to a single constituent to any other member. Where, exceptionally, it is necessary to copy the correspondence to another member, this should be made clear to the original member. In other words, a system of “silent or blind copies” should not be used.
- 13.3 Where a local member raises an issue relating specifically to a matter of interest in a District Council Ward or individual Parish or Town, copies of correspondence will normally be sent to all councillors for the particular area. The exception will be if the member specifically requests that correspondence is not copied to other members, or there is a political, or other reason, why this is not appropriate (for example because another ward member may have a declarable interest in the matter). Where correspondence is copied to other members this will be made clear to the original member.
- 13.4 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer, rather than in the name of a member. It may be appropriate in certain circumstances (e.g., representations to a Government Minister) for a letter to be signed by a member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a member.

### **14. Involvement of Ward Councillors**

- 14.1 Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward members should be informed or involved, as appropriate, not later than at the outset of the exercise. Similarly, whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting.

## **15. Ceremonial Events**

- 15.1 The Chairman of the Council (or in his/her absence the Vice-Chairman) is the appropriate person to lead District Council ceremonial events which are of particular significance or are not specifically associated with a particular Committee. Similarly, the Chairman of the Council (or in his/her absence the Vice-Chairman) is the appropriate person to represent the District Council at ceremonial events of other organisations which are not specifically associated with the Cabinet or a particular Panel or Committee.
- 15.2 Subject to the above, Portfolio Holders or, where they are not available, another Member of the Cabinet is the appropriate representative for ceremonial events within the scope of their Portfolios. Where a Portfolio Holder or another Member of the Cabinet is not available, the Portfolio Holder may nominate another member.
- 15.3 Local members should always be informed of, and, where possible, invited to ceremonial events taking place within their own parishes/towns, as should County and Parish Councillors as appropriate.

## **16. Communication with Councillors (Members)**

- 16.1 Councillors' (Members) and employees' common purpose is to deliver effective services to all customers including - residents, visitors, and businesses in the District. To do this it is essential that we all work together and that Councillors reasonable requests for information are met without delay. This does not mean that Councillors' have an absolute right of access to all information held on file or to demand extensive research. The following paragraphs provide some simple guidelines to help you when dealing with requests for information.
- 16.2 Councillors are encouraged to make their initial enquiries on new issues to an Executive Head or Service Manager. However, for day-to-day business where Councillors know which individual is dealing with a particular matter, the Councillor is entitled to speak to that person or the Section Head - whichever is most appropriate.
- 16.3 All information, except the response to the most simple, factual queries, must be given to Councillors in writing. This may sound bureaucratic, but it will avoid any misunderstandings in the future. Where information is required urgently by a Councillor, it may be given orally but then should be confirmed in writing.
- 16.4 If you do not fully understand the request, ask the Councillor if they would mind sending you a note so that you are able to respond fully to their enquiry. Remember, communication is everything and providing perfectly good information is useless if it doesn't answer the question, or worse, leaves the Councillor to believe the answer relates to their question when it doesn't.
- 16.5 Where information is provisional in nature (e.g., subject to confirmation or ratification of interim figures or results), the fact that it is provisional should always be clearly stated.
- 16.6 Councillors' queries should be retained on file. The file should not only contain copies all letters sent to Councillors, but also file notes of conversations during which information was supplied.
- 16.7 Where information needs to be obtained from another employee or Business Unit, it is the responsibility of the Employee to whom the query was originally addressed to either obtain the information and pass it back to the Councillor concerned or to let the Councillor know to whom their query has been passed for attention. Where Councillors request personal information on the basis that they are acting on behalf of a member of the public to whom it relates, evidence (e.g.,

a letter from the member of public concerned) should be sought to support the enquiry.

- 16.8 Sometimes Councillors may ask for information which is or may be commercially sensitive. This is particularly the case for contract work or economic development issues but could also relate to information obtained under the Best Value regime. In most cases, the information can be supplied but, as a matter of course, you must check with your Service Manager or Executive Head before releasing such information.

If you have any concerns about information requests or the type of information to be supplied to Councillors, please contact either your Service Manager or the Executive Head Housing and Governance.

### **Code of Practice – Safeguarding Children, Young People and Adults at Risk**

- 1.1 New Forest District Council delivers a varied range of services and functions which can bring employees, Members, volunteers and Contractors into contact with children, young people and adults at risk.
- 1.2 The Council is under a legal (and a moral) duty to ensure that its functions are discharged having regard to the need to safeguard and promote the welfare of children, young people and adults at risk. The purpose of the safeguarding policy is to set out these legal duties, provide a framework and set out the procedures for discharging these safeguarding obligations, including promoting wellbeing, preventing harm and responding effectively to concerns.
- 1.3 The Council believes that all children, young people and adults have the right to be safe, happy and healthy and deserve protection from abuse. The Council is committed to safeguarding from harm all children, young people and adults using any of its services and involved in any of its activities, and to treat them with respect during their dealings with the Council irrespective of their age, gender, disability, race, religious belief, sexual orientation, transgender status or any other protected characteristic (Equality Act 2010).
- 1.4 The Council's role in safeguarding is not to establish or judge whether or not abuse is taking place, it is to report any concerns we have over the welfare of children, young people and adults at risk.
- 1.5 The Safeguarding policy covers four separate but closely related topics: Child Safeguarding, Adult Safeguarding, Domestic Abuse and Prevent and is written in accordance with the Children Act 2004, the Care Act 2014, the Counter Terrorism and Security Act 2015 and the associated statutory guidance.
- 1.6 This Safeguarding policy applies to all Council employees, volunteers ('Council staff') Members, and Contractors including sub-Contractors and organisations that are commissioned, funded by or working on behalf or in partnership with the Council ('Contractors') who come into contact with children, young people and/or adults at risk, whether in someone's home, on Council premises, or in the community.
- 1.7 This policy is not a standalone document and should be read in conjunction with the Council's other policies which contain important safeguarding information.
- 1.8 The Safeguarding policy is reviewed at least every three years and is updated whenever there is a change in applicable legislation and statutory guidance. Furthermore, the policy is updated to reflect any particular points of learning which arise out of the Council's duties. This will ensure the document is fit for purpose and up to date.

## **Code of Conduct for Councillors and Officers Dealing with Planning Matters**

Any officer of the Council who is submitting a planning application, or an application for building regulations approval, must declare a pecuniary interest, in writing. This should be addressed to the Executive Head – Housing and Governance.

Any application submitted by an officer of the Planning Service will be reported to the Council's Planning Committee for a decision. The Chief Planning Officer will use discretion to decide whether proposals submitted by other officers outside the Service should be determined by Members.

For the purpose of this guidance the term planning application is defined as including any consent required by virtue of planning legislation.

### **1. Summary of General Principles**

- 1.1 Every person involved in public life is under constant scrutiny by the people they seek to serve.
- 1.3 Rules governing Councillors' and employees' conduct are prescribed nationally and are in place to protect the public, Councillors and employees.
- 1.4 The overriding guiding principles are:
  - a. Do nothing which does, or even appears to, favour one person or group.
  - b. Do nothing which suggests you have made up your mind on an issue until you have heard all the arguments.
  - c. Comply fully with the law on pecuniary interests, and the National Code of Local Government Conduct.
  - d. For employees, comply with the Council's Code of Conduct and The Royal Town Planning Institutes Code of Professional Conduct.
  - e. Avoid taking gifts and hospitality, but if hospitality is unavoidable ensure that it is at a minimal level and for members its receipt is notified immediately to the Executive Head. Officers must report hospitality and gifts to their Service Manager.

### **2 Summary of Main Additional Principles with Particular Reference to Councillors who Determine Planning Matters**

- 2.1 Councillors with substantial property or other interests which may be affected by planning proposals should avoid serving on the Planning Committee.
- 2.2 Councillors should never act as agents for individuals or organisations pursuing a planning matter.
- 2.3 Councillors should continue to discuss planning matters with their constituents. But in so doing should never commit themselves to unequivocal support or opposition to a particular point of view and make it clear that any views expressed may be changed when they have heard all arguments at a Committee or Sub-Committee meeting.

- 2.4 Councillors who attend public meetings should not commit themselves fully to unequivocal support or opposition to a particular point of view and make it clear that any views they may express may be changed when they have heard all the arguments at a Committee or Sub-Committee.
- 2.5 Councillors should not organise support for, or opposition to, a proposal.
- 2.6 Councillors should not determine their voting intentions on specific site proposals at Group meetings.
- 2.7 In relation to setting overall policies determining the emphasis to be placed in Structure and Local Plans in relation to, for example economic development, countryside preservation, Councillors are not precluded from taking part in political group or other meetings provided that such discussions are confined to policy issues without reference to specific site allocations.
- 2.8 Unless invited to do so by the appropriate Planning Officer, Councillors should not be involved in Officers' pre-application discussions with applicants for planning permission.
- 2.9 In determining planning application Councillors will confine themselves to considering the planning merits of the case and take no account of other issues.
- 2.10 Councillors who wish to support the Council or an appellant on a planning appeal must give notice of their intention to do so to the Executive Head and in the case of a Public Inquiry, not less than 5 days prior to the commencement of the Inquiry.
- 2.11 Councillors who have a pecuniary interest; or prior to the meeting at which the planning matter is to be determined, have committed themselves, and their voting intentions, in any way to a particular viewpoint, should declare an interest in the matter, leave the meeting and take no part in the debate or voting on the issue.

### **3 Golden Rule**

- 3.1 Councillors and employees should always ensure that no matter what actions they take, or statements they may make, prior to the meeting at which the planning matter is determined, neither their actions or statements can be construed as their final decision on the planning matter.

# **LOCAL CODE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS**

## **1. INTRODUCTION**

- 1.1 This Code contains guidance and best practice advice on probity in public office, including the common law principles of pre-determination and bias, in the specific context of planning.
- 1.2 It will be taken into account when a complaint is investigated, whether internally (e.g by the Monitoring Team or an Appeals Panel under the Code of Conduct), or externally (e.g by the Local Government Ombudsman).
- 1.3 The law on registering and disclosing pecuniary interests, and the rules in the Council's adopted Code of Conduct and Standing Orders, should be applied first, followed by the advice set out in this local Code.
- 1.4 This Code covers any planning matter in which the Council is, or is likely to be, involved that relates to a specific area of land. This includes planning applications, planning policy land allocations, enforcement etc.

## **2. WHY HAVE A LOCAL CODE FOR PLANNING?**

- 2.1 This local Code aims to ensure the integrity of the planning system, and that it is, and is seen to be, open and fair to all parties.
- 2.2 Much is often at stake in planning. Opposing views can be strongly held. Private interests have to be balanced with the wider public interest. It is important that decisions are made openly, impartially, with sound judgement and for justifiable reasons. An aggrieved party may:
  - a. seek judicial review of the way the decision was reached; and/or
  - b. complain to the Local Government Ombudsman on grounds of maladministration; and/or
  - c. allege a breach of the Code of Conduct; and/or
  - d. allege a breach of this local Code.

## **3. WHO DOES THE CODE APPLY TO?**

- 3.1 This Code applies to all members of the Council who intend to participate as a member at a meeting, or vote, on a planning matter, that is:

Members of the Planning Committee (PC)

Members of the Cabinet when considering site or area specific policy issues

When planning applications or site or area specific policy issues are referred to full Council for decision, all members of the Council.

It also applies to officers (see sections 18 and 19).

- 3.2 In fulfilling their role as champions of their local community, Councillors may be encouraged to engage in pre-application discussions on development proposals. This may involve attending public meetings. Under common law, members who cannot show that they have an open mind on a matter when it comes to decision time, and then vote, run a risk of being deemed to have predetermined the matter when it comes to PC, the Cabinet, or Council. Members of PC (or the Cabinet or full Council where the matter is ultimately to be decided by those bodies) therefore need to decide, before becoming involved in pre-application or pre-decision discussions:
- a. whether they wish to preserve their right to vote, in which case they should not say or do anything to suggest they may be unable to approach decision-making with an open mind (such as making extreme comments or comments it may be difficult to depart from later) or
  - b. whether they wish to commit themselves and/or represent their community as advocate or opponent of any resulting proposal, in which case they will forego their right to vote on the matter.
- 3.3 Anyone with any doubts about whether or how the Code applies to their own circumstances should seek advice early from the Monitoring Officer.

#### **4. TRAINING**

- 4.1 Planning Committee (PC) and Cabinet members will receive specialist training on planning law and procedures.
- 4.2 Members must be able to commit to a minimum level of planning training before agreeing to serve on the PC.
- 4.3 Attendance will be monitored.

#### **5. MEETINGS – PECUNIARY AND NON-PECUNIARY INTERESTS**

- 5.1 Members should not use, nor give grounds for suspicion that they have used, their position to further a private or personal interest rather than the general public interest.
- 5.2 Members who have substantial property interests, or other interests that would regularly prevent them voting, should not serve on the PC.
- 5.3 PC members who are also Parish/Town Councillors should declare a non-pecuniary interest in a planning application at the PC meeting if their Parish/Town Council has commented on the application. The interest need not prevent the member participating in the decision-making process solely because of the Parish/Town Council comment. However, if the Parish/Town Council is the applicant, or the Parish/Town Council's financial position will be

affected, the member should not vote as this could mean the decision would be set aside under common law rules on bias.

Members should also consider the guidance in section 9 of this Local Code before deciding whether to participate in circumstances where common law rules on predetermination and bias may apply.

- 5.4 PC members who are also Parish/Town Councillors need to carefully consider whether they should participate in debates and vote on development proposals at Parish/Town Council meetings and still participate fully at PC. If they wish to do so, at Parish/Town Council meetings they should make it clear, and ask to have minuted, that the views then expressed are based on the information before them at the time, and might change in the light of further information and/or debate at the PDCC meeting.

## **6. GIFTS AND HOSPITALITY**

- 6.1 Standing Orders require members to disclose to the Monitoring Officer any gifts or hospitality received in their official capacity with an estimated value of £50 or more. However, it is advisable for members to refuse all gifts offered to them in their official capacity, however low in value, if there is any reason to suspect the person offering them is or may become a planning applicant.
- 6.2 If such a gift is accepted, its receipt should be brought to the attention of the Monitoring Officer.
- 6.3 If receipt of a degree of hospitality is unavoidable, members should ensure it is of a minimum nature and its receipt is registered.
- 6.4 Members should consider whether it would be appropriate in a particular case to notify the Monitoring Officer when gifts or hospitality have been offered, but refused.

## **7. ACTING AS AGENT**

- 7.1 Members should never act as agents for individuals or bodies pursuing planning applications to the Council.

## **8. PROPOSALS FOR COUNCIL'S OWN DEVELOPMENT/DEVELOPMENT ON COUNCIL LAND**

- 8.1 It is important that such proposals are dealt with, and seen to be dealt with, on an equal footing with other applications.
- 8.2 Decisions must be taken strictly on the basis of proper planning considerations.
- 8.3 Where the Council is the landowner or applicant for development, any member who has been involved in preparing or advocating the proposal is likely to be perceived as having fettered their discretion, and should not take part in its determination. (See the section on predetermination and bias

below). However, a member in this situation can make a public statement at Committee as set out in paragraph 11.1.

## **9. PREDETERMINATION AND BIAS**

- 9.1 Planning matters should be processed in a fair and open manner. Members making the decision must take account of all the evidence presented. If a member votes on a matter with a closed mind, or could be open to an accusation of bias, the decision may be set aside by the Courts as invalid under common law rules on bias and predetermination.
- 9.2 Section 25 of The Localism Act 2011 provides that a decision maker is not to be taken to have had a closed mind just because they had previously done anything that directly or indirectly indicated what view they took, would take or might take on the matter. The issue is whether a member might have a closed mind at the meeting where the decision is taken. Past actions or statements are a factor which may be taken into account when deciding this. Members who wish to vote on matters therefore need to take care not to give a prior impression that their mind is made up and cannot be changed, and should avoid making extreme comments, or comments from which it may be difficult to depart when it comes to decision time.
- 9.3 Members will naturally form preliminary ideas about how they are likely to vote on a matter. This is acceptable, providing they have an open mind as to the merits of the arguments, and only reach a final decision at the meeting after duly considering all the available information.
- 9.4 In particular, if members do any of the following they should be aware that it may be difficult for them to show that they have an open mind when it comes to decision making time:
- a. organise support for or opposition to a proposal;
  - b. lobby other members;
  - c. act as an advocate;
  - d. seek to interfere with the impartiality of an officer's report, or put pressure on officers for a particular recommendation;
  - e. declare their voting intention before a meeting at which the matter is to be discussed;
  - f. indicate, or give the impression of, support for or opposition to a proposal in a manner suggesting they have a closed mind to any views or further information which may be available;
  - g. follow the lead of another member when voting, rather than reach an independent conclusion based on consideration of all the evidence. For example, a decision should not be based on the views of the Executive or a member of the Executive, or of a political group meeting.

- 9.5 Complying with the additional guidance in this Local Code on pre-decision discussions (paragraph 3.2), lobbying (paragraph 10.1), and the conduct of public meetings (paragraph 14.1 to 14.6) should enable members involved in decision-making to be seen to act impartially.

## **10. LOBBYING**

- 10.1 While it is inevitable that members will be subject to lobbying, where it occurs they should:
- a. simply listen to points of view;
  - b. explain that, whilst they can listen to what is said, it prejudices their impartiality to express a firm point of view or an intention to vote one way or another;
  - c. refer an applicant who requests planning or procedural advice to officers;
  - d. report any undue or excessive lobbying to the Monitoring Officer.

## **11. PROCEDURE WHERE A MEMBER HAS COMMITTED THEMSELF (PREDETERMINATION) OR COULD BE OPEN TO AN ACCUSATION OF BIAS**

- 11.1 If members do commit themselves to a particular view on a planning issue before a formal decision is reached, or feel that the public would reasonably believe they had done so, or would be biased, they should move to a designated area of the meeting room set aside for members who do not intend to vote, declare their position and explain that they will not be voting. They may then make a statement and answer any questions, and may remain in the meeting for the duration of the business. As well as not voting, they should not move or second any recommendation.

## **12. APPLICATIONS RELATING TO PROPERTY IN WHICH A MEMBER HAS A DISCLOSABLE PECUNIARY INTEREST**

- 12.1 Members should inform the Monitoring Officer if a planning application is submitted relating to property in which they have a disclosable pecuniary interest (this includes the interests of spouses and partners of which the member is aware). They should not assume that officers will otherwise be aware of this.
- 12.2 Members must not by law take any part in the decision-making on an application relating to such property, nor speak on the matter at the PC meeting that considers it, unless they have applied for and been granted a dispensation. It is an offence to do so. They will however have the right to make a written submission to explain and justify the proposal to an officer in advance of the PC meeting, just as has any member of the public. If a member is granted a dispensation to address the PC in connection with an application in which they have a disclosable pecuniary interest, they should

do this from the area used by the public for making representations, not from a position amongst Committee members.

### **13. DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

- 13.1 The reasons for all decisions should be clear, convincing, and supported by planning evidence.
- 13.2 Where a decision is made to approve or refuse an application against officer advice, or impose additional conditions on a permission, the reasons must be clearly stated when the proposition is moved.
- 13.3 Officers must be given the opportunity to explain the implications of a contrary decision before a vote is taken.

### **14. CONDUCT OF MEETINGS**

- 14.1 Members will conduct the business of the PC in a fair and sensitive manner, conscious of the public arena in which they are appearing.
- 14.2 Members and officers will address one another during the debate in a proper manner and will not refer to one another by first names.
- 14.3 Discussions about applications, as well as decisions, should be confined to the planning merits.
- 14.4 Senior Legal and Planning Officers will attend all PC meetings.
- 14.5 PC members should not communicate with members of the public (either orally or in writing) during the Committee's proceedings. This could give the appearance of bias.
- 14.6 PC members should not vote on a planning application unless they have been present for the entire debate, including any introduction by officers and representations from the public.

### **15. APPEALS AGAINST PLANNING DECISIONS**

- 15.1 Before deciding whether to make representations on an appeal, members should remember that their overriding duty as a Councillor is to the whole local community.
- 15.2 Members wishing to make representations on an appeal should give written notice to the Monitoring Officer and the appellant. Where the appeal is to be dealt with at an inquiry, this notice should be given at least 5 working days before the start of the inquiry.

## **16. SITE VISITS**

- 16.1. The PC has agreed criteria for deciding when it is appropriate to hold a site visit. These, and administrative considerations arising from them, are set out at Annex 1.
- 16.2 Applicants and objectors may not address members at site visits.
- 16.3 PC members may familiarise themselves with a site informally, before the application is debated at PC. When doing so, members should remember that:
  - a. the Council's adopted Code of Conduct, and this local Code, applies to them at such times;
  - b. they should not become involved in any conversation with the public during such a visit;
  - c. they have no legal right to enter private land without the owner's or occupier's permission.

## **17. Review of Decisions**

- 17.1 Senior officers will monitor PC decisions continuously, and if concerns arise about decisions made contrary to officer recommendations these will be reported to the Committee.
- 17.2 The PC will monitor the quality of its decisions through an annual tour of sites.

## **18. ALL OFFICERS**

- 18.1 The onus is on officers to inform their Service Manager if a planning application is submitted relating to a property in which they have an interest. The Employee Handbook contains instructions on how to do this. The officer should not assume that planning officers will otherwise be aware of this.
- 18.2 Proposals submitted by or on behalf of officers will be determined by the PC. Officers will have the same rights as a member of the public to explain and justify their proposal to a planning officer before it is referred to the Committee.

## **19. PLANNING OFFICERS**

- 19.1 Officers must always act impartially.
- 19.2 Officers involved in processing and determining planning matters must act in accordance with the Royal Town Planning Institute's Code of Professional Conduct.
- 19.3 The Code of Conduct for Employees contains general rules on the acceptance of gifts and hospitality. Officers involved in planning should also

consider whether it would be appropriate in a particular case to notify instances where gifts or hospitality have been offered, but refused.

- 19.4 Officers should never act as agent for an individual or body pursuing a planning application.
- 19.5 In any discussion on planning issues, officers will always make it clear at the outset that any views they express are based on their provisional professional judgement and do not commit the Council to any particular decision.
- 19.6 Advice given will be consistent and based upon material planning considerations. Every effort will be made to ensure that there are no significant differences in interpretation of planning policies between officers.
- 19.7 Where officers consider it appropriate, a written note of discussions will be made, and/or a follow up letter sent explaining the conclusions of the discussion. Two or more officers will attend potentially contentious meetings.
- 19.8 Reports to PC must be accurate and cover all relevant points, including the substance of any objections and the views of those consulted.
- 19.9 All reports will have a written recommendation of action/decision, and oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur.
- 19.10 All reports will contain a technical appraisal that clearly justifies the stated recommendation.
- 19.11 All reasons for refusal, and conditions to be attached to permissions, must be clear and unambiguous.
- 19.12 If a departure from the development plan is recommended, the material considerations justifying the departure must be clearly stated.
- 19.13 Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings or significant telephone conversations.
- 19.14 Monitoring of record keeping will be undertaken on a continuous basis by Managers in Planning Services.

**SITE VISITS**

The agreed criteria for deciding when it is appropriate to hold a site visit are:

- a. where the proposal raises significant policy issues which cannot be readily understood without seeing the context of the site; or
- b. where the proposal is being considered under an exceptions policy and has a particular degree of sensitivity; or
- c. major developments which would have a significant environmental impact where the wider context of the proposal is important; or
- d. unusual or unconventional proposals where the context of the site is relevant to the determination of the proposals.

Even if one or more of the above criteria is met, a site visit shall only be held if the majority of Committee members indicate that they will attend on the appropriate day.

The purpose of a site visit is for members to gain knowledge of the proposal, the site, and its relationship to adjacent sites. It is not a formally convened meeting open to the public.

Applicants and objectors may not address members at site visits.

Officers will prepare a report including any relevant information obtained from the site visit to enable the Committee to decide the application.

The Monitoring Officer will ensure all correspondence about site visits clearly identifies its purpose, format, and conduct. Written procedures on this shall be maintained and communicated to all parties.

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# **CODE OF CONDUCT FOR MEMBER/OFFICER RELATIONS**

## **1. INTRODUCTION**

- 1.1 The purpose of this code is to guide members and officers of the Council in their relations with one another to ensure the smooth running of the Council. In particular it:
- a. offers guidance on some of the issues that most commonly arise.
  - b. serves as a guide to dealing with issues that are not specifically covered in this Code.
  - c. should ensure that members receive objective and impartial advice.
  - d. should ensure that officers are protected from accusations of bias and undue influence from members.
- 1.2 Much of this Code reflects the principles underlying the statutory Code of Conduct for members. The object of that Code is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct by elected members.

## **2. STATUTORY CODE OF CONDUCT FOR MEMBERS**

- 2.1 The Council's Code of Conduct for Members sits alongside this document in the Constitution. Various provisions of the Code are relevant to member/officer relations. These are shown below.
- 2.2 The Code of Conduct requires members:
- a. not to use their position improperly to obtain an advantage to themselves or any other person or body.
  - b. not to use Council resources improperly for political purposes or any other purposes forbidden by the Council.
  - c. not to do anything likely to compromise the impartiality of officers.
  - d. not to bully anyone, by displaying any offensive, intimidating, malicious, insulting or humiliating behaviour.
  - e. not to disclose any information that is confidential without authority or a legitimate reason.
  - f. not to prevent anyone from obtaining information to which they are entitled by law; and
  - g. not to do anything that may cause the Council to breach any of the Equality laws that prohibit discrimination on grounds such as age, sex, race, disability, religion/belief, sexual orientation or pregnancy.
- 2.3 It is important that any dealings between members and officers should observe these reasonable standards of courtesy and professionalism, and that neither party should

seek to take unfair advantage of their position.

### **3. MEMBER CONCERN ABOUT OFFICER'S CONDUCT OR CAPABILITY**

- 3.1 Members should not raise matters relating to the conduct or capability of a Council employee, or of employees collectively, at meetings held in public. This is a long-standing tradition in public service. Employees have no means of responding to criticisms like this in public.
- 3.2 If a member feels that an officer has not treated them with proper respect or courtesy or has any concern about the conduct or capability of a Council employee, they should initially consider whether it would be appropriate to raise the matter through direct discussion with the employee concerned. Whether this is appropriate will depend largely on the nature and seriousness of the conduct, and the level of seniority of the employee. If the member fails to resolve the matter through discussion with the employee or feels that such an approach would not be appropriate, they should raise the matter with the relevant Executive Head. The Executive Head will look into the facts and report back to the member. If the member continues to feel concerned, they should then report the facts to the Chief Executive who will look into the matter afresh.

### **4. OFFICER CONCERN ABOUT MEMBER'S CONDUCT**

- 4.1 Where an officer:
  - a. feels a member has not treated them with respect and courtesy, or
  - b. is concerned about any action or statement by a member relating to themselves, or to a colleague, they should raise the matter with the member concerned, or with their own Line Manager, Strategic Director, or the Chief Executive, as appropriate. Line Managers should normally refer matters reported to them to their Service Manager. Where the matter is raised with a Strategic Director or Chief Executive, they will take appropriate action which may include approaching the individual member and/or Group Leader. If the Strategic Director or Chief Executive considers that the member has been in breach of the Code, they will discuss the matter with the Monitoring Officer who will consider reference to the Council's complaint's procedures.

### **5. CANDIDATES FOR APPOINTMENT TO THE COUNCIL**

- 5.1 The Council's Standing Orders for General Procedures lay down procedures to be followed where a candidate for appointment to the Council is related to a member or senior officer. Standing Orders also specifically prevent candidates for appointment from canvassing members, and members from soliciting an appointment for any person.

### **6. CLOSE PERSONAL RELATIONSHIPS BETWEEN OFFICERS AND MEMBERS**

- 6.1 Mutual respect between members and officers is essential to good local government. However, close personal familiarity between individual members and officers can damage this relationship and prove embarrassing to other members and officers.
- 6.2 The Council recognises that in a large organisation it is inevitable that there may be close social or personal relationships between members and officers. These relationships may have commenced before, or after, a councillor is elected to the Council or before, or after, a person becomes employed by the Council. The

councillor should disclose any such relationship to their Group Leader and the Monitoring Officer, and the employee to their Service Manager. The Monitoring Officer and appropriate Service Manager will arrange for the relationship to be entered in the Register of Member and Officer Interests respectively. In order to maintain the integrity of the individuals concerned and the Council such relationships should never be hidden. To do so can lead to suspicion and mistrust. The Group Leaders and Strategic Director should take what steps they reasonably can to ensure that neither the member nor the employee is placed in a position where their relationship will be seen to conflict with this Code or with the Council's Code of Conduct.

## **7. OFFICERS AND "SENIOR" MEMBERS - WORKING RELATIONS**

- 7.1 It is clearly important that there should be a close working relationship between Cabinet members, Group Leaders and Committee or Panel Chairmen, and Strategic Directors and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal with other members and other party groups.
- 7.2 A Member of the Cabinet, or the Chairman of a Panel or Committee will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting. Sometimes an officer will be under a duty to submit a report to a meeting on a particular matter. A Strategic Director or other senior officer will always be fully responsible for the contents of any report submitted by their Service. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council or Chairman of the Panel or Committee, as appropriate. If a report is issued in the name of a member of the Cabinet, it should make clear that any views or recommendations they contain are those of the member (or of the Cabinet as a whole, if appropriate).
- 7.3 In addition to the briefing before any meeting, minority group representatives will also be afforded the opportunity of a briefing through their appropriate spokesman.
- 7.4 Except where the Council's scheme of delegations enables a decision to be taken by a Cabinet member, the law only allows for decisions to be taken by the Council, Cabinet, a Committee, a Sub-Committee or an officer. If a meeting resolves to authorise a named officer(s) to take action in consultation with a member(s), it must be recognised that it is the officer, not the member, who takes the action and the officer who is accountable for it.
- 7.5 Where a Portfolio Holder takes a decision under delegated powers, the Portfolio Holder is personally accountable for the decision.
- 7.6 Officers within a Service are accountable to their Service Manager.
- 7.7 While officers should always seek to assist Portfolio Holders and Chairmen (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Manager. Members should not put staff in a position that could give rise to conflict between them and their Manager and/or Service Manager.

## **8. OFFICER ADVICE TO POLITICAL GROUPS**

- 8.1 Officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council.
- 8.2 It is common practice for political groups to give preliminary consideration to Council business before the matter is considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to deliberations by party groups, and the support provided can take many forms, ranging from a briefing meeting with a Chairman or spokesman before a formal meeting, to a presentation to a full party group meeting. However, the following rules must be followed:
- a. Officers must at all times maintain political neutrality.
  - b. Officers must treat all political groups and individual members in a fair and even-handed manner. Whilst in practice support is likely to be in most demand from whichever party group is for the time being in control of the Council, support is available to all party groups.
  - c. Requests for officers to attend any party group meeting must be made through the appropriate Service Manager. The Service Manager will advise the Chief Executive of any requests made.
  - d. Officer support must not extend beyond providing information and advice on Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or part of meetings when matters of party business are to be discussed.
  - e. Conclusions reached at party meetings must not be interpreted or acted upon as decisions on behalf of the Council.
  - f. Officers must interpret any request for advice, and advice given, as confidential and not accessible to any other political group. They must not relay the content of any discussions at which they are present to another political group. However, factual information upon which the advice is based will, if requested, be available to all political groups.
  - g. An officer's advice to a political group or member, or help in formulating a policy, must not be assumed to be support by the officer for the policy.
  - h. Officers' advice to a party group cannot be a substitute for providing all necessary information and advice to the Cabinet, Panel or Committee when the matter in question is considered.
  - i. Unless otherwise agreed in advance with the Chief Executive, officers will not attend party group meetings that include persons who are not members of the Council. Where, exceptionally, attendance in these circumstances has been agreed by the Chief Executive, officers must exercise special care in providing information and advice. Persons who are not Councillors are not bound by the Code of Conduct, in particular, the provisions concerning the declaration of interests and confidentiality. For this and other reasons officers may not be able to provide the same information and advice as they would to members only.

- 8.3 Any particular cases of difficulty or uncertainty in this area must be raised with the Chief Executive, who will discuss them with the relevant group leader(s).

## **9. SUPPORT SERVICES TO MEMBERS AND POLITICAL GROUPS**

- 9.1 The only basis on which the Council can lawfully provide support services (e.g., stationery, typing, printing, photocopying, transport etc) to members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 9.2 In particular the post distribution system should only be used by members for circulating correspondence and literature relating specifically to Council business. This can include Group correspondence directly relating to Council business.
- 9.3 Apart from accommodation and services that are specifically dedicated to members, the Council's offices, services and sources of information may be used only through the officers. Members should not go into, or use, any offices or sources of information without an officer in attendance.

## **10. CEREMONIAL EVENTS**

- 10.1 Any member taking part in a ceremonial event (see section 15 below) must not seek disproportionate personal publicity or use the occasion for party political advantage, bearing in mind that they are representing the Council as a whole.
- 10.2 See also section 11 concerning members' rights of access to information.
- 10.3 Any information not in the public domain provided by the Council to a member must only be used for the purpose for which it was provided, i.e., in connection with the proper performance of the member's duties as a member of the Council. Any member who obtains any information or documents from any source provided to another member should not make use of, or release that information or document(s), without the consent of the member for whom it was intended. Any information relating to employee matters should always be regarded as confidential. Confidential information provided to members should not be discussed with, or released to, any other persons. Confidential information provided to an individual member should not be discussed with other members without the permission of the person giving the information. In particular, confidential information should never be disclosed or used for the personal advantage of a member or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 10.4 It should be noted that agenda and reports for Council, Cabinet, Panel and Committee meetings are to be treated as confidential unless and until they become public in the ordinary course of the Council's business (see Standing Orders for General Procedures No. 8). Reports may be amended, or withdrawn from agenda, at any time up to agenda issue. If a member obtains an advance copy of a report, its contents should not be made public until the agenda containing it is issued.

## **11. OTHER LEGISLATIVE PROVISIONS CONCERNING MEMBER/OFFICER RELATIONS**

### **11.1 Members' Rights of Access to Information and to Council Documents**

11.2 The legal rights of members to inspect Council documents is covered partly by statute, and partly by common law. The following paragraphs give guidance on the circumstances in which members may legitimately require officers to give them access to Council documents.

11.3 It is however important to note that these rights only apply where members are undertaking Council business. Where a member has a private or personal interest in a matter, the member

will only be entitled to the same access to documents as would be the case for a private individual. In these circumstances the member must make it clear to the employee that they are acting on his own behalf and not acting as a Councillor.

11.4 Members may approach any Council Service to obtain such reasonable information, explanation and advice about that Service's functions to assist in discharging their role as members of the Council or any particular role, e.g., representative on an outside body to which they have been appointed by the Council. This can range from a request for general information or research about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the Service Manager or another senior officer of the Service concerned. In cases of doubt, the appropriate Service Manager or the Monitoring Officer should be asked for assistance.

11.5 Members have a statutory right to inspect any Council document, including any relevant background papers, containing material relating to any business which is to be transacted in public at a Council, Cabinet, Panel, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of any of the bodies concerned.

11.6 This statutory right does not, however, apply to documents or background papers appearing as private session items on agenda for meetings. Therefore, members not on the particular Committee etc do not have a statutory right to inspect confidential or exempt information, for example that relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations. The only exception relates to Overview and Scrutiny Panels. Members of Overview and Scrutiny Panels have the right to exempt or confidential information that is in the possession or under the control of the Executive and contains material relating to:

- a. business transacted at a meeting of a decision-making body; or
- b. a Portfolio Holder decision; or
- c. a key decision made by an officer

if the information is relevant to an action or decision the Panel is reviewing, or to a review contained in the Panel's work programme.

11.7 The common law right of members is much broader. It is based on the principle that any member has a prima facie right to inspect Council documents provided his/her access to the documents is reasonably necessary to enable the member properly to

perform his/her duties as a member of the Council. This principle is commonly referred to as the “need to know” principle.

- 11.8 The exercise of this common law right therefore depends upon the member’s ability to demonstrate that they have the necessary “need to know”. In this respect a member has no right to “a roving commission” to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”.
- 11.9 This question must initially be determined by the particular Service Manager whose Service holds the document in question (with advice from the Monitoring Officer). A member will be expected to justify the request in specific terms. In the event of dispute, the question falls to be determined by the Standards Committee.
- 11.10 There will be a range of documents which, because of their nature, are either not accessible by members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft reports, the premature disclosure of which might be against the Council’s and the public interest.
- 11.11 The term “Council document” is very broad. It includes, for example, any document produced with Council resources, but it is accepted by convention that a member of one-party group will not have a “need to know” and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 11.12 Further and more detailed advice regarding members’ rights to inspect Council documents may be obtained from the Monitoring Officer.

## **12. PUBLIC RELATIONS AND NEWS RELEASES**

- 12.1 The Council’s Public Relations Officer serves the Council as a whole and must operate within the limits of the Code of Recommended Practice on Local Authority Publicity issued under the Local Government Act 1986. Broadly, the 1986 Act prohibits the Council from publishing material that appears designed to affect public support for a political party.
- 12.2 Officers draft news releases on behalf of the Council. They will often contain quotations (within the limits of the Act and Code of Recommended Practice) from the Leader and/or Deputy Leader of the Council, a Portfolio Holder, the Chairman or Vice-Chairman of a Committee, or the Chairman and Vice-Chairman of the Council about ceremonial events. Such news releases are issued on behalf of the District Council and it would not, therefore, be appropriate when repeating quotations from members to indicate their party-political affiliation.

## **13. OTHER LOCAL CONVENTIONS GOVERNING MEMBER/OFFICER RELATIONS**

### **13.1 Correspondence**

- 13.2 An officer should not normally copy correspondence between an individual member and an officer on a matter relating to a single constituent to any other member. Where, exceptionally, it is necessary to copy the correspondence to another member, this should be made clear to the original member. In other words, a system of “silent or blind copies” should not be used.

13.3 Where a local member raises an issue relating specifically to a matter of interest in a District Council Ward or individual Parish or Town, copies of correspondence will normally be sent to all councillors for the particular area. The exception will be if the member specifically requests that correspondence is not copied to other members, or there is a political, or other reason, why this is not appropriate (for example because another ward member may have a declarable interest in the matter). Where correspondence is copied to other members this will be made clear to the original member.

13.4 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer, rather than in the name of a member. It may be appropriate in certain circumstances (e.g., representations to a Government Minister) for a letter to be signed by a member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a member.

#### **14. Involvement of Ward Councillors**

14.1 Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward members should be informed or involved, as appropriate, not later than at the outset of the exercise. Similarly, whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting.

#### **15. Ceremonial Events**

15.1 The Chairman of the Council (or in their absence the Vice-Chairman) is the appropriate person to lead District Council ceremonial events which are of particular significance or are not specifically associated with a particular Committee. Similarly, the Chairman of the Council (or in their absence the Vice-Chairman) is the appropriate person to represent the District Council at ceremonial events of other organisations which are not specifically associated with the Cabinet or a particular Panel or Committee.

15.2 Subject to the above, Portfolio Holders or, where they are not available, another Member of the Cabinet is the appropriate representative for ceremonial events within the scope of their Portfolios. Where a Portfolio Holder or another Member of the Cabinet is not available, the Portfolio Holder may nominate another member.

15.3 Local members should always be informed of, and, where possible, invited to ceremonial events taking place within their own parishes/towns, as should County and Parish Councillors as appropriate.

#### **16. Communication with Councillors (Members)**

16.1 Councillors' (Members) and employees' common purpose is to deliver effective services to all customers including - residents, visitors, and businesses in the District. To do this it is essential that we all work together and that Councillors reasonable requests for information are met without delay. This does not mean that Councillors' have an absolute right of access to all information held on file or to demand extensive research. The following paragraphs provide some simple guidelines to help you when dealing with requests for information.

- 16.2 Councillors are encouraged to make their initial enquiries on new issues to a Strategic Director or Service Manager. However, for day-to-day business where Councillors know which individual is dealing with a particular matter, the Councillor is entitled to speak to that person or the Section Head - whichever is most appropriate.
- 16.3 All information, except the response to the most simple, factual queries, must be given to Councillors in writing. This may sound bureaucratic, but it will avoid any misunderstandings in the future. Where information is required urgently by a Councillor, it may be given orally but then should be confirmed in writing.
- 16.4 If you do not fully understand the request, ask the Councillor if they would mind sending you a note so that you are able to respond fully to their enquiry. Remember, communication is everything and providing perfectly good information is useless if it doesn't answer the question, or worse, leaves the Councillor to believe the answer relates to their question when it doesn't.
- 16.5 Where information is provisional in nature (e.g., subject to confirmation or ratification of interim figures or results), the fact that it is provisional should always be clearly stated.
- 16.6 Councillors' queries should be retained on file. The file should not only contain copies all letters sent to Councillors, but also file notes of conversations during which information was supplied.
- 16.7 Where information needs to be obtained from another employee or Business Unit, it is the responsibility of the Employee to whom the query was originally addressed to either obtain the information and pass it back to the Councillor concerned or to let the Councillor know to whom their query has been passed for attention. Where Councillors request personal information on the basis that they are acting on behalf of a member of the public to whom it relates, evidence (e.g., a letter from the member of public concerned) should be sought to support the enquiry.
- 16.8 Sometimes Councillors may ask for information which is or may be commercially sensitive. This is particularly the case for contract work or economic development issues but could also relate to information obtained under the Best Value regime. In most cases, the information can be supplied but, as a matter of course, you must check with your Service Manager or Executive Head before releasing such information.

If you have any concerns about information requests or the type of information to be supplied to Councillors, please contact either your Service Manager or the Monitoring Officer.

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**SECTION 6**  
**MEMBERS' ALLOWANCES**

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**NEW FOREST DISTRICT COUNCIL**  
**MEMBERS' ALLOWANCES SCHEME**

This scheme will be known as the New Forest District Council Members' Allowances Scheme, and shall have effect from **1 April 2025 (including 2025/26 uplift)**

A list of definitions is given in Appendix 1. The basis for the calculation of the opposition group allowances is set out in Appendix 2. Appendix 3 deals with 'Approved Duties' for the payment of travel, subsistence and dependant carer's allowances.

**1. Basic Allowance**

- 1.1 Each Councillor shall receive a basic allowance of **£8,140** per annum. Where the term of office of a Councillor begins or ends otherwise than at the beginning of the year to which the scheme relates, their entitlement to this allowance shall be calculated on a pro-rata basis.

**2. Special Responsibility Allowance**

- 2.1 The following annual Special Responsibility Allowances shall be paid:

|  |                |  |
|--|----------------|--|
| Leader of the Council                              | <b>£25,235</b> | 317% of BA                                       |
| Deputy Leader of the Council                       | <b>£15,142</b> | 60% of Leader's Allowance                        |
| Portfolio Holders                                  | <b>£12,618</b> | 50% of Leader's Allowance                        |
| Chairmen of Overview and Scrutiny Panels           | <b>£6,309</b>  | 25% of Leader's Allowance                        |
| Chairman of Planning Committee                     | <b>£8,833</b>  | 35% of Leader's Allowance                        |
| Chairman of General Purposes & Licensing Committee | <b>£2,523</b>  | 10% of Leader's Allowance                        |
| Chairman of Audit Committee                        | <b>£2,523</b>  | 10% of Leader's Allowance                        |
| Chairman of HR Committee                           | <b>£2,523</b>  | 10% of Leader's Allowance                        |
| Major Opposition Group Leader                      | <b>£9,463*</b> | 37.5% of Leader's Allowance                      |
| Deputy Leader of Major Opposition Group            | <b>£1,893*</b> | 20% of Major Opposition Group Leader's Allowance |
| Minority Group Leader                              | <b>£1,893*</b> | 20% of Major Opposition Group Leader's Allowance |
| Chairman of the Council                            | <b>£10,094</b> | 40% of Leader's Allowance                        |
| Vice Chairman of the Council                       | <b>£2,523</b>  | 10% of Leader's Allowance                        |
| Independent Persons (Under Localism Act 2011)      | <b>£364</b>    |  |

\* in accordance with standing provision on group size in Appendix 2

- 2.2 Where a member serves in a role with 'Special Responsibility' as listed in the table at 2.1 above for only part of a year, his or her entitlement to the allowance shall be calculated on a pro-rata daily basis.

### **3. Limitation on Payment of Special Responsibility Allowances**

- 3.1 A Councillor may receive only one special responsibility allowance at any one time.

### **4. Dependant Carer's Allowance**

- 4.1 A dependant carer's allowance shall be paid to those Councillors who incur expenditure for the care of dependant relatives or children whilst the Councillor is undertaking approved duties, subject to the allowances being payable as follows –

- (a) care for dependent children under 16, living at home with the Councillor - £12.60 per hour (indexed to the current living wage outside of London) as defined by the Living Wage Foundation) with a cap on the number of hours members may claim being aggregated to 52 hours per month;
- (b) the cost of more specialist care should be reimbursed at the actual cost incurred by the councillor upon production of receipts. In respect of specialist care provision medical evidence that this type of care provision is required should also be provided and approved by an appropriate officer of the Council.
- (c) Councillors claiming the allowance declaring that the minder or carer is not an immediate member of the family and is over 16 years of age.

(See Appendix 3 for list of approved duties)

### **5. Co-optees' Allowance**

- 5.1 £18.11 per hour. (NOMIS hourly rate for New Forest by Place of Residence 2024). To be paid per meeting and inclusive of reasonable preparation time.

### **6. Parental Leave**

- 6.1 All Councillors shall continue to receive their Basic Allowance in full for a period up to six months in the case of absence from their Councillor duties due to leave relate to maternity, paternity, adoption shared parental leave or sickness absence.
- 6.2 Councillors entitled to a Special Responsibility Allowance shall continue to receive their allowance in full for a period of six months, in the case of absence from their Councillor duties due to leave related to maternity, paternity, adoption, shared parental leave or sickness absence.
- 6.3 Where for reasons connected with sickness, maternity leave, adoption leave, I ta leave or shared parental leave a Councillor is unable to attend a meeting of the Council for a period of six months, a dispensation by Council can be sought in accordance with Section 85 of the Local Government Act 1972.
- 6.4 If a replacement to cover the period of absence under these provisions is appointed by Council or the Leader (or in the case of a party group position the party group) the replacement shall be entitled to claim a Special Responsibility Allowance pro rata for the period over which the cover is provided.

- 6.5 If a Councillor stands down, or an election is held during the period when a Councillor is absent due to any of the above and the Councillor is not re-elected or decides not to stand down for re-election, their Basic Allowance and any Special Responsibility Allowance will cease from the date they leave office.

## **7. Travel Allowances**

- 7.1 If part of a Councillor's journey on Council business includes some of their normal work commute, Councillors should not include their home to work mileage in their mileage claim. For example, if a member lives in Fawley and works in Winchester, and on their way home from Winchester attends a meeting in Lyndhurst, the councillor should claim only the extra mileage to attend at Lyndhurst.
- 7.2 Travel allowances will be paid for approved duties, as set out in Appendix 3 to this scheme. Mileage rates will be the Inland Revenue's approved annual mileage allowance payments (AMAP) which are currently:
- |                   |          |
|-------------------|----------|
| Motor Vehicles    | 45p/mile |
| Electric Vehicles | 45p/mile |
| Motor Cycles      | 24p/mile |
| Bicycles          | 20p/mile |
- 7.3 Where members travel together on approved duties, the member using his/her motor vehicle will be entitled to an additional allowance of 5p/mile per member passenger.
- 7.4 Where public transport is used, the most cost-effective method of travel, making use of "special offer" rates where possible, must be used. The cost of standard rate only will generally be reimbursed. Exceptional payments may be authorised by the Chief Executive.
- 7.5 Taxis may be used only in special circumstances and should have the prior approval of the Chief Executive, the Executive Head of Governance and Regulation or the Service Manager - Democratic Services and Member Support.

## **8. Subsistence Allowances**

- 8.1 Reasonable subsistence allowances will be paid for the "Approved Duties"
- 8.2 set out in Appendix 3 to this Scheme, on condition that:
- refreshments are not provided as part of the meeting/function attended.
  - meal allowances will be paid only where a member is undertaking an approved duty which involves his/her absence from home or his/her normal place of work for a period exceeding four hours; and
  - all claims are accompanied by receipts. The requirement for receipts may be waived at the discretion of the Chief Executive, the Executive Head of Governance and Regulation or the Service Manager – Democratic Services and Member Support in the case of claims submitted electronically.

## **9. Overnight Accommodation**

- 9.1 There is no set allowance for overnight accommodation. However, Councillors should endeavour to stay in accommodation which provides good value for money but, if the reason for requiring overnight accommodation is to attend a training event, conference, or similar event, Councillors may stay overnight at the venue being used for that event. Receipts must be provided with all claims for reimbursement of accommodation costs. If a Councillor stays overnight with a friend or family member, an amount of £25 per night will be reimbursed.

## **10. Automatic Uprating of Allowances**

- 10.1 The annual adjustment index for the Basic, Special Responsibility, Co-opted and Dependants' Carers' allowances, shall be the local government employees' national pay award annual percentage increase backdated to 1 April each year subject to the following: -
- (i) backdating will not apply to Councillors who resign or who otherwise cease to be members of the Council after 1 April in any year, or who are not re-elected to the Council in the years of the ordinary election of Councillors; and
  - (ii) where different percentage increases apply to pay bands, the index shall be the award applicable to Spinal Column Point (SCP) 28, which most closely equates to the Scheme's notional hourly rate
- 10.2 The mileage rates shall be adjusted annually, with effect from 1 April each year, by any adjustments to the Inland Revenue's AMAP rates.
- 10.3 The subsistence rates shall be adjusted annually, with effect from 1 April each year, by any adjustments to the New Forest District Council's employees' subsistence scheme.

## **11. Backdating of Allowances**

- 11.1 Where an amendment is made which affects an allowance payable under this scheme, the entitlement to such allowance may, with the agreement of the Council, apply with effect from the beginning of the year in which the amendment is made.

## **12. Payments**

- 12.1 Payment of the annual basic, special responsibility and co-optee's allowances shall be made in 12 equal monthly instalments paid in arrears on the 20<sup>th</sup> day of each month or thereabouts, subject to compliance with the part-year payment provisions set out above. Payment of travel and subsistence claims received by the first day of the month shall be made on the 20<sup>th</sup> day of the month or thereabouts.

## **13. Time Limit for Submission of Claims**

- 13.1 Any claims submitted for the payment of:
- (a) dependant carer's allowance; or
  - (b) travelling and subsistence allowance;

must be made within two months from the date on which the entitlement to the allowance arises.

#### **14. Suspension/Repayment of Allowances**

- 14.1 Where a member is suspended or partially suspended from his responsibilities or duties as a member of an authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of the basic, special responsibility, or co-optee's allowance payable in respect of the period for which he/she is suspended or partially suspended in respect of the responsibilities or duties from which he/she is suspended or partially suspended will be withheld.
- 14.2 Where the allowances referred to in paragraph 13.1 have already been paid to the member and where the member concerned is:
- (a) suspended or partially suspended from his responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part; or
  - (b) ceases to be a member of the authority; or
  - (c) is in any other way not entitled to receive the allowance in respect of that period.

such part of the allowance as relates to any such period shall be repaid to the Council.

#### **15. Members of other authorities**

- 15.1 Where a member is also a member of another authority, he/she may not receive allowances from more than one authority in respect of the same duties.

#### **16. Renunciation**

- 16.1 A member may by notice in writing given to the Chief Executive, elect to forego all or any part of his or her entitlement to allowances payable under this scheme.

## DEFINITIONS

In this scheme -

"Councillor" means an elected member of the New Forest District Council;

"Co-optee" means a member of a panel, committee or sub-committee of the Authority who is entitled to vote;

"Immediate member of the family" means a member of the Councillor's own household living at the same address as the Councillor and the dependant requiring care;

"Leader of the Council" means the Councillor elected by the Council to fill that office;

"Leader of Major Opposition Group" means the Councillor notified to the Chief Executive by the opposition group having the largest number of members on the Council, as the Councillor elected as that Group's Leader;

"Deputy Leader of Major Opposition Group" means the Councillor notified to the Chief Executive by the Opposition Group having the largest number of members on the Council, as the Councillor elected as that Group's Deputy Leader;

"Minority Group Leader" means the Councillor notified to the Chief Executive by a group having a lesser number of members than the Major Opposition Group as the Councillor elected as that Group's Leader;

"Member" in relation to co-optee's, travel or subsistence allowances means an elected member of the New Forest District Council or a person who is a member of a committee or sub-committee of the authority;

"Portfolio Holder" means a Councillor appointed by the Leader of the Council to be responsible for a particular portfolio as a member of the Executive;

**CALCULATION OF OPPOSITION GROUP ALLOWANCES**

1.

| <b>Allowance</b>   | <b>Calculation</b>   |
|--|--|
| Leader of Main Opposition Group*   | £9,463 - on condition that the size of the Main Opposition Group consists of at least 20% of the Council membership, which equates to 10 seats. If it falls below the 20%, then the SRA is reduced by 25%, which equates to £7,097 |
| Leader of Minority Opposition Group*   | £1,893   |
| Deputy Leader of Main Opposition Group*  | £1,893 - Subject to the Group reaching the qualification criteria of 20% of Council Membership (10 seats).   |
| <p><b>*Opposition Groups of Equal Size</b></p> <p>If the situation arises where two or more Opposition Groups are of equal size, then the sum of the SRAs that would be payable to Opposition Group Leaders of differing group sizes (Leader of Main Opposition Group plus Leader of Minority Opposition Group) should be divided equally between each Opposition Group Leader. For instance, where both Opposition Groups have</p> <ul style="list-style-type: none"> <li>• 10 members each - the SRA payable to each Group Leader would be £5,678 (£9,463 + £1,893= £11,356 divided by 2)</li> <li>• 9 or fewer members each - the SRA payable to each Group Leader would be £4,495 (£7,097 + £1,893 = £8,990 divided by 2)</li> </ul> |  |

**1. APPROVED DUTIES FOR THE PAYMENT OF TRAVEL, SUBSISTENCE AND DEPENDANT CARER'S ALLOWANCES**

As a general principle, members may claim only for travel allowances when representing the District Council on official business. If in doubt, a member should seek the relevant officer's advice before the journey is undertaken. Any decision by the Chief Executive, an Executive Head or a Service Manager will be final. Travel allowances will be paid for:-

- (a) Attendance at a meeting of the Authority or of any Committee, Sub-Committee or Panel 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 Authorities, or a joint committee of the Authority and one or more Local Authority within the meaning of Section 270(1) of the Local Government Act 1972, or a Sub-Committee of such a Joint Committee provided that:
  - (i) where the Authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited; or
  - (ii) if the Authority is not so divided, it is a meeting to which at least two members of the Authority have been invited;
- (c) The attendance at a meeting of any Association of Authorities of which the Authority is a member;
- (d) The attendance at a meeting of the Executive or a meeting of any of its Committees;
- (e) The attendance at the opening of tender documents, where the attendance of a member has been specifically requested by the Chief Executive, an Executive Head or a Service Manager;
- (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) Portfolio Holders', Overview and Scrutiny Panel and Committee Chairmen's visits to Council venues, partner organisations or appropriate sites on issues directly related to their portfolios or the work of the Panel/Committee;
- (h) Journeys by Overview and Scrutiny Panel or Committee members working on projects assigned to them by the Panel or Committee;
- (i) Journeys to planning or similar enquiries, or court proceedings, where the member is appearing to give evidence for the Council;
- (j) Journeys made by the political group leaders in their roles as group leaders;

- (k) Journeys to approved training sessions, conferences and courses (“approved” for this purpose will mean a session arranged by the Council or in respect of which the Council is bearing the cost);
- (l) In appropriate circumstances, journeys made for the purpose of resolving constituents’ problems;
- (m) Attendance at meetings of parish or town councils in the member’s role as a District Councillor (except where the member is also attending as a parish/town councillor);
- (n) Journeys to political group meetings called by the leader of the political group and designated by him/her as being necessary for the conduct of Council business;
- (o) Journeys undertaken by members of the Planning Committee and local members to view sites that are the subject of planning or tree work applications, when the member considers a visit essential;
- (p) Journeys by Chairmen, Vice-Chairmen and opposition group spokespersons to attend pre-meeting briefings;
- (q) Civic duties in the role of Chairman or Vice Chairman of the Council.

provided in all cases that the journeys are necessary for the carrying out of a duty which has been assigned to a member, either generally or specifically

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# **SECTION 7 PROTOCOLS**

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## POLICY STATEMENT - ACCESS TO INFORMATION

The Council is committed to open access to information and the principles on which this policy is based. The Council will comply with legislation on Freedom of Information and Access to Information, and in particular will –

- (a) Seek to make the public aware of their statutory rights to information.
- (b) Make information available in response to all reasonable requests from the public unless it falls within an exempted category, as defined in the Local Government Act 1972;
- (c) Give written reasons where it is decided to withhold access to information.
- (d) Respect fully personal privacy and confidentiality in accordance with the law.
- (e) Allow individuals to see and request the correction of all personal information held on them by the Council.
- (f) Give written reasons where it is decided not to amend the information.
- (g) Make available explanatory material on the Council's dealings with the public, including, where they exist, rules, procedures, internal guidance to officers and administration manuals; and
- (h) Will not grant access to –
  - (i) Information which, if disclosed, might prejudice enforcement action the Council is taking, or intending to take, to enforce legislation, regulations or rules;
  - (ii) Information which the Council is not permitted by law to disclose;
  - (iii) Information relating to the prevention, investigation or prosecution of a crime;
  - (iv) Information which is defamatory; and
  - (v) Requests for information which are vexatious or excessive.

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## INDEMNITY OF MEMBERS AND OFFICERS

### 1. INDEMNITY PROVIDED UNDER THE LOCAL AUTHORITIES (INDEMNITIES FOR MEMBERS AND OFFICERS) ORDER 2004

#### (1) In this Indemnity:-

“employees” includes any person employed by the Council and any other person engaged as or appointed to be an officer of the Council.

- (2) The Council hereby indemnifies its employees and members, whether appointed or elected at the date of this resolution or at any time thereafter, against the damages costs or expenses set out in paragraph (3) below, subject to the exceptions set out in paragraph (4) below, and on the terms set out in paragraph (5) below. It will not itself make any claim against them in relation to any damages costs or expenses for which they are hereby indemnified.

Notwithstanding any limitation on the powers of the Council, the indemnity is effective to the extent that the employee or member in question –

- (a) believed that the action, or failure to act, in question was within the powers of the Council; or
- (b) where the action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for that employee or member to hold that belief at the time when he or she acted or failed to act.

The indemnity is also effective in relation to an act or omission which is subsequently found to be beyond the powers of the employee or member in question but only to the extent that he or she reasonably believed that the act or omission in question was within his or her powers at the time at which he or she acted.

- (3) The costs, claims and expenses are those which arise from, or in connection with, any action of, or failure to act by, the employee or member in question, which:-

- (a) is or has been authorised by the Council; or
- (b) forms part of, or arises from, any powers conferred, or duties placed, upon that employee or member, as a consequence of any function being exercised by that employee or member (whether or not when exercising that function he or she does so in his or her capacity as an employee or member of the Council) –

- (i) at the request of, or with the approval of, the Council; or
- (ii) for the purposes of the Council.

(4) The exceptions are that:-

- (a) No indemnity is given in relation to any action by, or failure to act by, any employee or member which –
  - (i) constitutes a criminal offence; or
  - (ii) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that employee or member
- (b) Notwithstanding paragraph (4)(a)(i), the indemnity does relate to –
  - (i) (subject to paragraph 5) the defence of any criminal proceedings brought against the employee or member; and
  - (ii) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.
- (c) No indemnity is given in relation to the making by the employee or member indemnified of any claim in relation to an alleged defamation of that employee or member but the indemnity does relate to the defence by that employee or member of any allegation of defamation made against him or her.

(5) The terms of the indemnity are as follows:-

- (a) Where the indemnity has effect in relation to the defence of any criminal proceedings, if the employee or member in question is convicted of a criminal offence and that conviction is not overturned following any appeal, that employee or member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity, and those sums shall be recoverable by the Council as a civil debt.
- (b) The indemnity is subject to the employee or member notifying the Chief Executive immediately of any claim being made or intimated against him or her, and of any circumstances arising which may give rise to a claim
- (c) The indemnity will only extend to cover actual loss and expense incurred and evidenced by the employee or member to the satisfaction of the Section 151 officer in consultation with the Head of Legal and Democratic Services
- (d) The indemnity will not automatically apply if the employee or member without the written authority of the Chief Executive and insurers, as appropriate, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this indemnity
- (e) The indemnity shall not extend to any loss or damage directly or indirectly arising from any motor vehicle claims in which an employee using his or her own private vehicle on the Council's business has been involved in an accident

- (f) The Council or its insurers will be entitled to take over and conduct in the name of the employee or member the defence of any proceedings brought against the employee or member

2. INDEMNITIES PROVIDED UNDER POWERS IN SECTION 111 OF THE LOCAL GOVERNMENT ACT 1972

Where an indemnity cannot be granted under the terms of section 1 above (indemnity provided under the Local Authorities (Indemnities for Members and Officers) Order 2004), the Council will indemnify all officers and members of the Council against the whole or part of any damages costs or legal expenses which any such officer or member may have been ordered to pay, or may have incurred arising from duties performed by virtue of their being a member of, or being employed by, the Council, or by virtue of their being the Council's nominated representative in whatever capacity of any incorporated or unincorporated body, where:

- (a) the member or officer acted in good faith and
- (b) where such damages, costs or expenses arise from a criminal offence under:
  - (i) the Health and Safety at Work Act 1974 and related regulations; or
  - (ii) the Data Protection Act 1998 and related regulations.

The provisions of paragraph (5) (b) to (f) of section 1 above apply in respect of indemnities provided under section 111 of the Local Government Act 1972.

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## **RECORDING AND USE OF SOCIAL MEDIA AT COUNCIL MEETINGS**

### **GUIDANCE FOR MEMBERS OF THE PUBLIC**

1. The Council supports the principles of openness and transparency in its decision making. It supports the video or audio recording by the public and press of meetings that are open to the public, for either live or subsequent broadcast. It also supports the use of modern communication methods such as Twitter, Facebook and blogs to report what is happening at meetings as they take place. In support of this the Council also records meetings for live and/or subsequent broadcast.
2. This guidance note sets out some general information intended to help members of the public who may be intending to report on meetings, either by recording them for simultaneous or later broadcast, or via social media. Anyone wishing to take advantage of these facilities is encouraged to telephone or email the relevant Democratic Services Officer (whose name will appear on the agenda) before the meeting, so that arrangements can be discussed in advance.
3. For further information about how the general rules set out below would apply to a particular meeting, please contact the relevant Democratic Services Officer named on the agenda.

### **FILMING, PHOTOGRAPHY AND RECORDING**

4. The right to film, record etc is limited to the duration of the meeting. Recording must not start until the meeting is called to order and must cease when the Chairman closes the meeting.
5. Filming or recording equipment cannot be left running in the meeting room at times when the public is excluded (for example because confidential or exempt information is being discussed).
6. Intrusive filming of a specific individual or individuals will not be permitted.
7. Some members of the public attending the meeting may object to being filmed, photographed, or recorded. The Council will ask those filming, photographing, or recording the meeting to respect their wishes, and will expect that these are complied with.
8. The Council expects that film or audio recordings will not be edited before transmission in a way that misrepresents what occurred.
9. Filming or recording is not permitted if the effect would be to interrupt or disturb the proceedings. This means that, for example:
  - a. Oral commentary is not permitted.
  - b. Equipment which needs setting up must be in place when the meeting starts.
  - c. Excessive noise, intrusive lighting, and the use of flash photography are not permitted.
  - d. Speakers must not be asked to repeat statements for the purpose of recording.

- e. “Roaming” while filming or recording is not permitted – those operating equipment must stay in the area designated to them.

This list is not exhaustive. If, in the Chairman’s opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council’s Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

## **REPORTING VIA SOCIAL MEDIA**

- 10. Some, but not all, of the Council’s meeting rooms have free Wifi available. If you would like to use this facility, please telephone or email the Democratic Services Officer named on the agenda in advance to check which rooms have Wifi.
- 11. Where Wifi is available it is password protected. Please arrive in good time before the start of the meeting so you can be told the password and set up your connection before the meeting starts.
- 12. Blogging, Tweeting, or other commentary on meetings through social media must not interrupt or disturb the meeting. The same rules apply as set out in paragraph 9 above.

## **Overview and Scrutiny Substitutions Protocol**

1. The Council, when establishing appointments to committees and panels on an annual basis and at any subsequent review, will appoint substitute members to the three Overview and Scrutiny Panels, on the nomination of the political group leaders.
2. The number of substitute members permitted shall be up to two (2), for each political group or grouping that has at least one seat on the Panel concerned.
3. On appointment, it shall be the responsibility of a substitute member to keep up to date with the business of the Panel to which they have been appointed, to support effective decision making. The substitute members will be named on the agenda and notice of meeting, and will receive an electronic copy of the agenda and reports for all meetings.
4. Cabinet members may not be named substitute members for Overview and Scrutiny Panels.
5. To implement this protocol, it shall be the responsibility of the member who cannot attend the relevant meeting to arrange for an appointed substitute to attend, and inform their group leader of the proposed substitution and the date of the meeting.
6. On receipt of this information, the Group Leader (or the Deputy Group Leader if applicable) must finalise the arrangements by writing to Democratic Services to authorise the appointment(s).
7. Only the appointed substitute members may serve as a member of the Overview and Scrutiny Panel to which the substitution is sought.
8. A Member who is acting as a substitute for the Chairman or Vice-Chairman of the Panel, will not, by virtue of their substitution, be automatically entitled to act in that capacity.
9. A substitute Member may only serve as a Member at any meeting at which the appointer has nominated them, and where the appointer intends to be absent for the duration of the meeting. A substitute may not be appointed for specific items and no substitution may be made during the course of the meeting.
10. Notice of substitutions from the Group Leader (or Deputy) to Democratic Services must be received in writing by no later than one hour before the commencement of the meeting in question, to

[democratic@nfdc.gov.uk](mailto:democratic@nfdc.gov.uk), ensuring that all relevant Council officers may implement the substitution up to this deadline.

11. At the commencement of a meeting, the Chairman shall inform the meeting of any substitutions when 'apologies' are announced.
12. If the Member who could not attend, attends after arranging for a substitute member to attend, the substitute member shall continue as the voting Member of the Panel, as authorised by the Group Leader.
13. Any Member attending as the appointed substitute shall be entitled to travelling and subsistence allowances in accordance with the Council's Scheme of Members' Allowances.
14. When a Member attends a meeting as a substitute, the minutes will identify that they attended as a substitute member, and for whom they were substituting.
15. The substitute member shall be entitled to speak and vote in their own capacity and is not constrained by the views of the member for whom they are substitute.