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# PART 1 SUMMARY AND EXPLANATION

## 1. The Council's Constitution

- 1 The Mid Sussex District Council Constitution 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.
- 2 The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## 2 What's in the Constitution?

1. Article 1 of the Constitution commits the Council to a number of key objectives. Articles 2-16 explain the rights of citizens and how the key parts of the Council operate. These are:
  - Members of the Council (Article 2).
  - Residents and the Council (Article 3).
  - The Council meeting (Article 4).
  - Chairing the Council (Article 5).
  - Overview and Scrutiny of decisions (Article 6).
  - The Cabinet (Article 7)
  - Planning and other Committees (Article 8).
  - The Standards Committee (Article 9).
  - Joint arrangements (Article 11).
  - Officers (Article 12).
  - Decision making (Article 13).
  - Finance, contracts and legal matters (Article 14)
  - Review and revision of the Constitution (Article 15).
  - Suspension, interpretation and publication of the Constitution (Article 16).

## 3. How the Council operates

1. The Council is composed of 54 Councillors elected every four years, the next election being in May 2023 where the number of Councillors will be reduced to 48. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
2. Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee supports and advises them on the Code of Conduct.

3. All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the Budget each year. The Council appoints an Executive Leader and a number of Council Committees for decision making purposes. The Council is responsible for the overall Policy Framework and Budget.

#### **4. How Decisions Are Made**

1. The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Executive Leader, who is elected by all Councillors, and up to a further nine Councillors (including a Deputy Leader), who are appointed by the Executive Leader. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal, exempt, or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to the Council as a whole to decide.

#### **5. Overview and Scrutiny**

1. There are two Scrutiny Committees who support the work of the Cabinet and the Council as a whole. The Scrutiny Committees allow residents to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget, and service delivery. The Scrutiny Committees also monitor the decisions of the Cabinet. The Committee can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables the Committee to consider whether the decision is appropriate. The Committees may recommend that the Cabinet reconsider the decision. The Scrutiny Committees may be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

#### **6. The Council's Staff**

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

#### **7. Residents' Rights**

1. Residents have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.
2. Where members of the public use specific Council services, for example as a parent of a school pupil or as a Council tenant, they have additional rights. These are not covered in this Constitution.

3. Residents have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time;
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- attend meetings of the Council and its Committees and the Cabinet where Key Decisions are being discussed or decided except where confidential or personnel matters are being discussed;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council in accordance with the Council's Complaints Procedure;
- 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 Procedure;
- 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
- inspect the Council's accounts and make their views known to the external auditor.

4. The Council welcomes participation by its residents in its work. For further information on your rights as a citizen, please contact the Assistant Director of Legal and Democratic Services. Details of the public's rights to inspect agendas, reports and background documents are set out in the Access to Information Rules in Part 4 of this Constitution and agendas, reports, and minutes of all public meetings of the Council, Cabinet and Committees can be found on the Council's website.

# **PART 2 ARTICLES OF THE CONSTITUTION**

## **Article 1 – The Constitution**

### **1.1 Powers of the Council**

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

### **1.2 The Constitution**

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

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with residents, businesses, and other organisations;
- (b) support the active involvement of residents 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 public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly 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.
- (i) provide clear rules for the internal governance of the Council and for the resolution of any disputes.

### **1.4 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## Article 2 – Members of the Council

### 2.1 Composition and Eligibility

1. **Composition:** From May 2023, the Council will comprise 48 members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
2. **Eligibility:** Only registered voters of the district/area or those living or working there will be eligible to hold the office of Councillor.

### 2.2 Election and Terms of Councillors

1. **Election and terms:** The next regular election of Councillors will be held on the first Thursday in May 2023. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. The size of the Council will reduce to 48 Members at that election.

### 2.3 Roles and functions of all Councillors

1. **Key roles** - All Councillors will:
  - (a) collectively be the ultimate policymakers and carry out a number of strategic and corporate management functions;
  - (b) represent their communities and bring their views into the Council's decision-making process, i.e., become the advocate of and for their communities;
  - (c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (d) balance different interests identified within the ward and represent the ward as a whole;
  - (e) be involved in decision-making;
  - (f) be available to represent the Council on other bodies; and
  - (g) maintain the highest standards of conduct and ethics.
  - (h) respond to constituents' enquiries and representations, fairly and impartially;
  - (i) participate in the governance and management of the Council.

#### 2. **Rights and duties**

- (a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.



- (c) for these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

## 2.4 Conduct

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

## 2.5 Allowances

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

# Article 3 – Residents and the Council

## 3.1 Residents’ rights

1. Residents have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:
2. **Voting and petitions:** Residents on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
3. **Information:** Residents have the right to:
  - (a) attend meetings of the Council and its Committees except that part of any meeting where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private;
  - (b) attend meetings of the Cabinet when Key Decisions are being considered except when confidential or exempt information is likely to be presented;
  - (c) find out from the forward pan what Key Decisions will be taken by the Cabinet and when;
  - (d) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
  - (e) inspect the Council’s accounts and make their views known to the external auditor.
4. **Participation:** Residents have the right to participate in the Council’s question time and may be invited to participate in investigations by Scrutiny Committees.
5. **Complaints:** Residents **have** the right to complain to:
  - (a) the Council itself under its Complaints Procedure;
  - (b) the Ombudsman after using the Council’s own Complaints Procedure;
  - (c) the Council’s Monitoring Officer about a breach of the Councillor’s Code of Conduct.

### 3.2 Residents' responsibilities

Residents must not be violent, abusive, or threatening to Councillors or officers, must not wilfully harm things owned by the Council, Councillors or officers, and must comply with the Council's Rules of Procedure.

## Article 4 – The Full Council

### 1. Meanings

2. **Policy Framework:** The Policy Framework means the following plans and strategies:

- (a) Corporate Plan and Budget.
- (b) Mid Sussex Crime and Disorder Reduction Partnership.
- (c) Sustainable Economic Strategy.
- (d) Plans and strategies which together comprise the Local Plan.
- (e) Licensing Authority Policy Statement.

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

### 2. Functions of the Full Council

1. Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Policy Framework and the Budget (including setting the annual budget and level of Council Tax).
- (c) approving the schedule of Ordinary Council meetings for the forthcoming year;
- (d) agreeing and/amending the terms of reference for Committees and deciding on their composition and making appointments to them.
- (e) considering recommendations from the Audit Committee, Scrutiny Committees, Standards Committee, and the Cabinet in respect of new policy initiatives;
- (f) adopting the Members' Code of Conduct and local protocols.
- (g) considering motions submitted by Councillors.
- (h) considering any proposed changes to the boundaries of the district or its electoral arrangements (including any change of name of a Parish);
- (i) adopting a scheme of Members' Allowances.
- (j) changing the name of the district;
- (k) determining any delegations to officers which do not fall within the preview of the relevant Cabinet/Committee;

- (l) amending, revoking, re-enacting, or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (m) electing the Executive Leader;
- (n) electing the Chairman and appointing the Vice-Chairman of the Council annually;
- (o) appointing parish members to the Standards Committee and appointing independent persons to advise the Monitoring Officer and the Standards Committee;
- (p) appointment of Members' Allowances Panel;
- (q) appointing Member champions (if any);
- (r) appointing Councillors to be representatives of the Council on outside bodies unless the appointment has been delegated by the Council;
- (s) appointing or dismissing the following officers: Head of Paid Service, Chief Finance Officer (S.151 Officer), Monitoring Officer;
- (t) facilitating of opportunities for voicing of the concerns of the local community and adopting a community leadership role, promoting a social economic and environmental well-being of the area;
- (u) all other matters that by law must be reserved to the Council.
- (v) the consideration of the report:
  - (i) By the Head of Paid Service (section 4 of the Local Government and Housing Act 1989) regarding proposals for the discharge of the Council's functions and staffing and management of the Council's staff.
  - (ii) The Monitoring Officer (section 5 of the Local Government and Housing Act 1989) regarding any contravention, misadministration, or injustice by the Council.
  - (iii) By the Chief Finance Officer (section 114 of the Local Government Finance Act 1988) regarding the making of a report in circumstances where it appears to them that the Cabinet, Council, a Committee of the authority, a person holding any office or employment under the authority or joint Committee on which the authority's representative has made or is about to make a decision which involves or would involve the authority in carrying expenditure which is unlawful or has taken or is about to take a course of action which, if pursued, to its conclusions would be lawful and likely to cause a loss or deficiency on the part of the Council or is about to enter and item of account, the entry of which is unlawful.

### **3. Council Meetings**

1. There are four types of Council meeting:

- (a) annual meetings;
- (b) budget meetings;
- (c) ordinary meetings;
- (d) extraordinary meetings

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

### **4. Responsibility for Functions**

1. The Council will maintain the tables and other details in Part 3 of this Constitution setting

out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## **Article 5 – Chairing the Council**

### **5. Role and function of the Chairman of the Council**

1. The Chairman and Vice-Chairman will be elected by the Council annually.
2. The Chairman of the Council and in their absence, the Vice-Chairman will have the following roles and functions:
  - (a) to act as first citizen of the district;
  - (b) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
  - (c) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
  - (d) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet or do not hold Committee chairs are able to hold the Cabinet and Committee Chairmen to account;
  - (e) to promote public involvement in the Council's activities;
  - (f) to be the conscience of the Council; and
  - (g) to attend such civic and ceremonial functions as the Council and they determine appropriate

## **Article 6 – Scrutiny Committees**

### **6. Appointment of Committees**

1. The Council will appoint two Scrutiny Committees to discharge the functions conferred by Section 21 of the Local Government Act 2000 to provide overview and Scrutiny. Each will have 11 members.
2. The two Scrutiny Committees shall be as follows:
  - (a) People and Communities – covering the strategic areas of the budget and policy framework (excluding plan making), corporate & financial planning, strategic partnerships, communities, grants, environmental health, safeguarding, equalities, waste, customer services, housing options, housing enabling, revenues & benefits
  - (b) Place and Environment – covering the strategic areas of plan making, Burgess Hill Town Centre & Burgess Hill Growth Area, Gatwick Airport, Clair Hall, economy & sustainability, digital infrastructure, leisure, parking, estates, parks & open spaces, Building Control, Development Management

### **7. Terms of Reference of the two Scrutiny Committees**

1. **General role:** Within their Annual Work Plan, the Committees will:

- (a) review and/or scrutinise decisions made, or actions taken in connection with the discharge of relevant functions of the Council;
- (b) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint Committee in connection with the discharge of any functions; and
- (c) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet and/or any joint Committee, where this is necessary and having regard to the call-in procedure set out in the Scrutiny Procedure Rules in Part 4 of this Constitution.

## **8. Specific functions of the Scrutiny Committee for People and Communities**

1. **Budget development and review:** The Committee may assist the Cabinet in the development of its budget framework and annual budget by in-depth analysis of budget issues; and
2. **Performance:** The Committee may:
  - (a) monitor the Council's performance and make recommendations to Council/Cabinet where it is considered appropriate; and
  - (b) receive and consider the reports on complaints against the Council or its officers
3. Both Scrutiny Committees may, in their area of concern:
  - (a) review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council officers both in relation to individual decisions and over time;
  - (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (c) question members of the Cabinet and/or Committees and Chief Executive and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - (d) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the Scrutiny process;
  - (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance, where those activities and/or performance have an impact on the district as whole; and
  - (f) question and gather evidence from any person (with their consent).

## **9. Provisions applicable to both Scrutiny Committees**

**Officers:** Scrutiny Committees will work in close liaison with the officers employed to support their work.

## **10. Proceedings of Scrutiny Committees**

Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **11. Petitions Scheme**

- (a) To consider a petition in accordance with the Petitions Scheme in accordance with Standing Order 11(3); and

## **12. Request for a Review to a Petition**

- (a) To consider a request for a review of the Council's response to a petition in accordance with the Petitions Scheme.

## **13. Working Groups**

The Scrutiny Committees sometimes set up working groups to look at a particular aspect of their work area. These report back publicly to the Scrutiny Committee where the Committee's views are concluded.

## **Article 7 – Cabinet**

### **1. Role**

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

### **2. Form and Composition**

The Cabinet will consist of the Executive Leader together with at least 2, but not more than 9, other Councillors appointed to the Cabinet by the Executive Leader.

### **3 Executive Leader**

1. The Executive Leader will be a Councillor elected to the position of Executive Leader by the Council at the First Annual Council Meeting. The Executive Leader will hold office for four years or they:
  - (a) resign from the office; or
  - (b) are no longer a Councillor; or
  - (c) are removed from office by resolution of the Council, provided that notice of any motion which would have the effect of removing them from office is delivered to the office of the Chief Executive not less than 10 clear days before the relevant Council meeting signed by at least 14 Councillors.
2. The Executive Leader must appoint at least one of the Cabinet Members as Deputy Leader, who holds office until the end of the Executive Leader's term of office, unless they:
  - (a) resign from the office; or
  - (b) are no longer a Councillor; or
  - (c) are removed from office by the Executive Leader.
3. Where a vacancy occurs, the Executive Leader must appoint another Deputy Leader.
4. In the absence of the Executive Leader, the Deputy Leader exercises the Executive Leader's powers in respect of portfolio responsibilities, but not the functions conferred by statute solely on the Executive Leader, such as appointing or removing Cabinet Members or objecting to senior officer appointments and dismissals.

5. If, for any reason, both the Executive Leader and Deputy Leader are unable to act or both offices become vacant, the Cabinet will act in the Executive Leader's place or arrange for another Cabinet Member to act in their place until the Chairman of the Council can call a meeting of Full Council to elect a new Executive Leader.

#### **4. Other Cabinet members**

Other Cabinet members will be appointed by the Executive Leader and these appointments are reported at each Annual Council Meeting. They shall hold office until they:

- (a) resign from office; or
- (b) are no longer Councillors;
- (c) are removed from office by the Leader.

#### **5. Appointment to Vacancy**

Where the office of Cabinet Member falls vacant as a result of any of the events specified in paragraph 7.4 (a) or (b), the Executive Leader may appoint another Councillor to that vacancy with immediate effect once notified to and acknowledged by the Monitoring Officer, who will inform all Councillors. The Executive Leader shall report the appointment to the next available meeting of the Council.

#### **6. Proceedings of the Cabinet**

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

#### **7. Responsibility for functions**

Part 3 of this Constitution sets out which individual members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions, and which are reserved to the full Cabinet.

### **Article 8 - Planning and other Committees**

#### **1. Planning and other Committees**

The Council will appoint the Committees set out in paragraph 2.4 of Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in respect of each Committee.

## Article 9 - Standards Committee

### 1. Standards Committee

The Council will establish a Standards Committee.

### 2. Composition

1. **Membership:** The Standards Committee will be composed of 10 members:
  - (b) 6 of whom will be District Councillors and
  - (c) 4 Parish/Town Council Members. No substitutes shall be allowed.
2. **The Parish representatives:** At **least** one Parish representative must be present when matters relating to those parish Councils, or their members are being considered;

### 3. Role and Function

1. The Standards Committee will have the following roles and functions:
  - (a) promoting and maintaining high standards of conduct by Councillors and co-opted members;
  - (b) assisting the Councillors and co-opted members to observe the Members' Code of Conduct;
  - (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
  - (d) monitoring the operation of the Members' Code of Conduct;
  - (e) advising, training, or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct;
  - (f) granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
  - (g) dealing with any reports from the monitoring officer on any matter.
  - (h) through assessment sub-Committees filtering code of conduct complaints about District Councillors and Town/Parish Councillors in the district and dealing with any review requests or any hearing as a result of such complaints.
  - (i) advising the Council on the adoption or revision of any other protocols which may be considered necessary or desirable to ensure that the aims and principles of the Constitution are given full effect;
  - (j) the exercise of (a) to (h) above in relation to the town and parish Councils wholly or mainly in its area and the members of those town and parish Councils.



- (k) considering any applications for exemption from the restrictions imposed on some politically exempt posts where that restriction comes solely as a result of a close relationship with elected members.
2. Pursuant to section 28(7) of the Localism Act 2011 the Council has appointed three independent persons to assist the Monitoring Officer and the Standards Committee and those involved with standards complaints.

#### **4. Role of Independent Persons**

- (a) The same independent person should be involved in one allegation throughout to maintain consistency.
- (b) The independent person should be consulted before a matter is taken to an Assessment Sub-Committee but any decision whether or not to reject the complaint at that stage is taken by the Monitoring Officer.
- (c) The complainants may have access to the relevant independent person, but the independent person will not give their views on the merits or otherwise of the complaint but will assist with procedural matters.
- (d) The member under investigation can contact the independent person but the independent person should refrain from giving any view on the merits of the complaint and will also keep the Monitoring Officer informed of such discussions.
- (e) The independent person will need to ensure that the member or complainant is aware that the substance of the discussion will be reported to the Monitoring Officer although certain details may be kept confidential.
- (f) The Monitoring Officer may consult the independent person at any stage of the process and will do so ahead of any decision being taken on a matter that has been investigated.
- (g) The independent person will not make any comments to the media without prior agreement from the Monitoring Officer who in turn will speak to the Chairman of the Standards Committee before any statement is given.
- (h) The independent person may assist in any mediation or conciliation in order to resolve complaints.
- (i) The independent person may assist the Monitoring Officer or Standards Committee in any training.
- (j) Where the independent person finds themselves with a conflict of interest another independent person will deal with the complaint. If however that person also has a conflict then an independent person in a neighbouring authority can be consulted.
- (k) The independent person will receive all agendas and minutes of Standards Committee meetings and will be expected to attend those meetings and speak with the agreement of the Chairman. The independent person is not a member of the Standards Committee.
- (l) The independent person can raise concerns with the Council's Chief Executive and in extreme cases address a meeting of the full Council.
- (m) The independent person has a right to access of any confidential information required to carry out their roles.
- (n) The Monitoring Officer will meet at least yearly with the independent persons.
- (o) The independent person will agree to sign the Members' Code of Conduct and complete a register of interests form to be held by the Monitoring Officer and will

declare any relevant interests in relation to cases to the Monitoring Officer who will decide whether the interest conflicts them out of involvement with the matter.

- (p) The independent person is to be considered an office holder of the authority in accordance with the duty under section 28(7) of the Localism Act 2011 and is therefore entitled to be covered by the Council's Indemnity Insurance provided they act reasonably within the terms of this description.

## **Article 10 - Audit Committee**

### **10.1 Audit Committee**

The Council will appoint an Audit Committee consisting of 7 members. The Committee will carry out all the functions required of an Audit Committee in accordance with the CIPFA Code of Practice for Internal Audit in Local Government 2003 as amended from time to time. There will be no substitutes at meetings of the Committee.

### **10.2 Functions**

To provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent Scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process and to approve the Annual Accounts.

### **10.3 Terms of Reference**

#### **1. Audit Activity**

- (a) To consider the Head of Internal Audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- (b) To consider summaries of specific internal audit reports as requested.
- (c) To consider reports dealing with the management and performance of the providers of internal audit services.
- (d) To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- (e) Provide assurance that the external audit team's independence is safeguarded.
- (f) To consider the external auditor's annual letter, relevant reports, and the report of those charged with governance.
- (g) To consider specific reports as agreed with the external auditor.
- (h) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (i) To commission work from internal and external audit.

## **2. Regulatory Framework**

- (a) To maintain an overview of the Council's Constitution in respect of contract procedure rules and financial regulations.
- (b) To review any issue referred to it by the Chief Executive or a Director, or any Council body.
- (c) To monitor the effective development and operational of risk management and corporate governance in the Council.
- (d) To monitor Council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy and the Council's complaints process.
- (e) To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.
- (f) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- (g) To consider the Council's compliance with its own and other published standards and controls.
- (h) The Council is part of the Public Sector Audit Appointments arrangements.
- (i) To be responsible for ensuring effective Scrutiny of the treasury management strategy and policies, including the capital strategy.

## **3. Accounts**

- (a) To review the annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (b) To consider the external auditor's report to those charged with governance on issues arising from the audit of accounts.

## **Article 11 - Joint Arrangements**

### **1. Arrangements to Promote Well-Being**

- 1. The Council or the Cabinet in order to promote the economic, social, or environmental well-being of its area, may:
  - (a) enter into arrangements or agreements with any person or body;
  - (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
  - (c) exercise on behalf of that person or body any functions of that person or body.

### **2. Joint Arrangements**

- 1. The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities
- 2. The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint Committees with these other local authorities.

3. Except as set out below, the Cabinet may only appoint Cabinet members to a joint Committee and those members need not reflect the political composition of the local authority as a whole.
4. The Cabinet may appoint members to a joint Committee from outside the Cabinet in the following circumstances:
  - (a) the joint Committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint Committee any Councillor who is a member for a ward which is wholly or partly contained within the area;
  - (b) In this case the political balance requirements do not apply to such appointments.
5. Details of any joint arrangements including any delegations to joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **3. Access to Information**

1. The Access to Information Rules in Part 4 of this Constitution apply.
2. If all the members of a joint Committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
3. If the joint Committee contains members who are not on the executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **4. Delegation to and from other Local Authorities**

1. The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
2. The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
3. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **5. Contracting out**

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

## Article 12 - Officers

### 1. Management Structure

1. **General:** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
2. **Chief Officers:** The full Council will engage persons for the following posts, who will be designated chief officers:

POST	FUNCTIONS AND AREAS OF RESPONSIBILITY
Chief Executive (Head of Paid Service)	Overall corporate management and operational responsibility (including overall management  Responsibility for all officers) and to deliver the Corporate Plan Provision of professional advice to all parties in the decision-making process.  Representing the Council on partnership and external bodies (as required by statute or the Council).
Deputy Chief Executive	To support the Chief Executive in their strategic role.

3. **Head of Paid Service, Monitoring Officer, and Chief Financial Officer (S151 officer):** The Council has designated the following posts as shown:

POST	DESIGNATION
Chief Executive	Head of Paid Service, Returning Officer and Electoral Registration Officer
Assistant Director Legal and Democratic Services	Monitoring Officer
Assistant Director Corporate Resources	Chief Financial Officer (Section 151 Officer)

4. **Structure:** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

### 2. Functions of the Head of Paid Service

1. **Discharge of functions by the Council:** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
2. **Restrictions on functions:** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

### 3. Functions of the Monitoring Officer

1. **Maintaining the Constitution:** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff, and the public.
2. **Ensuring lawfulness and fairness of decision making:** After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive **function** if they consider that any proposal, decision, or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
3. **Supporting the Standards Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
4. **Receiving reports:** The Monitoring Officer will receive and act on reports made by investigating officers.
5. **Conducting investigations:** The Monitoring Officer or their appointed representative will conduct investigations into standards matters and make reports or **recommendations** in respect of them to the Standards Committee.
6. **Proper officer for access to information:** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
7. **Advising whether executive decisions are within the Budget and Policy Framework:** The Monitoring Officer in consultation with the Chief Financial Officer will advise whether the decisions of the Cabinet are in accordance with the Budget and Policy Framework.
8. **Providing advice:** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and Policy Framework issues to all Councillors.
9. **Restrictions on posts:** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

#### 4. Functions of the Chief Financial Officer

1. **Ensuring lawfulness and financial prudence of decision-making:** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
2. **Administration of financial affairs:** The Chief **Financial** Officer will have responsibility for the administration of the financial affairs of the Council.
3. **Contributing to corporate management:** The Chief Financial Officer will contribute to the corporate management of the Council, in particular **through** the provision of professional financial advice.

4. **Advising whether executive decisions are within the Budget:** The Chief Financial Officer, in consultation with the Monitoring Officer, will advise whether the decisions of the Cabinet are in **accordance** with the Budget.
5. **Providing advice:** The Chief Financial Officer will **provide** advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and Policy Framework issues to all Councillors and the elected mayor and will support and advise Councillors and officers in their respective roles.
6. **Give financial information:** The Chief Financial **Officer** will provide financial information to the media, members of the public and the community.
7. **Supporting the Audit Committee:** To be the lead **officer** advisor to the Audit Committee.

## 5. **Duty to provide sufficient resources to the Monitoring Officer and Chief Financial Officer**

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

## 6. **Conduct**

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

## 7. **Employment**

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

# Article 13 - Decision Making

## 1. **Responsibility for Decision Making**

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

## 2. **Principles of decision making**

1. All decisions of the Council will be made in accordance with the following principles:
  - (a) There should be clarity of aims and desired outcomes;
  - (b) Proper regard should be paid to professional advice from officers;
  - (c) Proper regard should be paid to internal and external consultation according to the decision in question;
  - (d) There should be respect for human rights;

- (e) There should be a presumption in favour of openness;
- (f) There should be proportionality (i.e., the action must be proportionate to the desired outcome);
- (g) There should be an explanation of the alternative options considered; and
- (h) There should be proper reasons for the decision which are documented.

### **3. Types of decision**

1. Decisions reserved to full Council.
2. Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

### **4. Key Decisions**

1. A Key decision means:
  - (a) an executive decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council's budget for the service or function to which the decision relates; or
  - (b) 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 Council.
  - (c) A decision taker may only make a Key Decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.
2. For the purposes of this definition, and without prejudice to the generality of the foregoing, in determining whether resulting expenditure, savings or effects of a decision are significant, regard shall be had to the following principles:
  - i. expenditure of more than £200,000 shall be regarded as significant
  - ii. the making of savings of over £200,000 in the costs of the provision of a service is to be regarded as significant
  - iii. major land disposals and acquisitions are significant
  - iv. decisions involving the compulsory acquisition of any land shall be treated as being significant
  - v. decisions involving the recommendation to the full Council of changes to the Budget and Policy Frameworks are to be regarded as Key Decisions



- vi. decisions resulting in a major impact on a locality in the Council's area shall be treated as significant, even though they affect only one ward or electoral division.

## **5. Decision making by Full Council**

Subject to Article 13.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **6. Decision making by Cabinet**

Subject to Article 13.8, Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **7. Decision making by Scrutiny Committees**

Scrutiny Committees will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **8. Decision Making by Other Committees and Sub-Committees established by the Council**

Subject to Article 13.8, other Council Committees and sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

## **9. Decision Making by Council Bodies Acting as Tribunals**

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

# **Article 14 - Finance, Contracts and Legal Matters**

## **1. Financial Management**

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

## **2. Contracts**

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

## **3. Legal proceedings**

The Monitoring Officer is authorised to institute, defend, or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.

#### **4. Authentication of documents**

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

Any contract entered into on behalf of the Council in the course of the discharge of any function shall be made in writing. Contracts with a value exceeding £50,000 must either be signed by at least two officers of the authority or made under the Common Seal of the Council attested by at least one officer.

#### **5. Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or the Monitoring Officer or some other person authorised by them.

### **Article 15 - Review and Revision of the Constitution**

#### **1. Duty to monitor and review the Constitution**

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

#### **2. Protocol for monitoring and review of the Constitution by the Monitoring Officer**

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

- (a) observe meetings of different parts of the member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with them by members, officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

#### **3. Changes to the Constitution**

1. **Approval.** Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

## **Article 16 - Suspension, Interpretation and Publication of the Constitution**

### **1. Suspension of the Constitution**

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules may be suspended by the Full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of **Councillors** are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **2. Interpretation**

The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **3. Publication**

- (a) The Monitoring Officer will draw the contents of the Constitution to the attention of Members on their election to the Council.
- (b) The Constitution will be available on the website of the Council.

# PART 3 RESPONSIBILITY FOR FUNCTIONS

## 1. Commentary

1. The Council is established by an Act of Parliament (Local Government Act 1972). The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 specify that all its functions are the responsibility of the Cabinet except for those specified in the legislation:
  - (a) as not being the responsibility of the Cabinet;
  - (b) as being capable of being the responsibility of the Cabinet (the ‘local choice functions’); and
  - (c) to be, only to some extent, the responsibility of the Cabinet.
2. In this Constitution each of the Council’s functions is clearly allocated to a specific part of the Council, being:
  - (a) The Full Council
  - (b) The Cabinet or an individual Member of it
  - (c) A Committee of the Full Council
  - (d) An officer of the Council.
3. Council decisions are divided into two types: Executive and Non-Executive.
4. Executive decisions relate to all the functions that are not Council (Non-Executive) functions. They include those Local Choice functions (identified below) that the Council has decided should be the responsibility of the Executive. Executive decisions are taken by the Executive Leader, Cabinet, Cabinet Members, Cabinet Committees or officers under delegated authority in accordance with, and in order to implement, the Budget and Policy Framework, as set out in Part 3.
5. Non-Executive decisions relate to powers and duties that under statute are not the responsibility of the Executive Leader, Cabinet or Cabinet Members. The power to exercise Non-Executive functions is either reserved to the Council or delegated by the Council to Committees or officers, as set out in Part 3.
6. Local Choice functions are functions that could be, but don’t have to be, the responsibility of the Cabinet, and whether a function is Executive or Non-Executive, is down to local choice. The Council has determined the decision-maker for local choice functions is as set out in the table below, but the decision-maker is able to further delegate to Officers in accordance with the Officer Scheme of Delegations in Part 3.

<b>FUNCTION</b>	<b>LOCAL CHOICE</b>	<b>DECISION MAKER</b>
Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.	Executive	Cabinet as a whole
The determination of appeals against any decision made by or on behalf of the authority	Executive	Cabinet as a whole

(other than those reserved to a Non-Executive Committee)		
Any function relating to contaminated land (a) to the extent that the function involves the formulation of a strategic policy	Non-Executive	Council
(b) to the extent that the function does not involve the formulation of a strategic policy	Executive	Cabinet Member for Communities and Communications
Performing any function relating to controlling pollution or managing air quality: (a) to the extent that the function involves the formulation of a strategic policy	Non-Executive	Council
(b) to the extent that the function does not involve the formulation of a strategic policy	Executive	Cabinet Member for Communities and Communications
The service of an Abatement Notice in respect of a statutory nuisance under Section 80(1) Environmental Protection Act 1990	Executive	Cabinet Member for Communities and Communications
The passing of a resolution that Schedule 2 Noise and Statutory Nuisance Act 1993 should apply under Section 8 of the Noise and Statutory Nuisance Act 1993: (a) to the extent that the function involves the formulation of a strategic policy	Non-Executive	Council
(b) to the extent that the function does not involve the formulation of a strategic policy	Executive	Cabinet Member for Communities and Communications
Inspection of the Authority's area to detect any statutory nuisance (a) to the extent that the function involves the formulation of a strategic policy	Non-Executive	Council
(b) to the extent that the function does not involve the formulation of a strategic policy	Executive	Cabinet Member for Communities and Communications
The investigation of any complaints as to the existence of a statutory nuisance	Executive	Cabinet Member for Communities and Communications
Obtaining information under Section 330 of the Town and Country Planning Act 1990 as to interests in land: (a) to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders	Executive	Cabinet as a whole
(b) to the extent that it is necessary to exercise these powers in respect of actions which are not preliminary to the exercise of powers to make compulsory purchase orders	Non-Executive	District Planning Committee or Planning Committee
Obtaining information about people interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976: (a) to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders	Executive	Cabinet as a whole

(b) to the extent that it is necessary to exercise these powers in respect of actions which are not preliminary to the exercise of powers to make compulsory purchase orders	Non-Executive	District Planning Committee or Planning Committee
Making agreements for highways works to be carried out	Executive	Cabinet Member for Planning
The appointment (and revocation of appointment) of any individual: 1) to any office other than an office in which they are employed by the Authority; 2) to any body other than: (a) the Authority; (b) a Joint Committee of two or more Authorities; or (c) to any Committee or Sub-Committee of such a body.	Executive and Non-Executive	Executive Leader where the appointment relates to Executive powers.  The Council where the appointment relates to Non-Executive functions
The making of agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities: (a) to the extent that the staff are being placed at the disposal of the other Authority in relation to the discharge of functions which are the responsibility of the Authority placing the staff	Non-Executive	Council
(b) to the extent that the staff are being placed at the disposal of the other Authority in relation to the discharge of functions which are not the responsibility of the Authority placing the staff	Executive	Cabinet as a whole

7. Full Council has the following Committees which report to it:

- (a) Audit Committee
- (b) Planning Committee
- (c) District Planning Committee
- (d) Licensing Committee
- (e) Standards Committee

The Planning Committee, District Planning Committee and the Licensing Committee are also known as “Regulatory Committees”.

8. The Council also appoints an Appeals Panel of Members from which Councillors will be selected by the Monitoring Officer to deal with appeals against decisions of any part of the Council where such appeals are provided for by legislation or adopted procedures of the Council. These appeals are dealt with by three Members and the Monitoring Officer has the authority to select Members on a case-by-case basis and to determine the procedure to be followed. In addition, the Standards Committee has assessment, review and hearing sub-Committees to which three Standards Committee members are appointed. Licensing Act and Gambling Act applications are heard by sub-Committees comprising three members of the Licensing Committee.
9. Certain functions are reserved to full Council, and these are set out in Article 4. The remaining functions are allocated below.

## **2. Committees of Full Council**

1. Each Committee is authorised to exercise such powers and duties as are delegated to it by the Council and shall act within the plans, policies, strategies and budgets approved by the Council.
2. The following functions may not be delegated:
  - (a) To approve any matter which the Council is required by statute to approve.
  - (b) To decide the major policies or objectives of the Council, and specifically to approve the Budget and financial strategies, and the plans and strategies listed in Article 4 under Policy Framework.
  - (c) Amendments to Procedural Standing Orders, Financial Procedure Rules, Contract Procedure Rules, or the terms of reference of Committees.
  - (d) The right to dissolve a Committee or alter its membership or terms of reference. This right does not apply to the Cabinet or to any Panel/Forum or Committee appointed by the Cabinet.

### **Two Scrutiny Committees**

These Committees each have 11 members and the functions set out in Article 6 and Part 4(v) of this Constitution.

### **Audit Committee**

The Committee has seven members and reports to Council. Its function is to serve as the Audit Committee for the purposes of the CIPFA Code of Practice for Internal Audit in Local Government 2003 as amended from time to time.

### **Planning Committee and District Planning Committee**

1. There is one Planning Committee known as the Planning Committee and a further District Planning Committee, both of which can deal with planning applications or other planning matters from across the District. Cabinet Members cannot serve on the District Planning Committee and there are no substitutes.
2. Each Committee has 12 members drawn from across the district and has the following functions, save where the Officer Scheme of Delegation provides for them to be exercised by an officer:
  - (a) Subject to paragraph (e) below. To (i) determine all applications/notifications and related planning enforcement matters; and (ii) undertake site specific Development Control procedures pursuant to the Planning Acts and related legislation, orders and directions within the district.
  - (b) All other functions relating to town and country planning development control as specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 including enforcement, and all powers under the Planning Acts to obtain information as to interests and particulars of persons interested in land.
  - (c) To determine such applications as are presented to them for planning permission made by the Council to which Regulation 3 of the Town and Country Planning General Regulations 1992 applies.

- (d) To determine such matters as are presented to them relating to the control of advertisements, the preservation of trees, buildings and important hedgerows, the creation extinguishment or diversion of public highways affected by development and the service of purchase notices and notices as to waste land and decisions on high hedges complaints and street naming.

## **Exception**

1. The District Planning Committee with 12 members shall deal with applications consisting of 50 or more residential units, more than 2,000 square metres of other development or where the Chairman and Vice-Chairman of the Planning Committee refer it to the District Committee before any decision is taken by the Planning Committee. The Chairman and Vice-Chairman of the District Planning Committee (in consultation with the Leader) may refer to the Planning Committee any application that appears straightforward in nature.

## **Licensing Committee**

1. The Licensing Committee has 15 Members and the following functions, save where the Officer Scheme of Delegation provides for them to be exercised by an officer. There are no substitutes on the Licensing Committee.
  - (a) All functions relating to Licensing and Registration as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, including enforcement and all functions under the Licensing Act 2003 and the Gambling Act 2005.
  - (b) All functions under any of the "relevant statutory provisions" 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, including enforcement, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer.
  - (c) The enforcement of the legislative controls relating to:
    - (i) Contaminated Land in Part II of the Environmental Act 1995 and associated Regulations; and
    - (ii) Control of pollution and the management of air quality pursuant to the Control of Pollutions Act 1974, as amended, the Environmental Protection Act 1990 and the Clean Air Act 1993.
  - (d) In particular the Committee will consider and determine:
    - (i) Applications relating to licences, permits, approvals, orders, consents or similar authorisations, under the above provisions where the Environmental Health Manager considers that the matter merits the Committee's attention.
    - (ii) Amendments to the hackney carriage fare tariff.
    - (iii) The introduction of or amendments to licence conditions.
    - (iv) All matters under the Licensing Act 2003 and The Gambling Act 2005.
    - (v) Applications relating to Sex Establishments.
  - (e) The Committee does not formulate new policy.



## **Licensing Sub-Committee A**

1. Licensing Sub Committee A consists of five Members from the Licensing Committee and performs the following functions: The determination of hackney carriage and private hire licence applications, reviews, suspensions or revocations and all matters requiring a hearing under the Scrap Metal Dealers Act 2013. Substitutes from the Licensing Committee are permitted.

## **Other Licensing Sub-Committees**

1. All 15 members of the Licensing Committee shall be eligible to sit on three person panels to decide matters under the Licensing Act 2003, the Gambling Act 2005, and the Sex Establishment applications. The Assistant Director Legal and Democratic Services has authority to decide the makeup of such panels.

## **Standards Committee**

1. The Committee has 10 members (6 District and 4 Parish/Town Councillors) and exercises the following functions without substitutes:
  - (a) To advise the Council on the adoption and revisions of a Members Code of Conduct which properly incorporates the Mandatory elements of the Statutory (Model) Code.
  - (b) To advise on the discretionary elements of the Members' Code of Conduct including monitoring and updating.
  - (c) To advise, train or arrange to train Councillors and co-opted members on matters relating to the Members' Code of Conduct.
  - (d) To consider and determine requests from any member or co-opted member of the authority who has a financial or other interest which would prevent or restrict them participating in any business before the Council for a dispensation, in accordance with any regulations issued by the Secretary of State governing such dispensations.
  - (e) To deal with any reports from the monitoring officer or their appointee on any matter, which is referred for investigation.
  - (f) To carry out the assessment, review and hearings functions pursuant to the procedure for complaints alleging breach of the Members Code of Conduct.
  - (g) To monitor the Member/Officer Protocol and advising the Council on any amendment or revision of the Protocol.
  - (h) To advise the Council on the adoption or revision of any other protocols which may be considered necessary or desirable to ensure that the aims and principles of the Constitution are given full effect.

## **The Greater Brighton Economic Board (Joint Committee)**

1. The Council is part of the Greater Brighton Economic Board whose over-arching purpose is to bring about sustainable economic development and growth across the Greater Brighton region. The Council is represented on the Board by the Executive Leader of the Council. The Board decisions are subject to call-in provided they have been opposed by the Executive Leader of the Council.

2. The Council is also represented on the Greater Brighton Economic Joint Committee along with elected members of Brighton and Hove City Council, Adur District Council, Worthing Borough Council, Lewes District Council, Crawley Brough Council and Arun District Council and the South Downs National Park Authority which forms part of the Board in an overseeing role.

## **Coast to Capital Joint Committee**

1. The Council is represented by the Executive Leader on the Coast to Capital Joint Committee along with Brighton and Hove City Council, London Borough of Croydon, Surrey County Council, West Sussex County Council, Adur District Council, Worthing Borough Council, Lewes District Council, Horsham District Council, Crawley Borough Council, Arun District Council, Chichester District Council, Epsom and Ewell District Council, Tandridge District Council, Mole Valley District Council and Reigate and Banstead District Council. This local Enterprise Partnership (LEP) is “charged” with promoting economic growth in the area.

## **4. Officers**

1. Certain officers of the Council have responsibilities for decisions delegated to them in accordance with the Officer Scheme of Delegation which is set out at Annex A to Part 3.

## **5. The Cabinet**

1. The Cabinet is made up of the Executive Leader who is elected by Council, and between 2 and 9 other Councillors appointed by the Executive Leader, one of whom the Executive Leader shall appoint as Deputy Leader.
  - (a) It exercises all the functions of the Council other than those specifically the function of:
    - (i) The Council;
    - (ii) Committees of the Council;
    - (iii) Any Area Committee; and
    - (iv) Officers pursuant to Annexe A of this Part 3.
  - (b) In particular, the Cabinet's functions are:
    - (i) implementing policies as determined by Council and updating these policies
    - (ii) advising the Council on financial and economic policy and to recommend annually, as determined by statute, proposals for the Council Tax
    - (iii) maintaining overall control of approved budgets and considering virement requests in accordance with Financial Procedure Rules
    - (iv) preparing a Corporate Plan for the consideration of the Council
    - (v) considering reports from the Council’s external auditors, (other than the Auditor’s Management Letter), ombudsman and other bodies and taking or proposing appropriate action
    - (vi) exercising the powers and duties of the Council under all statutes, regulations, and codes of practice relating to the health and safety of Council staff
    - (vii) ensuring adequate training and development for elected members

- (viii) acting on behalf of the Council in any cases where urgent decisions are required, and such matters cannot conveniently be dealt with by the Council or by another appropriate Committee or under the delegated powers of staff
  - (ix) preparing and approving the Council's E-Government Strategy.
  - (x) the management of strategic risks
2. The allocation of functions within the Cabinet is set out in the section below marked "Allocation of Functions within the Cabinet".
  3. Where a function is allocated to a Cabinet member, the Executive Leader may determine that it is to be carried out by either another Cabinet member or the Cabinet.
  4. A Cabinet member may recall to themselves the exercise of a function delegated by them to an officer.
  5. Each Cabinet member will present to the Monitoring Officer a written record of delegations made by them.

### **Allocations of Functions within the Cabinet**

1. Full Cabinet
  - (a) All preliminary discussions upon and decisions in respect of matters set out in the Forward Plan.
  - (b) All Key Decisions within the terms of Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 including preliminary discussions on them.
  - (c) All matters which are to be referred to Full Council with a recommendation.
  - (d) All matters referred to the Cabinet by the two Scrutiny Committees.
  - (e) The making of appointments to outside bodies where the nominations are uncontested.
  - (f) Strategic Risk Management.
2. Individual Cabinet Members
  - (a) Joint and several responsibility for the delivery of the Council's Economic Growth and Sustainability Strategy.
  - (b) Joint and several responsibility for the delivery of strategies across the Council's activities.
  - (c) Developing strategies for their individual portfolios and ensuring the operational implementation of those strategies.
  - (d) The distribution of Section 106 monies up to £50,000 save for affordable housing and TAD contributions where no financial limit shall apply to the relevant Cabinet Member.

## 6. Cabinet Portfolio and Service Areas

<b>Cabinet Portfolio and Service Areas</b>
<p><b>EXECUTIVE LEADER – Cllr Robert Eggleston</b></p> <ul style="list-style-type: none"><li>• Overall political management and direction of the Council</li><li>• Overall budget and policy framework</li><li>• Strategic partnerships</li><li>• Cabinet appointments and responsibilities</li><li>• Plan Making</li><li>• Gatwick Airport</li><li>• Burgess Hill Town Centre and Burgess Hill Growth Area</li></ul>
<p><b>CABINET MEMBER FOR COMMUNITIES AND COMMUNICATIONS (DEPUTY LEADER) - Cllr Alison Bennett</b></p> <p><b>To deputise for the Executive Leader</b></p> <ul style="list-style-type: none"><li>• Communities</li><li>• Grants</li><li>• Environmental Health</li><li>• Safeguarding</li><li>• Overall communications and media</li></ul>
<p><b>CABINET MEMBER FOR FINANCE, REVENUES AND BENEFITS – Cllr Anne-Marie Cooke</b></p> <ul style="list-style-type: none"><li>• Council Budget and Corporate &amp; Financial Planning</li><li>• Finance (including Treasury Management, Audit and Performance)</li><li>• Clair Hall</li><li>• Equalities</li><li>• Revenues and Benefits</li></ul>
<p><b>CABINET MEMBER FOR LEISURE AND CUSTOMER SERVICES – Cllr Chris Hobbs</b></p> <ul style="list-style-type: none"><li>• Leisure</li><li>• Parking</li><li>• Waste</li><li>• Estates</li><li>• Landscapes, parks and open spaces</li><li>• Building Control</li><li>• Customer Services</li></ul>

**CABINET MEMBER FOR SUSTAINABLE ECONOMY AND HOUSING – Cllr Ian Gibson**

- Housing Options
- Housing Enabling
- Development Management
- Digital Infrastructure
- Economy and Sustainability

**6. Collective Responsibility of the Cabinet:**

Collective responsibility for delivery against Council agreed Corporate Plan and Budgets, accountable to Council for performance across the service range.

## ANNEX A Scheme of Delegation to Officers

### 1. Definitions

**“Chief Executive”** is the Officer designated as Chief Executive

**“Deputy Chief Executive”** is the Officer designated as Deputy Chief Executive

**“Directors”** are the Director of People and Commercial Services, and the Director of Resources and Organisational Development

1. The Chief Executive and Monitoring Officer shall have power to amend the Scheme of Delegation to reflect reorganisations, changes in job titles and vacancies where the changes result in the redistribution of existing delegations and not the creation of new ones.
2. Matters relating to the interpretation of the Scheme of Delegation shall be determined by the Monitoring Officer.
3. Subject to the Proper Officer Appointments, the Chief Executive may exercise the duties, powers and functions delegated to any Director or the Deputy Chief Executive.
4. The Deputy Chief Executive shall exercise the duties, powers and functions delegated to the Chief Executive when they are unable to act.
5. Any officer to whom a power, duty or function is delegated may authorise named officers to exercise that power, duty or function in addition to themselves. The authorisation should be in writing where it may be necessary to any legal procedure or proceedings on behalf of the Council.

6. All decisions and actions in pursuance of a delegation in the Scheme of Delegation must be taken:
  - (a) in accordance with statutory requirements, the Council's Constitution, policies, and procedures, within budget and in compliance with the Contracts Procedure Rules and Financial Procedure Rules if applicable, and
  - (b) after consultation with Cabinet Members, Committee Chairmen, the Monitoring Officer, other officers (in particular the Assistant Director, Corporate Resources (S151 Officer) if there are financial implications of the proposed action) and Parish and Town Councils as appropriate.
7. Officers to whom a matter is delegated may refer that matter to the Council, Cabinet, or a Committee (as appropriate) rather than exercise the delegation.
8. Decisions made and actions taken under the Scheme of Delegation should be recorded and reported to the Cabinet, Council, or a Committee if appropriate or required. Officers shall not exercise any function or power which is specifically reserved to Council, Cabinet, or a Committee either by law or under the terms of this Constitution.

## 2. Delegated Functions

FUNCTION	DELEGATED TO
<b>STAFF</b>	
1. All matters relating to staff and the deployment and organisation of staff subject to the powers reserved to Council by legislation and to budgetary provision	Chief Executive
<b>URGENT ACTION</b>	
2. Any action required or necessary to be taken in the Council's interests in cases of urgency where reference to Council, Cabinet or the relevant Committee is not practicable.	Chief Executive
<b>FINANCE</b>	
3. To take all actions and make all decisions not reserved to Council or Cabinet relating to the Council's finances including borrowing, investment, income collection, recovery of debts, making of payments and accounting procedures	Assistant Director, Corporate Resources
4. To write off amounts due to the Council up to a maximum of £25,000 in any one case in any financial year	Assistant Director, Corporate Resources
<b>REVENUES</b>	
5. To take all actions and make all decisions relating to the demand collection and recovery of Council Tax and any other locally levied or collected rates or taxes EXCEPT THAT a) Applications for discretionary relief to non-profit making bodies over £15,000 RV shall be decided by the relevant Cabinet Member b) The Cabinet Member shall be Consulted before applications for discretionary relief in cases of hardship are approved c) the Cabinet Member shall be consulted before the empty property rate is reduced or remitted	Assistant Director, Corporate Resources

6. To take all actions and make all decisions and relating to valuation, valuation list Benefits and Housing alterations and connected matters	Assistant Director, Corporate Resources
<b>BENEFITS</b>	
7. To take all actions and make all decisions and relating to the administration of Council Benefits and Housing Tax Benefits, Housing Benefits and other Needs Benefits including making determinations in respect of claims, recovery of overpayments and the investigation and prosecution of fraud	Assistant Director, Digital and People Services
<b>PLANNING AND REGULATORY FUNCTIONS</b>	
<p>8. To take all actions and make all decisions relating to the Council's function as local planning authority under the Town and Country Planning Acts and ancillary or other legislation including High Hedges and Street Naming EXCEPT THAT the following matters should be referred to Committee for decision:</p> <p>a) Applications from the Chief Executive, Deputy Chief Executive, Directors, or staff involved in the planning process, or their partners, or Members or their partners</p> <p>b) A request being received, within the allotted representation period from any Member of the Council for the application to be referred to the Committee for determination. Member requests for a referral to Committee must be discussed with officers and confirmed in writing (to include e- mail) have to be supported by another member and have to have planning reasons</p> <p>c) Proposals involving the Council or the County Council as applicant or landowner (except responses to those Reg 3 applications which accord with the Development Plan and work to TPO trees).</p> <p>d) Cases where the Recommendation would (not applications for "prior approval" submitted under the Town and County Planning (General Permitted Development) (England) Order 2015 (as amended), if accepted, result in a decision contrary to the Council's adopted Policies except:</p> <p>(i) the development of a single dwelling house located outside the defined built-up area where that new dwelling is being constructed adjacent to existing dwellings from which Council Tax has been collected for at least three years; and</p> <p>(ii) minor alterations to any permissions granted, under (i) and (ii) above where "minor" means nothing of any significant difference in the opinion of a Planning Office.</p> <p>e) Applications for planning permission (not reserved matters) for a net gain of more than 9 dwellings which are recommended for permission</p> <p>f) Major variations to Section 106 Agreements</p>	Assistant Director, Planning and Sustainable Economy



<p>g) Non-urgent Article IV Directions</p> <p>h) Changes to refusal reasons when a refused application is going to appeal</p> <p>AND the following matters should be decided only after consultation with the Chairman and Vice-Chairman of the relevant Planning Committee:</p> <ul style="list-style-type: none"> <li>(i) matters relating to Building Preservation and Listed Building Enforcement Notices</li> <li>(ii) Stop Notices</li> <li>(iii) Injunctions</li> <li>(iv) Applications under Section 7 of the Growth and Infrastructure Act 2013</li> </ul> <p>AND the following delegations shall be given to planning officers subject to consultation with at least one Planning Chairman and the relevant Ward Members:</p> <ul style="list-style-type: none"> <li>(i) the Planning officer be able to agree to minor alterations to an existing planning permission when in their opinion there was no material consequences.</li> <li>(ii) (Section 73 applications under the Town and Country Planning Act 1990 as amended to be issued with new conditions.</li> <li>(iii) Solar Farm applications of whatever size to be a Delegated Decision where there are no objections.</li> <li>(iv) To decide the outcome of an application for Permission in Principle and the application for Technical Details Consent.</li> </ul>	
<p>9. To deal with all matters relating to Building Control</p>	<p>Assistant Director, Commercial Services and Contracts</p>
<p>10. The exercise of the Council's regulatory functions relating to:</p> <ul style="list-style-type: none"> <li>• animals</li> <li>• control of pollution (including the detection of statutory nuisances and service of Abatement Notices)</li> <li>• Coronavirus Act 2020 and regulations thereunder</li> <li>• Caravan sites</li> <li>• environmental protection</li> <li>• housing fitness</li> <li>• food safety and hygiene</li> <li>• gaming permits</li> <li>• hackney carriages and drivers</li> <li>• health and safety at work and personnel health</li> <li>• house to house collections</li> <li>• late night refreshment licences under the Licensing Act 2003</li> <li>• lotteries</li> <li>• markets</li> </ul>	<p>Assistant Director, Communities</p>

<ul style="list-style-type: none"> <li>• microchipping of dogs</li> <li>• motor salvage operators</li> <li>• private hire vehicles, drivers and operators</li> <li>• public health inc. emergency Covid-19 legislation</li> <li>• public safety</li> <li>• scrap metal dealers</li> <li>• shops and Sunday trading</li> <li>• street collections</li> <li>• street trading</li> <li>• public entertainment</li> <li>• cinemas and theatres</li> <li>• riding and other animal establishments</li> <li>• scrap metal dealers</li> <li>• slaughterhouses</li> <li>• sex establishments</li> </ul> <p>EXCEPT</p> <ul style="list-style-type: none"> <li>• Amendments to the Hackney Carriage fare tariff</li> <li>• Revocations of Hackney Carriage and Private Hire Drivers Licence which can be done only after consultation with the Chairman and/or Vice-Chairman of Sub-Committee A.</li> <li>• The introduction of or amendments to Licence conditions</li> </ul>	
11. Exercise of the Council's functions relating to contaminated land	Assistant Director, Communities or Assistant Director, Commercial Services and Contracts
12. Exercise of the Council's functions relating to streets and highways	Assistant Director, Commercial Services and Contracts
13. Exercise of the Council's functions regarding abandoned or unauthorised vehicles, waste and litter	Assistant Director, Commercial Services and Contracts
14. Exercise of Council's functions in respect of water supply, sewerage and drainage	Assistant Director, Commercial Services and Contracts
15. The maintenance, management and control of The Council's car parks	Assistant Director, Commercial Services and Contracts
<b>HOUSING AND COMMUNITY DEVELOPMENT</b>	
16. Exercise of the Council's functions in relation to housing, including the determination of and People Services applications for grants	Assistant Director, Digital and People Services
17. Exercise of the Council's function in relation to community safety and anti-social behaviour and in Communities particular under the Anti-Social Behaviour, Crime and Policing Act 2014.	Assistant Director, Communities
<b>LEGAL</b>	
18. To affix and attest the seal of the Council to Deeds and documents	Assistant Director, Legal and Democratic Services
19. To take all actions or steps and make all decisions relating to the institution, defence, withdrawal, settlement etc of, or participation in any proceedings or threatened proceedings by or against the Council or in which the Council has an interest	Assistant Director, Legal and Democratic Services
20. Make, serve, issue, publish, modify, withdraw, etc any Notices, Orders or Summonses or other documents	Assistant Director, Legal and Democratic Services

in connection with any proceedings or for the purpose of any of the Council's functions	
21. To authorise individuals to appear on behalf of the Council in the County and Magistrates Court	Assistant Director, Legal and Democratic Services
<b>ELECTIONS</b>	
22. Any action required in connection with the organisation or holding of elections or referenda	Chief Executive and Assistant Director, Legal and Democratic Services
<b>MISCELLANEOUS</b>	
23. To authorise individuals to exercise powers of entry and inspection	Assistant Directors
24. Grant, renewal, review and cancellation of authorisations under the Regulation of Investigatory Powers Act subject to Magistrates Court approval	Chief Executive, Deputy Chief Executive, or any Director within their areas of responsibility
25. Requisitions for Information	Assistant Directors, within their areas of responsibility
26. Seeking of planning permission for development involving the Council as landowner or developer	Assistant Directors, within their areas of responsibility
27. The taking of any action authorised by Contracts Procedures Rules & Financial Procedure Rules in relation to their area of responsibility	Assistant Directors
<b>LEISURE</b>	
28. Exercise of the Council's functions in relation to the maintenance and management of parks, open spaces, commons, recreational facilities, burial grounds, museums, allotments and other similar facilities within the Council's ownership or control	Assistant Director Commercial Services and Contracts
<b>PROPERTY</b>	
29. All actions and decisions relating to Council owned land and buildings EXCEPT: a) in relation to the granting or surrender of leases where the rental exceeds £50,000 pa or the term exceeds 15 years b) in relation to disposals where the land/buildings have not been declared surplus and the value is over £100,000 c) The relevant Cabinet Member shall be consulted on all commercial leases at the Orchards	Assistant Director Commercial Services and Contracts in consultation with Assistant Director, Legal and Democratic Services
30. The acquisition of land and buildings up to a limit of £100,000 in value where acquisition does not involve matters of policy or principle and there is unallocated budgetary provision in the Programme of Revenue and Capital Projects	Assistant Director Commercial Services and Contracts, in consultation with Assistant Director, Legal and Democratic Services
31. To approve statutory compensation up to a limit of £50,000 where there is a legal liability to pay	Assistant Director, Commercial Services and Contracts in consultation with Assistant Director, Legal and Democratic Services
<b>GENERAL</b>	
32. The Deputy Chief Executive shall have all the powers of the Chief Executive in her absence.	
<b>FIXED PENALTY NOTICES</b>	
33. The power to authorise officers to issue fixed penalty notices, community protection notices and take other action, including enforcement action, whether by way of criminal proceedings or civil proceedings, arising	Assistant Director, Communities

from or in connection with offences under the Clean Neighbourhoods and Environment Act 2005, the Anti-Social Behaviour Act 2003 or the Anti-Social Behaviour, Crime and Policing Act 2014 and any subsequent amendments.	
<b>CONSTITUTIONAL MATTERS</b>	
34. To determine, in consultation with the relevant Cabinet Member, and in the case of a petition, which might otherwise qualify for a debate at Council, the Council Chairman, and in accordance with the Petitions Scheme, whether a petition meets the criteria for acceptance set out in the scheme.	Chief Executive and/or Assistant Director, Legal and Democratic Services
35. To update the Constitution to reflect the requirements of new statutes or statutory instruments	Assistant Director, Legal and Democratic Services
<b>ASSETS OF COMMUNITY VALUE</b>	
36. To maintain the List of Assets of Community Value and take all necessary steps to promote and implement these arrangements	Assistant Director, Legal and Democratic Services
37. To determine any application under the Localism Act 2011 to list any building and/or land in the Council's area as an Asset of Community Value	Director, Resources and Organisational Development in consultation with Assistant Director, Legal and Democratic Services
38. To determine any claim for compensation arising from an asset being listed	Assistant Director, Legal and Democratic Services in consultation with Assistant Director, Corporate Resources
39. Determination of a review of any decision taken under 37 or 38 above	Chief Executive

### 3. Proper Officer Appointments

1. Certain statutory functions are required to be performed by officers specified by the Council. It is open to each Council to decide which of its officers should be designated as the "Proper Officer" for the particular purpose in question.
2. In the event of the Proper Officer being absent or unable to act, their nominated deputy is authorised to act in their stead.

<b>FUNCTIONS RELATING TO OFFICERS</b>		
<b>Act</b>	<b>Function</b>	<b>Officer</b>
s.2(4) Local Government and Housing Act 1989	To maintain a list of politically restricted posts	Assistant Director Organisational Development
s.3A Local Government and Housing Act 1989	To determine applications for exemption from the list of politically restricted posts	Chief Executive in consultation with the Assistant Director, Legal and Democratic Services
s.4 Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
s.5 Local	Monitoring Officer	Assistant Director, Legal

Government and Housing Act 1989		and Democratic Services
Sch.1, Part II, Paras.5-6 Local Authorities (Standing Orders) (England) Regulations 2001	Notification to Cabinet and objections to be considered concerning appointment or dismissal of Head of Paid Service, Chief Officers or Deputy Chief Officers	Assistant Director, Legal and Democratic Services
	Any reference to the Clerk of a Council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the Council	Chief Executive
	Any reference to the Treasurer of a Council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the Council	Assistant Director Corporate Resources
<b>FUNCTIONS RELATING TO DEMOCRATIC PROCESS</b>		
<b>Act</b>	<b>Function</b>	<b>Officer</b>
s.8 Representation of the People Act 1983	Electoral Registration Officer	Chief Executive
s.35 Representation of the People Act 1983	Returning Officer	Chief Executive
s.52 Representation of the People Act 1983	Deputy Electoral Registration Officer	Head of Democratic Services & Elections
s.67(7)(b) Representation of the People Act 1983	Receive declarations and give public notice of election agents' appointments	Head of Democratic Services & Elections
ss.81, 82 and 89 Representation of the People Act 1983	To receive, inspect and publish returns and declarations of election expenses	Head of Democratic Services & Elections
Sch.29 Para.4 Representation of the People Act 1983	Undertake duties at Council elections which are required to be undertaken not by the Returning Officer but by the Proper Officer	Chief Executive
s.131 Representation of the People Act 1983	Providing accommodation for holding election count	Chief Executive
s.83 Local Government Act 1972	Declarations of acceptance of office	Assistant Director, Legal and Democratic Services
s.84 Local Government Act 1972	Receipt of resignations	Assistant Director, Legal and Democratic Services
s.86 Local Government Act 1972	To declare any vacancy in office	Chief Executive
s.88(2) Local Government Act 1972	Convene a meeting to fill a vacancy of a chair	Assistant Director, Legal and Democratic Services
s.89(1) Local Government Act 1972	Receive from two electors notices of casual vacancies of Councillors	Chief Executive

s.100B(2), (7)(c) and 100H Local Government Act 1972	Excluding from the public reports which are not likely to be considered in open session; and provision to the press/public of other documents provided to members where the Proper Officer thinks fit	Assistant Director, Legal and Democratic Services
s.100C(2) Local Government Act 1972	Where part or the whole of the report has been exempt the Proper Officer shall make a written summary of the proceedings or a part to provide a record without disclosing the exempt information.	Assistant Director, Legal and Democratic Services
s.100D(1)(a) and (5)(a) Local Government Act 1972	Compilation of list of background documents relied upon to a material extent in producing the report or disclosing important facts	Author of report
s.100F(2) Local Government Act 1972	Deciding whether documents for inspection in connection with Committees contain exempt information under a paragraph of Schedule 12A	Assistant Director, Legal and Democratic Services
Sch.29 Para.4(1)(b) Local Government Act 1972	Adaptation, modification and amendment of enactments	Assistant Director, Legal and Democratic Services
s.41 Local Government Miscellaneous Provisions Act 1976	To certify copies of Resolutions Orders reports or Minutes of the Council or any Predecessor Authority	Assistant Director, Legal and Democratic Services
ss.15-17 Local Government and Housing Act 1989	Undertake all matters relating to the formal establishment of Political Groups, and give effect to the wishes of Political Groups in making appointments of members to Committees	Assistant Director, Legal and Democratic Services
Regs.8-10, 13-15 and 17 Local Government (Committees and Political Groups) Regulations 1990	Receipt of notice re Political Groups; give effect to the wishes of Political Groups in making appointments of members to Committees	Assistant Director, Legal and Democratic Services
Part 3 Local Government Act 1974	Local Government Ombudsman functions, including giving public notice of reports	Monitoring Officer
Sch.2 Para.54 Local Elections (Principal Areas) (England and Wales) Rules 2006	Registration officer for the retention and destruction of documents following an election	Chief Executive
Local Authorities (Referendum) (Petitions) (England) Regulations 2011	Publish the verification number of local government electors for the purpose of petitions under s.34 Local Government Act 2000	Returning Officer
Local Authorities (Conduct of Referendums) (England) Regulations 2012	Proper Officer function	Assistant Director, Legal and Democratic Services
s.29 Localism Act	Establish and maintain a register of members'	Assistant Director, Legal

2011	and co-opted members' interests	and Democratic Services
s.30-31 Localism Act 2011	Receipt of members' and co-opted members' declarations of interests and changes to those interest within 28 days	Assistant Director, Legal and Democratic Services
s.32 Localism Act 2011	Sensitive interests	Assistant Director, Legal and Democratic Services
s.33 Localism Act 2011	Dispensations from restrictions under s.31(4)	Assistant Director, Legal and Democratic Services
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	Functions relating to the recording and publication of information relating to Executive decisions; inform the relevant Overview and Scrutiny Committee Chairs or the Committee Members of decisions to be made where it has been impracticable to comply with the publicity requirements (in the Forward Plan) and publish notices relating to this; publish a written statement of Executive decisions and background papers; determine whether certain documents contain exempt or confidential information; grant dispensations in respect of conflicts of interest declared by a Cabinet Member making a decision, or declared by a Cabinet Member consulted by a member or officer taking such a decision	Assistant Director, Legal and Democratic Services
s. 21A Local Government Act 2000 (as amended)	Decision making in respect of Councillor Call for Action	Assistant Director, Legal and Democratic Services
<b>FUNCTIONS RELATING TO FINANCE</b>		
<b>Act</b>	<b>Function</b>	<b>Officer</b>
All legislation prior to 1 April 1972; s.151 Local Government Act 1972; and ss.114-116 Local Government Finance Act 1988	Proper Officer in relation to references to Treasurer or District Treasurer; the officer responsible for the proper management of the Council's financial affairs and for making reports to Cabinet/Council	Assistant Director Corporate Resources
All legislation prior to 1 April 1972	Proper Officer in relation to declarations and certificates with regard to securities	Assistant Director Corporate Resources
s.115(2) Local Government Act 1972	For receipt of monies due to the Council from Officers	Assistant Director Corporate Resources
s.146(1) Local Government Act 1972	Sign the statutory declaration to enable the transfer of securities in the event of a change in the name or status of the Council	Assistant Director Corporate Resources
<b>FUNCTIONS RELATING TO LEGAL PROCESSES</b>		
<b>Act</b>	<b>Function</b>	<b>Officer</b>
s.229 Local Government Act 1972	To certify photographic copies of documents to be a true copy (other than those under Public Records Act 1958)	Assistant Director, Legal and Democratic Services
s.234 Local Government Act 1972	To sign Notices Orders or other documents authorised or required by or under any Enactment	Assistant Director, Legal and Democratic Services
s.236 Local	To send copies of Byelaws to Parish and	Assistant Director, Legal

Government Act 1972	Community Councils to which they apply.	and Democratic Services
s.238 Local Government Act 1972	Certification of printed copies of bylaws	Assistant Director, Legal and Democratic Services
s.36 Freedom of Information Act 2000	Non-disclosure where potential to prejudice the effective conduct of public affairs	Assistant Director, Legal and Democratic Services
Sch.12 Para.4(2)(b) Local Government Act 1972	Signing and serving summonses to attend meetings of the Council	Chief Executive or Assistant Director, Legal and Democratic Services
Sch.12 Para.4(3) Local Government Act 1972	Receive written notice from a Member of the address to which a summons to the meeting is to be sent	Assistant Director, Legal and Democratic Services
Sch.12 Para.25 Local Government Act 1972	Certifying copy resolutions of the Council passed before 1975 disapplying public health statutes	Assistant Director, Legal and Democratic Services
<b>COURT REPRESENTATION</b>		
Every Solicitor, Barrister or Chartered Legal Executive employed or engaged by the Council (irrespective of their job title) shall be authorised to appear on its behalf before any Court, Tribunal or other hearing before which they have a Right of Audience and to exercise the powers given by the relevant professional body.		
In addition to the powers delegated, and the rights to appear in Court detailed in above, the following Officers are authorised to appear on behalf of the Council and to conduct proceedings in Court in relation to the functions mentioned below.		
There may be Officers other than those listed in 4.7 who are authorised to appear in Court on behalf of the Council by virtue of the delegation to the Assistant Director, Legal and Democratic Service to provide such authorisation. Any authorisations made under that delegation will be recorded in writing and made available on the intranet.		
<b>Act</b>	<b>Function</b>	<b>Officer</b>
s.223 Local Government Act 1972 and s.60 County Courts Act 1984	In respect of possession matters and for any purpose for which the Council is empowered to authorise Officers to appear on its behalf	Trainee Solicitor
s.223 Local Government Act 1972	In respect of National Non-Domestic Rating or Council Tax matters	Assistant Director Corporate Resources
Part 9 Insolvency Rules 1986	Examination of persons concerning company and individual insolvency	Assistant Director Corporate Resources (in consultation with Assistant Director, Legal and Democratic Services)
Part I Health and Safety at Work etc. 1974		Assistant Director Organisational Development (in consultation with Assistant Director, Legal



		and Democratic Services)
<b>FUNCTIONS IN RELATION TO PUBLIC HEALTH</b>		
<b>Act</b>	<b>Function</b>	<b>Officer</b>
s.79 Public Health Act 1936 & Schedule 29 Part 1 Local Government Act 1972	Removal of Noxious Matter	Assistant Director Communities, or Assistant Director Commercial Services and Contracts
s.84 Public Health Act 1936 & Schedule 29 Part 1 Local Government Act 1972	Verminous Articles	The Consultant in Communicable Disease Control of West Sussex Health Authority or its successor
s.85 Public Health Act 1936 & Schedule 29 Part 1 Local Government Act 1972	Verminous People	The Consultant in Communicable Disease Control of West Sussex Health Authority or its successor
Part XI Local Government Miscellaneous Provisions Act 1982	Public Health	The Consultant in Communicable Disease Control of West Sussex Health Authority or its successor
Part 1 Section 46 Care Act 2014	Removal of people in need	The Consultant in Communicable Disease Control of West Sussex Health Authority or its successor
s.37 Public Health Act 1961	Verminous Articles	The Consultant in Communicable Disease Control of West Sussex Health Authority or its successor
ss.48 and 59 Public Health (Control of Disease) Act 1984 (as amended)	Infectious diseases and dead bodies; preparation of certificate to Justice of Peace for removal of body to mortuary and for burial; authentication of documents	The Consultant in Communicable Disease Control of West Sussex Health Authority or its successor
Sch.14 Paragraph 25(7) Local Government Act 1972	To certify copies of Resolutions applying or disapplying provisions of the Public Health Act 1875 to 1925	Assistant Director Communities
Food Safety Act 1990 (as amended)	Food Safety and authentication of documents	Assistant Director Communities
s.40 Anti-Social Behaviour Act 2003	Closure order in respect of noisy premises where public nuisance	Assistant Director Communities and Assistant Director Commercial Services and Contracts
s.78 Building Act 1984	Authorise action in relation to dangerous structures	Assistant Director Commercial Services

		and Contracts
European Communities Act 1972	Food Safety	Assistant Director, Communities
Animal Welfare Act 2006 (as amended) & Pet Animals Act 1983		Assistant Director Communities
Caravan Sites and Control of Development Act 1960		
Animal Boarding Establishments Act 1963		
Riding Establishments Act 1964 and 1970		
Scrap Metal Dealers Act 2013		
Animal Welfare Act 2006 and 1991 & Breeding and Sale of Dogs (Welfare) Act 1999		
s.41 Local Government (Miscellaneous Provisions) Act 1976	Certifying copy resolutions and minutes of proceedings	Assistant Director, Legal and Democratic Services
Zoo Licensing Act 1981		Assistant Director Communities
Parts II, III VII, VIII and XI Local Government (Miscellaneous Provisions) Act 1982		Assistant Director Communities,
Public Health (Control of Disease) Act 1984 and regulations made thereunder		The Consultant in Communicable Disease Control of West Sussex Health Authority or its successor
Control of Pollution (Amendment) Act 1989		Assistant Director Communities
Clean Neighbourhoods and Environment Act 2005		Assistant Director Communities
Health Act 2006 Chapter 1		Assistant Director Communities and Assistant Director Commercial Services and Contracts

Part 4 Anti-social Behaviour, Crime and Policing Act 2014		Assistant Director Communities
Parts 1, 2, 2A and 3 Environmental Protection Act 1990		Assistant Director Communities
Part 4 Environment Act 1995		Assistant Director Communities
s.108 Environment Act 1995	Enforcement powers	Assistant Director Communities
Part 1 & Part 3 Prevention of Damage by Pests Act 1949		Assistant Director Communities
Control of Pollution Act 1974		Assistant Director Communities
Dangerous Wild Animals Act 1976		Assistant Director Communities
Refuse Disposal (Amenity) Act 1978		Assistant Director Commercial Services and Contracts
Town Police Clauses Act 1847		Assistant Director Communities
Housing Act 1985, 1989 and 2004		Assistant Director People and Digital Services
Clean Air Act 1993		Assistant Director Communities
Pollution Prevention and Control Act 1999		Assistant Director Communities
Environmental Damage (Prevention and Remediation) Regulations 2015		Assistant Director Communities
Health and Safety at Work 1974		Assistant Director Communities or Assistant Director Organisational Development
Animal Welfare Act 2006		Assistant Director Communities
s.59 Building Act 1984		Assistant Director Commercial Services and Contracts
House to House Collections Act 1939		Assistant Director Communities
Police, Factories, etc. (Miscellaneous Provisions) Act 1916		Assistant Director Communities

Hypnotism Act 1952		Assistant Director Communities
<b>MISCELLANEOUS FUNCTIONS</b>		
<b>Act</b>	<b>Function</b>	<b>Officer</b>
s.100G Local Government Act 1972	Maintain a list of members	Assistant Director, Legal and Democratic Services
s.100G Local Government Act 1972	Maintain a list of delegations to officers and the like	Assistant Director, Legal and Democratic Services
s.146(1)(a) Local Government Act 1972	Statutory Declaration re Change of Name of the Authority in connection with Companies	Assistant Director, Legal and Democratic Services
s.191(2) Local Government Act 1972	Receive applications from Ordnance Survey for assistance in surveying disputed boundaries	Assistant Director Planning and Sustainably Economy
s.210 Local Government Act 1972	In respect of powers with regard to charities	Assistant Director, Legal and Democratic Services
s.225 Local Government Act 1972	Deposit of documents in accordance with Standing Orders of either House of Parliament, Enactment or Statutory Instrument	Assistant Director, Legal and Democratic Services
s.248 Local Government Act 1972	To keep the roll of Freeman of City or Town in District	Chief Executive
ss.69, 70-71 Data Protection Act 2018	Designated Data Protection Officer	Assistant Director Digital and People Services
Any other provisions for which arrangements are not specifically made under this Scheme of Delegation	Any other legislation whether made before or after this list was approved and requiring a Proper Officer or authorised officer where not otherwise stated in the Council's approved scheme of delegations from time to time	Chief Executive
<b>FUNCTIONS IN RELATION TO ENTRY OF LAND/PREMISES</b>		
The Chief Executive, Directors, Assistant Directors, Heads of Service, Senior Solicitors, Solicitors, Senior Legal Executives, Legal Executives and Emergency Planning Officer shall be authorised to enter land or premises in relation to any function of the Council, subject to any applicable statutory constraints.		
An Officer authorised to enter land is also authorised to seek a warrant to enter.		
An Officer authorised to enter land may take with them such other persons and equipment as may be necessary.		
The right to enter given above shall extend to the exercise of the power to make inspections, to provide samples and to examine and seize goods.		
<b>ENVIRONMENTAL HEALTH, HOUSING ETC</b>		
<b>Act</b>	<b>Function</b>	<b>Officer</b>
	Animal Welfare Caravan Sites Environmental Protection Food Safety and Hygiene Health and Safety at Work Housing	Assistant Director, Communities

	Licensing Act 2003 Pest Control Public Health Public Safety Scrap Metal Dealers Shop Acts Street Trading Sunday Trading Gambling Act 2005 Animal Boarding Licences Pet Shops The Breeding of Dogs Zoo Licensing Sex Establishments Hypnosis Dangerous Wild Animals Act 1976 Riding Establishments Act 1964 and 1970 Drainage including s.59 Building Act 1984	
<b>PLANNING</b>		
ss.178, 196A, 196B, 324 & 325 Town and Country Planning Act 1990		Assistant Director Planning and Sustainable Economy
s.88 Planning (Listed Buildings and Conservation Areas) Act 1990		
s.36 Planning (Hazardous Substances) Act 1990		
Part 8 Anti-Social Behaviour Act 2003		
<b>BUILDING CONTROL</b>		
s.95 Building Act 1984	General power of entry in relation to building regulations	Assistant Director Planning and Sustainable Economy
<b>LOCAL TAXATION</b>		
	Collection of Local Taxes	Assistant Director, Digital and People Services
<b>LAND DRAINAGE AND SEWERAGE UNDERTAKING</b>		
Water Industry Act 1991		Assistant Director Planning and Sustainable Economy
Land Drainage Act 1991		

#### 4. General

1. Where any enactment other than those listed above contains a provision which is to be construed as a reference to the Proper Officer of the Council then until such time as the Council resolves otherwise the Chief Executive shall be the Proper Officer designated for the purposes of that

2. The Chief Executive, Deputy Chief Executive, Section 151 Officer, and the Monitoring Officer shall be appointed by Council.

# PART 4 RULES OF PROCEDURE

## Part 4(i) Council Procedure Rules

### 1. Annual Meetings

1.1 The Annual Meeting of the Council shall be held:

- (a) in a year of ordinary elections of Councillors to the Council, on the eighth day after the day of retirement of Councillors or such other day within the twenty-one days immediately following the day of retirement as the Council may fix; and
- (b) in any other year, on such day in the month of March, April, or May, as the Council may fix.
- (c) In a year of ordinary elections of Councillors to the Council, nominations for Chairman and Vice-Chairman of the Council shall be submitted in writing to the Monitoring Officer no later than 5pm on the day of the meeting at which the Chairman is to be elected and the Vice Chairman appointed.

1.2 The Annual Meeting will:

- (a) elect a member, other than a member of the Cabinet, to preside if the Chairman of Council is not present;
- (b) elect a member, other than a member of the Cabinet, to be the Chairman of Council;
- (c) elect a member, other than a member of the Cabinet, to be the Vice Chairman of Council;
- (d) receive apologies for absence;
- (e) receive any declarations of disclosable pecuniary or personal interests;
- (f) approve the Minutes of the last meeting;
- (g) receive any announcements from the Chairman;
- (h) elect the Executive Leader (first Annual Meeting only);
- (i) Note the Executive Leader's appointments to Cabinet (including the Deputy Leader) in an election year, receive the return of the Returning Officer;
- (j) decide the allocation of seats (and substitutes) to political groups in accordance with the political balance rules;
- (k) note appointments to the Audit Committee, Scrutiny Committees and Area and District Planning Committees, the Licensing Committee, and the Standards Committee
- (l) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (m) approve a programme of ordinary meetings of the Council for the year;
- (n) consider any business set out in the notice convening the meeting

### 2. Ordinary Meetings

2.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The programme will contain at least four ordinary meetings, plus Annual Council, and a meeting to consider the Budget. Ordinary meetings will:

1. elect a person to preside if the Chairman and Vice Chairman are not present;
2. receive questions from the public pursuant to Rule 9;
3. consider a petition in accordance with the Petitions Scheme in accordance with Standing Order 11(3);
4. approve the Minutes of the last meeting;

5. receive any declarations of interest from members;
6. receive any announcements from the Chairman, Executive Leader, and members of the Cabinet;
7. deal with business not otherwise specified in the Council Summons, which in the opinion of the Chairman of the Council (in consultation with the Chief Executive) is business of such urgency as to require immediate attention;
8. deal with any business remaining from the last Council meeting;
9. deal with any statutory report from the Head of the Paid Service, the Monitoring Officer, or the Chief Financial Officer, in each case having first received the oral report of the appropriate Officer;
10. receive a report from the Chairman of the Standards Committee at least once a year;
11. consider any other business specified in the summons to the meeting, – including consideration of proposals from the Cabinet in relation to the Council’s budget and Policy Framework and reports of the Scrutiny Committees for debate;
12. receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
13. receive reports from the Executive Leader and/or Cabinet and the Council’s Committees and receive questions and answers on any of those reports;
14. consider motions;
15. the order of business may be varied
  - (i) by the Chairman at their discretion or
  - (ii) by a resolution passed on a motion which shall be moved, seconded, and put without discussion; and
16. consider questions from Members pursuant to Rule 10 of these Rules.

### **3. Extraordinary Meetings**

- 3.1 Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:
  - (a) the Council by resolution;
  - (b) the Chairman of the Council;
  - (c) the Monitoring Officer;
  - (d) the Assistant Director Corporate Resources; and
  - (e) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and they have refused to call a meeting or has failed to call a meeting within seven clear working days of the presentation of the requisition.

### **4. Chairman’s Powers to Change the Timing of Meetings**

- 4.1 The Chairman may cancel, alter, or rearrange a meeting of which they are Chairman, in consultation with the Executive Leader of the Council and the Chief Executive if they consider that there is likely to be insufficient business to be conducted at the meeting, or it would be more efficient for conducting business if the meeting were altered or rearranged. If the Chairman wishes to alter or rearrange a meeting of Council, they shall give the public ten working days’ notice of the altered or rearranged meeting. In exceptional circumstances, the length of notice can be waived, but in these cases the Chairman shall obtain the agreement of



the Executive Leader of the Council before the alteration or rearrangement of the meeting is notified to the public and other Members.

## **5. Time and Place of Meetings**

- 5.1 The Annual Meeting and other meetings of the Council shall be held at Oaklands, Oaklands Road, Haywards Heath at 7.00 p.m. or such time or other place as the Chairman may direct.

## **6. Notice of and Summons to Meetings**

- 6.1 The Chief Executive or the Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Chief Executive or the Monitoring Officer will send a summons signed by them to every member of the Council by an appropriate method. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

## **7. Chairman of Meeting**

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

## **8. Quorum**

- 8.1 The quorum of a meeting will be one quarter of the whole number of members save in the case of a Committee or Sub-Committee where the quorum is one third of the whole number of the Committee or Sub-Committee or Group.
- 8.2 If during any meeting the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.
- 8.3 Remaining business will be considered at a time and date fixed by the chairman. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. Questions by the Public**

- 9.1 Members of the public may ask questions of members of the Council limited to no more than 100 words. The time for such questions shall be limited to 15 minutes. Any person wishing to ask a question shall notify the Senior Member Services Officer or their representative not later than 1.00 p.m. two days preceding the day of the meeting (i.e., by 1pm on Monday for a Council meeting on Wednesday) at which the question is to be asked and shall provide a written copy of the question. The questioner shall be present at the start of the meeting and shall be allowed to ask one supplementary oral question relating to the original question.

### **9.2 Order of questions**

1. Questions will be asked in the order in which they are received, but:
  - (a) the Chairman may group together similar questions; and

- (b) a member of the public may only ask one question at a time. Other members of the public will be invited to ask questions and only if there is sufficient time left remaining will the original questioner(s) be entitled to ask further questions, except for supplemental questions under Rule 9.5.

### **9.3 Scope of questions**

1. The Chairman may reject a question if it:
  - (a) is not about a matter for which the local authority has a responsibility, or which affects the District;
  - (b) is defamatory, frivolous, or offensive;
  - (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
  - (d) requires the disclosure of confidential or exempt information.
  - (e) is not in the format of a question.

### **9.4 Record of questions**

1. A Democratic Services Officer will maintain a record of each question (including rejected questions) in a manner open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.
2. Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

### **9.5 Asking the question at the meeting**

1. The Chairman will invite the questioner to put the question and will ask the questioner whether they are content that the question should be taken as read or wherever they would prefer to put the question orally. The Chairman may invite a Member other than that named or referred to in the question to respond to the question.
2. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may:
  - (a) ask the question on the questioner's behalf; indicate that a written reply will be given; or
  - (b) decide, in the absence of the questioner, that the question will not be dealt with.
3. If a questioner who has submitted a written question would prefer it to be read out, they may ask the Chairman to put the question on their behalf.

### **9.6 Supplementary question**

1. A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to their original question.

2. A supplementary question must arise directly out of the original question or the reply. Any supplementary question which does not fulfil the criterion will be rejected. The Chairman may reject a supplementary question on any of the grounds in Rule 9.2.

## **9.7 Answers**

1. When a Member responding to a written question considers that a full answer cannot conveniently be delivered in two minutes or less, they shall give an oral summary of the answer, not exceeding two minutes and shall provide a full written response. Any question, which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.
2. Supplementary questions will normally be answered in writing. Any written answers will be published on the Council's web site.

## **9.8 Reference of the question to the Cabinet or a Committee**

1. Unless the Chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Cabinet or appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

## **10. Questions by Members**

### **10.1 Questions on Reports**

- (a) A Member of the Council may ask the Executive Leader or a Cabinet Member or the Chairman of a Committee any question without notice upon an item of the report of the Executive Leader, the Cabinet, or a Committee respectively when that item is being received or under consideration by the Council.
- (b) For the purpose of this Rule, all proceedings of the Cabinet since the date of the last Council meeting and all matters contained within the Members' Information Bulletins published since the date of the last Council meeting shall be treated as being under consideration by the Council when the Executive Leader and/or Cabinet Members respectively, present their reports.
- (c) If any Minutes of Committees, which do not contain recommendations, are presented to the Council, they shall be for information only and shall not be the subject of debate. This provision is without prejudice to the right of a Member to ask a question of the Chairman of the Committee pursuant to subparagraph 10.1(i) above. Such minutes will be sent to members as soon as possible after the meeting and preferably within 10 working days and they will not be duplicated in the Council agenda.
- (d) In the case of a statement made by the Chairman of a Committee or a Cabinet Member or the Executive Leader a debate may ensue, at the discretion of the Chairman of the Council.
- (e) Officers may contribute to Council meetings, by way of advice or information, at the invitation of the Chairman.

## 10.2 General Questions

- (f) Thirty minutes will be allocated at each ordinary meeting of the Council for questions from members pursuant to this Rule 10.2. A Member of the Council may:
  - (ii) if notice in writing has been delivered at the office of the Chief Executive by 5.00 p.m. two days (e.g., 5pm on Monday before a Council meeting on Wednesday) before the meeting of the Council ask the Executive Leader or a Cabinet Member or the Chairman of a Committee any question on any matter in relation to which the Council have powers or duties or which affects the District;
  - (iii) with the permission of the Chairman put to the Executive Leader or a Cabinet Member or the Chairman of a Committee any question relating to urgent business, of which such notice has not been given. A copy of any such question shall, if possible, be delivered to the Chief Executive not later than 11.00 a.m. on the day of the meeting; and
  - (iv) every such question falling within 10.2(i) or 10.2(ii) shall be put and answered without discussion. The questioner will have the right to ask a supplementary question.
- (g) Where the information sought by the question is contained in any of the Council's publications, it shall be deemed a sufficient reply if the publication containing the information is indicated.
- (h) Where the reply to any question cannot conveniently be given orally, a written answer shall be circulated to Leaders of the Political Groups within seven days.
- (i) A Member may ask one question at a time. Other Members will be invited to ask questions and only if there is sufficient time left remaining will the original questioner(s) be entitled to ask further questions.
- (j) In the absence of a Cabinet Member, the Executive Leader stands in their place for the purposes of this Rule.

## 11. Motions on Notice

### 11.1 Notice

- (a) Except for motions which can be moved without notice under Rule 12, written notice of every motion signed by the Member(s) moving and seconding it must be delivered to the Monitoring Officer at least seven clear working days prior to the meeting.
- (b) Notices of motions received by the Monitoring Officer will be dated, numbered in the order in which they were received and entered in a book open to public inspection or on the Council's website.

### 11.2 Motion Set Out in Agenda

- (a) The Monitoring Officer shall set out on the agenda for the meeting all motions of which notice has been duly given, in the order in which they have been received.
- (b) If all the Members who have given a particular notice of a motion withdraw it in writing, then it shall not be set out on the agenda.

- (c) If notice is given of a motion which, in the opinion of the Monitoring Officer is out of order, illegal, irregular, or improper, they shall submit it to the Chairman, and shall not insert it in the summons without their agreement. In the event of the motion being considered unacceptable, the Monitoring Officer shall so inform the Member(s) giving the notice.

### **11.3 Petitions**

1. This Standing Order shall allow a petition that satisfies the criteria set out in the Mid Sussex District Council's Petition Scheme to be the subject of debate by the Mid Sussex District Council. The Assistant Director of Legal and Democratic Services in consultation with the Chief Executive shall determine whether the criteria are met.
2. The organiser of the petition (or their nominee) may attend the meeting of the Council to address the Council for not more than five minutes. The relevant Cabinet Member (as determined by the Monitoring Officer in consultation with the Chairman) shall be entitled to speak for up to five minutes in reply and the matter may then be debated for not more than 30 minutes, with a time limit of three minutes per Member.
3. Where necessary, for the purpose of advising the Council or where the officer is directly affected by the content of the address, the Chairman may call upon a senior officer to advise the Cabinet Member, or, exceptionally, to address the Council.
4. Where the petition meets the criteria for requiring the attendance of a senior officer before a meeting of a Scrutiny Committee the organiser of the petition (or their nominee) may submit in writing at least five days before the meeting, questions to be answered by the relevant senior officer at the meeting.

### **12. Motions without Notice**

1. The following motions may be moved without notice:
  - (a) to appoint a chairman of the meeting at which the motion is moved;
  - (b) in relation to the accuracy of the minutes;
  - (c) to change the order of business in the agenda;
  - (d) to refer something to an appropriate body or individual;
  - (e) to appoint a Committee or member arising from an item on the summons for the meeting;
  - (f) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
  - (g) to withdraw a motion;
  - (h) to amend a motion;
  - (i) to proceed to the next business;
  - (j) that the question be now put;
  - (k) to adjourn a debate;
  - (l) to adjourn a meeting;
  - (m) to suspend a particular Council procedure rule;
  - (n) to exclude the public and press in accordance with the Access to Information Rules;
  - (o) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and

- (p) to give the consent of the Council where its consent is required by this Constitution.

## **13. Rules of Debate**

### **13.1 Motions and Amendments**

1. A motion or amendment shall not be debated unless:
  - (a) it has been proposed and seconded (although before it has been seconded the proposer may explain to the Council the purpose of the motion); and
  - (b) if required by the Chairman, it has been put into writing.

### **13.2 Secunder's Speech**

1. A Member, when seconding a motion or amendment, may do so at the start of the debate upon it or may reserve a right to speak immediately before the persons referred to above.

### **13.3 Only One Member to Speak at a Time**

1. A Member, when speaking, shall stand and address the Chairman. If two or more Members signify a desire to speak, the Chairman shall call on one to speak. While a Member is speaking the other Members shall remain seated, unless rising to a Point of Order or in personal explanation.

### **13.4 Contents and Length of Speeches**

- (a) A Member shall direct their speech to the question under discussion or to a personal explanation or to a Point of Order.
- (b) Except at the discretion of the Chairman, no speech shall exceed three minutes or, in the case of the mover of a motion or amendment, five minutes. This Rule 13.4.(ii) shall not apply to Committees or the Cabinet.

### **13.5 When a Member May Speak Again**

1. A Member who has spoken on any motion 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) on a Point of Order; and
  - (e) by way of personal explanation.

This Rule 13.5 shall not apply to Committees or Cabinet.

## **13.6 Amendments to Motions**

- (a) An amendment shall be relevant to the motion and shall be either:
  - (i) to refer a subject to debate by the Cabinet or a Committee for consideration or re-consideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add words; and
  - (iv) to insert or add words.

but such omission, insertion or addition of words shall not have the effect of negating the motion before the Council, except in the case of a motion moved in pursuance of a recommendation of a Committee or the Cabinet.

- (b) Amendments shall be discussed and voted on in the order in which they are moved, and a prior amendment must be disposed of before a subsequent amendment is considered. The Chairman may permit two or more amendments to be received (but not voted on) together if this would allow proper debate.
- (c) If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.
- (d) Any amendment moved and seconded at a Council meeting which involves a variation in approved expenditure and of which no notice has been given and on which no financial report is available shall, at the discretion of the Chairman of the Council, after consultation with the Chief Executive, stand referred to the Cabinet for consideration.

## **13.7 Alteration of a Motion**

- (a) A Member may with the consent of the Council signified without discussion:
  - (i) alter a motion of which they have given notice; or
  - (ii) with the further consent of their seconder alter a motion which they have moved,
- (b) Only alterations which could be made as an amendment may be made.

## **13.8 Withdrawal of Motion**

A Motion or amendment may be withdrawn by the mover with the consent of:

- (a) their seconder; and
- (b) of the Council, which shall be signified without discussion

No Member may speak upon it after the mover has asked permission for its withdrawal unless such permission shall have been refused.

## **13.9 Right to Reply**

- (a) The seconder of a motion or amendment (if they have reserved their right) has a right to speak at the end of the debate, immediately before the mover's right of reply;
- (b) The mover of a motion has a right to reply at the end of the debate on the motion. They may exercise the right of reply and then:
  - (i) the Executive Leader in respect of a matter referred to the Council by the
  - (ii) Cabinet or otherwise;
  - (iii) the relevant Cabinet Member or Committee Chairman shall have the right to speak immediately before the vote is taken on the motion.
- (c) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on it.
- (d) The mover of the amendment has no right of reply to the debate on their amendment.

### **13.10 Motions Which May be Moved During Debate**

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

- (a) to withdraw the motion;
- (b) to amend the motion;
- (c) to adjourn the meeting;
- (d) to adjourn the debate;
- (e) to proceed to the next business;
- (f) that the question be now put;
- (g) that a Member be not further heard; and
- (h) to exclude the public and press in accordance with the Access to Information Rules.

### **13.11. Closure Motions**

- (a) A Member may move without comment at the conclusion of a speech of another Member "that the Council proceed to the next business", "that the question be now put", "that the debate be now adjourned", or "that the Council do now adjourn", on the seconding of which the Chairman shall proceed as follows:
- (b) On a motion to proceed to next business: unless in the Chairman's opinion the matter before the meeting has been insufficiently discussed, they shall first give the mover of the original motion a right of reply and then put to the vote the motion to proceed to next business;
- (c) On a motion that the question, be now put, unless in the Chairman's opinion the matter before the meeting has been insufficiently discussed, they shall first put to the vote the motion that the question be now put, and if it is passed then give the seconder a right to speak if they earlier reserved it and the mover and (1) Executive Leader, or (2) Committee Chairman/Cabinet Member the Right of Reply pursuant to Rule 13.9.
- (d) On a motion to adjourn the debate or the meeting: if in the Chairman's opinion, the matter before the Committee has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, they shall put the adjournment motion to the vote without giving the mover of the original motion their right of reply on that occasion.



### **13.12 Points of Order**

- (a) A Member shall rise on a Point of Order or in personal explanation and shall be entitled to be heard forthwith.
- (b) A Point of Order must relate only to an alleged breach of a Procedure Rule or statutory provision and the Member shall specify the Rule or statutory provision and the way in which they consider it has been broken.
- (c) A personal explanation shall be confined to some material part of a former speech by them which may appear to have been misunderstood in the present debate.

### **13.13 Respect for Chair**

Whenever the Chairman rises during a debate, all Members then standing shall resume their seats and the Council shall be silent.

## **14. Previous Decisions and Motions**

1. A motion to rescind or which would effectively rescind any resolution passed within the preceding six months, and a motion or amendment to the same effect as one which has been rejected within the preceding six months, can only be proposed if a notice given in pursuance of Rule 11 bears the names of at least fourteen Members of the Council.
2. When any such motion or amendment has been disposed of by the Council, it shall not be open to any Member to propose a similar motion within a further period of six months.
3. This Rule shall not apply to motions moved in pursuance of a recommendation of a Committee or the Cabinet.

## **15. Voting**

### **15.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

### **15.2 Chairman's casting vote**

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a second or casting vote.

### **15.3 Method of Voting**

Unless a recorded vote is required or requested under 15.4, every question shall be determined by electronic voting unless the Chairman requests a show of hand

#### **15.4 Recorded vote**

When a vote is taken at a budget decision meeting of the District Council or at least 5 members have requested a recorded vote, the voting must be recorded by electronic voting so as to show how each member voted, or by a manual voting system including on any amendments.

#### **15.5 Right to require an individual vote to be recorded**

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### **15.6 Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **16. Minutes**

1. The Chairman shall put the question that the Minutes of the last meeting of the Council be approved as a correct record except in the case of extraordinary meetings.
2. No discussion shall take place upon the Minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Chairman shall sign and initial each page of the Minutes.
3. Where in relation to any meeting, the next meeting for the purpose of signing the Minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing the Minutes.
4. Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

### **17. Record of Attendance and Duration**

1. Every Member of the Council attending a meeting of the Council, or of any of its Committees of which they are a Member, shall sign their name in the Attendance Book or such other record which may be provided for that purpose.
2. Council meetings of whatever variety shall not last for more than three hours unless a majority of members at the meeting vote to extend the time before it has expired.

## **18. Exclusion of Public**

1. Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

## **19. Members' Conduct**

### **19.1 Standing to speak**

When a member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation. Members may, at the discretion of the Chairman, remain seated.

### **19.2 Chairman standing**

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

If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

### **19.4 Member to leave the meeting**

If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### **19.5 General disturbance**

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

## **20 Disturbance by Public**

### **20.1 Removal of member of the public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

## **21 Leaders**

1. Each group of Members shall be able to appoint one of their number to be Group Leader.
2. The names of Members so appointed as above shall be notified to the Monitoring Officer for report to the Council but their right to act in such office shall commence from the date of their appointment.

## **22 Membership of Committees**

1. In accordance with the provisions of the Local Government and Housing Act 1989 and any Regulations made thereunder, the Monitoring Officer shall determine the number of seats to be filled by each Political Group on Committees and Panels.
2. The Leader of each Political Group shall at least 14 days (or as soon as practicable in an election year) before the Annual Council Meeting, supply a list of the Group's membership of each Committee and Panel.
3. If at any time following an election, the numbers of the Political Groups change, the Monitoring Officer shall determine the relevant numbers to be filled by each Political Group on Committees and Panels and shall so inform the Political Groups.
4. Permanent changes in the membership of Committees and Panels must be received by the Monitoring Officer in writing, at least 24 hours before the relevant meeting and then reported to the Council for information.

## **23 Suspension and Amendment**

1. Any of these Council Rules of Procedure may be suspended by motion on notice or without notice, if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.
2. Any motion to amend these rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **24 Application**

1. All of the Council Rules of Procedure apply to meetings of the Full Council.
2. None of the Council Rules of Procedure apply to meetings of the Cabinet.

## **Part 4(ii) Committee Procedure Rules**

### **1. Application**

1. These Rules apply to:

- (a) the two Scrutiny Committees;
- (b) the Regulatory Committees;
- (c) the Standards Committee; and
- (d) the Audit Committee.

### **2. Application of Council Procedure Rules**

Rules 4-8; 10-12; 15-18; 19.3-19.4, 20 and 22 of the Council Procedure Rules apply to Committees.

### **3. Delegation of Powers**

The power to take appropriate action (including the placing of contracts) within the scope of the Committees shall be delegated to those Committees, but if a majority of the Members of a Committee resolve that a matter so delegated is of sufficient public interest or importance to require consideration by the Council the Committee shall make a recommendation on the matter to the Council and no action committing the Council to any particular course of action shall be taken until such recommendation shall have been considered and approved by the Council, who shall have power to deal with the matter in any way they resolve to be appropriate.

### **4. Election of Chairmen of Committees**

- (a) Every Committee shall at its first meeting, before proceeding to any other business, elect a Chairman and Vice-Chairman to hold office for the ensuing year.
- (b) In the absence from a meeting of the Chairman (and Vice-Chairman if elected) a Chairman for that meeting may be appointed.

### **5. Extraordinary Meetings**

The Chairman of a Committee or the Chairman of the Council may call an extraordinary meeting of the Committee at any time. An extraordinary meeting may also be called on the requisition in writing of a third of the Members of the Committee. The summons to the extraordinary meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

### **6. Attendance of Members**

- 1. A Member of the Council shall have the right to attend any Committee of the Council of which they are not a member, but they shall not vote thereat.
- 2. The member shall (provided prior notice has been given to the Chairman) be enabled to speak on a matter of direct concern to them which relates to their ward but shall not speak on any other matter except by consent of the Chairman.

## **7. Proposer of Motion may attend**

1. A Member of the Council who has proposed a motion which has been referred to any Committee may attend the meeting at which it is proposed to consider the motion, and if they attend shall have an opportunity of explaining it.
2. In relation to Scrutiny Committee all those members signing a call-in may attend, and if none of them are members of the Committee, one of their numbers can take a full part in the debate but not vote.

## **8. Appointment of Substitute Members of Committees, Sub-Committees**

1. If a member is not able to attend a meeting, their group may arrange a substitute by giving appropriate notice to the Monitoring Officer or their representative at the meeting in writing, including the name of the member to be appointed in their place. The original member will regain their place on the Committee, Sub-Committee or Group immediately after the meeting unless otherwise notified.
2. The notice should be given by the appropriate Group Leader to the Monitoring Officer or their representative at least two hours before the start of the relevant meeting.
3. Members appointed as substitutes are in the same position in terms of responsibilities and duties as any other member of the Committee, Sub-Committee or Group, for example in relation to the declaration of any interest they may have.
4. There shall be no substitutes on Standards Committees, the Licensing Committee, Audit Committee or Planning Committees.

## **Part 4(iii) Planning Protocols**

### **Planning Committee Protocol**

1. There shall be adequate signage at the Council Chamber to direct the public to the venue itself, the room within the venue, public speaking registration and the public speaking point.
2. All Members and Officers shall have a name 'plaque' clearly displayed in front of them so that it might be viewed by the public.
3. The Committee update sheet shall be circulated to all Members and copies placed with the agendas in the public gallery
4. Before the meeting commences Officers shall display a PowerPoint slide confirming those items for which there are public speakers and those items which have been withdrawn from the meeting.
5. At the start of the meeting the Chairman shall introduce the public to Members/Officers and the arrangements for public speaking, including the 'traffic light' system. Procedures in the event of a fire should also be made known (A crib sheet could be made available for this purpose).
6. The Chairman should explain the order in which they will consider the applications. This would normally be in agenda order unless there is a specific item that would benefit from being considered before others, for example, where there is a large number of interested persons present. This would be at the discretion of the Chairman.
7. The Committee shall be arranged in a square shape with the public speaking point at the southeast corner. Where this arrangement is not physically possible the public speaking point should be placed so that the speaker can be seen and heard by all in the venue.
8. The Chairman shall receive apologies for absence, Declarations of Interest from Members and confirm the Minutes of the previous meeting.
9. The Chairman shall read out the reference number, address and description of each item. They shall invite the Officer to introduce the item with a PowerPoint presentation, as the Chairman feels necessary, which should include photographs where relevant. Members of the Committee may only ask officers for clarification of points through the Chairman.
10. The Chairman shall then invite the public speakers to address the Committee for up to two minutes on planning applications.
11. The Chairman shall then invite Non-Members of the Committee for their comments and shall thereafter open the debate to members of the Committee.

### **The District Planning Committee Protocol**

1. At the discretion of the Chairman, the Planning Officer shall arrange for a site visit by Members of the District Committee within the week before Committee, normally on the Monday morning. The Officer shall liaise with the applicant and advise Committee members of the date, time and meeting place. Officers and Members should use the site visit protocol to carry out the visit.

2. A briefing meeting shall be held with the Chairman and Vice Chairman of the District Committee and relevant Planning Officers at a time, date and venue to be agreed by the Chairman.
3. Relevant consultees from our partner organisations shall be invited to attend the Committee meeting
4. There shall be adequate signage at the Council Offices to direct the public to the venue itself, the room within the venue, public speaking registration and the public speaking point.
5. All Members and Officers shall have a name 'plaque' clearly displayed in front of them so that the public might view it.
6. The Committee update sheet shall be circulated to all Members and copies placed with the agendas in the public gallery. Before an item is considered members will be given time to read the update.
7. At the start of the meeting the Chairman shall introduce the public to Members of the Committee/Officers and the members in attendance who are not members of the Committee and the arrangements for public speaking, including the 'traffic light' system. Procedures in the event of a fire should also be made known (A crib sheet could be made available for this purpose)
8. The Chairman should explain the order in which they will consider the applications. This would normally be in agenda order unless there is a specific item that would benefit from being considered before others, for example, where there are a large number of interested persons present. This would be at the discretion of the Chairman.
9. The Committee shall be arranged in a square shape with the public speaking point at the southeast corner. Where this arrangement is not physically possible the public speaking point should be placed so that the speaker can be seen and heard by all in the venue.
10. The Chairman shall receive apologies for absence, Declarations of Interest from Members and confirm the Minutes of the previous meeting.
11. The Chairman shall read out the reference number, address and description of each item. They shall invite the Officer to introduce the item with a PowerPoint presentation which should include photographs where relevant. Members of the Committee only may ask Officers for clarification of points through the Chairman.
12. The Chairman shall then invite the public speakers to address the Committee in the following order: One Town/Parish Council representative; Objectors; Applicants. Up to 3 representatives may speak on behalf of each group for a maximum of 3 minutes each.
13. The Chairman shall then invite Non-Members of the Committee for their comments and shall thereafter open the debate to Members of the Committee.



## **Part 4(iv) Access to Information Procedure Rules**

### **1. Scope**

These rules apply to all meetings of the Council, Audit Committee, Scrutiny Committees, District Planning Committee, Planning Committee, Standards Committee, Licensing Committee and Sub-Committee (except where the separate statutory scheme set up under the Licensing Act 2003 applies) and meetings of the Cabinet (together called meetings).

### **2. Additional Rights to Information**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **3. Rights to attend Meetings**

Members of the public may attend all meetings subject only to the exceptions in these rules.

### **4. Notices of Meeting**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Council Offices, Oaklands, Oaklands Road, Haywards Heath, RH16 1SS ("the designated office") and on the Mid Sussex District Council website.

### **5. Access to Agenda and Reports before the Meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda. The agenda, papers and minutes shall be posted on the Council's website.

### **6. Supply of copies**

1. The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the proper officer as defined in Part 3 of this Constitution thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **7. Access to Minutes etc. after the Meeting**

1. The Council will make available copies of the following for six years after a meeting:
  - (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items when the meeting was open to the public.

## **8. Background Papers**

### **8.1 List of Background Papers**

1. The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:
  - (a) disclose any facts or matters on which the report or an important part of the report is based; and
  - (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) – and in respect of Cabinet reports, the advice of a political advisor (if any).

### **8.2 Public inspection of Background Papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers and background papers to Cabinet reports shall be published on the website.

## **9. Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main offices at Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS. These Rules constitute the written summary.

## **10. Exclusion of Access by the Public To Meetings**

### **10.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

## **10.2 Exempt information – discretion to exclude public**

1. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
2. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of that Act.

## **10.3 Meaning of confidential information**

1. Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure, or information which cannot be publicly disclosed by Court Order.

## **10.4 Meaning of exempt information**

1. Exempt information means information falling within the following seven categories:
  1. Information relating to any individual.
  2. Information which is likely to reveal the identity of an individual.
  3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
  4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or the Minister of the Crown and employees of, or office holders under, the authority.
  5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
  6. Information which reveals that the authority proposes:
    - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - b) to make an order or direction under any enactment.
  7. Information relating to any action taken or to be taken in connection with the prevention, investigation, or prosecution of crime.

## **Justification**

1. Information falling within the paragraph above is not exempt information by virtue of that paragraph if it is required to be registered under:
  - (a) the Companies Act [3];
  - (b) the Friendly Societies Act 194 [4];
  - (c) the Friendly Societies Act 1992 [5];
  - (d) the Industrial and Provident Societies Act 1965 to 1978 [6];
  - (e) the Building Societies Act 1986 [7]; or
  - (f) the Charities Acts [8].

2. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992 [9].
3. Information which:
  - (a) falls within any paragraph 4.1 (a) to (g) above; and
  - (b) is not prevented from being exempt by virtue of paragraph 5.1 or 5.2 above

is exempt information if and so long, as in all the circumstances of the case, the public interest maintaining the exemption outweighs the public interest in disclosing the information.

## Interpretation

1. In this Part 4(iv) of the Constitution –

“employee” means a person employed under a contract of service;

“financial or business affairs~” includes contemplated, as well as past or current, activities;

“labour relations matter” means:

- (c) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 [10] (matters which may be the subject of a trade dispute, within the meaning of that Act); or
- (d) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

“registered” in relation to information required to be registered under the Building Societies Act 1986 [11], means recorded in the public file of any building society (within the meaning of the Act).

Any reference in this Part 4(iv) of the Constitution to “the authority” is a reference to the principal Council or, as the case may be, the Committee or sub-Committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference:

- (a) in the case of a principal Council, to any Committee or sub-Committee of the Council; and
- (b) in the case of a Committee, to:

- (i) any constituent principal Council;
- (ii) any other principal Council by which appointments are made to the Committee or whose functions the Committee discharges; and
- (iii) any other Committee or sub-Committee of a principal Council falling within sub-paragraph (i) or (ii) above; and
- (c) in the case of a sub-Committee, to:
  - (i) the Committee, or any of the Committees, of which it is a sub-Committee; and
  - (ii) any principal Council which falls within paragraph (b) above in relation to that Committee.

## **11. Exclusion of Access By the Public to Reports**

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with this Part 4(iv), the meeting is likely not to be open to the public. Such reports will be marked “not for publication” together with the category of information likely to be disclosed.

## **12. Application of Rules to the Cabinet in respect of Key Decisions**

If the Cabinet or its Committees meet to discuss a Key Decision to be taken collectively, with an officer (other than a political assistant as defined in the Local Government and Housing Act 1989) present, within 28 days of the date according to the forward plan by which it is to be decided, then it must comply with these Rules, unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

## **13. Procedure before taking of Key Decisions by Cabinet**

1. Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:
  - (a) a notice (called here a forward plan) has been published in connection with the matter in question;
  - (b) at least five clear working days have elapsed since the publication of the forward plan; and
  - (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. The Forward Plan**

### **14.1 Period of Forward Plan**

Forward plans will be prepared by the Executive Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

## 14.2 Contents of Forward Plan

1. The forward plan will contain matters which the Executive Leader has reason to believe will be subject of a Key Decision during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
  - (a) the matter in respect of which a decision is to be made;
  - (b) where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name, and details of membership;
  - (c) the date on which, or the period within which, the decision will be taken;
  - (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
  - (e) the means by which any such consultation is proposed to be undertaken;
  - (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
  - (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.
2. The forward plan must be published at least 14 days before the start of the period covered.
3. Exempt information need not be included in a forward plan and confidential information cannot be included.

## 15. General Exception

If a matter which is likely to be a Key Decision has not been included in the forward plan, then subject to Rule 17 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the Monitoring Officer has informed the Chairman of the relevant Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Monitoring Officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least five clear working days have elapsed since the Monitoring Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public.

## 16. Special Urgency

If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If

there is no Chairman of a relevant Scrutiny Committee, or if the Chairman of each relevant Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in their absence the Vice Chairman will suffice.

## **17. Report to Council**

### **17.1 When a Scrutiny Committee can require a report**

1. If a Scrutiny Committee thinks that a Key Decision has been taken which was not:
  - (a) included in the forward plan; or
  - (b) the subject of the general exception procedure; or
  - (c) the subject of an agreement with the relevant Scrutiny Committee Chairman, or the Chairman/Vice Chairman of the Council under Rule 16;
2. The Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rest with the Committee, but is also delegated to the proper officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

### **17.2 Cabinet's Report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven clear working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Executive Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

### **17.3 Quarterly Reports on Special Urgency Decisions**

In any event, the Executive Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. Record of Decisions**

After any meeting of the Cabinet or any of its Committees, the Monitoring Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **19. Decisions by individual Members of the Cabinet**

### **19.1 Reports intended to be taken into account**

Where an individual member of the Cabinet receives a report which they intend to take into account in making any Key Decision, then they will not make the decision until at least five clear working days after receipt of that report.

### **19.2 Provision of copies of reports to Scrutiny Committees**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of every relevant Scrutiny Committee as soon as reasonably practicable and make it publicly available at the same time.

### **19.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a Key Decision has been taken by an officer, they will prepare, or instruct the Monitoring Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant (if any).

## **20. Scrutiny Committees' Access to Documents**

### **20.1 Rights to Copies**

Subject to Rule 20.2 below, a Scrutiny Committee (including its sub-Committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its Committees; or
- (b) any decision taken by an individual member of the Cabinet.

### **20.2 Limit on Rights**

A Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser (if any).

## **21. Additional rights of access for Members**



## **21.1 Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business previously transacted unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information; or
- (b) it contains the advice of a political adviser (if any).

## **21.2 Nature of rights**

These rights of a member are additional to any other right they may have.

## **Part 4(v) Budget and Policy Framework Procedure Rules**

### **1. The framework for Cabinet Decisions**

The Council will be responsible for the adoption of its budget and Policy Framework as set out in Article 4. Once a budget or a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

### **2. Process for developing the Policy Framework**

The process by which the Policy Framework shall be developed is:

- (a) The Cabinet will publicise by including in the Cabinet Work Programme a timetable for making proposals to the Council for the adoption of any plan, and strategy that forms part of the Policy Framework, and its arrangements for consultation after publication of those initial proposals.
- (b) The Chairmen of Scrutiny Committees will also be notified in line with the consultation period agreed as part of 2(a)(i). Not less than 6 weeks' notice shall be given.
- (c) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant Scrutiny Committee wishes to respond to the Cabinet in that consultation process, then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (d) Once the Cabinet has approved the firm proposals, the Monitoring Officer will refer them at the earliest opportunity to the Council for decision.

3. Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration, and following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph 3.

4. Before the Council:

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown, for their approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopts (with or without modification) the plan or strategy,

it must inform the Executive Leader of any objections which it has to be the draft plan or strategy and must give to them instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

5. Where the Council gives instructions in accordance with paragraph 4 it must specify a period of least seven clear working days beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Cabinet within which the Executive Leader may:
  - (a) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration; or
  - (b) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.
  
6. When the period specified by the Council, referred to in paragraph 5, has expired, the Council must, when:
  - (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (b) approving, for the purpose of its submission to the Secretary of State or
  - (c) any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - (d) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet’s reasons for those amendments, any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for that disagreement, which the Executive Leader submitted to the Council, or informed the Council of, within the period specified.
  
7. In approving the Policy Framework, the Council will also specify the degree of in-year changes to the Policy Framework which may be undertaken by the Cabinet, in accordance with paragraph 18 of these Rules (in-year adjustments). Any other changes to the Policy Framework are reserved to the Council.

## **8. Process for developing the Budget**

The process by which the Budget shall be developed is:

- (a) The Cabinet will publicise in the Cabinet Work Programme a timetable for making proposals for the adoption of the Budget, having regard to any prior consultation.
- (b) The Chairmen of the Scrutiny Committees will be notified in line with the consultation period agreed as part of 8(a)(i). Not less than 6 weeks’ notice shall be given.
- (c) At the end of that consultation period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant Scrutiny Committee wishes to respond to the Cabinet in that consultation process, then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report

to Council will reflect the comments made by consultees and the Cabinet's response.

- (d) Once the Cabinet has approved the firm proposals, the Monitoring Officer will refer them at the earliest opportunity to the Council for decision.

Subject to paragraph 10, where in any financial year the Cabinet submits to the Council for its consideration in relation to the following financial year:

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992 (as amended from time to time);
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the Council has any objections to them; it must take the action set out in paragraph 10.

- 9. Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Executive Leader of any objections which it has to the Cabinet's estimates or amounts and must give to them instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- 10. Where the Council gives instructions in accordance with paragraph 9, it must specify a period of at least seven clear working days beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Cabinet within which the Executive Leader may:
  - (a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts") which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- 11. When the period specified by the Council, referred to in paragraph 10, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV Part I of the Local Government Finance Act 1992, take into account:
  - (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (b) the Cabinet's reasons for those amendments;
  - (c) any disagreement that the Cabinet has with any of the Council's objections; and
  - (d) the Cabinet's reasons for that disagreement, which the Executive Leader submitted to the Council or informed the Council of, within the period specified.

12. Paragraphs 8-11 shall not apply in relation to:
- (a) calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - (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.
13. In approving the Budget, the Council will also specify the extent of virement within the Budget in accordance with paragraph 19 of the Rules (virement). Any other changes to the Budget are reserved to the Council.
14. Any vote on decisions (including procedural and amendments) relating to budget setting, calculating Council tax or issuing precepts, must be undertaken by a recorded vote. As this is mandatory under the Local Authorities (Standing Orders) Regulations 2001 (as amended), it cannot be suspended under Council Procedure Rule 23.1
15. Section 106 of the Local Government Finance Act 1992 bars a Councillor from voting on the Council's budget if they have an outstanding Council tax debt of over two months. If a Member is present at any meeting at which relevant budgetary matters are discussed, they must disclose that s.106 applies and may not vote. Failure to comply is a criminal offence.

## **16. Decisions outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraph 18 (virement) the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, area Committees or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to 18 below.
- (b) If the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Assistant Director Corporate Resources as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 17 (urgent decisions outside the Budget and Policy Framework) shall apply.

## **17. Urgent decisions outside the Budget or Policy Framework**

- (a) The Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or officers, area Committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council

if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council;  
and
- (ii) if the Chairman of a relevant Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a Scrutiny Committee the consent of the Chairman of the Council and in the absence of both the Vice-Chairman, will be sufficient.

Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **18. Virement**

The Financial Procedure Rules include provisions as to virement.

## **19. In-year changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, a Committee of the Cabinet an individual member of the Cabinet or officers, or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## **20. Call-in of decisions outside the Budget or Policy Framework**

- (a) Where a Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Assistant Director Corporate Resources.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Assistant Director Corporate Resources' report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether

the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Assistant Director Corporate Resources conclude that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or the Assistant Director Corporate Resources conclude that the decision was not a departure.

- (c) If the decision has yet to be made or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Assistant Director of Corporate Resources is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Assistant Director Corporate Resources. The Council may either:
- (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and Policy Framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/ Assistant Director Corporate Resources.

## **Part 4(vi) Cabinet Procedure Rules**

### **1. Responsibility for Decisions**

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the Executive Leader may decide how they are to be exercised. In either case, the arrangements or the Executive Leader may provide for executive functions to be discharged by:

- (a) the Cabinet as a whole;
- (b) a Committee of the Cabinet;
- (c) an individual member of the Cabinet;
- (d) an officer;
- (e) joint arrangements; or
- (f) another local authority.

### **2. Delegation by the Executive Leader**

At the Annual Meeting of the Council, the Executive Leader will present to the Council a written record of delegations made by them for inclusion in the Council's Scheme of Delegation at Part 3 to this Constitution. The document presented by the Executive Leader will contain the following information about executive functions in relation to the coming year:

- (a) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- (b) the terms of reference and Constitution of such Cabinet Committees as the Executive Leader appoints, and the names of Cabinet members appointed to them;
- (c) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint Committee for the coming year; and
- (d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **3. Sub-delegation of Executive Functions**

- (a) Where the Cabinet, a Committee of the Cabinet or an individual member of the Cabinet is responsible for an Executive function, they may delegate further to joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Executive Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an officer.
- (c) Unless the Executive Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Executive Leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.



#### **4. The Council's Scheme of Delegation and Executive Functions**

- (a) Subject to (b) below, the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Executive Leader is able to decide whether to delegate Executive functions and may amend the Scheme of Delegation relating to Executive functions at any time during the year. To do so, the Executive Leader must give written notice to the Monitoring Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, Committee, or the Cabinet as a whole. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Executive Leader.
- (c) Where the Executive Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when they have served it on its Chairman.

#### **5. Conflicts of Interest**

- (a) Where the Executive Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **6. Time and Place of Meetings and Members Questions**

The Cabinet will usually meet 6 times per year at 1.00 p.m. on a weekday afternoon. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Executive Leader. All Members of the Council shall be entitled to remain at a meeting of the Cabinet when exempt or confidential information is being discussed.

#### **7. Access to Information**

The Access to Information Rules set out in Part 4 apply to meetings of the Cabinet.

#### **8. Quorum**

The quorum for a meeting of the Cabinet, or a Committee of it, shall be 3.

## **9. Decision Making**

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a Committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## **10. Person Presiding**

The Executive Leader will preside at any meeting of the Cabinet or its Committees at which they are present or may appoint another person to do so.

## **11. Order of Business**

At each meeting of the Cabinet the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4;
- (d) consideration of reports from Scrutiny Committees; and
- (e) matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4.

## **12. Consideration of Reports from Scrutiny Committees**

The Chairman of a Scrutiny Committee (as defined in paragraph 6.1 in Article 6 of this Constitution) or a nominated representative may attend a meeting of the Cabinet to present their Committee's report and recommendations. Members of the Cabinet may ask questions of the Chairman or their representative.

## **13. Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **14. Placing Items on the Agenda**

- (a) The Executive Leader will decide upon the schedule for the meetings of the Cabinet. They may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a

Committee of it or any member or officer in respect of that matter. The Assistant Director, Legal and Democratic Services will comply with the Executive Leader's requests in this respect.

- (b) Any member of the Cabinet may require Assistant Director, Legal and Democratic Services to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If they receive such a request the Assistant Director, Legal and Democratic Services will comply.
- (c) The Assistant Director, Legal and Democratic Services will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet. However, there may only be up to 2 such items on any one agenda, unless the Executive Leader agrees otherwise.
- (d) Any member of the Council may ask the Executive Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Executive Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. However, there may only be one such item per Cabinet meeting, unless the Executive Leader agrees otherwise.
- (e) The Monitoring Officer or s.151 Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, s.151 Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **15. Cabinet Grants Panel**

- (a) Applications for all grants will be determined by the Cabinet Grants Panel which comprises the whole Cabinet, and the quorum shall be two.
- (b) A Member of the Council shall have the right to attend a meeting of the Cabinet Grants Panel, although not a member thereof, but shall not vote thereat.
- (c) The Member shall (provided that prior notice has been given to the Chairman of the Panel) be enabled to speak on a matter of direct concern to them which relates to their ward but shall not speak on any other matter except by consent of the Chairman.
- (d) All representations by Members who are not members of the Panel shall be made at the beginning of the meeting before a decision is made on any application for grant.

- (e) The Grants Panel will deal with the allocation of Section 106 monies over £50,000 save where these relate to affordable housing or TAD contributions where the function is delegated to the relevant individual Cabinet Member without financial restriction.

## Part 4(vii) Scrutiny Procedure Rules

### 1. Arrangements for Committees

- (a) The Council will have two Scrutiny Committees which will perform Scrutiny functions on behalf of the Council, as stated in Article 6 of the Constitution. Each Committee will consist of 11 members of the Council.
- (b) The Scrutiny Committees shall have the additional functions:
- (i) the performance of the Scrutiny functions under Section 21 of the Local Government Act 2000, and in particular:
    - to review or scrutinise decisions made, or other action taken in connection with the discharge of any functions which are the responsibility of the Executive (Cabinet).
    - to make reports or recommendations to the Authority or the Executive with respect to the discharge of any functions which are the responsibility of the Executive;
    - To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive.
    - To make reports or recommendations to the Authority or the Executive with respect to the discharge of any functions which are not the responsibility of the Executive;
    - To make reports or recommendations to the Authority or the Executive on matters which effect the Authority's area or the inhabitants of the area;
  - (ii) the appointment of such sub-Committees or working groups as they consider appropriate to fulfil their functions;
  - (iii) to draw up annual work programmes so as to ensure that the Committees' time is effectively and efficiently used;
  - (iv) to put in place a system to ensure that referrals from the Committees to the Cabinet or Council, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
  - (v) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet to make decisions about the priority of referrals made.

- (vi) consideration of the Annual “Complaints” reports;
  - (vii) to deal with Petitions to the Council in accordance with the Petitions Scheme.
- (c) Where a Committee seeks to appoint or discontinue Sub-Committees other than those set out in this Constitution, they may do so provided that they have consulted with any interested parties. Any changes will be reported to the Monitoring Officer and then to the next meeting of the Council by the Chairman of the Committee.

## **2. Membership of Committees**

Subject to the provisions of political balance, any Councillor except a member of the Cabinet may be a member of a Scrutiny Committee. However, no member may be involved in scrutinising a decision which they have been directly involved.

## **3. Meetings of the Committees**

There shall be at least 4 ordinary meetings of each Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, by any 5 members of the Committee or by the Monitoring Officer if they consider it necessary or appropriate.

## **4. Quorum**

The quorum for the Committees shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

## **5. Person Presiding**

Chairmen of the Committees will be drawn from among the Councillors sitting on the Committees, and subject to this requirement the Committees may appoint such a person as it considers appropriate as Chairman.

## **6. Work Programme**

1. The Scrutiny Committees will be responsible for setting their own work programme and in doing so they shall take into account the wishes of members on that Committee who are not members of the largest political group on the Council.
2. Individual members of a Scrutiny Committee can request matters to be dealt with by the Committee which are matters relevant to the functions of the Committee or a Sub-Committee of which they are a member.
3. Any member of the Council can request a local government matter to be referred to the Committee subject to them taking note of guidance issued by the Secretary of State.
4. No member of the Council shall request the Committee to deal with any excluded matter being the following:

- (a) a local crime and disorder matter under the Police and Justice Act 2006 and any other related legislation.
  - (b) a planning decision.
  - (c) a licensing decision.
  - (d) a matter relating to an individual entity in respect of which that individual entity has a right of recourse to a review or a right of appeal confirmed by or under any enactment.
  - (e) any matter which is vexatious, discriminatory, or not reasonable to be included in the agenda.
5. The Scrutiny Committees have a right to decide whether or not to exercise any of its powers under section 21(2) of the Local Government Act 2000 in relation to this item put forward by an individual member. If a Committee decides not to exercise any of these Scrutiny powers, it must notify the member of its decision and the reasons for it.

## **7. Agenda items**

- (a) Any member of the Scrutiny Committees shall be entitled to give notice to the Monitoring Officer that they wish an item within the terms of reference of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Monitoring Officer will ensure that the request is included on the next available agenda.
- (b) The Executive Leader of the largest minority group may on up to three occasions per year require the Monitoring Officer to include an item on the agenda of a Scrutiny Committee for consideration. The Monitoring Officer shall inform the Chairman of the Committee of the request at the earliest opportunity and make arrangements for the matter to be included on the agenda at the next available meeting of the Committee.
- (c) The Scrutiny Committees shall respond, as soon as their work programme permits, to requests from the Council or the Cabinet to review particular areas of Council activity. Where they do so, the Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Committee within two months of receiving it.

## **8. Budget Review and Development**

- (a) The role of the Scrutiny Committees, in relation to the development of the Council's budget and Policy Framework, is set out in detail in the Budget and Policy Framework Procedure Rules and Article 6 of the Constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Scrutiny Committee make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Within the Budget allocated to them by Council, the Scrutiny Committees may hold enquiries and investigate matters within their terms of reference and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter

under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, within the Budget allocated to them by the Council.

## **9. Reports from Committees**

- (a) Once it has formed recommendations, the Committee will prepare a formal report and submit it to the Monitoring Officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and Policy Framework), or to the Council as appropriate (e.g., if the recommendation would require a departure from or a change to the agreed budget and Policy Framework).
- (b) If the Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the Committee within two months of its being submitted to the Monitoring Officer.

## **10. Making sure that reports are considered by the Cabinet**

Once a report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, within two months of the date the report was adopted by the Committee. If for any reason the Cabinet does not consider the report within two months then the matter will be referred to the next meeting of the Council for review, and the Council meeting shall consider the report and make a recommendation to the Cabinet.

- (a) Where a Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where the Executive Leader has delegated decision making power to another individual member of the Cabinet, then the Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Committee shall send a copy to the Monitoring Officer and the Executive Leader. If the member with delegated decision-making power does not accept the recommendations of the Committee, then they must then refer the matter to the next available meeting of the Cabinet for debate before exercising their decision-making power and responding to the report in writing to the Committee. The Cabinet member to whom the decision-making power has been delegated will respond to the Committee within two months of receiving it. A copy of their written response to it shall be sent to the Monitoring Officer and they shall attend a future meeting of the Committee to respond, if requested to do so.
- (b) The Scrutiny Committees will have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Committee following a consideration of possible policy/service developments, the Committee will be able to respond in the course of the Cabinet's consultation process in relation to any Key Decision.

## **11. Rights of the Scrutiny Committee Members to Documents**

- (a) In addition to their rights as Councillors, members of the Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.



- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Committees as appropriate, depending on the particular matter under consideration.

## **12. Members and Officers giving Account**

- (a) The Scrutiny Committees may scrutinise, and review decisions made, or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any member of the Cabinet, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance.

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chairman of that Committee will inform the Monitoring Officer. The Monitoring Officer shall inform the member or officer in writing giving at least 10 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Committee shall in consultation with the member or officer arrange an alternative date for attendance to take place within a maximum of 20 days from the date of the original request.

## **13. Attendance by Others**

The Scrutiny Committees may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend. Where the Chairman of the Committee considers it appropriate that people other than Members and Officers should be invited to attend the meeting, they shall inform the Monitoring Officer who shall then issue the appropriate invitations. The decision as to whether those people shall be permitted to address the Committee will remain a matter for the Committee to determine. The presumption shall be that anyone invited to the meeting will be invited to address the Committee.

## **14. Call-in**

Call-in is to the Scrutiny Committees and should be used only in exceptional circumstances. These are where Members have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making). Any request for call-in must be made to the Monitoring Officer.

- (a) When a decision is made by the Cabinet or an individual Member of the Cabinet, or a Committee of the Cabinet, or a Key Decision is made by an officer with

delegated authority from the Cabinet, or under joint arrangements, the decision shall be published in the Members Information Service and shall be available electronically at the same time.

- (b) All Members will be sent a copy of each edition of the Members Information Service which will be published weekly and contain the decisions made by Cabinet, Cabinet Grants Panel and individual Members except the decisions made by an officer with delegated authority from the Cabinet.
- (c) The Members Information Service will state the date on which it is published and will specify the date that the decision will take effect ("the effective date"). The decision will take effect at 10:00 a.m. on the day after the expiry of five clear working days from the publication date. Saturdays, Sundays and Bank Holidays are not days for the purposes of this Rule.
- (d) If a request for a call-in is received by the Monitoring Officer within the period between the publication of the decision and the effective date, they shall call-in the decision for Scrutiny by the Committee. For it to be valid, the request must:
  - (i) be in writing;
  - (ii) specify the relevant decision which is to be the subject of the call-in;
  - (iii) be supported by at least five members; and
  - (iv) specify the grounds for calling in the decision having regard to the principles of decision making contained in Article 13 of the Constitution and to the criteria set out in Rule 14 (g) of these Rules.
- (e) The request for the call-in must be signed by one of the Members referred to in 14.1(d) but need not be signed by all, provided that those Member(s) signing the request are able to confirm if required that they had the written or oral support of each supporting Member prior to the request for the call-in being submitted.
- (f) An email from one Member referred to in 14.1(d) shall suffice for the purposes of communicating the request. The names of the supporting members must be specified in the request.
- (g) The Members must first consider whether any one or more of the following criteria for call-in apply prior to exercising the call-in:
  - (i) Is the decision likely to cause distress, harm or significant concern to a local community or to prejudice individuals within it?
  - (ii) Is the matter one which has been subject to consultation or debate with relevant interested parties?
  - (iii) Is the delay in implementing the decision likely to cause significant harm to the Council?
  - (iv) Is the decision against a declared policy or budget provision of the Council?
  - (v) Is the decision against the advice of a relevant professional institution?
  - (vi) Have the view(s) of the Member(s) requesting the "call-in" been fairly taken into account in arriving at the decision?
- (h) Upon receiving a valid request for a call-in, the Assistant Director, Legal and Democratic Services shall notify the decision-taker of it and no further steps shall then be taken towards implementation of the decision until the call-in procedures have been completed. The Assistant Director, Legal and Democratic Services

shall call a meeting of the Committee on such a date as they shall determine, after consultation with the Chairman of the relevant Committee.

- (i) If, having considered the decision, the relevant Scrutiny Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision-maker they shall then consider and address the concerns, before adopting a final decision.
- (j) If within four weeks from the request for the call-in, the relevant Scrutiny Committee does not meet, or does meet but does not refer the matter back to the decision making-person or body, or to the Full Council, the decision shall take effect on the date of the Scrutiny Committee meeting or on the expiry of the four-week period, whichever is the earlier.
- (k) If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary, and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case the Council will refer any decision to which it objects back to the decision making-person or body, together with the Council's views on the decision. That decision-making body or person shall consider whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a meeting will be convened to reconsider within seven clear working days of the Council request. When the decision was taken by an individual, they will reconsider within seven clear working days of the Council request.
- (l) If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person within six weeks of the referral of the decision to it, the decision will become effective on the date of the meeting or the expiry of the six-week period, whichever is the earlier. If Council is not due to meet within six weeks of a call-in decision being referred to it, the Monitoring Officer shall call a Special meeting to consider the matter.
- (m) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## **15. The Party Whip**

- (a) The "Party Whip" means any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or sub-Committee, or the application or threat to apply any sanction by the group in respect of that Councillor should they speak or vote in any particular manner.

- (b) When considering any matter in the following categories:
  - (i) any matter referred to a Scrutiny Committee or by the Cabinet; or
  - (ii) the review of any decision; or
  - (iii) the performance of any member of the Cabinet

in respect of which a member of a Scrutiny Committee is subject to a party whip, the member must declare the existence of the whip, and the nature of it, before the commencement of the Committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.

## **16. Procedure at Committee Meetings**

- (a) The Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - (iv) responses of the Cabinet to reports of the Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
  - (vi) the Committee's work programme and whether there are any amendments that the Committee would wish to make to the programme.
- (b) Where the Scrutiny Committees conduct investigations, the Committee may also ask people to attend to give evidence at Committee meetings, which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly, and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public unless the Committee determines that publication would lead to the disclosure of exempt information as defined in Section 100B and Schedule 12A to the Local Government Act, 1972.

## **Part 4(viii) Financial Procedure Rules**

### **A. INTRODUCTION**

- (a) Financial Procedure Rules provide the internal framework for managing the Council's financial affairs. These rules apply to every member and officer of Mid Sussex District Council and anyone in the public or private sector who acts on behalf of the Council. It is imperative that the Council has a strong and usable set of Financial Procedure Rules that are accessible to all who are dealing with its financial matters.
- (b) Under Section 151 of the Local Government Act 1972, each local authority is required to make arrangements for the proper administration of its financial affairs and arrange for one of their officers to be responsible for the administration of those affairs. For Mid Sussex District Council this officer is the Assistant Director Corporate Resources.
- (c) Throughout these Financial Procedure Rules, the title Assistant Director Corporate Resources will be used to denote the designated Section 151 Officer of the Council; in the case of absence or non-availability, the Head of Finance will be the deputy Section 151 Officer.
- (d) The Assistant Director Corporate Resources is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the Council for approval. They are also responsible, where appropriate, for reporting breaches of the Financial Procedure Rules to the Audit Committee.
- (e) It is the responsibility of Directors to ensure that all officers in their service are aware of the existence and content of the Council's Financial Procedure Rules, as well as other internal regulatory documents, and also to confirm that they comply with them.
- (f) It is the responsibility of the Assistant Director Corporate Resources to provide advice and guidance regarding the Financial Procedure Rules that members, officers and others acting on behalf of the Council are required to follow.

### **A.1 STATUTORY REFERENCES**

- (a) Local Government Act 1972
- (b) Local Government Act 1999
- (c) Local Government Act 2003
- (d) Local Audit and Accountability Act 2014
- (e) Accounts and Audit Regulations 2015

### **A.2 CODES OF PRACTICE**

- (a) Code of Practice on Local Authority Accounting in the United Kingdom
- (b) Prudential Code for Capital Finance in Local Authorities
- (c) Service Reporting Code of Practice for Local Authorities (CIPFA)
- (d) Treasury Management Code of Practice (CIPFA)
- (e) United Kingdom Public Sector Internal Audit Standards (PSIAS) as interpreted by CIPFA's Local Government Application Note

## **B. FINANCIAL PLANNING**

### **B.1 FORMAT OF THE BUDGET**

The format of the Budget determines the level of detail to which financial control and management will be exercised.

#### **B.1.1 Responsibilities of the Assistant Director Corporate Resources**

To advise the Cabinet on the format of the Budget that is approved by the Council.

#### **B.1.2 Responsibilities of Directors or Assistant Directors**

To comply with guidance provided by the Assistant Director Corporate Resources.

#### **B.1.3 Key Controls**

The key controls for the Budget format are:

- (a) That the format complies with all legal requirements;
- (b) That the format reflects the accountabilities of service delivery; and
- (c) That, in published statements where it is required, the format complies with CIPFA's *Service Reporting Code of Practice for Local Authorities*.

## **B.2 BUDGETS AND MEDIUM-TERM PLANNING**

- (a) The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and develop systems to enable limited resources to be allocated in accordance with carefully assessed priorities. The budget is the financial statement of the Council's plans and policies.
- (b) The revenue and capital budgets must be constructed to ensure that resource allocation properly reflects the service plans and corporate priorities of the Council. Budgets are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for the Council to budget for a deficit.
- (c) Directors and Assistant Directors shall prepare annually (normally for submission to Cabinet each January), draft estimates of income and expenditure in a form agreed with the Assistant Director Corporate Resources together with any necessary explanations.

#### **B.2.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To prepare and submit reports on budget prospects for Cabinet in accordance with the Constitution, including resource constraints set by the Government. Reports should take account of medium-term prospects and review where appropriate.
- (b) To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the Budget approved by the Council, and following consultation with the Deputy Leader and Directors and Assistant Directors.

- (c) To prepare and submit reports to the Deputy Leader and Cabinet on the overall position, and to the Cabinet on the aggregate spending plans of departments and on the resources available to fund them;
- (d) identifying, where appropriate, the implications for the level of Council tax to be levied.
- (e) To advise on the medium-term implications of spending decisions.
- (f) To encourage the best use of resources and value for money by working with Directors and Assistant Directors to identify opportunities to improve economy, efficiency, and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- (g) To advise the Council on the Cabinet's proposals on the robustness of budget set and the adequacy of reserves in accordance with the Local Government Act 2003.

### **B.2.2 Responsibilities of Directors and Assistant Directors**

- (a) To prepare estimates of income and expenditure, in consultation with the Assistant Director Corporate Resources to be submitted to the Cabinet.
- (b) To prepare budgets which are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Assistant Director Corporate Resources in accordance with the Cabinet's general directions.
- (c) To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- (d) To ensure that budget proposals underpin the Council's strategic priorities and objectives.

### **B.2.3 Key Controls**

The key controls for budgets and medium-term planning are:

- (a) Specific budget approval is given for all expenditure;
- (b) Budget managers are consulted in the preparation of the Budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered; and
- (c) A monitoring process is in place to regularly review the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

## **B.3 CAPITAL PROGRAMME**

- (a) Capital expenditure, as defined in the Local Authorities (Capital Finance) Regulations 1990, or in such subsequent Regulations as may succeed these, will be considered for inclusion within the approved Capital Programme. The Chief Finance Officer will periodically review and issue a minimum threshold value below which projects cannot be charged to capital.

- (b) Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment, or vehicles.
- (c) Capital assets can shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- (d) Capital expenditure can also result in the creation of an intangible asset, for items such as software licenses which have no physical substance.
- (e) The Council is required to set its Capital Strategy and Programme having regard to the *Prudential Code for Capital Finance in Local Authorities*, ensuring that it is affordable, prudent, and sustainable. This means that capital expenditure forms part of a programme, that is prioritised in order to maximise the benefit of limited resources. The Council must also have regard to Prudential Indicators.

### **B.3.1 Responsibilities of the Assistant Director Corporate Resources**

To annually prepare for Cabinet a draft capital strategy and programme and financing covering three future financial years.

- (a) To ensure that there is appropriate detail for each project together with the timetable of steps needed to implement each project identifying any constraints or limitation which might affect the programming of projects.
- (b) To identify the revenue consequences of implementing each project together with how the project contributes to achieving the Corporate Plan.
- (c) To prepare and submit regular reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.
- (d) To inform Cabinet where estimated expenditure on any scheme exceeds the capital programme provision by more than 10% or £200,000 whichever is lower.
- (e) The definition of 'capital' will be determined by the Assistant Director Corporate Resources, having regard to government regulations and accounting requirements.

### **B.3.2 Responsibilities of Directors and Assistant Directors**

- (a) To comply with guidance concerning capital schemes and controls issued by the Assistant Director Corporate Resources.
- (b) To ensure that all estimates and programmes prepared in connection with capital expenditure shall include reference to the estimated revenue implications of such expenditure in each of the development years and in a full cost year as agreed with the Assistant Director Corporate Resources.
- (c) To review the capital programme provisions for their services and the estimated final costs of schemes in the approved capital programme.
- (d) To ensure that adequate records are maintained for all capital contracts.



- (e) To proceed with projects/contracts only when there is adequate provision in the capital programme and guarantees of any external funding are in place.
- (f) To notify the Assistant Director Corporate Resources immediately if the total value of a contract or its annual sum is likely to be different from the original figure by more than the approved limits and associated Cabinet or Cabinet Member decision.

### **B.3.3 Key Controls**

The key controls for capital programmes are:

- (a) Annual approval by the Cabinet for the capital strategy and planned programme of capital expenditure;
- (b) Each capital project must be subject to a project appraisal and assessed against the Council's strategic objectives, which will be reported to the next available Cabinet meeting;
- (c) Annual approval of the governance arrangements as part of the Capital Strategy;
- (d) Proposals for improvements and alterations to buildings and land must be approved by the appropriate Directors and Assistant Directors;
- (e) Monitoring of progress in conjunction with expenditure and comparison with approved budget; and
- (f) Use of Prudential Indicators.

## **B.4 MAINTENANCE OF RESERVES**

The Council holds reserves for one of three purposes:

- (a) A working balance to help cushion the impact of uneven cash flows and avoid unnecessary temporary borrowing (general reserve);
- (b) A contingency to cushion the impact of unexpected events or emergencies (general reserve); and
- (c) A means of building up funds (earmarked reserve) to meet known or predicted liabilities.

It is the responsibility of the Section 151 Officer to advise the Council on the level and adequacy of reserves.

### **B.4.1 Responsibilities of the Assistant Director Corporate Resources**

To advise the Cabinet and/or the Council on prudent levels of reserves for the Council, having regard to advice from the external auditor.

### **B.4.2 Responsibilities of Directors and Assistant Directors**

To ensure that reserves are used in line with the reserves policy.

### **B.4.3 Key Controls**

- (a) To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom* and agreed accounting policies.
- (b) For each reserve established the following must be provided:
  - i. The reason for/purpose of the reserve
  - ii. How and when the reserve can be used
  - iii. Procedures for the reserve management and control
  - iv. A process and timescale for review of the reserve to ensure continuing relevance and adequacy.
- (c) Authorisation and expenditure from reserves by the relevant Directors and Assistant Directors in consultation with the Assistant Director Corporate Resources.

## **C. FINANCIAL MANAGEMENT**

### **C.1 BUDGETARY CONTROL**

- (a) Budgetary control is the means by which the Council manages its finances and ensures their effective use in accordance with the approved budget. Budgetary control is a continuous process, enabling the Council to monitor and review its financial performance during the financial year.
- (b) By regularly identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity.
- (c) To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.
- (d) For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre.

#### **C.1.1 Responsibilities of the Assistant Director Corporate Resources**

To administer an appropriate framework of budgetary management and control that ensures:

- (a) Budget management is exercised within annual cash limits;
- (b) Each Director and Assistant Director has available timely information on receipts and payments on each budget;
- (c) Expenditure is only committed against an approved budget;
- (d) All officers responsible for committing expenditure comply with relevant guidance, and these Financial Procedure Rules and financial limits;
- (e) Each budget heading has a single named manager, determined by the relevant Director and Assistant Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commit expenditure;

- (f) Significant variances from approved budgets are investigated and reported by budget managers regularly.
- (g) To administer the Council's Scheme of Virement (see C.2).
- (h) To submit reports to the Cabinet and to the Council, in consultation with the relevant Directors and Assistant Directors, where it is not possible to balance expenditure and resources within existing approved budgets under their control.
- (i) To prepare and submit regular monitoring reports to Cabinet on the Council's projected income and expenditure compared with the Budget.
- (j) To report on any emergency expenditure approved by the Chief Executive to the next meetings of the Cabinet and the Council.

### **C.1.2 Responsibilities of Chief Executive/Directors**

- (a) To maintain budgetary control within their departments and to ensure that all income and expenditure is recorded and accounted for properly.
- (b) To ensure that an accountable budget manager is identified for each item of income and expenditure.
- (c) To ensure that spending remains within the service's overall cash limit, by monitoring the Budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- (d) To prepare and submit reports to the Cabinet on the service's projected expenditure compared with its budget, in consultation with the Assistant Director Corporate Resources.
- (e) To ensure compliance with the Scheme of Virement (see C.2).
- (f) To agree with the relevant Directors where it appears that a budget proposal, including a virement proposal, may impact materially on another service area.
- (g) To submit requests for the carry forward of revenue budgets to the Assistant Director Corporate Resources subject to a maximum of £200,000 for each Director and Assistant Director.
- (h) The Chief Executive, after consultation with the Executive Leader of the Council, may authorise emergency expenditure of up to £200,000.

### **C.1.3 Key Controls**

The key controls for managing and controlling the revenue budget are:

- (a) Budget managers should be responsible only for income and expenditure that they can influence;
- (b) There is a nominated budget manager for each budget heading;
- (c) Budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;

- (d) All budgets are appropriately profiled through the financial year;
- (e) Budget managers follow an approved certification process for all expenditure;
- (f) Income and expenditure are recorded and accounted for properly.

## C.2 SCHEME OF VIREMENT

- (a) Virement is the transfer of a revenue budget from one specific area to another. Virement can be a temporary (in-year) or permanent transfer of budget. Support services recharges and capital charges budgets are excluded from the scheme of virement.
- (b) The Scheme of Virement is intended to enable Cabinet Members together with Directors and Assistant Directors and their staff to manage budgets with a degree of flexibility within the overall Policy Framework and cash limits determined by the Council, and, therefore, to optimise the use of resources. A summary of the financial limits relating to virements within the overall annual budgeted cash limits are set out below:

Action	Approval required
General Budget Transfers (across service budgets or CERA)	Up to £200k should be authorised by the Chief Finance Officer and relevant Chief Officers. Over £200k requires approval by Cabinet.
General Budget Transfers (within service budgets)	Up to £50k with agreement of the budget manager(s) and relevant Assistant Director
Technical Budget Transfers (e.g., budget transfers to comply with proper accounting practices)	Assistant Director Corporate Resources
Administrative budget transfers (e.g., already approved by Full Council)	Assistant Director Corporate Resources

- (c) Budget virements will be reported to Cabinet as part of the normal monitoring process.
- (d) If the Council is committed to additional expenditure in future years, no budget transfer will be permitted unless approved by the Cabinet. All other transfers should be in line with the table above.

### C.2.1 Responsibilities of the Assistant Director Corporate Resources

- (a) To ensure that the Cabinet authorises virement over £200,000.
- (b) To ensure that all requests for virement are evidenced in writing (including email).

### C.2.2 Responsibilities of Chief Executive/Directors

- (a) The Chief Executive and Directors may authorise virement on budgets up to a maximum of £200,000.

- (b) Assistant Directors may authorise virement on budgets under their control of up to a maximum of £50,000.
- (c) Virements against future anticipated fees and charges or other uncertain sources of income will not be allowed.
- (d) Savings of a non-recurring nature (temporary) cannot be used to justify the incurring of expenditure with a continuing commitment into later years (permanent).
- (e) Virement that is likely to impact on the level of service activity of another department should be implemented only after agreement with the relevant Director.
- (f) To ensure that all requests for virement are evidenced in writing and sent to the Assistant Director Corporate Resources.

### **C.2.3 Key Controls**

Key controls for the Scheme of Virement are:

- (a) It is administered by the Assistant Director Corporate Resources within guidelines set by the Council. Any variation from this scheme requires the approval of the Cabinet.
- (b) The overall budget is recommended by the Cabinet and approved by the Council. Directors and Assistant Directors are authorised to incur expenditure in accordance with the estimates that make up the Budget.
- (c) Virement does not create a net increase in budget. Directors and Assistant Directors are expected to exercise their discretion in managing their budgets responsibly and prudently.

## **C.3 ACCOUNTING POLICIES**

- (a) The Council is required to follow proper practices in preparing its Statement of Accounts.
- (b) The Council's Accounting Policies are a key part in ensuring that this is done, and these are detailed in the Statement of Accounts.

### **C.3.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To establish suitable accounting policies and to ensure that they are applied consistently.
- (b) To ensure that the accounting policies are consistent with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom*, for each financial year. The accounting policies are set out in the annual Statement of Accounts, and cover such items as:
  - (i) Any significant estimates included in debtors and creditors at yearend;
  - (ii) Details on material provisions and reserves;
  - (iii) Fixed assets;
  - (iv) Receipts from sale of fixed assets;
  - (v) Depreciation;

- (vi) Capital charges;
- (vii) Repayment of borrowing;
- (viii) Government grants;
- (ix) Leasing; and
- (x) Pensions.

### **C.3.2 Responsibilities of Directors and Assistant Directors**

To adhere to the accounting policies and guidelines approved by the Assistant Director Corporate Resources.

### **C.3.3 Key Controls**

The key controls for accounting policies are:

- (a) Systems of internal control are in place to ensure that financial transactions are lawful;
- (b) Suitable accounting policies are established and applied consistently;
- (c) Proper accounting records are maintained;
- (d) Financial statements are prepared which present fairly the financial position of the Council and its expenditure and income; and
- (e) Accounting policies are set out in the Statement of Accounts and are subject to external audit.

## **C.4 ACCOUNTING RECORDS AND RETURNS**

(a) Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources.

(b) The Council has a statutory responsibility to prepare annual accounts that present its operations during the financial year fairly.

(c) These annual accounts are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency, and effectiveness in the use of the Council's resources.

### **C.4.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To determine the accounting policies, procedures, and the method for recording transactions for the Council.
- (b) To arrange for the compilation of all accounts and accounting records under their direction.
- (c) To make proper arrangements for the audit of the Council's annual accounts in accordance with the Accounts and Audit Regulations 2015.
- (d) To ensure that all claims for funds (including grants) are made accurately and by the due date.

- (e) To prepare and publish the audited annual accounts of the Council for each financial year, in accordance with the statutory timetable.
- (f) To ensure the proper security and retention of financial documents in accordance with the requirements set out in the Council's Document Retention Policy.
- (g) To ensure that an asset register is maintained, and assets are appropriately revalued and categorised in accordance with *Code of Practice on Local Authority Accounting in the United Kingdom*.

#### **C.4.2 Responsibilities of Directors and Assistant Directors**

- (a) To ensure that a copy of any approved funding from a third party, including government grant, is immediately passed to the Assistant Director Corporate Resources.
- (b) To ensure that all necessary service-related information is available to support all claims for funds, including government grants.
- (c) To maintain adequate records to provide a management/audit trail leading from the source of income/expenditure through to the accounting statements.
- (d) To supply information required to enable the statement of accounts to be completed and published in accordance with the timetable and guidelines issued by the Assistant Director Corporate Resources.

#### **C.4.3 Key Controls**

The key controls for accounting records and returns are:

- (a) All finance employees and budget managers operate within the required accounting standards and timetables;
- (b) All the Council's transactions, material commitments, contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
- (c) Procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
- (d) Reconciliation procedures are carried out to ensure transactions are correctly recorded;
- (e) Prime documents are retained in accordance with legislative and other requirements, as set out in the Council's Document Retention Policy; and
- (f) The central accounting system of the Council, administered by the Assistant Director Corporate Resources, is the prime system upon which the financial position of the Council, or any part of the Council, will be assessed.

## **C.5 THE ANNUAL STATEMENT OF ACCOUNTS**

- (a) The Council has a statutory responsibility to prepare its own accounts to present its operations during the financial year in a fair manner.
- (b) The Council is responsible for approving the statutory annual statement of accounts, through delegation to the Audit Committee.

### **C.5.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To establish suitable accounting policies and to apply them consistently.
- (b) To make judgements and estimates which are reasonable and prudent.
- (c) To comply with the *Code of Practice on Local Authority Accounting in the United Kingdom*.
- (d) To sign and date the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the financial year.
- (e) To draw up the timetable and requirements for final accounts preparation and to advise employees and the external auditor accordingly.

### **C.5.2 Responsibilities of Directors and Assistant Directors**

To comply with accounting guidance provided by the Assistant Director Corporate Resources and to supply the Assistant Director Corporate Resources with information when required.

### **C.5.3 Key Controls**

The key controls for the annual statement of accounts are:

- (a) The Council is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this Council, that officer is the Assistant Director Corporate Resources; and
- (b) The Council's statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom*.

## **D. RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **D.1 RISK MANAGEMENT**

- (a) All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury, or failure to achieve objectives caused by an unwanted or uncertain action, event or outcome.
- (b) Risk management is a planned and systematic approach to identifying, evaluating, and controlling risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational wellbeing



of the Council. It is, therefore, an integral and essential part of good business practice.

- (c) Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action needed to control these risks effectively. Such action could include the following:
  - (i) Transferring risk (where it is insurable or is better managed by an external partner);
  - (ii) Terminating risk (prevent the risk from occurring by doing things differently);
  - (iii) Treating risk (put in place measures to reduce risk to an acceptable level); and
  - (iv) Tolerating risk (accept that risk cannot be avoided at a reasonable cost and, if necessary, put in place contingency plans)
- (d) It is the overall responsibility of the Cabinet to approve the Council's Risk Management Strategy, and to promote a culture of risk management awareness throughout the Council.

#### **D.1.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To prepare and promote the Council's Risk Management Strategy.
- (b) To develop risk reduction strategies (including continuity planning) in conjunction with Directors and other Assistant Directors
- (c) To include all appropriate employees of the Council in a suitable fidelity guarantee insurance policy.
- (d) To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims, in consultation with other officers where necessary.

#### **D.1.2 Responsibilities of Directors and Assistant Directors**

- (a) To notify the Assistant Director Corporate Resources immediately of any injury, loss, liability, or damage that may lead to a claim against the Council, together with any information or explanation required by the Assistant Director Corporate Resources or the Council's insurers.
- (b) To take responsibility for risk management and minimising exposure to loss, having regard to advice from the Assistant Director Corporate Resources and other specialist advisers (e.g., health and safety, emergency planning).
- (c) To ensure that there are regular reviews of Corporate and Departmental risk registers to identify and evaluate risk and to determine the ways in which risk can be managed. The risks and the mitigating actions should be recorded and monitored on an ongoing basis.
- (d) To notify the Assistant Director Corporate Resources promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

- (e) To consult the Assistant Director Corporate Resources on the terms of any indemnity that the Council is requested to give.

### **D.1.3 Key Controls**

The key controls for risk management are:

- (a) Procedures are in place to identify risks, to evaluate their likely impact and probability of occurring, and to determine suitable risk reduction strategies. The risk management process operates continually to ensure that changes in circumstances and new risks are identified, evaluated and managed;
- (b) Corporate and Departmental Risk Registers are produced and are regularly reviewed, and action taken when appropriate;
- (c) Risk management procedures are communicated effectively throughout the Council. Managers know that they are responsible for managing risks in their areas and are provided with relevant information on risk management initiatives;
- (d) Acceptable levels of risk are determined and insured against where appropriate; and provision is made through balances or reserves for losses where insurance is not appropriate;
- (e) The Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

### **D.2 INTERNAL CONTROLS**

- (a) The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- (b) The Accounts and Audit Regulations 2015 requires the Council to conduct a review at least once in a year of the effectiveness of its system of internal control and include a statement on internal control with any statement of accounts.
- (c) The Council faces a wide range of financial, operational, legal and commercial risks, both from internal and external factors, which threaten the achievement of its objectives.
- (d) Internal controls are necessary to manage these risks and minimise the occurrence of significant control failings and weaknesses.
- (e) The system of internal controls is established in order to provide measurable achievement of:
  - (i) Efficient and effective operations;
  - (ii) Reliable financial information and reporting;
  - (iii) The accomplishment of goals, objectives and targets;
  - (iv) The safeguarding of assets;
  - (v) Compliance with laws and regulations; and
  - (vi) The management of risks.

## D.2.1 Responsibilities of the Assistant Director Corporate Resources

To assist the Council to put in place an appropriate control environment and effective internal controls that provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

## D.2.2 Responsibilities of Directors and Assistant Directors

- (a) To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- (b) To review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Assistant Director Corporate Resources.
- (c) Directors and Assistant Directors should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- (d) To report annually on the systems of control in place within their Department.
- (e) To ensure employees have a clear understanding of the consequences of lack of control.

## D.2.3 Key Controls

The key controls are:

- (a) Key controls should be reviewed on a regular basis and the Council should make a formal statement annually in the Statement of Accounts to the effect that it is satisfied that the systems of internal control are operating effectively;
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance, taking appropriate anticipatory and remedial action, and ensuring that personnel are competent, suitably qualified and trained. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
- (c) Financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems; and
- (d) An effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the *United Kingdom Public Sector Internal Audit Standards* (PSIAS) as interpreted by CIPFA's *Local Government Application Note* and with any other statutory obligations and regulations.

## D.3 INTERNAL AUDIT

- (a) The requirement for an Internal Audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities make arrangements for the proper administration of their financial affairs.

- (b) The Accounts and Audit Regulations 2015 more specifically require that a relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control. All auditing activity within the Council is accountable to the Audit Committee.
- (c) Accordingly, Internal Audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.
- (d) However, it is the responsibility of management to establish and maintain an effective system of internal control, irrespective of the Internal Audit function.

### **D.3.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To ensure that internal auditors have the authority to:
  - (i) Access all Council utilised premises as and when required;
  - (ii) Access all assets, records, documents, and correspondence and control systems;
  - (iii) Request and receive any information and explanation considered necessary concerning any matter under consideration;
  - (iv) Require any employee or contractor of the Council to account for cash, equipment or any other Council asset under their control;
  - (v) Access or have sight of relevant records of external parties (e.g., contractors) as may reasonably be required; and
  - (vi) Directly access the Chief Executive, Cabinet Members and Scrutiny Members.
- (b) To ensure that strategic and annual audit plans, an annual activity report and an annual opinion on internal control are prepared by the Assistant Director Corporate Resources or their representative and approved by the Audit Committee.
- (c) To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

### **D.3.2 Responsibilities of Directors and Assistant Directors**

- (a) To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- (b) To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- (c) To consider and respond promptly to recommendations in audit reports.
- (d) To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- (e) To notify the Assistant Director Corporate Resources, the Chief Executive or Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources.

- (f) To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Assistant Director Corporate Resources or their representative prior to implementation.

### **D.3.3 Key Controls**

The key controls for Internal Audit are:

- (a) That it is independent in its planning and operation;
- (b) The Assistant Director Corporate Resources or their representative has direct access to the Chief Executive, all levels of management and directly to elected members; and
- (c) The internal auditors comply with the *United Kingdom Internal Audit Standards* as interpreted by CIPFA's *Local Government Application Note*.

## **D.4 PREVENTING FRAUD AND CORRUPTION**

- (a) The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.
- (b) The Council expects all members and employees to act with propriety and accountability. It expects them to lead by example in adhering to legal requirements, rules, procedures, and practices.
- (c) The Council also expects that individuals and organisations with whom the Council comes into contact (for example, suppliers, contractors, and service providers) will act towards the Council with integrity and without thought or actions involving fraud and corruption.

### **D.4.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To develop and maintain an anti-fraud and corruption policy.
- (b) To develop and maintain a whistleblowing policy
- (c) To maintain adequate and effective internal control arrangements.
- (d) To ensure that all suspected irregularities are reported to Internal Audit.
- (e) To ensure that procedures are in place to respond to National Fraud Initiatives.

### **D.4.2 Responsibilities of Directors and Assistant Directors**

- (a) To ensure that all suspected irregularities are reported to the Assistant Director Corporate Services.
- (b) To instigate the Council's disciplinary procedures when the outcome of an investigation indicates improper behaviour.
- (c) To ensure that where financial impropriety is discovered, the Assistant Director Corporate Resources is informed.

- (d) To maintain a departmental register of interests recording potential conflicts of interest (financial or otherwise) between employees and organisations or individuals that the Council deals with (for example, suppliers, contractors, voluntary organisations).

### **D.4.3 Key controls**

The key controls regarding the prevention of financial irregularities are:

- (a) The Council has an effective anti-fraud and corruption policy and maintains a culture that will not tolerate fraud or corruption;
- (b) All members and employees act with integrity and lead by example;
- (c) Senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt;
- (d) High standards of conduct are promoted amongst members by the Audit Committee, in accordance with the Code of Conduct for Members;
- (e) The maintenance of both a register of interests (to record potential conflicts of interest between employees or members and the Council) and a register of hospitality (to record any hospitality or gifts accepted);
- (f) Compliance with the Council's Contract Regulations and procurement processes;
- (g) Whistleblowing procedures in place and operate effectively; and
- (h) Compliance with legislation

## **D.5 ASSETS – (LAND, BUILDINGS, EQUIPMENT ETC)**

### **D.5.1 Acquisitions**

As the Council is funded by public monies, it is publicly accountable for the way that it spends its money. Value for money must be demonstrated, therefore, the Council has to exercise control over its purchasing activity, including asset acquisition (e.g., property, vehicles, plant and equipment, furniture).

### **D.5.2 Responsibilities of the Assistant Director Corporate Resources**

- (a) To issue guidelines on the best practice in respect of asset acquisition.
- (b) To periodically review all guidelines to ensure that they still reflect best practice.
- (c) To ensure that all expenditure is properly recorded in the Council's accounts and records.

### **D.5.3 Responsibilities of Directors and Assistant Directors**

- (a) To ensure that the Council's policies and procedures are complied with.
- (b) To ensure that the necessary separation of duties is observed.

- (c) To ensure that assets purchased are necessary.

#### **D.5.4 Key Controls**

The key controls for asset acquisition are:

- (a) Council policies in respect of the acquisition of assets are complied with at all times. This includes compliance with Contract Regulations for all asset acquisitions.
- (b) There are at least two employees involved in the process of acquisition, with a separation of duties between employees involved in the different parts of the process.
- (c) Procedures protect employees involved in the acquisition of assets from accusations of impropriety.

#### **D.5.5 Asset disposal and transfer**

- (a) It would be uneconomic and inefficient for the cost of maintaining assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the Council's policies and procedures.
- (b) Assets are sometimes used by or transferred to an external party, for example as part of an outsourced contract or partnership arrangement.
- (c) It is important that the legal and financial basis for the transfer is determined and properly documented so that the interests of the Council are protected.

#### **D.5.6 Responsibilities of the Assistant Director Corporate Resources**

- (a) To issue guidelines representing best practice for disposal of assets.
- (b) To ensure appropriate accounting entries are made to remove the value of disposed or transferred assets from the Council's records and to include the sale proceeds, if appropriate.

#### **D.5.7 Responsibilities of Directors and Assistant Directors**

- (a) To seek advice from the Assistant Director Corporate Resources on the disposal of surplus or obsolete materials, equipment and vehicles.
- (b) To seek advice from the Assistant Director Corporate Resources where assets are to be transferred or predominantly used by an external party.
- (c) To ensure that income received for the disposal of an asset is properly banked and coded.
- (d) To authorise the write off and disposal of obsolete or surplus materials and equipment.

- (e) To ensure that the disposal of obsolete or surplus materials and equipment, is by competitive quotation or auction, unless, following consultation with the Assistant Director Corporate Resources, the Cabinet decides otherwise.

#### **D.5.8 Specifically relating to the disposal or acquisition of land and buildings:**

- (a) To ensure that all disposals of land and buildings are in accordance with the Council's land sale policy current at the time.
- (b) Where disposal of land and buildings is allowed, it shall be conducted in accordance with the provisions detailed in (i)-(vi) below.

Approved methods of disposal shall be by:

- (i) Private Treaty;
- (ii) Auction;
- (iii) Tender;
- (iv) Sealed Offer;
- (v) Exchanges of land; or
- (vi) Compulsory Purchase Order

To ensure that where land is to be disposed of by the Council, the Assistant Director Corporate Resources shall ensure compliance with Financial Procedure Rules and S123 of the Local Government Act 1972.

#### **D.5.9 Key Controls**

- (a) Assets for disposal or transfer are identified and are disposed of or transferred at the most appropriate time, and only when it is in the best interests of the Council, and the best price or contract terms are obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.
- (b) Procedures protect employees involved in the disposal of assets from accusations of personal gain.

#### **D.5.10 Security – (Including Inventories)**

- (a) The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. Information held by the Council is also a key asset.
- (b) It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of assets required for service operations.
- (c) An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

#### **D.5.11 Responsibilities of the Assistant Director, Corporate Resources**

- (a) The Assistant Director Corporate Resources is responsible for the maintenance of an asset register of all land and properties owned by the Council. The function



of the asset register and inventory is to provide the Council with information about fixed assets so that they are:

- (i) safeguarded;
  - (ii) used efficiently and effectively;
  - (iii) adequately maintained; and
  - (iv) accounted for.
- (b) To ensure that an asset register is maintained in accordance with good practice for all assets with a value in excess of £10,000,
  - (c) To receive the information required for accounting, costing and financial records from each Director and Assistant Director,
  - (d) To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom*.

#### **D.5.12 Responsibilities of the Assistant Director Digital and People Services**

- (a) To maintain a central register of IT equipment.

#### **D.5.13 Responsibilities of Directors/Assistant Directors**

- (a) To ensure the proper security of all employees, buildings, and other assets under their control.
- (b) To pass title deeds to the Assistant Director Legal and Democratic Services who is responsible for custody of all title deeds.
- (c) To ensure the safe custody of vehicles, equipment, furniture, and other property belonging to the Council.
- (d) To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- (e) To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Assistant Director Corporate Resources as soon as possible.
- (f) To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Assistant Director Corporate Resources.
- (g) To carry out an annual check of all items on the inventory in order to verify location, to review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly.
- (h) To make sure that property is only used in the course of the Council's business, unless the Director/Assistant Director concerned has given permission otherwise.

#### **D.5.14 Key Controls**

- (a) Assets are valued on an annual basis in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom*.

- (b) Procedures prevent the unauthorised disposal of theft of assets.

## **D.6 TREASURY MANAGEMENT**

- (a) Many millions of pounds pass through the Council's books each year. The scale of the local authority treasury activity and issues such as the Icelandic banking collapse has led to the development of CIPFA's *Code of Practice on Treasury Management and Prudential Code for Capital Finance in Local Authorities (Prudential Code)*. These aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum.

### **D.6.1 Responsibilities of Assistant Director Corporate Resources**

- (a) To arrange the borrowing and investments of the Council, including bank overdrafts, in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management, the Prudential Code*, the Council's Treasury Management Strategy and the Council's Treasury Management Practices.
- (b) To report on treasury activities to the Audit Committee, with recommendations (including adoption of the Treasury Management Strategy Statement & Annual Investment Strategy) referred for approval by Full Council.
- (c) To operate bank accounts as are considered necessary. All arrangements with the Council's approved bankers regarding the Council's bank accounts, and the terms on which they are conducted shall be made by the Assistant Director Corporate Resources.
- (d) To ensure that detailed arrangements are made regarding the Council's bank accounts and for the issue and cards. All cards shall be ordered only on the authority of the Assistant Director Corporate Resources who shall advise on proper arrangements for their safe custody.
- (e) All of the Council's bank accounts must be in the name of "Mid Sussex District Council".
- (f) To ensure that all investments or utilisation of monies and other accumulations and the sale or realisation of investments are made in the name of the Council or in the name of nominees approved by the Cabinet.
- (g) To effect all borrowings in the name of the Council.
- (h) To act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money and investment by the Council.
- (i) To ensure that in circumstances where the Council has decided to finance capital expenditure by way of leasing, deferred purchase, or similar arrangements, the Assistant Director Corporate Resources or their authorised representative shall so far as possible, obtain competitive quotations from relevant funding sources and such arrangements shall be subject to approval by Cabinet

### **D.6.2 Responsibilities of Directors and Assistant Directors**

- (a) To follow the instructions on banking issued by the Assistant Director Corporate Resources.

- (b) To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet, following consultation with the Assistant Director Corporate Resources.
- (c) To ensure that Directors/Assistant Directors advise the Assistant Director Corporate Resources of the disposal of any vehicle or item of equipment that is subject to a lease.

### **D.6.3 Key Controls**

The key controls are:

- (a) A Treasury Management Strategy that is produced in accordance with the requirements of the *Code of Practice on Treasury Management*;
- (b) Treasury Management Procedures are in place and are reviewed on an annual basis.

## **D.7 WORKFORCE**

The Council sees its employees as a valuable asset to running its business. In order to provide the highest level of service, it is essential that the Council recruits and retains high calibre, knowledgeable employees, who are qualified to an appropriate level.

### **D.7.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To ensure that Directors/Assistant Directors have identified budget provision for all existing and new employees.

### **D.7.2 Responsibilities of the Assistant Director Organisational Development**

- (a) To act as an advisor to Directors/Assistant Directors on areas such as National Insurance and pension contributions, as appropriate.
- (a) To develop a workforce strategy, policy and procedures and ensure they are disseminated and enforced.

### **D.7.3 Responsibilities of Directors/Assistant Directors**

- (a) To produce an annual workforce budget.
- (b) To ensure that the workforce budget is an accurate forecast of workforce levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- (c) To ensure that the workforce budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- (d) To comply with, and ensure employees comply with, the Council's Human Resource policies (for example: recruitment, training and flexible working policies).

- (e) To seek the advice of the Assistant Director Corporate Resources on the VAT liabilities of any income received via payroll deductions or salary sacrifice.

#### **D.7.4 Key Controls**

The key controls for employees are:

- (a) An appropriate workforce strategy and policy exists, in which employee requirements and budget allocation are matched;
- (b) Procedures are in place for forecasting workforce requirements and cost;
- (c) Controls are implemented that ensure that employee time is used efficiently and to the benefit of the Council; and
- (d) Checks are undertaken prior to appointing new employees to ensure that they are appropriately qualified, experienced and trustworthy.

### **E. FINANCIAL SYSTEMS AND PROCEDURES**

#### **E.1 GENERAL**

- (a) As an organisation in receipt of public funding the Council is governed by a number of laws requiring that it makes proper arrangements for the administration, reporting and safeguarding of those funds and act in a way that is open and accountable as to how those funds are used.
- (b) Whilst all Council Officers and Members have a general financial responsibility, Section 151 of the Local Government Act 1972 requires that a suitably qualified officer must be responsible for the financial administration of the organisation. This officer is referred to as the "Section 151 Officer"

#### **E.1.2 Assistant Director Corporate Resources**

- (a) The Assistant Director Corporate Resources is the Section 151 Officer and will be responsible for the proper administration of the Council's financial affairs, prescribe appropriate financial systems, protocols, procedures, and policies, maintain an internal audit service and report to the Council in the event of any decision or action leading to, or may lead to, unlawful expenditure, loss, deficiency or accounting entry and:
  - (i) will be responsible for ensuring the final accounts are completed and published in accordance with statute and accepted public sector accounting requirements and the reporting to members of any material amendments specified by external audit,
  - (ii) will have unrestricted access to all Council assets, systems, documents, information, data, employees and members held by the Council, iii. issue guidance, advice or instruction on the application of these financial systems and procedures as appropriate,
  - (iii) recommend to Council the addition, alteration or deletion to the Financial Procedure Rules.

#### **E.1.3 Chief Executive/ Directors/Assistant Directors (Senior Management Team)**

- (a) The Chief Executive and Directors/Assistant Directors being the Senior Management Team of the Council:
  - (i) will manage budgets and financial activity within their area of responsibility including the planning and control of budgets and prevention of fraud and corruption to ensure efficient and effective use of resources,
  - (ii) shall consult with the Assistant Director Corporate Resources and obtain approval on any matter that may have a material effect, advantageous or detrimental, on the Council's financial position or financial strategy,
  - (iii) comply with any instruction given by the Assistant Director Corporate Resources regarding the form and method of financial record keeping or the operation of any financial procedures.

#### **E.1.4 Cabinet, Committees and Sub-Committees**

All Members of Cabinet, any Committee or Sub-Committee will ensure that decisions taken are within their remit and relevant budgets, are compliant with adopted policies, and consistent with achievement of the Council's service or corporate plans.

#### **E.1.5 Council**

The Council will;

- (a) determine the Medium-Term Financial Strategy (MTFS)
- (b) approve an annual budget and determine the level of local taxation and other statutory charges
- (c) approve the Treasury Management Strategy (TMS) and prudential indicators
- (d) approve changes to these financial procedures

#### **E.1.6 Officers and Members**

All Officers and Members will contribute to the general stewardship of the Council's financial affairs in compliance with the Council Constitution and any systems, procedures, policies prescribed by law or the Assistant Director Corporate Resources relating to the Council's financial management. They will bring to the attention of the Assistant Director Corporate Resources any matter that is contrary to the provisions of these Financial Procedure Rules code, or the high standard of financial probity expected of the Council or may bring the Council into disrepute or legal challenge.

#### **E.2 INCOME**

- (a) Income can be vulnerable to loss, delay, theft or misappropriation.
- (b) Effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly.
- (c) It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering debts.

### **E.2.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection in accordance with the requirements of the Accounts and Audit Regulations 2015.
- (b) To agree the write-off of bad debts up to an approved limit in each case. The Assistant Director Corporate Resources is approved to write-off a debt (or combination of debts) in relation to any individual debtor in any one financial year of up to **£10,000**.
- (c) To ensure that the write-off of amounts over **£10,000 up to £25,000** are agreed by the Cabinet Member for Finance Revenues and Benefits with responsibility for resources.
- (d) To ensure that the write-off of amounts over **£25,000** are agreed by Full Council.
- (e) In cases of bankruptcy or liquidation, to agree debt write-offs of any amount.

### **E.2.2 Responsibilities of Directors/Assistant Directors**

- (a) To establish a charging policy, in consultation with the Assistant Director Corporate Resources, for the supply of goods or services by the Council, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies and robust budget proposals.
- (b) To ensure that all invoices and credit notes are raised promptly in accordance with instructions provided by the Assistant Director Corporate Resources.
- (c) To establish and initiate appropriate recovery procedures, including legal action, with the assistance of the Assistant Director Corporate Resources, where necessary, for debts that are not paid promptly.
- (d) To securely hold receipts, tickets and other records of income for the appropriate period, in accordance with the Document Retention Policy.
- (e) To recommend to the Assistant Director Corporate Resources all debts to be written off, and to keep a record of all such debts, up to the approved limit.

### **E.2.3 Key Controls**

The key controls associated with income are:

- (a) All income due to the Council is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;
- (b) All income is collected from the correct person, at the right time, using the correct procedures;
- (c) All money received by an employee on behalf of the Council is paid without delay to the Assistant Director Corporate Resources or, as they direct, to the Council's bank, and properly recorded;
- (d) Effective action is taken to pursue non-payment within defined timescales;

- (e) Formal approval for debt write-off is obtained;
- (f) Appropriate write-off action is taken after all avenues are exhausted;
- (g) Appropriate accounting adjustments are made following write-off approval;
- (h) All appropriate income documents are retained and stored for the defined period in accordance with the document retention policy; and
- (i) Money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

### **E.3 EXPENDITURE**

- (a) The Council spends a significant amount each financial year on procuring goods, works and services, and public money so spent should demonstrate probity and be in accordance with the Council's policies.
- (b) The Council has a duty under Section 3 of the Local Government Act 1999 to ensure it achieves best value and continuous improvement in relation to the procurement process.
- (c) Every officer and Member of the Council has a responsibility to declare any interests they have in contracts (whether financial or non-financial), in accordance with S.117 of the Local Government Act 1972 and the Officer Code of Conduct and Code of Conduct for Members.

#### **E.3.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To ensure that all the Council's financial systems and procedures are sound and properly administered.
- (b) To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- (c) To approve the form of official orders.
- (d) To monitor the aggregate value of goods, works and services purchased across the Council.
- (e) To maintain an up-to date list of employees authorised to approve orders, payments, certificates and letters of intent, including specimen signatures, identifying in each case the limits of authority.
- (f) To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

#### **E.3.2 Responsibilities of Directors/Assistant Directors**

- (a) To ensure that unique pre-numbered official orders are used for all goods, works and services, other than any authorised exceptions.

- (b) To ensure that two authorised employees are involved in the ordering, receiving and payment process.
- (c) To ensure that only appropriate employees are given approval to authorise orders and payments and to sign letters of acceptance or otherwise commit the Council to contracts. Such approval should be reviewed periodically to ensure its ongoing suitability.
- (d) To forward the names of authorising officers together with specimen signatures and details of the limits of their authority to the Assistant Director Corporate Resources.
- (e) To ensure that no authorised signatory shall approve their own claim for reimbursement of expenditure.
- (f) To ensure that employees are aware of the Officer Code of Conduct, the Procedure Rules for contracts and other Council policies or documents affecting procurement.
- (g) To ensure that contracts, loans, leasing or rental arrangements are not entered into without prior agreement from the Assistant Director Corporate Resources.
- (h) To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the Document Retention Policy.

### **E.3.3 Key Controls**

The key controls associated with expenditure are:

- (a) All orders for goods, works and services are placed only by authorised persons and are correctly recorded;
- (b) All purchases (contracts) of goods, works and services are made in accordance with the Council's Procedure Rules for contracts;
- (c) Goods received are checked, and works and services are monitored, to ensure they are in accordance with the order, are of appropriate quality and have been performed or received at the correct time.
- (d) At least two employees are involved in the ordering, receiving and payment process.
- (e) Payments should be certified by someone other than the person who received the goods, works or services or who checked the payment details. This shall include a check that an appropriate and valid VAT invoice has been submitted.
- (f) Payments are not made unless goods, works and services have been delivered, provided or performed for the Council at the correct price, time, quantity and quality standards;
- (g) All payments are made to the correct organisation or person for the correct amount and are properly recorded;
- (h) All appropriate evidence of the procurement transaction (for example, orders, payment documents and contract documents) are retained and stored for the



defined period, in accordance with Council's Procedure Rules for contracts and the Document Retention Policy;

- (i) All expenditure, including VAT, is accurately recorded against the right budget.

#### **E.3.4 Payments to Employees and Members**

Employees' costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for, and that members' allowances are authorised in accordance with the scheme adopted by the Council.

#### **E.3.5 Responsibilities of the Assistant Director Organisational Development**

- (a) To arrange the secure payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by them, on the due date.
- (b) To make redundancy and severance payments in accordance with statutory requirements.
- (c) To record and make arrangements for the accurate and timely payment of tax, pension and other deductions in respect of employees and members.
- (d) To make arrangements for payment of all travel and subsistence claims or allowances for employees and members upon receiving the prescribed form, duly completed and authorised in accordance with authorised signatory lists (for employees) or with the Members' Allowances Scheme.

#### **E.3.6 Responsibilities of Directors and Assistant Directors**

- (a) To ensure appointments are made in accordance with Council procedures and approved establishments, grades and scale of pay, and that adequate budget provision is available.
- (b) To notify the Assistant Director Organisational Development of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Assistant Director Organisational Development.
- (c) To ensure that adequate and effective systems and procedures are operated, so that:
  - (i) Payments are only authorised to bona fide employees;
  - (ii) Payments are only made where there is a valid entitlement;
  - (iii) Conditions and contracts of employment are correctly applied; and
  - (iv) Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- (d) To send an up-to-date list of the names of officers authorised to sign records (for example timesheets, expense claims, and starter and leaver forms) to the Assistant Director Organisational Development, together with specimen signatures.

- (e) To ensure that payroll transactions are processed only through the payroll system.
- (f) Directors and Assistant Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition for employee status. All decisions regarding the method of paying self-employed persons, including those operating as companies, should be referred to the Assistant Director Organisational Development.
- (g) To certify travel and subsistence claims and other allowances on a form approved by the Assistant Director Organisational Development together with all relevant VAT receipts.
- (h) To ensure that the Assistant Director Corporate Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- (i) To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the Document Retention Policy.
- (j) To ensure that all members' claims submitted are signed by the Assistant Director Legal and Democratic Services or such officer as they shall designate within their department.

### **E.3.7 Responsibilities of Members**

To submit claims for members' travel and subsistence allowances to the Assistant Director Legal and Democratic Services on forms agreed by the Assistant Director Organisational Development, on a monthly basis and, in any event, within one calendar month of the year end.

### **E.3.8 Key Controls**

The key controls for payments to employees and members are:

- (a) Proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
  - (i) starters;
  - (ii) leavers;
  - (iii) variations;
  - (iv) enhancements; and
  - (v) that payments are made on the basis of timesheets or claims;
- (b) An authorised establishment structure exists that is maintained accurately and is up to date;
- (c) Frequent reconciliation of payroll expenditure against approved budget and bank account;
- (d) All appropriate payroll documents are retained and stored for the defined period in accordance with the document retention policy; and
- (e) That His Majesty's Revenue and Customs (HMRC) regulations are complied with.

## **E.4 TAXATION**

The Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is, therefore, very important for all officers to be aware of their role.

### **E.4.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To complete all HMRC returns regarding PAYE.
- (b) To complete a monthly return of VAT inputs and outputs to HMRC.
- (c) To monitor the Council's level of expenditure on VAT exempt activities, and to report on action taken or needed to remain within the 5% threshold level.
- (d) To provide details to HMRC regarding the construction industry tax deduction scheme.
- (e) To maintain up-to-date guidance for Council employees on taxation issues.
- (f) To ensure systems are in place to record other tax due to HMRC, and to complete the necessary returns.

### **E.4.2 Responsibilities of Directors and Assistant Directors**

- (a) To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.
- (b) To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax registration requirements.
- (c) To ensure that all persons employed by the Council are added to the Council's payroll, and that tax is deducted from any payments, except where the individuals are employed by a recognised employment agency.
- (d) To follow the guidance on taxation issued by the Assistant Director Corporate Resources.

### **E.4.3 Key Controls**

The key controls for taxation are:

- (a) Directors and Assistant Directors are provided with relevant information and kept up to date on tax issues;
- (b) Directors and Assistant Directors are instructed on required record keeping;
- (c) All taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
- (d) Records are maintained in accordance with instructions; and
- (e) Returns are made to the appropriate authorities within the stipulated timescale.

## **E.5 INSURANCE**

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Insurance is one method of mitigating risk by ensuring that the Council can continue to provide services.

### **E.5.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To arrange insurance cover in all appropriate cases.
- (b) To negotiate all insurance claims made on the Council's insurers.
- (c) To review, as necessary, all insurances in consultation with Directors as appropriate.
- (d) To ensure that all employees of the Council are included in a suitable fidelity guarantee insurance.

### **E.5.2 Responsibilities of the Directors and Assistant Directors**

Directors and Assistant Directors will ensure prompt notification to the Assistant Director Corporate Resources:

- (a) Of any incidents that may give rise to a claim against the Council the costs of which may be indemnified by the Council's insurances,
- (b) Of loss of or damage to any Council property or asset under its ownership, responsibility, custody or control,
- (c) Of any change in risk or ownership of or responsibility for any asset or property.

### **E.5.3 Key Controls**

The key controls for insurance are:

- (a) Insurable losses are reported to the Assistant Director Corporate Resources;
- (b) Claims are made to the relevant insurance company in a timely fashion;
- (c) A regular review of insurable assets is undertaken; and
- (d) Insurance is undertaken in accordance with the Council's Risk Management Strategy.

## **E.6 EXTERNAL FUNDING**

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council.

Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers.

Funds from external agencies provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's aims and objectives.

### **E.6.1 Responsibilities of the Assistant Director Corporate Resources**

- (a) To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- (b) To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements, or an exit strategy is agreed.
- (c) To ensure that audit requirements are met.
- (d) To ensure that all claims are submitted by the due date.
- (e) To action budget transfers in relation to approved bids.

### **E.6.2 Responsibilities of Directors and Assistant Directors**

- (a) To ensure that the Assistant Director Corporate Resources is advised, at the earliest possible time, of all applications for external funding.
- (b) To submit reports to the relevant Committee or Cabinet.
- (c) To give the Assistant Director Corporate Resources a copy of all approvals received from government departments or other sources of external funds.
- (d) To ensure that all supporting information is kept to support claims for funds.
- (e) To ensure that the project progresses in accordance with the agreed conditions and that all expenditure is properly incurred and recorded.

### **E.6.3 Key Controls**

The key controls for external funding are:

- (a) To ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;
- (b) To ensure that funds are acquired only to meet the priorities approved in the Policy Framework by the Council or in response to national priorities;
- (c) To ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements, or an exit strategy is agreed;
- (d) To ensure risks are identified, within acceptable limits and are capable of being managed;
- (e) To ensure monitoring and reporting frameworks are established and followed; and

- (f) To ensure adequate controls and governance arrangements are in place and are followed

## Part 4(ix) Contract Procedure Rules

### INTRODUCTION, PURPOSE, AND SCOPE

1. These Contract Procedure Rules establish the legal framework applicable to the purchase of all goods & services or construction works by the Council. These Procedure Rules should be seen as setting minimum requirements and standards and apply to all Councillors and officers.

Where better value for the Council might be achieved by seeking more tenders or quotations this should be done.

These Contract Procedure Rules should be used in conjunction with the Procurement Code.

2. These Contract Procedure Rules are made pursuant to the Local Government Act 1972. Nothing in these Rules will prejudice the validity of any actions taken under any previous iteration.
3. Subject to paragraph 5, every contract made by or on behalf of the Council, including by its Cabinet and Cabinet Members will comply with:
  - (a) these Contract Procedure Rules;
  - (b) the Procurement Code;
  - (c) the Council's Financial Procedure Rules;
  - (d) all relevant statutory provisions including the Subsidy Control Act 2022;
  - (e) any direction by the Council, the Cabinet, a Cabinet Member or Committee if they have the delegation do to so, as set out in part three of this Constitution.
4. These Contract Procedure Rules will not apply or may be varied where:
  - (a) statute or subordinate legislation prescribes otherwise;
  - (b)** in accordance with the Procurement Code, the reasons for not complying with Contract Procedure Rules have been recorded in a Procurement Exemption Form and approved in accordance with the subclauses below:
    - i for contracts below £100,000; by the relevant Assistant Director, the Monitoring Officer and the Assistant Director Corporate Resources.
    - ii for contracts of £100,000 and above; by the relevant Director, the Monitoring Officer and the Assistant Director Corporate Resources in consultation with the relevant Cabinet Member;

Upon approval, a copy of the electronic Exemption Form should be emailed to the relevant Director/ Assistant Director Corporate Resources and the Procurement Team who will retain a record of the Form.

5. No exemption or variation to Contract Procedure Rules can be made if the contract is subject to the Public Contracts Regulations 2015.
6. The estimated value of a contract for the purposes of these Contract Procedure Rules will be as calculated in accordance with the principles set out in the Procurement Code.
7. Contract letting and award should be managed using the Council's normal project management principles.

## **Authority to seek contractors**

8. Directors and Assistant Directors have authority to seek quotations or tender bids and to enter into any contract to a total value of under £200,000, as long as this is within the budget and policy framework and the scope of the officer's delegation.
9. Above £200,000 (but within the budget and policy framework), Cabinet has authority to conduct the relevant competitive process or give authority to officers to conduct that exercise.
10. Where a procurement exercise would be outside the budget and policy framework (regardless of value), the Full Council has authority to conduct the relevant process or give authority to officers to conduct that exercise.
11. The authority to accept tenders and enter into contracts will be documented as appropriate. Key and non-key decisions must be recorded appropriately.

## **Principles applicable to contracts below £50,000**

12. Where the estimated value or the amount of a proposed contract is below £50,000 and provision has been made in the Council's annual budget for such expenditure, the Assistant Director concerned will have the authority to enter into any such contract provided they are satisfied that the Council is receiving value for money.
13. The Assistant Director will evaluate such contracts on the basis of value for money and quality. Value for money can include where there is particular social value in entering into a particular contract, such as where the contract would advance the Council's Sustainable Economy or Net Zero objectives.
14. In most circumstances the Director or Assistant Director should seek a minimum of three (3) written quotations in accordance with the Procurement Code. For contracts between £20,000 and £50,000, if three quotations cannot be obtained, the Assistant Director should seek an exemption.

## **Contracts valued at £50,000 and above for goods and services; or £100,000 and above for works**

15. The relevant Assistant Director must follow a formal tender and contract award procedure in accordance with the Procurement Code and, where applicable, the Public Contract Regulations 2015. All tenders of this value must be undertaken via the Procurement Team.
16. The Council will evaluate contracts on the basis of value for money and quality. Value for money can include where there is particular social value in entering into a particular contract, such as where the contract would advance the Council's Sustainable Economy or Net Zero objectives.

## **Use of framework agreements**

17. A Framework Agreement is a contract that has been officially tendered for by another local authority, public sector organisation, purchasing consortium, or central Government. The contract is awarded to one or more suppliers and has provision for other named public sector bodies to use the contract without having to undertake their own tender process so long as these public bodies have been clearly identified in such publicity (advertising) that may be pertinent to a particular procurement exercise which led to the creation of the Framework Agreement.



18. The use of Framework Agreements is permitted for any value of contract, but caution must be taken as the rules governing which bodies can use them, and the process for accessing them will vary from one Framework Agreement to another.

### **Contract formalities**

19. All contracts must be concluded before the supply, service or construction work begins, except in exceptional circumstances only with the prior written consent of the Monitoring Officer and the s.151 Officer.
20. Subject to paragraphs 17 - 18 every contract of £50,000 and above not required or intended to be made under seal will be signed on behalf of the Council by two officers of the Council. One of those officers must be either the Monitoring Officer, s.151 Officer, Chief Executive or a Director.
21. Every contract required or intended to be made under seal will be sealed on behalf of the Council by the Chief Executive, the Monitoring Officer or their designated deputies.

### **Contract management**

22. No contract will commence unless and until the procurement exercise and contract documents have been completed in accordance with these Contract Procedure Rules, the Council's Financial Procedure Rules and the Procurement Code.
23. All contracts will be managed in accordance with any contract management guidance which Management Team or the Assistant Director, Legal & Democratic Services, may issue from time to time.

### **Contracts register**

24. Immediately upon completion of every procurement exercise of £5,000 and above, the relevant Assistant Director will arrange for the required details of the contract to be published in the Council's Contracts Register.

## **Part 4(x) Officer Employment Procedure Rules**

### **Recruitment and appointment**

#### **Declarations**

2. The Council will explicitly require any candidate for appointment as an Officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council, or of the partner of such persons.
3. Every Councillor and Officer of the Council shall disclose to their Chief Officer or the Assistant Director, Organisational Development any relationship known to them to exist between them, and any person known to be a candidate for an appointment with the Council. The Head of Paid Service shall report to the members or Chief Officer responsible for making the appointment details of the disclosure.
4. No candidate so related to a Councillor or an Officer will be appointed without the authority of the Head of Paid Service and relevant Chief Officer and another Chief Officer or Officers nominated by them.

#### **Seeking support for appointment**

1. Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
2. Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
3. Nothing in paragraphs 1 and 2 above will preclude a Councillor from giving a reference for a candidate for submission with an application for appointment.

#### **Appointment of Head of Paid Service**

4. The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or sub-Committee (the "Leader's Panel") of the Council. The Leader's Panel will consist of 5 members, it must be politically balanced and include at least two members of the Cabinet (one of which should be the Executive Leader).
5. Any objection by Council to the appointment must be well founded and have regard to current employment legislation.

#### **Appointment of Chief Officers**

1. Appointment of Chief Officers is the responsibility of the Head of Paid Service and may not be made by Councillors.

## Appointment of Statutory Officers

1. Appointment of Statutory Officers (Monitoring Officer and Chief Finance (S151) Officer) will be confirmed by Council, on the recommendation of the Head of Paid Service. Any objection by Council to the appointment must be well founded and have regard to current employment legislation.

## Other appointments

1. Appointment of Officers below Chief Officer level is the responsibility of the Head of Paid Service or their nominee and may not be made by Councillors.

## Disciplinary action

In this section, 'disciplinary' refers to all matters relating to conduct, capability and performance concerns, as well as grievance matters.

Disciplinary procedures should be handled as quickly as possible, subject to the need to investigate thoroughly. Informal conciliation is preferred to formal procedures if it can bring about a mutually agreed solution.

Where an allegation is made the following initial procedure will apply. If the allegation is against the Monitoring Officer or the Chief Finance Officer (S151), the Head of Paid Service will conduct the initial process. In the case of the Head of Paid Service, the Leader will carry out the initial determination on the appropriate course of action. In either case, this will include taking advice in respect of whether the matter is related to the Officer's Statutory function or their day-to-day role. In this regard advice may be sought from the Director of Resources and Organisational Development. The Leader/Head of Paid Service (as appropriate) will make a determination whether to:

- (a) decide the matter is to be addressed under usual organisational HR policies
- (b) take no action; or
- (c) agree an informal course of action; or
- (d) take formal action with the consent of the employee; or
- (e) refer the matter to the Investigating and Disciplinary Committee (IDC)

In the case of a grievance against more than one Statutory Officer, the matter will be immediately referred for external investigation.

The IDC must be politically balanced, consist of 5 members and must include at least one member of Cabinet (quorum 3 members). No substitutes are permitted.

The IDC will be convened by the Head of Paid Service (or in the case of an allegation against the Head of Paid Service) by the Leader, in consultation with all Group Leaders (who will make nominations in accordance with political balance).

If the Statutory Officer does not agree any proposed informal course of action and/or if it is decided to refer the matter to the IDC, the Head of Paid Service, or Chair of the IDC (in case of an allegation against the Head of Paid service), will decide whether to suspend and will have authority to suspend if it is considered appropriate. This may be necessary, for example, if an allegation is such that if proven it would amount to gross misconduct or if the Statutory Officer's continuing presence at work might compromise the investigation or impair the efficient exercise of the Council's functions. If it is decided that the Statutory Officer should be suspended, the Statutory Officer will be informed in writing of this and of the reason for the suspension without delay.

## The Investigating and Disciplinary Committee (IDC)

1. For the avoidance of doubt from hereon it should be noted that Statutory Officer refers to The Head of Paid Service, Monitoring Officer or the Chief Finance Officer (S151)
  - (a) Where an allegation is made, the Assistant Director Organisational Development will write to the Statutory Officer to invite the Statutory Officer to an IDC investigative meeting within 10 working days of the meeting. The invitation should set out the allegation(s) and issues and provide any evidence to be considered. The invitation will also invite the Statutory Officer to submit a written response to the IDC not less than 5 working days before the meeting.
  - (b) Following the investigative meeting, the IDC will determine the course of action to be either:
    - (i) no further action required; or
    - (ii) informal, un-recorded warning given; or
    - (iii) an Independent Investigator to be appointed to investigate the allegations and report to the IDC with their findings and recommendations.
  - (c) The Chair of the IDC will confirm the outcome of the investigative meeting in writing to the Statutory Officer without delay.
  - (d) If the IDC decides to appoint an Independent Investigator, it will approach the JNC Joint Secretaries, who will provide a list of the top 3 available names from the list. If these are acceptable to the IDC, the Statutory Office will be invited to select one of the names. If genuine conflicts of interest are raised these will be considered by the IDC but if the Statutory Officer does not agree within 14 days, the IDC should be free to appoint their choice from the list.
  - (e) The Independent Investigator will conduct an investigation and produce a written report to the IDC:
    - (i) Stating in their opinion whether (and if so, the extent to which) the evidence they have obtained supports the allegation of misconduct or other issue under investigation; and
    - (ii) Recommending any disciplinary action or range of actions (if any) which appear to them appropriate for the authority to take against the Statutory Officer.
  - (f) Where the Statutory Officer is suspended, the suspension should be reviewed by the Chair of the IDC after two months, and only continued following consultation with the Independent Investigator. The Chair of the IDC should confirm the outcome of the review in writing to the Statutory Officer without delay and after taking into account any representations made by the Statutory Officer.

- (g) If the Independent Investigator considers that there is a case to answer, the Assistant Director Organisational Development will arrange a hearing in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures and invite the Statutory Officer to attend, giving at least 10 working days' notice. The report of the Independent Investigator (and any associated paperwork) will be shared with the IDC and the Statutory Officer affected in good time. The Statutory Officer has a right to be accompanied in the normal way. Any written response to the documents provided by the Independent Investigator should be received from the Statutory Officer at least 5 working days in advance of the hearing.
- (h) At the hearing, the Independent Investigator should present their findings, including calling any witnesses they may wish to. After this presentation, the Statutory Officer may ask questions. The Statutory Officer will then have the opportunity to present their case and call any witnesses.
- (i) The IDC will then consider which of the following outcomes is appropriate:
- (i) no further action; or
  - (ii) refer back to the Independent Investigator for further investigation and report; or
  - (iii) disciplinary action short of dismissal or other appropriate procedure; or
  - (iv) recommend dismissal.
- (j) If the IDC decide on disciplinary action short of dismissal, then the Statutory Officer will have the right of appeal. Appeals should be heard by an Appeals Committee, drawn from Full Council, and which will be a politically balanced Committee of normally 5 members who were not part of the IDC. The appeal must be submitted in writing within 10 working days of the hearing. Full details setting out the grounds of appeal must be provided.
- (k) Where the IDC propose dismissal, the IDC will inform the Proper Officer that it is proposing to the Council that the Statutory Officer be dismissed. In the case of any proposal to dismiss the Head of Paid Service, the Proper Officer will be the Monitoring Officer and in all other cases, the Proper Officer will be the Head of Paid Service. The Proper Officer should then notify the Cabinet of:
- (i) The fact that the IDC is proposing to the Council that it dismisses the Statutory Officer.
  - (ii) Any other particulars relevant to the dismissal.
  - (iii) The period by which any objection to the dismissal is to be made by the Leader to the Proper Officer.
- (l) At the end of this period, the Proper Officer will inform the IDC either:
- (i) That the Leader has notified them that neither he/she nor any member of the Cabinet has any objection to the dismissal.
  - (ii) That no objections have been received from the Leader, or
  - (iii) That an objection or objections have been received and provide details of the objections.

- (m) The IDC will consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If there are any material and/or well-founded objections to the proposal to dismiss, the IDC will consider the impact of any objections on the decision and commission further investigation by the Independent Investigator and report if required. If there is no material and/or well-founded objections to the proposal to dismiss, the IDC will inform the Statutory Officer of this decision. Thereafter, the IDC will put the proposal to recommend dismissal to an Independent Panel (IP) that should be convened, giving at least 5 working days' notice to all concerned. The IP members must be appointed to the IP at least 20 working days before the Full Council meeting at which it considers whether to approve a proposal to dismiss.
- (n) The IP should comprise two or more relevant Independent Persons who accept the invitation in the following priority order:
- (i) an Independent Person who has been appointed by the Council and who is a local government elector in the authority's area.
  - (ii) any other Independent Person who has been appointed by the Council;  
and
  - (iii) an Independent Person who has been appointed by another Council or Councils.
- The IP members will be appropriately supported on matters of process and compliance with employment law.
- (o) The role of the IP is to offer any advice, views or recommendations it may have to the Council on the proposal for dismissal. The IP will receive the IDC proposal and reasons in support of the proposal, the report of the Independent Investigator and representations (oral and/or written) from the Statutory Officer and their representative. Any written response to the proposal to dismiss, including the Independent Investigator's report should be received by the IP from the Statutory Officer at least 5 working days before the IP meeting. The IDC should be represented by its Chair or other nominated person at the IP meeting. The Independent Investigator may also be invited to attend the IP meeting to provide clarification if required. The Statutory Officer and their representative will have a right to attend the meeting. Members of the IP may ask questions of all parties who have been given reasonable opportunity to be present or represented. While representations may be made, the IP will not conduct a rehearing of the evidence.
- (p) The IP should then formulate any advice, views or recommendations it wishes to present to the Council. If the IP is recommending any course of action other than that the Council should approve the dismissal, then it should give clear reasons for its point of view. The Statutory Officer and their representative will have a right to reply to any recommended course of action.
- (q) Where dismissal is recommended, Full Council must consider the proposal and reach a decision before notice of dismissal is issued. The Statutory Officer will be provided with all relevant papers or documents in advance of the meeting and will be allowed to attend (and be accompanied by their representative) and put forward his/her case before a decision is reached. Written representations may also be given by the Statutory Officer in advance of the meeting. The Independent Investigator may also be invited to attend.
- (r) Full Council will consider which of the following outcomes is appropriate:
- (i) Approve dismissal; or
  - (ii) Reject the proposal to dismiss; or

- (iii) Substitute a lesser sanction; or
  - (iv) Refer the matter back to the IDC to determine such appropriate lesser sanction
- (s) No notice of dismissal shall be given until the decision has been approved by Full Council.
- (t) Where the IDC has made a proposal to dismiss, the hearing by Full Council will also fulfil the appeal function.
- (u) Any discussion at the Full Council or the IDC under these rules regarding an individual officer would be conducted under the exempt part of the meeting.

# PART 5 CODES AND PROTOCOLS

## Part 5(i) Members' Code of Conduct

### Local Government Association Model Councillor Code of Conduct 2020



#### Joint statement

The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as Councillors we can be held accountable, and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual Councillor affects the reputation of all Councillors. We want the role of Councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become Councillors.

As Councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a Councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

#### Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for Councils to adopt in whole and/or with local amendments.

All Councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to Councils and Councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local Councils can offer advice and support to town and parish Councils.



## Definitions

For the purposes of this Code of Conduct, a “Councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

- a) is a member of any Committee or sub-Committee of the authority, or;
- b) is a member of, and represents the authority on, any joint Committee or joint sub-Committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or sub-Committee”.

For the purposes of this Code of Conduct, “local authority” includes county Councils, district Councils, London borough Councils, parish Councils, town Councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

## General Principles of Councillor Conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority’s requirements and in the public interest.

## Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements, and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## Standards of Councillor Conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### General Conduct

1. **Respect:** As a Councillor:
  - (a) I treat other Councillors and members of the public with respect.

- (b) I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider, or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor- officer protocol.

2. **Bullying, harassment, and discrimination:** As a Councillor:

- (a) I do not bully any person.
- (b) I do not harass any person.
- (c) I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. **Impartiality of officers of the Council:** As a Councillor:

- (a) I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. **Confidentiality and access to information:** As a Councillor:

4.1 I do not disclose information:

- (a) given to me in confidence by anyone
- (b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:
  - (i) I have received the consent of a person authorised to give it;
  - (ii) I am required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - 1. reasonable and in the public interest; and
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
    - 3. I have consulted the Monitoring Officer prior to its release.

4.2I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer, or my business interests.

4.3I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents, and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. **Disrepute:** As a Councillor:

- (a) I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater Scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

6. **Use of position:** As a Councillor:

- (a) I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. **Use of local authority resources and facilities:** As a Councillor:

- (a) I do not misuse Council resources.
- (b) I will, when using the resources of the local authority or authorising their use by others:
- (i) act in accordance with the local authority's requirements; and ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. **Complying with the Code of Conduct:** As a Councillor:

- (a) I undertake Code of Conduct training provided by my local authority.
- (b) I cooperate with any Code of Conduct investigation and/or determination.
- (c) I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- (d) I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to Scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## 9. Protecting your reputation and the reputation of the local authority

### 1. **Interests:** As a Councillor:

- (a) I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

### 4. **Gifts and hospitality:** As a Councillor:

- (a) I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence, or other significant advantage.
- (b) I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- (c) I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case, you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## Appendix A – The Seven Principles of Public Life

### **SELFLESSNESS**

Holders of public office should act solely in terms of the public interest.

### **INTEGRITY**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **OBJECTIVITY**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **ACCOUNTABILITY**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the Scrutiny necessary to ensure this.

### **OPENNESS**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **HONESTY**

Holders of public office should be truthful.

### **LEADERSHIP**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in Table 1 below.

“**Partner**” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Non-participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion, or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensations may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### **Disclosure of Other Registerable Interests**

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **Disclosure of Non-Registerable Interests**

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - (a) your own financial interest or well-being;
  - (b) a financial interest or well-being of a relative or close associate; or
  - (c) a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**



you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - (a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest
  
10. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
  
11. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession, or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the Council) made to the Councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a Councillor, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the Councillor or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the Council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the Council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or their spouse or civil

	partner or the person with whom the Councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the Councillor's knowledge) — the landlord is the Council; and the tenant is a body that the Councillor, or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the Councillor's knowledge) has a place of business or land in the area of the Council; and (b) either — (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class

\* 'director' includes a member of the Committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registrable Interests

1. You must register as an Other Registrable Interest:
  - (a) any unpaid directorships
  - (b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
  - (c) any body
    - (i) exercising functions of a public nature
    - (ii) directed to charitable purposes or
    - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

## Appendix C – the Committee on Standards in Public Life

1. The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.
2. The recommendations cover:
  - Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
  - The introduction of sanctions
  - An Appeals process through the Local Government Ombudsman
  - Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
  - Updates to the Local Government Transparency Code
  - Changes to the role and responsibilities of the Independent Person
  - That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished
3. The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring Councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by Councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both Councillors and the public, in a prominent position on a Council's website and available in Council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the

allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish Councillor towards a clerk should be made by the chair or by the parish Council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish Councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

## **Part 5(ii) Officers' Code of Conduct**

### **1. Introduction**

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and conditions of service and provides further guidance to assist local authorities and their employees in their day-to-day work. The Code is produced in the light of the changes that employees face in the new and more commercially orientated environment. This includes the introduction and extension of compulsory competitive tendering (CCT), market testing, changes in the management of the education and housing services, care in the community, management buyouts, etc.

### **2. Status of the Code**

The Code is voluntary for local authorities to adopt but sets out the minimum standards that should apply. The aim of the Code is to lay down guidelines for local government employees which will help maintain and improve standards and protect employees from misunderstanding or criticism.

The Code has been approved by the local authority associations in England and Wales and the Local Government Management Board (LGMB) in consultation with those bodies listed in Appendix B.

### **3. Who the Code is Aimed at**

The Code applies to all local government employees in England and Wales.

Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. The Code is intended to cover all employees under a contract of employment within local government, including office holders such as registrars. Activities carried out by employees acting as members of companies or voluntary organisations should be subject to the minimum standards within this Code.

### **4. Standards**

1. Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service.
2. Employees must report to the appropriate manager any impropriety or breach of procedure.

### **5. Disclosure of Information**

1. It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The authority itself may decide to be open about other types of

information. Employees must be aware of which information their authority is and is not open about, and act accordingly.

2. Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

## 6. **Political Neutrality**

1. Employees serve the authority as a whole. It follows they must serve all Councillors and not just those of the controlling group and must ensure that the individual rights of all Councillors are respected.
2. Subject to the authority's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
  - (a) Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
  - (b) Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3.1 to 3.3.

## 7. **Relationships**

1. Employees are responsible to the authority through its senior managers. For some, their role is to give advice to Councillors and senior managers, and all are there to carry out the authority's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.
  - (a) **The Local Community and Service Users:** Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.
  - (b) **Contractors:** All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate manager.

## 8. **Appointment and Other Employment Matters**

1. Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work with them.
2. Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

## 9. **Outside Commitments**

1. Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests.
2. Employees should follow their authority's rules on the ownership of intellectual property or copyright created during their employment.

## 10. **Personal interests**

1. Employees must declare to an appropriate manager any non-financial interests that they consider could bring about conflict with the authority's interests.
2. Employees must declare to an appropriate manager any financial interests which could conflict with the authority's interests.
3. Employees should declare to an appropriate manager membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

## 11. **Equality Issues**

1. All local government employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equality.

## 12. **Separation of roles during tendering**

1. Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
2. Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and subcontractors.

3. Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
4. Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.

### **13. Corruption**

1. Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward, or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made, it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

### **14. Use of Financial Resources**

1. Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

### **15. Hospitality**

1. Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when they are part of the life of the community or where the authority should be seen to be represented. They should be properly authorised and recorded.
2. When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
3. Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of taken value such as pens, diaries, etc.
4. When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
5. Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

### **16. Sponsorship – Giving and Receiving**

1. Where an outside organisation wishes to sponsor, or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic



conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

2. Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

## **GUIDELINES**

### **1. Hospitality**

1. Occasions when expenditure on Hospitality can be incurred:
    - (a) Directorate, and other Officer meetings within and outside the Council's Oaklands Campus including working lunches.
    - (b) Meetings between Officers and other parties, i.e., Officers from other Councils, Members, Consultants, Contractors, etc.
    - (c) Candidates for interview for posts graded over Grade MP02.
- N.B.** Where hospitality is provided to other parties this must be noted in the relevant Directorate's Register of Official Hospitality Given.
2. Each Directorate should have a Budget for Hospitality separate from Subsistence and the hospitality given should be on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant. All expenditure should be substantiated with either VAT receipts or Internal Invoices from the Council.

### **2. Receipt of Hospitality or Gifts by Employees of the Council**

#### **1. Introduction**

1. The following guidelines supplement the law, the Council's standing orders and the code of conduct in the National Scheme of Conditions of Service. Officers are reminded of the opening sentence of paragraph 2 of the National Scheme of Conditions of Service which is as follows:
  - (a) "Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.
  - (b) Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers."
2. To a large extent the reputation of Local Government depends on the conduct of its officers who are expected to use common-sense in assessing any situation where improper influence could be construed. Officers should not, therefore, do anything which could give rise to accusations of improper influence, and which could not be justified publicly.

3. These guidelines are intended to assist officers to reach the right decision in any particular case relating to the receipt of hospitality or gifts. If a member of staff is in any doubt about the right course of action to take, they should always seek the advice of their Chief Officer.

### **3. Hospitality**

1. There should be no cause for concern regarding the offer of hospitality if it is made by another non-commercial public body but in all other cases, hospitality must be treated with caution.
2. All offers of hospitality where any suggestion of improper influence is possible must be refused. Special caution is necessary where hospitality is offered by a person or body having business with or seeking a decision from the authority.
3. Hospitality should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of hospitality. The acceptance of hospitality should not be seen as placing an obligation on officers to reciprocate.
4. The circumstances and type of hospitality provided in such circumstances must be recorded in the relevant Directorate's Register of Gifts and Hospitality Received.
5. The following are examples of hospitality which is acceptable and that which is not:

#### **Acceptable**

(a) An offer of a drink following a site inspection

(b) Invitation to attend functions where you represent the Council (e.g., dinners where the member of staff is the guest speaker, opening ceremonies, trade shows, etc.) or to functions which are attended in an official capacity by virtue of professional position and/or in furtherance of good public relations locally.

(c) Hospitality offered by other public bodies, except in commercial circumstances.

(d) A working lunch of a modest standard provided to enable the parties to continue to discuss business.

(e) Invitation to join other company guests as a spectator at a cricket match, rugby match, race meeting or other sporting event.

(f) Invitations to social events offered at Conferences of local authority associations or an officer's professional body.

#### **Unacceptable**

(a) Cabarets or offers of hotel and tickets for theatre in London or elsewhere.

(b) Personal invitations to have evenings out with representatives from a company or firm who have dealing with the Council.

- (c) Holidays or use of a company flat.
- (d) When there is a matter at issue, then offers of hospitality should not be accepted, even though they normally would be i.e.
- (e) Hospitality should not be accepted from a Council contractor 6/12 months prior to the re-negotiation or re-tendering of a Contract.

#### 4. Gifts

1. There is little doubt that the acceptance of gifts by officers of the Council from persons who have, or may seek to have, dealings with the Council would be viewed by the public with grave suspicion and would make both the officer concerned and the Council extremely vulnerable to criticism. Officers should, therefore, tactfully refuse any personal gift which is offered to them or to a member of their family by, or indirectly attributable to any person or body who has or may have dealings of any kind whatsoever with the Council or, who has applied, or may apply, to the Council for any planning or other kind of decision.
2. The only exceptions to this rule are:
  - (a) Small gifts of only a token value often by way of trade advertisements to a wide range of people, e.g., calendars, diaries, tape measures and similar articles, or
  - (b) Small gifts of only a token value given on the conclusion of a courtesy visit, e.g., to a factory or other premises, or
  - (c) Small gifts of only a token value given for the provision of some personal service, e.g., by grateful customer to Benefits Section, or
  - (d) Small gifts where the officer concerned and also perhaps the officer's spouse are personal friends of the donor and where refusal would be regarded as impolite. In such cases, however, whilst the gift may be accepted it should be explained to the donor the problems of accepting such gifts so as to ensure that a difficult situation does not arise.
  - (e) Small gifts of only token value given away free at conferences, etc.
3. If there is any doubt about whether a gift may be accepted the gift should be politely and tactfully refused.
4. Officers are reminded that under the provisions of Section 117 of the Local government Act 1972 they are forbidden under the colour of their office and employment to accept any fee or reward other than their proper remuneration and any person who contravenes this provision would be liable on summary conviction to a fine not exceeding £200. Proper remuneration includes any fees payable to an officer under their conditions of service as approved by the Council's Employment Committee.
5. In the event of an officer receiving a gift without warning, which does not fall into any of the exceptions mentioned about, the officer should immediately report this to their Chief Officer who will be responsible for deciding whether the gift should be returned or whether it could be forwarded to some charitable or other deserving cause. In such cases, the Chief Officer concerned should inform the donor what has happened to the gift and explain why and ask if they will kindly not send gifts in the future.

6. In all cases gifts received should be noted in the relevant Directorate's Register of Gifts and Hospitality Received.

## Part 5(iii) Protocol for Member/Officer Relationships

### 1. THE ROLE OF MEMBERS

1. Members have a complex role. They are required to act simultaneously as:
  - (a) **Politicians** – Members usually belong to a political group that is represented on the Council. Members will express their political values and support the policies of their political group;
  - (b) **Representatives** – Members must interpret and express the wishes of the electorate and account for the service priorities, allocation of resources and ultimate performance of the Council. Members may also become involved in the affairs of individual ward residents; and
  - (c) **Council members and Members of the Cabinet and of Scrutiny Committees** – Members are individually and collectively responsible for the performance, developments, continuity and overall well-being of the Council. In this executive role, members should avoid becoming involved in the detail of individual cases where this is likely to compromise their collective responsibility to protect the Council's interest.

### 2. THE ROLE OF OFFICERS

1. The role of each officer is dependent upon their specific job description. However, in broad terms Council officers have the following main roles:
  - (a) **Service Managers** – Officers must manage the services for which the Council have given them responsibility. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibility;
  - (b) **Professional Advisors** – Officers must advise the Council, its Committees, and members in respect of their service area;
  - (c) **Policy Managers** – Officers may initiate policy proposals as well as being implementers of agreed policy; and
  - (d) **Legal Advisors** – Officers must ensure that the Council always acts in a lawful manner.

### 2. MEMBERS AND OFFICERS – THE PROFESSIONAL RELATIONSHIP

#### What Officers can expect from Members

1. Members and officers have very distinct roles. In carrying out these roles Council officers can expect that Members **will**:
  - (e) endeavour to maintain a relationship of mutual trust and respect between each other and members and officers;
  - (f) treat all Officers with dignity and courtesy;
  - (g) provide support and appropriate confidentiality;

- (h) only ask Officers to provide advice on matters that clearly arise from being an elected Councillor; and
- (i) at all-time comply with the Mid Sussex Code of Conduct; and
- (j) that Members will not:**
- (k) ask Officers to breach Council procedures or policy when acting on behalf of constituents;
- (l) seek special treatment for themselves or any individual. For example, requesting a renovation grant for a relative. (When dealing with Council officers, members must declare any special relationships with constituents);
- (m) put pressure on an Officer on matters which have been delegated for Officer decision. A Member who behaves in this way may lead officers to make decisions that are not objective and that cannot be accounted for;
- (n) bring undue influence to bear on an Officer to take any action that is a breach of the disciplinary code for employees or in conflict with standing orders or financial regulations; or
- (o) raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively at meetings held in public.

### **What Members can expect from Officers**

2. Council officers are to provide advice and information to members and to implement Council policy, therefore members can expect that Council officers WILL:
  - pursue every known lawful policy of the Council;
  - serve all Members, not just those of the majority group;
  - avoid close personal familiarity with Members;
  - behave in a professional manner in all aspects of their job;
  - deal with Member enquiries effectively and efficiently;
  - be helpful and respectful to Members;
  - maintain confidentiality, except where it is proper for the officer to disclose the matter;
  - notify the relevant Member where the officer is unable to respect that member's wish that a matter be kept confidential;
  - report to their service heads any time that a member asks or pressures the employee to deal with a matter outside of Council procedure or policy;

### **and that Council officers WILL NOT:**

- allow their own personal or political opinions to interfere with their work;
- disrupt any Council meetings;
- seek to influence Members prior to any appointment;
- raise personal matters to do with their jobs directly with Members;
- improperly disclose information received from a Member;
- conceal any information which it is proper for them to disclose (particularly where they have a duty to reveal it); or
- raise matters of conduct or capability of a Member at a public meeting.

### **Council Officers shall be Politically Neutral**

3. Officers will only attend political group meetings on request but cannot be instructed to do so.
4. Officers who do attend must make any information available to the majority party group also available to the minority party group on request.
5. Officers must not be asked to meet with or advise a caucus of Members who have no locus within the decision-making process.
6. Discussions between Officers and Members on policy issues are quite proper and officers may wish to seek political guidance in framing policy proposals. However, when Officers write Committee reports for member decision, they have a duty to give the advice dictated by their professional expertise.
7. Therefore, Members must not seek to influence the content of reports to Committee and party-political groups have no right to rewrite Officer reports or instruct on their content.
8. Although Officers must report as they see fit, Members are equally entitled to reject proposals and recommendations which are put to them.

### **Chief Officers, Directors, Members of the Cabinet and Chairman of Committees**

9. Directors and Chief Officers are expected to work closely with members of the Cabinet, Committee chairman and their deputies, and to meet regularly with them.
10. Members of the Cabinet may have individual decision-making powers under the Council's scheme of delegation. Officers must only act under the delegated authority of a Member of the Cabinet where that member has followed the correct decision-making procedure and can support their decision with an appropriate written report.
11. Committee decisions will not be made by the chairman alone but by the Committee. The chairman should not seek to influence a director to reduce the options or withhold information which they should properly report to a Committee.

### **3. MEMBERS AND OFFICERS – MEMBERS' ENQUIRIES**

1. 100% of members' enquiries will be dealt with and responded to within 7 working days.
2. Each Chief Officer/Director is responsible for ensuring that member enquiries are dealt with promptly and accurately in their directorate.

### **4. MEMBERS AND OFFICERS – E-MAIL CORRESPONDENCE**

1. It is important that members and officers have a clear idea of the arrangements pertaining to the use of e-mail for correspondence. Council Members are encouraged to use their computers to communicate with the Council. Officers will update Members on casework progress via e-mail.
2. E-mail correspondence will be treated in exactly the same way as formal letters. That is, enquiries by Members through e-mail will be acknowledged within 2 days and replied to within 7 working days of receipt by the officer.
3. When Members and Officers contact each other, they will afford each other the same courtesy that they would expect to receive.

4. Officer's names are listed in the global address book in exactly the same way as member's names are, i.e., first name and then surname. Unless otherwise agreed, Members names are followed by the title "Councillor".
5. The same courtesy as that when addressing letters should be used when communicating via e-mail. For example, 'Dear (Officer's name or Councillor ...' when starting the communication and finishing with an electronic signature which should state full name and contact details including the title "Councillor" in order to make officers aware of one's position.

## **5. PERSONAL RELATIONSHIPS**

### **Between Members**

1. Members must not seek to influence or pressure any other member to confer any advantage or benefit upon themselves or any other person.
2. Members must not sit on the same recruitment panel or disciplinary panel as another member who is their partner or relative, or otherwise where the Member's relationship with another Member would jeopardise the work of the Council.
3. Members must treat each other with respect. Robust debate on policy issues and the expression of strong political differences, which can be expected, should not extend to personal abuse or to allusions or allegations likely to give personal offence. The Chairman will intervene whenever they consider that this boundary has been crossed.

### **Between Members and Officers**

4. Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual members and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.
5. It is not enough to avoid actual impropriety. Members must avoid any occasion for suspicion and any appearance of improper conduct.
6. Members must declare to the Chief Executive any relationships with an Officer, which might be seen as influencing their work as a member. This includes any family, business, or sexual relationships.
7. Officers also have a duty to declare any such relationship to their manager.
8. The Chief Executive will advise both the Member and the employee of the need to avoid creating any appearance of improper conduct on their part.



## **Part 5(iv) Codes of Practice for Planning Applications**

### **Protocol for Planning Applications**

#### **3. Planning applications tend to be high profile and sometimes controversial with strongly held beliefs either for or against.**

Planning applications can also involve large sums of money. As a consequence of the above many of the complaints about Members being in breach of the Members' Code of Conduct arise from issues surrounding planning applications. Members should think very carefully and take advice on possible interests when an applicant is in any way known to them or the application relates to a site close to where they or a member of their family have a land interest. Where a planning application will affect the financial position of a member or that member's family it is probable the Members' interest is an Other Registerable Interest and they will not be able to take part in the discussion on the planning application or vote. Members with a Disclosable Pecuniary Interest or Other Registerable Interest may speak to senior officers about the planning application but should not try to affect the views of fellow Councillors.

A Member with an Other Registerable Interest can speak for 2 minutes at an Area Committee or 3 Minutes at the District Committee in the same way as a Member of the public but must then leave the room. The Code of Conduct applies to all members in the room and not just to those serving on the Committee.

#### **4. Planning is a quasi-judicial function and therefore the rules about predetermination and bias apply to members of planning Committees.**

Those who are members of the planning Committee must come to the Committee with an open mind still able to take on board the advice from officers and the views of fellow members before reaching a final decision on a planning application. If a member is also a member of the relevant town or parish Council, they do not automatically have any interest under the Members Code of Conduct as the result of the membership of that town or parish Council, but they should ensure that any views they state at the parish Council are clearly provisional views pending the receipt of all the papers and the debate of their fellow Councillors at District Council level. Predetermination is when a member has decided an application before the matter reaches Committee. This is not the same as predisposition. In predisposition a member might have expressed views either for or against a particular type of planning development but not in relation to a specific development proposal. Once a planning application has been submitted for a specific development proposal it may be best for planning Committee members not to express any public view on the matter but simply to listen to the representations being made to them and inspecting the site without further comment.

Bias occurs where a reasonable person knowing all the facts would believe that the member was either for or against an application, for example by reason of their past association with or past statements about a particular matter.

If a member takes part in a Committee when they are predetermined, or there are past actions indicating bias, this may result in any decision taken by the Committee being open to a legal challenge, which could cause a financial loss to the Council.

## **5. Controversial Planning Applications in your Ward.**

Where a ward member is also a member of the relevant planning Committee, they must choose at an early stage in the process whether they wish to act as ward member and promote or oppose the application or whether they wish to remain silent on the application until it reaches the relevant planning Committee. It is not possible

to do both, because if you start expressing views in public you are likely to give an appearance of bias. A ward member who is not a member of the planning Committee or who chooses to step down from the planning Committee on that particular application can, with the consent of the chairman, speak for an unlimited amount of time about the application prior to the debate of the members of the Committee. For the most controversial of applications this is probably a sensible course of action.

## **6. Delegated Decisions.**

Most decisions where the net gain in the number of houses is nine or less will be delegated to planning officers for decision. Where however the applicant is closely associated with the Council those applications do have to go to Committee. A member can call in planning decisions for consideration by the relevant planning Committee if they think there is a relevant planning matter to discuss. This planning matter must be set out in a written submission received before the end of the public notice period supported by a second Councillor. In expressing this opinion members must ensure that they simply ask the Committee to consider relevant planning matters and do not indicate their particular view on the application at that stage. The rules of bias and predetermination apply to such correspondence because it is made public on the public file of the relevant application. The Leader shall have power to rule out any call-in following discussion with all concerned.

## **7. Meetings With Applicants, Developers and Objectors, and Site Visits.**

Under LGA guidance members are encouraged to be involved in pre-application discussions with developers. They should ensure that these are conducted in accordance with any training given and with officers present. Members should avoid individual meetings with developers and applicants and if such meetings do take place members should avoid expressing their own views on the application but merely listen to the views and give basic advice on the planning procedures. Similarly, members should listen to what objectors have to say and take on board this information alongside all the other information provided. At site visits members should only enter any property with the consent of the landowner and simply view the application site from the site itself and from any neighbouring property without further comment.

## **8. Gifts.**

Members should decline any gifts or offers of hospitality from applicants who have made or are about to make planning applications. If it is impossible to refuse a gift without causing offence the best course of action is to donate that gift to the Chairman's charity. Gifts received and retained, or hospitality received over £40.00 need to be registered.

## **9. Deciding Applications.**

Applications must be decided in accordance with relevant planning policy and other material planning considerations. Other material planning considerations include the site history and in particular previous inspector's decisions on the site (and in particular what

is deemed to be acceptable) and the social and economic benefits a particular planning investment may bring. Members should balance the perceived drawbacks of an application against the perceived benefits and reach a conclusion by weighing these factors up. Members should not refuse an application simply because there is a reason to refuse it. When deciding an application against officer advice members should be clear of the reasons for refusal or alternatively the reasons why they wish to permit the application. Applications cannot be refused or permitted for non-planning reasons.

#### **10. Discussions following the Committee.**

Once a planning Committee has taken the decision members should avoid publicly commenting on that decision even if they do not share the view of the majority of their fellow members.

#### **11. Officer's Advice.**

Officers give their advice to the planning Committee in accordance with the Royal Town Planning Institute's Code of Professional Conduct. Members should not pressurise officers to change this professional advice.

#### **12. Planning and Licensed premises.**

Members should not seek to duplicate licensing controls through the use of planning conditions. Such conditions are more appropriately imposed as conditions of the Premises Licence under the Licensing Act 2003.

### **Protocol for Involving Members in Pre-Application Discussions**

#### **Introduction**

1. Pre-Application negotiations between applicants, their agents and the Council are encouraged in order to achieve the best planning outcome for all. These negotiations may continue after determination of an application if there are reserved or outstanding matters or amendments to be dealt with. The advice note provides guidance for Members on their role in pre-application work and is based on "Positive Engagement- a guide for planning Councillors" (Planning Advisory Service). This advice note should be read in conjunction with that guide, which is set out below.
2. Some applications will benefit from the involvement of Members of the Council and this protocol provides clear guidance regarding this involvement. This will help improve the quality of planning applications and help speed up the process.
3. Members may want to be involved with smaller applications and this protocol also applies in this case.
4. Case Officers will need to notify the relevant Members when they receive a pre-application query, in relation to a major proposal and other proposals that they consider may be of interest to Members. The relevant Members are the Ward Member(s) and Members of the Development Control Committee responsible for other areas. Members attending pre-application discussion must have attended a training session on conduct at pre-application discussions.

## **Attendance of Councillors at Meetings with Developers**

5. Members of the Council, where necessary, can attend pre-application meetings with developers, about major applications, but only when at least one officer is present. Generally, however, there will need to be more than one officer present to enable accurate notes to be made of the meeting.
6. The timing of these meetings will be carefully considered; involvement at an early stage will be essential. For certain application involvement at other stages would be beneficial and a schedule of involvement may need to be agreed with developers.
7. At the start of the meeting the officer will make it clear that the role of the Member is to listen to the discussion, identify issues that the developer will need to consider and represent community interests but that it will not be possible for the Member to enter into negotiations or express a view on the proposal as they need to balance all material considerations before reaching a decision on an application. It will be made clear that the reason for this is to ensure that a Member does not pre-determine their position at any subsequent Councillors meeting.
8. If at any point in the discussions, the developer presses the Member to take part in negotiations or express a view, the officer will remind the meeting of the role of the Member.
9. The Officer will, within 10 days of from the date of the meeting, produce detailed notes of the meeting. This will note those present, the issues identified at the pre-application discussions, and the actions to be taken. These notes will be circulated for approval to those Members who attended and after confirmation of accuracy by all those who attended, forwarded to the applicant.

## **Presentation of Pre-application proposals by developers to Planning Committees.**

10. If a proposal is particularly significant or has more than just local implications a developer will be invited by officers to make a presentation to Members of the relevant Planning Committee, together with the appropriate ward member(s). Generally, this will not be a public meeting.
11. A developer will be advised of the time available for their presentation and will be expected to keep strictly to this programme. There will always be an officer(s) in attendance at the presentation.
12. At the start of the presentation, the Chairman of the relevant Planning Committee will make it clear that Members will listen to the presentation, will identify issues that the developer will need to consider further, represent community interests and ask questions but that it will not be possible for Members to enter into negotiations or express a view as they will need to balance all material considerations before reaching a formal decision on an application. It will be made clear that the reason for this is to ensure that a Member does not pre-determine their view.
13. If at any point the developer presses for a view from, or seeks to negotiate with Members, the Chairman will remind everyone present of the role of Members.

14. Member will each fill in the form below before leaving the presentation to state whether they have or have not pre-determined their view.
15. After the presentation the officer will make a detailed note of the presentation and discussion within 10 working days. The developer should provide the officer with any presentation material to assist with this. This minute will be placed upon a public file.

**“Positive Engagement - A guide for planning Councillors” (Planning Advisory Service)** encourages Councillors to involve themselves in discussion with developers, their constituents, and others about planning matters. Difficulties can be avoided if Councillors follow the general advice:

#### **Councillors should**

- Always involve officers and structure discussions with developers
- Inform officers about any approaches made to you and seek advice
- Familiarise yourself with your authority's Code of Conduct and follow it when you are representing your authority
- Keep your register of interests up to date and follow your local authority's planning code
- Be aware of what predisposition, predetermination and bias mean in your role (ask your monitoring or planning officer and refer to the advice on Predetermination, Predisposition and Bias if unsure)
- Be prepared to hold discussions with an applicant and your officers before a planning application is made, not just after it has been submitted to your authority
- Preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding
- Be aware of what personal and prejudicial interests are (refer to your monitoring officer and the Standards Board's website if you are unsure)
- Recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning
- Use meetings to show leadership and vision
- Encourage positive outcomes
- Ask for training from your authority in probity matters
- Recognise that you can lobby and campaign but that this may remove you from the decision-making process
- Feed in both your own and your local community's concerns and issues
- Be aware that you can engage in discussions, but you must have and be seen to have an open mind at the point of decision making

#### **Councillors Should Not:**

- Use your position improperly for personal gain or to advantage your friends or close associates
- Meet developers alone or put yourself in a position where you appear to favour a person, company, or group – even a 'friendly' private discussion with a developer could cause others to mistrust your impartiality
- Attend meetings or be involved in decision-making where you have a prejudicial interest under the Model Code of Conduct – except when speaking when the general public are also allowed to do so
- Accept gifts or hospitality
- Prejudge or be seen to prejudge an issue if you want to be a decision maker on a proposal
- Seek to influence officers or put pressure on them to support a particular course of action in relation to a planning application

- Compromise the impartiality of people who work for your authority
- Invent local guides on probity in planning which are incompatible with current guidance – look for commonly held and common-sense parallels in other authorities or the principles set out in national guidance

**Form to be Completed by Members**

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**Member Involvement in Pre-Application Discussions**

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**Pre-Application reference:**

**Proposal**

**Site**

**Meeting/Presentation**

**Date**

**Name of member**

This is to certify that **I have not pre-determined** my views on the above proposal

Signature of Member

This is to certify that **I have pre-determined** my view of the above proposal

Signature of Member

## **Part 5(v) Complaints Procedure**

### **MID SUSSEX DISTRICT COUNCIL - COMPLAINTS PROCEDURE**

#### **1. INTRODUCTION**

1. This complaints procedure will apply to all complaints received by the Council, irrespective of the subject of the complaint or the area of activity covered save for complaints about member conduct which should be addressed to the Monitoring officer.
2. The objective of the procedure is to ensure that all complaints are dealt with in a fair, consistent and thorough manner and where complaints are found to be justified to remedy the situation and as far as practicable resolve the issue to the satisfaction of the complainant. It is important that all responses to complainants should be written in a constructive manner, even if we cannot resolve the issue concerned.
3. A complaint for the purposes of this Complaints Procedure is an expression of dissatisfaction about the actions or lack of actions by the Council or its staff affecting an individual or group. Complaints do not cover requests for a service, requests for information or explanation of Council policy, practice or actions taken, or matters for which there is another right of appeal (an appeal within the Council or to an independent inquiry or tribunal) or a legal remedy.
4. The procedure does not cover the exercise of professional judgement by an officer in the grant or refusal of planning permission, or a decision taken by a planning Committee on a planning application. The procedure shall apply on matters relating to planning applications where it is alleged that there has been some failure of the Council's procedures. If the nature of the complaint is such that it cannot be agreed whether the complaint should be dealt with under the procedure, the Council's Monitoring Officer shall determine whether the procedure should apply. If it is decided that the procedure should not apply, the complainant will be given every assistance in pursuing their complaint via the Ombudsman.
5. The procedure is intended to cover the Council's relationship with those outside the organisation and will not therefore cover complaints from members of staff concerning their employment, which will be dealt with in accordance with the Council's employment policies and procedures.
6. The Complaints Officer for the purpose of this Complaints Procedure will be the Head of Communications, PR, and Community Engagement.
7. The Complaints Officer shall maintain a register of all complaints received and shall enter in the register details of the complaints, results of the investigations and steps taken as mentioned in paragraph 5.2 below.

#### **2. REGISTERING A COMPLAINT**

1. Where it is not possible to immediately resolve a complaint (see paragraph 4 below) and to ensure that all complaints are fully investigated and that there are no misunderstandings as to the circumstances, it is important that all complaints are in writing. Complaints may be received on the complaints form issued by the Council, in the form of a letter, or received from a Member of the Council on behalf of a complainant. Complaints may also be submitted by e-mail or on-line, via the Council's website. Where requested by the

Complainant to do so, a complaint may be written out for the complainant by a member of the Council's staff (see 3 below).

2. Where a complaint is received orally initially, either in person or over the telephone and unless the complaint can be resolved to the satisfaction of the Complainant as described in 2.4 below, the potential complainant will be asked to put the complaint in writing. The complainant should be asked whether they would wish to be sent a complaint form to complete. If they do wish to be sent a form this should be supplied either immediately if they are complaining in person, or by the end of the next working day if it is requested over the telephone. A reply-paid envelope should be supplied where a form is sent to the complainant or where the form is taken away for later completion.
3. Council staff will give every assistance to the member of the public making the complaint and will write the complaint out for the complainant if requested to do so and will submit it on behalf of the complainant. Where possible, the staff member will agree the wording of the complaint with the complainant before it is submitted.
4. Where it appears to the person receiving an oral complaint that it may be possible to resolve that complaint without the need to take further formal steps, the staff member will take all possible action to attempt to resolve the complaint to the satisfaction of the complainant. If it is not possible to resolve the complaint in this way, the action in 2 above will be followed.

### 3. ACTION ON RECEIPT OF A COMPLAINT

1. On receipt of a complaint in writing, the matter will be referred to the Head of Service responsible for the service concerned. The Head of Service will fully investigate the complaint and compile a report.
2. Upon the receipt of a complaint the Head of Service will send a letter of acknowledgement to the complainant and will **within one working day** submit a copy of the complaint received to the Complaints Officer who will maintain a register of complaints received.
3. Where the complaint is received via the website the Complaints Officer will acknowledge the complaint on behalf of the Head of Service and forward the complaint to them for action as stated above.

### 4. ACTIONS TO BE TAKEN FOLLOWING REGISTRATION OF A COMPLAINT

1. Immediately upon receipt of the complaint the Head of Service or Complaints Officer will acknowledge in writing that it has been registered and is being investigated. In no circumstances should this acknowledgement be given later than **three working days** following receipt of the complaint. Where the complaint has been received via a Member of the Council, a copy of the letter of acknowledgement should also be sent to that Councillor.
2. The Head of Service should endeavour to ensure that the investigation is completed, and report compiled **within ten working days** of the registration of the complaint. Where due to the complexity of the matter or other factors beyond the control of the Head of Service it appears that it will not be possible to complete the investigation within this timescale, the officer shall write to the complainant explaining the circumstances and the reason for the delay, giving a target date for completion. Where the complaint relates to



the Freedom of Information Act, the Head of Service will liaise with the Assistant Director Legal and Democratic Services and Monitoring Officer as part of the investigation.

3. From the information obtained, the Head of Service shall determine whether the complaint was justified either in whole or in part and shall decide what action, if any, is required in the circumstances. In exceptional circumstances they may carry out further investigation of the matter should it be considered necessary. If this will delay the result of the investigation being given, written notification shall be sent to the complainant and copied to the Complaints Officer.

## **5. NOTIFICATION TO COMPLAINANT**

1. The Head of Service shall inform the complainant of the result of the investigation and any steps to be taken as a result of the report within **three working days** of resolution. If the complaint was received via a Member of the Council, the Member concerned will also be notified. A copy of the letter to the complainant shall also be sent to the Complaints Officer.
2. Where steps have been taken to rectify the complaint, these steps shall be clearly specified in the written response to the complainant. Similarly, if any steps have been taken to alter Council procedures or to improve service delivery as a result of the complaint these shall be clearly specified.
3. The letter sent to the complainant at this stage shall contain a paragraph to the effect that if they are not satisfied with the outcome of the investigation or with any steps to be taken as a result, then there is a right of appeal to an independent Director/Assistant Director not responsible for the service concerned who will further investigate the matter. The complainant will be advised that if they wish to appeal that they should contact the Complaints Officer who will allocate the complaint to a Director/Assistant Director. Cases will be allocated to Director/Assistant Director on a rotational basis.

## **6. APPEAL TO AN INDEPENDENT DIRECTOR/ASSISTANT DIRECTOR**

1. The complainant may, if they are dissatisfied with the result of the investigation or any steps proposed as a result, appeal against the decision to a Director/Assistant Director who does not have responsibility for the service concerned. The case will be allocated to the Director/Assistant Director as indicated in 5.3 above.
2. Upon receipt of the notification of the appeal, the Director/Assistant Director will request the Head of Service concerned to supply a copy of the report on the complaint together with any relevant supporting documentation. At the same time an acknowledgement of the appeal will be sent to the complainant by the Complaints Officer.
3. The Director/Assistant Director will consider the papers submitted and determine whether further investigation is required. If the Director/Assistant Director decides that further investigation is needed, they may require such further steps to be taken as are considered necessary to complete a further investigation of the complaint.
4. The Director/Assistant Director will complete investigations within **fifteen working days**, and they will write to the complainant to inform them whether the appeal has been successful in whole or in part, and of any further steps to be taken as a result of the appeal. It shall also contain the information specified in paragraph 5.2.

5. The letter from the Director/Assistant Director will contain a paragraph to the effect that there is no further right of appeal to the Council itself, but giving details of how to lodge a complaint with the Local Government Ombudsman or, in the case of a Freedom of Information Act complaint, with the Information Commissioner. A copy of the letter will be sent to the Complaints Officer, the Head of Service concerned and to the Director/Assistant Director responsible for the service concerned.

## **7. ACTIONS TO BE TAKEN AT CONCLUSION OF COMPLAINTS PROCESS**

1. For the purposes of this paragraph, the complaints process will be deemed to be concluded either when the appeal to an independent Director/Assistant Director has been completed or, in the case of a complaint that does not proceed to appeal, when the complainant states that they do not intend to pursue the complaint any further, or if no further contact is received, after 28 days from the date of the letter referred to in paragraph 5.1 being sent.
2. Management Team will receive a quarterly report on complaints and an annual report will be prepared in June each year for consideration by the relevant and Scrutiny Committee. The Annual report will contain details of service improvements introduced as a result of complaints dealt with under this procedure.
3. The Annual Report will invite the relevant Scrutiny Committee to call for further reports on any specific areas of concern and to make any recommendations regarding service improvements they consider to be appropriate.

## **Part 5(vi) Protocol on Responding to Consultations**

### **1. Protocol on Responding to Consultation Documents**

1. This protocol only applies to consultation where the view of local authorities generally is sought rather than the specific views of Mid Sussex District Council. Requests for information and informal opinions of the type frequently sought by organisations such as the Local Government Association are outside the scope of this protocol and will be dealt with administratively.
2. Directors/Assistant Directors are authorised generally to respond on behalf of the Council to documents which seek the views of local authorities generally. The Chief Executive shall be responsible for putting in place arrangements for ensuring that any response on behalf of the Council reflects the corporate views of the Council.
3. If a Director/Assistant Director considers that a formal response should be sent on behalf of the Council, before any response is sent, the appropriate Cabinet Member with the relevant portfolio or appropriate Committee Chairman shall be consulted as to whether or not the documents raise sensitive issues which should be considered by the Cabinet or other appropriate Committee. If a decision is made to refer the matter to the Cabinet/appropriate Committee the consultation paper shall be the subject of a report in the normal way.
4. All responses to the consultation document which are not the subject of a report to the Cabinet/appropriate Committee shall be included within the Members' information bulletin and the fact that a response has been sent shall be referred to in the report which the Committee Chairman/Cabinet Member with that portfolio makes to the Council.
5. Additionally, there is specific authority given to the Deputy Chief Executive who may formulate responses to plans and proposals of other Authorities and Agencies where the Council's views as local planning authority are sought and when the response is in accordance with established Council policy. A copy of the response shall also be included in the Members' information bulletin.

## Part 5(vii) Monitoring Officer Protocol

### A Protocol on the Discharge of the Functions of the Monitoring Officer

#### How the Monitoring Officer carries out their duties

The Monitoring Officer is responsible for ensuring that the authority and its members act lawfully, do not cause maladministration, and comply with the Code of Conduct for Members. They are the primary source of advice to the authority on law, and to members on their legal obligations including the requirements of the Code of Conduct for Members. But they also have specific statutory duties, such as securing the investigation of complaints of member misconduct which are referred to them by the Standards Sub-Committee or making a public report to the authority in cases of illegality. There is an obvious tension between their role as adviser and the fact that, on occasion, they have to act as “policeman”. The purpose of this paper is to enable members to make best use of the Monitoring Officer’s ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out their functions.

#### 4. Introduction

- (a) The authority recognises that an effective Monitoring Officer, positively engaged in the discharge of the authority’s business, is essential to the effective running and sound corporate governance of the authority.
- (b) The law requires the authority to appoint one of its officers as the authority’s Monitoring Officer<sup>1</sup>, and gives the Monitoring Officer personal responsibility:
  - (i) to report on actual and anticipated illegality within the authority;
  - (ii) to report cases where the Ombudsman has found maladministration on the part of the authority;
  - (iii) to maintain the Register of Members’ Interests;
  - (iv) to administer complaints of member misconduct which are referred to them by any persons or bodies, and
  - (v) to determine whether the disclosure of information would inhibit the effective discharge of the authority’s business under the Freedom of Information Act.
- (c) The authority has decided to extend the functions of its Monitoring Officer beyond these “statutory functions”, and the full list of their functions is set out in Paragraph 4, below. These functions include the provision of advice and assistance to members on the Code of Conduct for Members and local protocols adopted by the authority.
- (d) The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. So, this Protocol describes the manner in which the authority expects them to discharge these functions, and how it expects its officers and members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.

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<sup>1</sup> Section 5(1), Local Government and Housing Act 1989

## **5. Appointment**

- (a) The Monitoring Officer is appointed by the Council and because the role often requires consideration of legal issues, the post is normally a part of the responsibilities of the senior legal officer of the authority.

## **6. A Personal Responsibility**

(a) The Monitoring Officer is required to carry out the statutory functions personally, except that –

- (i) they nominate a member of staff as Deputy Monitoring Officer, with power to act as Monitoring Officer where they are unable to act as a result of absence or illness; and
- (ii) in respect of the conduct of local standards investigations and hearings, they may arrange for any person to perform all or any of their functions, for example by instructing an external lawyer to conduct a particular investigation.

(b) Whilst the statutory functions are personal to the Monitoring Officer, they may arrange for any member of staff to assist them in the discharge of any of the non-statutory functions.

## **7. Functions**

The Monitoring Officer's functions are set out in Appendix One.

## **8. Advice, Decision or Both?**

The Monitoring Officer's responsibilities fall into three distinct categories:

(a) Advice:

In a number of instances, the Monitoring Officer acts as adviser, to the authority or to individual members. For example, a member may seek advice as to whether they have a personal or prejudicial interest in a matter which is coming before a Committee, or whether they need to register membership of a particular interest group. In such cases, the Monitoring Officer will provide such advice, but must ultimately leave the individual member to take their own decision as to their conduct in the light of that advice. Where the member's enquiry discloses a wider issue, the Monitoring Officer may decide that it is appropriate for them to make recommendations to the authority without naming the particular member, in order to avoid a repetition of such difficulties.

(b) Decisions:

In other cases, where the proposal, action or omission would cause the authority to act unlawfully, the Monitoring Officer may be required to take a decision as to whether there is or would be any illegality on the part of the authority, or of any member or officer of the authority, and to decide whether they are required to make a statutory report to the authority which can have the effect of suspending

the implementation of the action or decision until their report has been considered. An example of this would be where a member proposed to participate in a development control or licensing decision despite being a member of a local residents' association which opposed the proposal, so that their participation would leave the Committee's decision open to judicial review on grounds of the member's "apparent bias" or "predetermination".

(c) Overlaps

These categories are not mutually exclusive. In some instances, the conduct of a member or members may give rise to both a failure to comply with the Code of Conduct for members and give rise to an illegality on the part of the authority. For example, if our member's membership of a resident's association must be entered in the Register of Members' Interests as a body intended to affect public opinion, but their actions in speaking and voting against the proposed development could constitute a serious failure to comply with the Code of Conduct for Members, failing to disclose a personal and prejudicial interest, and the member's "apparent bias" and "predetermination" could give grounds for judicial review of the authority's determination of the planning application. Accordingly, in such overlap cases, the Monitoring Officer would advise the member concerned about the requirements of the Code but may also need to inform the member of the actions which they are required to take as Monitoring Officer to address the illegality in the decision-making process.

## 9. Seeking the Advice of the Monitoring Officer

1. It is recognised that the Monitoring Officer will be most effective if they are able to advise on any issue at an early stage of policy formulation or implementation. Accordingly, officers and members of the authority should routinely inform and consult the Monitoring Officer in respect of new policy proposals and action programmes.

(a) Advice on legality and maladministration

- (i) Members and officers of the authority may consult the Monitoring Officer in confidence in respect of any proposal, decision, or omission.
- (ii) Wherever possible the Monitoring Officer will seek to avoid any illegality or maladministration by identifying alternative and legitimate means of achieving the objective of the proposal, decision, act or omission, or by rectifying any deficiency.
- (iii) The Monitoring Officer will only need to make a public report on the matter if the proposed decision, act, or omission were, in their opinion, unlawful and the officer or member concerned subsequently took any action to progress that proposal, decision or omission, despite having been advised to the contrary by the Monitoring Officer;
- (iv) Where the Monitoring Officer is consulted by a member in respect of possible illegality or maladministration in any proposal, action, or omission of the authority (as opposed to any proposal, action or omission of the member making the enquiry) the Monitoring Officer shall advise the Council's political group leaders and the relevant Cabinet Member that they have been so consulted and of the advice which they have given.

(b) Advice on the Code of Conduct

- (i) The Monitoring Officer is the primary source of advice for all members on the Code of Conduct for Members and on local protocols.
- (ii) Any member, irrespective of political party, can seek the confidential advice of the Monitoring Officer as to their own position. Where they are consulted, and subject to any conflict of interest with the authority, the Monitoring Officer will seek to provide prompt advice to the member concerned as to whether their action or proposed action constitutes a failure to comply with the Code of Conduct or a local protocol and what may be necessary to comply with the Code or protocol. Where they are so consulted by a member about the member's own conduct, the Monitoring Officer will not disclose the fact of consultation, or the advice given unless required to do so by law.
- (iii) Any member, irrespective of political party, may seek the advice of the Monitoring Officer as to whether the actions of another member of the Council would amount to a failure to comply with the Code of Conduct. Members are encouraged to consult the Monitoring Officer before considering whether to make a complaint. Where they are so consulted, the Monitoring Officer may make enquiry of the member(s) in respect of whom the enquiry is made before providing such advice and shall provide them with a copy of any advice provided to the member making the enquiry.

## 10. Investigation

### 1. Preventative investigation

- i. On the principle that prevention is better than cure, the authority expects the Monitoring Officer to investigate matters which give them concern as to possible illegality, maladministration, or breach of the Code of Conduct for Members.
- ii. Specifically, this arises where the Monitoring Officer receives a complaint or information which raises the possibility that a proposal, action or omission of the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority is or would be unlawful, or give rise to maladministration and injustice, or amount to a failure to observe the Code of Conduct for Members. In such cases, the authority expects that they will investigate the matter and determine whether the proposal, action or omission actually is or would be unlawful, or give rise to maladministration and injustice, or amount to a failure to observe the Code of Conduct for Members, and take appropriate action, as set out below.

### 2. Breach of the Code of Conduct

- (b) Where the Monitoring Officer determines that the proposal, action or omission is or would be a failure to comply with the Code of Conduct for Members, they shall advise the relevant member(s) accordingly. They may make an appropriate report to the authority in order to prevent such difficulties recurring. Such a report would not name the member(s) concerned.
- (c) This function is quite distinct from the Monitoring Officer's statutory responsibility to secure the assessment/review/investigation and report to Standards Committee of any complaint of failure to comply with the Code of Conduct for Members. In practice, in order to avoid compromising their ability to provide such

advice to members, the Monitoring Officer will secure that another person conducts any such investigation on their behalf.

3. Established procedures

- (a) Where the Monitoring Officer receives a complaint that a proposal, action or omission is unlawful or constitutes maladministration, and the authority already operates an appeal or other mechanism for resolving such matters (for example in respect of staff grievance complaints or claims against the authority which are covered by insurance), the Monitoring Officer may deal with the matter by ensuring that it is dealt with by that existing mechanism. They may also intervene in such processes to identify that the particular matter potentially gives rise to illegality or maladministration and injustice, and to ensure the satisfactory resolution of the issue.

4. Illegality

- (a) In cases where the Monitoring Officer determines that the proposal, act or omission is not unlawful, they shall advise any member or officer concerned of their determination. Where they determine that the proposal, action, or omission is, or would be, unlawful, they shall wherever possible seek to agree an alternative and lawful course of action. They shall then advise the complainant (if any) of their determination and of any agreed alternative course of action, which may include an offer in settlement of any injustice suffered by any person, and/or their making a statutory report.

5. Maladministration

- (a) Where the Monitoring Officer determines upon investigation that a proposal, act or omission has not caused or would not give rise to maladministration and injustice, they shall respond to the complainant (if any) and advise any member or officer concerned of their determination.
- (b) Where they determine that the proposal, act or omission has caused or would give rise to maladministration and injustice, they shall advise any member or officer concerned of their determination and seek to agree an alternative lawful course of action. They shall then advise the complainant (if any) of their determination and of any agreed alternative course of action, and/or an offer in settlement of any injustice suffered by any person.

6. Failure to observe the Code of Conduct for Members

- (a) Where the Monitoring Officer determines upon an investigation that a proposal, action or omission by a member does not amount to a failure to observe the Code of Conduct for Members, they shall advise the complainant (if any) of their determination and shall advise the member concerned of their determination.
- (b) Where they determine that the member's proposal, action, or omission does amount to a failure to observe the Code of Conduct for Members, they shall advise the member concerned of their determination and seek to agree an alternative course of action which does not amount to a failure to comply with the Code of Conduct for Members. They shall then advise the complainant (if any) of their determination and of any agreed alternative course of action



## 11. Local Resolution

1. Where the Monitoring Officer receives a complaint of illegality, maladministration or failure to observe the Code of Conduct for Members or a local protocol adopted by the authority, they shall in appropriate cases seek to resolve the matter amicably to the satisfaction of the complainant, by securing that any illegality, failure of process or breach of code is as far as possible rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is incapable of local resolution or is of such seriousness that a statutory report is the only appropriate response.

## 12. Reporting

1. Illegality
  - a. Where the Monitoring Officer is of the opinion that an unlawful action or omission has already occurred, or where the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority seek to progress an unlawful proposal, action or omission, the Monitoring Officer shall consult as far as practicable with the Chief Executive and the Head of Finance (Section 151 Officer), and shall then determine whether to make a formal report under Section 5 of the Local Government and Housing Act 1989.
  - b. In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add their written advice to the report on the matter by any other officer of the authority, and/or to provide oral advice at any meeting of the authority.
2. Maladministration
  - a. Where the Monitoring Officer is of the opinion that maladministration and injustice has already occurred, or where the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority seek to progress a proposal, action or omission which would give rise to maladministration and injustice, the Monitoring Officer shall consult as far as practicable with the Chief Executive and the Head of Finance, and shall then determine whether to make a written report to the decision-taker or decision-making body.
  - b. In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add their written advice to the report on the matter by any other officer of the authority, or to provide oral advice at any meeting of the authority.
3. Failure to observe the Code of Conduct for Members
  - a. Where the Monitoring Officer is of the opinion that the action or proposed action of a member amounts to a failure to comply with the Code of Conduct for Members. They may make a general report to the authority, without naming the member(s) concerned, in order to prevent a recurrence of the failure.

### **13. Advice to Individual Members**

1. Wherever possible, the Monitoring Officer will provide advice to individual members to support them in the discharge of their responsibilities as a Councillor. They will not provide advice to a political group or party, or to a member making enquiry on behalf of a political group or party.
2. The Monitoring Officer is employed by the authority and owes their primary responsibility to the authority, rather than to any individual member or group of members. Accordingly, when they are of the opinion that providing advice to a member or group of members on a matter is incompatible with their role as adviser to the authority or any action which they may have to take on behalf of the authority, they may decline to provide such advice, but may, at their discretion and where there is a clear benefit to the authority, secure that such advice is provided from an independent source at the expense of the authority.

### **14. Monitoring and Upholding the Constitution**

1. Monitoring and Reviewing the Constitution
  - a. The Monitoring Officer will monitor and review, on a regular basis and probably once a year, the effectiveness and operation of this Constitution so as to ensure that the aims and principles of the Constitution are given full effect and that the Constitution enables the authority to discharge its functions effectively.
  - b. In order to conduct such monitoring and review, the Monitoring Officer may:
    - (i) consult any members and/or officers, and other organisations and persons having dealings with the authority
    - (ii) observe meetings of members and/or officers at any level
    - (iii) undertake an audit trail of a sample of decisions
    - (iv) record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders
    - (v) compare practices in this authority with those in other comparable authorities, or national examples of best practice
    - (vi) consider any relevant reports and recommendations of the District Auditor and other regulatory agencies.
  - (c) The Monitoring Officer shall consult the Chief Executive and the Head of Finance annually, or more frequently if appropriate, highlighting areas where there is potential to improve the Constitution or the effectiveness of the Constitution, before determining whether to report to the authority on any changes necessary for this purpose.
2. Keeping the Constitution up to date
  - a. The Monitoring Officer shall maintain an up-to-date copy of the Constitution and ensure that it is accessible to members, officers and members of the public;

- b. The Monitoring Officer shall make such amendments to the Constitution as are necessary to reflect changes of fact and law, and decisions of the Council or the Cabinet of the authority, advising members of any such changes made. The Council, though, shall retain the power and responsibility to consider and determine policy changes to the Constitution

### 3. Interpreting the Constitution

- a. The Monitoring Officer shall be responsible for advising on the interpretation of the Constitution.
- b. In particular, the Monitoring Officer shall determine whether a proposed decision is contrary to or not wholly in accordance with the Policy Framework or the approved budget, and whether a proposal is sufficiently urgent to merit the use of urgency executive decision-making procedures.

## 15. Resources

1. The authority is required to provide the Monitoring Officer with the resources which the Monitoring Officer considers are necessary to enable them to perform their statutory duties.
2. For the purpose of carrying out these functions, the Monitoring Officer shall be provided with the following resources:
  - a. The right of access to all documents and information held by or on behalf of the authority. For the purpose of clarification, this right does not extend to documents and information held by or on behalf of any political party represented on the Council;
  - b. The right of access to any meetings of members or officers (or both) of the authority, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council;
  - c. The right to require any officer or member of the authority, or any contractor of the authority, to provide an explanation of any matter under investigation;
  - d. A right to report to the Council, the Standards Committee, and to the Cabinet, including a right to present a written report and to attend and advise verbally;
  - e. The right to require the assistance of any officer of the authority or to appoint any other person to carry out or assist in carrying out an investigation and to delegate to that officer or person any of the powers of the post of Monitoring Officer;
  - f. A power to agree a local resolution to any complaint of maladministration or of breach of the authority's Code of Conduct for Members, in consultation as far as practicable with the Chief Executive and the Head of Finance, including power to agree a compensation payment of up to £10,000 in any one case.
  - g. The right of access to the Chief Executive and to the Assistant Director Corporate Service (S151 Officer).
  - h. The right, after consultation with the Chief Executive and Assistant Director Corporate Service (S151 Officer) so far as practicable, to notify the Police, the authority's auditors, and other regulatory agencies of their concerns in respect of

any matter and to provide them with information and documents in order to assist them with their statutory functions;

- i. The right to obtain legal advice at the authority's expense, either internally or from an independent external solicitor or barrister, on any matter, and sufficient financial resource to enable them to do so.

## Appendix One

### 1. The Functions of the Monitoring Officer

5. The functions of the Monitoring Officer are as follows.

The "statutory functions" are in bold. All other functions are "non-statutory functions":

- a. To report to the Council and to the Cabinet in any case where they are of the opinion that any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority has given rise to or is likely to or would give rise to any illegality<sup>2</sup>;
- b. To report to the Council or the Cabinet in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority has given rise to maladministration or injustice<sup>3</sup>;
- c. To maintain the Register of Members' Interests<sup>4</sup>;
- d. To administer complaints of member misconduct which are referred to them by the persons or bodies through the assessment, review and hearing processes<sup>5</sup>;
- e. To determine whether the disclosure of information by the authority in response to a request under the Freedom of Information Act would, or would be likely to, prejudice the effective conduct of public affairs<sup>6</sup>;
- f. To investigate any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority which they have reason to believe may have given rise to or is likely to or would give rise to
  - (i) illegality
  - (ii) maladministration
  - (iii) failure to observe the Members' Code of Conduct
- g. To act as the principal adviser to the authority's Standards Committee;

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<sup>2</sup> Section 5(2)(a), Local Government and Housing Act 1989

<sup>3</sup> Section 5(2)(b) and 5(2A), Local Government and Housing Act 1989

<sup>4</sup> Section 81(1) of the Localism Act 2011

<sup>5</sup> Complaints are made in the first instance to the Monitoring Officer and are filtered by Assessment and Review Sub-Committees Part III of the Local Government Act 2000

<sup>6</sup> The Monitoring Officer is designated as the "qualified person" for the purpose of Section 36 of the Freedom of Information Act 2000

- h. To provide advice to members on the Code of Conduct for members and local protocols adopted by the authority;
- i. To monitor and uphold the Constitution;
- j. To act as the proper officer for the preparation, publication, and retention of records of decisions take by or on behalf of the Council and the Cabinet;
- k. Responsibility for Complaints, Local Commissioner and Whistle-Blowing functions of the authority;
- l. Appointment as Proper Officer for the Data Protection Act 1998, the Freedom of Information Act 2000, and the Regulation of Investigatory Powers Act 2001;
- m. To consult regularly with the Chief Executive, the Chief Finance Officer, Head of Human Resources, and the Chief Internal Auditor to identify areas where the probity of the authority can be improved or better protected, and to take appropriate actions;
- n. To investigate any application for a dispensation and to report and recommend to the Standards Committee;
- o. To secure that members of the authority are fully aware of their obligations in respect of probity, particularly under the Code of Conduct for Members and any local protocols adopted by the authority;
- p. To report to the Cabinet and to the Council on the resources which they require for the discharge of their functions;
- q. To report regularly to the Standards Committee on the performance of their functions and to make any recommendations which would better enable those functions to be performed.

## **Part 5(viii) Role Descriptions**

### **Job Title: COUNCILLOR**

#### **Key Roles**

Community Leader and representative, policy maker, steward, and politician

- (a) To participate constructively in the good governance of the District.
- (b) To explain and promote the need for and purpose of change to other politicians and the community so that change is well understood and supported
- (c) To contribute actively in the formulation and Scrutiny of the Authority's policies, budget, strategies, and service delivery
- (d) To participate effectively as a member of any Committee, advisory group or panel to which appointed
- (e) To balance and effectively represent the interests of the ward for which elected and the District as a whole, and deal with constituents and representations
- (f) To champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement of the quality of life for the whole community in terms of equity, economy, and environment
- (g) To develop and maintain a knowledge of the Council's services, activities and other factors which impact upon the community's well-being and identity
- (h) To respect Council and Committee decisions
- (i) To fulfil the statutory and locally determined requirements of an elected member of a local authority and the authority itself, including compliance with all relevant codes of conduct, and participation in the decisions and activities reserved to the Full Council and to observe the Protocol on Member/Officer relations.
- (j) To contribute constructively to open government and democratic renewal
- (k) To participate in the activities of any outside body and partnership to which appointed providing two-way communication between the organisations
- (l) To participate in the activities of any political group of which the Councillor is a member
- (m) To develop relationships with stakeholders to promote and achieve a positive image of the District Council
- (n) To be proactive and give and receive relevant information in a clear, timely and concise manner particularly to other Councillors and officers
- (o) To undertake continuous training and development by participating fully in the Council's training and development programme for members.

### **Job Title: CHAIRMAN OF THE DISTRICT COUNCIL**

In addition to your role as Councillor the Chairman of the District Council's Role Description includes the following: -

- (a) To act as first citizen of the District;
- (b) To uphold and promote the purposes of the Council's Constitution, and to interpret the Constitution when necessary;
- (c) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (d) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet or do not hold Committee Chairs are able to hold the Cabinet and Committee Chairmen to account;
- (e) To promote public involvement in the Council's activities;
- (f) To be the conscience of the Council; and

- (g) To attend such civic and ceremonial functions as the Council and they determine appropriate
- (h) To network with external organisations such as County and Town and Parish Councils, Voluntary Organisations etc
- (i) To understand and interpret the Council's Procedure Rules, structure of the Authority and the roles of responsible officers
- (j) To be aware of local issues which affect Council business
- (k) To promote the well-being of the District
- (l) To encourage high standards of probity.

### **Job Title: VICE-CHAIRMAN OF THE DISTRICT COUNCIL**

In addition to your role as Councillor the Vice-Chairman of the District Council's Role Description includes the following: -

- (a) To fulfil the role of the Chairman in their absence from meetings of the Council
- (b) To support the Chairman as necessary and to facilitate the effective running of meetings
- (c) To represent the Council and the community in the Chairman's absence

### **Job Title: EXECUTIVE LEADER**

In addition to your role of Councillor the Executive Leader's Role Description contains the following:

- (a) To be the political Head of the Authority
- (b) To provide political leadership and inspire and communicate a vision and strategy that is well understood and supported by other politicians and the community
- (c) To represent and lead the majority group in the Council and to put forward the group's political views to the Council
- (d) To explain and promote a need and purpose of change to other politicians and the community so that change is well understood and supported
- (e) To develop relationships with stakeholders to promote and achieve a positive image of the District Council
- (f) To set priorities that are well understood and supported, and to overview performance to ensure priorities are met
- (g) To overview the use of financial and staff resources to ensure the Council's policies, priorities and plans are achieved
- (h) To chair meetings of Cabinet
- (i) To have primary responsibility for Corporate policy/strategy, press and public relations, corporate communications, the Council's Budget, the Corporate Plan and Value for Money
- (j) To ensure effective Cabinet responsibility for corporate policy and strategy, customer services, procurement and service and financial planning.
- (k) To lead and act as spokesperson for the Cabinet in its work to develop Policy Framework and budget and take overall political control of authority within agreed Policy Framework
- (l) To nominate, and if appropriate dismiss and replace, the members of the Cabinet
- (m) To allocate portfolio holder responsibilities between Cabinet members
- (n) To provide briefings to all Members of the Council at meetings of full Council
- (o) To develop and maintain a wide-ranging knowledge and understanding of corporate, strategic, and service issues facing the Council in order to effectively perform the Executive Leader's role
- (p) To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the governance of the District
- (q) To understand the Council's role and place within the public sector

- (r) To promote the interests of the Council's community partners and to broaden the environment
- (s) To promote the Council's reputation as a Community Leader
- (t) To keep the Members in general up to date on issues and to provide an important link between Members
- (u) To encourage high standards of probity.
- (v) To serve upon the County Joint Leaders Group and work constructively with the Leaders of other Councils in West Sussex
- (w) To represent the District regionally and nationally.

**Job Title: CABINET MEMBER**

In addition to your role as Councillor, the Cabinet Member Role Description contains the following:

**Reports to: Executive Leader**

- (a) In conjunction with Cabinet colleagues, to provide political leadership and inspire and communicate a vision and strategy that is well understood and supported by other politicians and the community
- (b) To contribute actively to guiding the overall direction of the Council through the formulation of Council strategies, corporate plans, objectives, priorities and programmes
- (c) To explain and promote a need and purpose of change to other politicians and the community so that change is well understood and supported
- (d) To develop and maintain a thorough knowledge and understanding of the strategic and service issues relating to matters within your portfolio
- (e) To develop relationships with stakeholders to promote and achieve a positive image of the District Council
- (f) To act as the principal spokesperson for your respective functions, and act as the Council's principal political representatives in meetings with other elected members and other agencies which relate to those functions
- (g) To set priorities that are well understood and supported, and to overview performance to ensure priorities are met
- (h) To overview the use of financial and staff resources to ensure the Council's policies, priorities and plans are achieved
- (i) To attend regular briefings with relevant senior officers to maintain understanding of issues, to consider draft reports to the Cabinet with the relevant officer and to engage in consultation with officers on significant decisions relating to your portfolio which fall to be taken under delegated powers
- (j) To attend and answer on behalf of the Cabinet and be called to account on decision as an individual portfolio holder called-in by the Performance and Scrutiny Committee
- (k) To promote the Council's reputation as a Community Leader
- (l) To brief Members on your portfolio at ordinary meetings of the Council
- (m) To promote and enhance the Council's vision for the community as set out in the Corporate Plan and Strategies.

**Job Title: GROUP LEADER**

In addition to your role as Councillor, the Group Leader's Role Description contains the following:

- (a) To be aware of all local issues which affect Council business
- (b) To ensure (where Leader of a minority group) that the majority group are accountable to Council, and subsequently to the public, for decisions taken, strategies implemented and use of resources
- (c) To carry out Public Relations duties for their Political Group to explain activities to the local people



- (d) To nominate group members to membership of Committees, Panels, and Working Parties
- (e) To be the main spokesperson for the group
- (f) To encourage the personal development of members of your group
- (g) To maintain group members adherence to Members Code Of Conduct
- (h) To nominate group members for appointment to Outside Bodies

**Job Title: CHAIRMAN OF A SCRUTINY COMMITTEE**

In addition to your role of Councillor the role of Chairman of a Scrutiny Committee includes the following:

- (a) To chair the Scrutiny Committee meetings
- (b) To participate in the Scrutiny and /or performance reviews of the services of the authority including the Scrutiny of policies and budget and their effectiveness in achieving the strategic objectives of the authority and to scrutinise developing policies
- (c) To evaluate and monitor the performance of the Authority
- (d) To present the findings of the Committee to the Council, Cabinet, the press and public as appropriate
- (e) To engage with Scrutiny Officers in the design of the Committee's work programme
- (f) To consider draft reports to Committee and to invite speakers to meetings of the Committee
- (g) To determine arrangements for additional meetings of the Committee as necessary for the effective and efficient functioning of the Committee
- (h) To consider the training requirements of members of the Committee
- (i) To ensure the effective management of the call-in process.

**Job Title: VICE CHAIRMAN OF A SCRUTINY COMMITTEE**

In addition to your role of Councillor the role of Vice-Chairman of a Scrutiny Committee includes the following:

- (a) To fulfil the role of the Chairman in their absence
- (b) To support the Chairman as necessary and facilitate the effective running of meetings

**CHAIRMAN OF COMMITTEES**

- (a) Audit Committee
- (b) Licensing Committee
- (c) Licensing Sub-Committees
- (d) Planning Committee and District Planning Committee
- (e) Standards Committee

In addition to your role as Councillor, the Chairman of Committee Role Description includes the following:

- (a) To chair meetings of the Committee
- (b) To develop and maintain a knowledge and understanding of policy, statutory, and procedural issues relating to matters within the Committee's terms of reference
- (c) To engage in consultation with relevant officers on significant decisions to be taken under delegated powers and to consider draft reports to the Committee
- (d) To present the advice of the Committee to the Council, Cabinet, the press and public as appropriate
- (e) To ensure that Committee members adhere to proper procedures in considering and arriving at regulatory decisions

- (f) To ensure that Committee members pay due regard to legal and other professional advice
- (g) To determine arrangements for additional meetings of the Committee as necessary for the effective and efficient functioning of the Committee
- (h) To consider the training requirements of members of the Committee
- (i) To promote a high standard of behaviour appropriate to maintain public confidence in the Committee's role and procedures

## Part 5(x) Petitions Scheme

### 1. Terms of Reference

1. Mid Sussex District Council wishes to enable all people resident, working or studying in the district to petition the Council and to obtain a response that meets the expectations of the petition or provides a reasoned explanation for why those expectations cannot be met.
2. The District Council provides a number of ways in which petitions may be considered - depending on the subject, the actions sought, and the number of signatories.
3. Before considering whether or not to raise a petition to Mid Sussex District Council, you may want to discuss your issue with your local district Councillor (Member) who may be able to help you with it or explain how to make representations on a particular subject to the right person at the District Council.
4. All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition.

Petitions should be sent to:

Petitions Officer, Member Services  
Mid Sussex District Council  
Oaklands  
Oaklands Road  
Haywards Heath  
West Sussex  
RH16 1SS

### 2. How to submit a petition

1. Petitions submitted to the Council **must** include:
  - a clear and concise statement of the subject of the petition
  - a statement about what action the petitioners wish the Council to take
  - the name, address and signature of any person supporting the petition
2. 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.
3. A petition **will not be accepted** where:
  - it is considered vexatious, abusive, or otherwise inappropriate. 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;
  - it refers to a development plan, specific planning, or licensing matter;

- it refers to a decision for which there is an existing right of appeal, for example, licensing decisions;
- it is a statutory petition (for example requesting a referendum on having an elected mayor)
- Licensing Applications
- Planning Applications

4. Further information on the Council's procedures and how you can express your views are available on the Council's website.

5. The petition must refer to a matter that is relevant to the functions of the District Council. If your petition is about something over which the Council has no direct control (for example the local school or hospital) we will consider whether we can still deal with the matter. The Council works with a large number of local partner organisations and, where possible, will work with these partners to respond to your petition. If we are not able to do this for any reason, then we will set out the reasons for this to you. You can find more information on the District Council's services on our website.

6. If your petition is about something that a different Council is responsible for, we will give consideration to what the best method is for responding to it. It 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.

### 3. **What will the Council do with your petition?**

1. An acknowledgement will be sent to the petition organiser within 10 working days of receipt. It will let them know what we plan to do with the petition and when they can expect to hear from us again.

2. If we can do what your petition asks for, the acknowledgement may confirm that we have taken, or will take, 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, 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.

### 4. **How will the Council respond to petitions?**

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

- taking the action requested in the petition
- considering the petition at a Council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- consulting residents about the matter
- holding a meeting with petitioners
- referring the petition for consideration by one or more of the Council Scrutiny Committees
- referring the petition for consideration by any non-Executive Committee

- writing to the petition organiser setting out our views about the request in the petition
2. Where the petition does not have the prescribed number of signatures to trigger a debate or officer attendance before a Committee (see below) the Solicitor to the Council will determine the most appropriate course of action following discussion with the relevant Cabinet Member and the senior officer responsible for the service which is the subject of the petition.

#### 4. **Council Debates**

1. If a petition contains a minimum of 1,300 signatures the Council will debate it unless it is a petition asking for a senior Council officer to give evidence at a public meeting (see below). 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.
2. If you would like to present your petition to the Council or would like your local elected District Councillor to present it on your behalf, please contact the Petitions Officer at least 10 working days before the meeting and an officer will talk you through the process. The petition organiser will be given five minutes maximum to present the petition at the meeting.
3. The relevant Cabinet Member will be given five minutes (maximum) for a right of reply before Members discuss the petition for no more than 30 minutes with each Member allowed to speak for a maximum of three minutes.
4. The Council will debate how to respond to the petition at this meeting. It may for example recommend a relevant Cabinet Member to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter. Where the issue is one on which a Cabinet Member is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision.
5. Dates and times of Council meetings can be found on the Council website.

#### 5. **Officer Evidence**

1. 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.
2. If your petition contains a minimum of 500 signatures, and your petition clearly states the specific issue you want to raise, the relevant senior officer will give evidence at a public meeting of the appropriate Scrutiny Committee.
3. The senior officers that can be called to give evidence are the Chief Executive, Directors/Assistant Directors and Heads of Service. Their details can be found on the Council's website. You should be aware that the Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition - for instance if the named officer has changed jobs. The Committee may also decide to call the relevant Cabinet Member or another Member to attend the meeting to give evidence.
4. The Committee Members will ask the questions at this meeting, but you will be able to suggest questions to the Chairman of the Committee by contacting the Petitions Officer up to five working days before the meeting. Details will be given to you to assist with this process.

## **6. What can I do if I feel my petition has not been dealt with properly?**

1. If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the relevant Committee 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.
2. The Committee will endeavour to consider the 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 Committee 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 and making recommendations to the relevant Cabinet Member.
3. Once the appeal has been considered the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website. There is no further right of appeal through the Council.

## **Part 5(xi) Dispensations Protocol**

### **1. Guide to Dispensations**

1. The Council is responsible for determining requests for a dispensation by a Member under s.33 of the Localism Act 2011. The Council may grant a dispensation to an Elected or Co-opted Member on a matter with which they would otherwise not be permitted to deal, as a result of having a Disclosable Pecuniary Interest.
2. This guide explains:
  - (a) The purpose and effect of dispensations
  - (b) The procedure for requesting dispensations
  - (c) The criteria applied in determining dispensation requests
  - (d) The terms of dispensations
3. Until a dispensation is granted, a Member may not participate in the consideration of the matter before the Council (or any Committee or sub-Committee) in which they have a Disclosable Pecuniary Interest.
4. For the avoidance of doubt, Members do not have a Disclosable Pecuniary Interest and/or are granted a general dispensation in respect of any business of the Council relating to:
  - (a) housing, where the Member is a tenant of the Council, provided that the business does not relate particularly to the Member's tenancy or lease, or that of a relative, friend or close associate;
  - (b) an allowance, payment or indemnity given to Members;
  - (c) any ceremonial honour given to Members;
  - (d) setting Council tax or a precept under the Local Government Finance Act 1992.

### **2. Purpose and effect of dispensations**

1. In certain circumstances, Members may be granted a dispensation that enables them to take part in Council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest. Provided Members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.
2. Section 31(4) of the Localism Act 2011 states that dispensations may allow a member to:
  - (a) participate, or participate further, in any discussion of the matter at a meeting; and/or
  - (b) participate in any vote, or further vote, taken on the matter at a meeting Please note: if a member participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under section 34 of the Localism Act 2011.

### **3. Process for making requests**

1. A request for dispensation must be made on an individual basis. Any Member who wishes to apply for a dispensation should fully complete a Dispensation Application Form

(Appendix 1) and submit it to the Monitoring Officer, explaining why it is desirable and appropriate to grant the dispensation.

#### **4. Approval Process**

1. The Monitoring Officer may only grant a dispensation to a Member who has a Disclosable Pecuniary Interest allowing them to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter (as per paragraph 2 above), if they consider that:
  - (a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
  - (b) without the dispensation, the representation of different Political Groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
  - (c) without the dispensation, each Member of the authority's Cabinet would be prohibited from participating in any particular business to be transacted by the Cabinet,
  - (d) granting the dispensation is in the interests of persons living in the authority's area,  
or
  - (e) it is otherwise appropriate to grant a dispensation.
2. In the absence of the Monitoring Officer, a Deputy Monitoring Officer is authorised to execute the functions of the Monitoring Officer. The Standards Committee also has the delegated power to agree dispensations.
3. Applications dealt with by the Monitoring Officer will normally be determined within 10 working days. Applications made to the Standards Committee will go to the next ordinary meeting or it may be appropriate to arrange a special meeting at the discretion of the Chair of the Committee. Applications must be received at least 10 clear working days before a meeting to enable a report to be prepared and the agenda published five clear days before the meeting.
4. The Monitoring Officer will formally notify the Member of the decision and reasons in writing at the earliest opportunity and in any event within five clear working days of the decision.

#### **5. Criteria for determination of requests**

1. In reaching a decision on a request for a dispensation, the Monitoring Officer will consider:
  - (b) the nature of the Member's interest
  - (c) the extent to which the request could have been avoided or other arrangements could be made
  - (d) the need to maintain public confidence in the conduct of the Council's business
  - (e) the extent to which there is some personal benefit and the extent of the public benefit obtained by agreeing to a dispensation
  - (f) the possible outcome of the proposed vote
  - (g) the need for efficient and effective conduct of the Council's business
  - (h) any other relevant circumstances



## **6. Terms of dispensations**

1. Dispensations may be:
  - (a) Granted for one meeting or for a period not exceeding 4 years
  - (b) Subject to specific conditions, e.g., notification of any material change in circumstances arising from the dispensation

## **7. Disclosure of decision**

- (a) Any Member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.
- (b) A copy of the dispensation will be kept with the Register of Members' Interests.

## **8. Dispensations for Conflicts of Interest when taking Executive decisions**

- (a) Under regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the record of a Cabinet decision made either at meetings or by individuals, must include:
- (b) details of any conflict of interest either declared by any Member of the body which made the decision or declared by any Cabinet Member consulted by the Member or Officer taking the decision which relates to that decision;
- (c) In respect of any such conflict of interest, a note of dispensation granted by the Chief Executive.

Please note: A conflict of interest is broader than a Disclosable Pecuniary Interest. It can be any interest that conflicts (or may reasonably be perceived to conflict) with a Member's duty to take decisions only in the public interest in the light of material considerations.

### **Appendix 1**

To: The Monitoring Officer

#### **APPLICATION FOR A DISPENSATION UNDER SECTION 33 OF THE LOCALISM ACT 2011 IN RESPECT OF A DISCLOSABLE PECUNIARY INTEREST**

Name of member:

A Member who has a Disclosable Pecuniary Interest in a matter that is under consideration may not participate in the consideration of that matter by the Council, a Committee or sub-Committee or by the Cabinet or a Committee of the Cabinet unless they have first obtained a dispensation from the Council. You may apply for a dispensation by completing this form and sending it to the Monitoring Officer.

1. What is the matter for which dispensation is sought? Please provide full details including amounts where the matter involves funding or finance.
2. For which type of meeting is dispensation sought? (Full Council, Cabinet, Committee or Sub-Committee)
3. What is the nature of the Disclosable Pecuniary Interest? Please provide full details.

4. What is the date of the meeting(s) at which this matter is to be considered?
5. For how long is the dispensation needed? Please note that it cannot be longer than 4 years nor exceed the Member's term of office.
6. Do you benefit personally from the business to which this application relates? If 'yes', the full details must be provided of the nature and extent.
7. How is the business of the Council being impeded in the absence of a dispensation?
8. Are there any other factors that might help the Council to reach a decision on the application?
9. Are you seeking a dispensation to speak and vote? Yes/No
10. Are you seeking a dispensation to speak but not vote? Yes/ No

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Please complete, sign and return this form to the Monitoring Officer

## **Part 5(xii) Site Visit Protocol**

1. It is not the custom for the Council to organise formal site visits in the planning process, other than in exceptional circumstances and for the District Planning Committee. However, as part of the planning application process it might be necessary from time to time for Members to visit an application site or the properties of those who live adjacent to the site. This protocol provides guidance to Members as to how to conduct themselves on such occasions.

### **District Planning Committee Site Visits**

2. Site visits by District Planning Committee shall be held only where the benefit is clear and substantial, having regard to:
  - (a) policy and material considerations;
  - (b) where the impact of the proposed development is difficult to visualise from the plans, photographs and information provided;
  - (c) where the comments of the applicant and objectors cannot be expressed adequately in writing; or
  - (d) where the proposal is particularly contentious.
3. The purpose of the site visit is to observe the site and gain a better understanding. The Committee Members shall only visit the site with Officer assistance and attendance. The decision to hold a site visit will be taken by the Chairman of the District Planning Committee in consultation with Officers.
4. The site owner (whether the applicant, objector or third party) may also be present, solely to provide access to the site. The landowner or applicant (if in attendance) may not make any representations to the Committee Members about the application but may point out relevant features on the ground.
5. The Committee Members should direct all questions to Officers.
6. Individual Committee Members are only entitled to view the site from public vantage points if visiting the site alone, as they have no individual rights to enter private property.
7. Site visits for the Planning Committee will only be arranged under exceptional circumstances, with the agreement of the Chairman of the Planning Committee. In such circumstances the conduct of the site visit will follow the same protocol as the District Planning Committee, above.

### **Other Site Visits**

8. To avoid an accusation of bias, prejudice, or predetermination, it is important that Members do not visit sites unaccompanied by an Officer. In the unusual and exceptional event that they do, the following points must be adhered to:
  - (a) Members do not have authority to enter private land without the consent of the owner
  - (b) Members should treat the site visit only as an opportunity to observe the site
  - (c) Do not discuss the merits of the application or express views with anyone. Make it clear that you are there to observe and are keeping an open mind
  - (d) Should you feel a discussion necessary to clarify any points you should ask the case officer to arrange to visit the site with you on a subsequent occasion.

## **Part 5(xiii) Member Code of Conduct Complaints Procedure**

### **Making a Complaint**

Complaints alleging that Members of the District Council, or the Town/Parish Councils in Mid Sussex have breached the Members Code of Conduct should be made to the Monitoring Officer using the complaint form on the website, which guides a Complainant to provide the information required.

### **Withdrawal of a Complaint**

In the event that a Complainant withdraws a complaint at any time prior to a decision having been made under this procedure, the Monitoring Officer may, following consultation with the Independent Person, decide that no further steps be taken in respect of that complaint but shall, in taking such decision, take into account any issues that may arise under the Code of Conduct, particularly any intimidation.

### **Initial Assessment**

On receipt of a written complaint the Monitoring Officer will send a copy to one of the Independent Persons:

- Wendy Swinton-Eagle for District Councillors and Town and Parish Councils beginning with the letter A to D.
- Paul Cummins as above for the letters E to G.
- Dr David Horne as above for the letters H to Z.

and will consult them as to whether the complaint:

- appears to relate to the Code of Conduct.
- has sufficient substance to justify consideration by the Audit & Governance Committee

If, following this consultation, the Monitoring Officer concludes that the complaint is not appropriate for consideration by the Audit & Governance Committee, they will write to the Complainant explaining this decision, and identifying any other course of action the Complainant may wish to take.

The Monitoring Officer may decide to take no action if, for example:

- (a) The Code of Conduct was not engaged (the Subject Member was not acting as a Councillor at the time of the alleged breach took place).
- (b) Where the matter took place more than six months ago (except in exceptional circumstances or in the public interest);
- (c) Where the allegations are anonymous.
- (d) The complaint appears to be malicious, vexatious, politically motivated, tit for tat, or is so minor that there is no overriding public benefit in carrying out an investigation.
- (e) Where a challenge made to an expression of fact or opinion made during a debate at a Council meeting is fundamentally a challenge to the underlying merits of a Council determination (e.g., a planning application).

These are just some examples, but the list is not exhaustive. The Monitoring Officer (in consultation with the Independent Person) may decide that a complaint does not merit further consideration for any other reason which appears to them to be relevant.

If the Monitoring Officer concludes that the complaint does justify Committee consideration, they will write to the Complainant explaining that their complaint will be sent to the Subject Member named in the complaint for their comments (unless the Monitoring Officer considers that it would be contrary to the public interest or would prejudice the consideration of the complaint to do so). The Subject Member will be provided with the details of the Independent Person should they require guidance on the process for investigation of the complaint.

The Monitoring Officer will complete an initial assessment of the complaint within 20 working days of receipt of all relevant information.

### **Assessment Criteria**

The following criteria shall be applied by the Standards Assessment Sub-Committee when considering allegations that a member has failed to comply with the Code of Conduct. The first 5 criteria are also used by the Monitoring Officer in consultation with the Independent Person to judge whether a complaint can be brought before the Sub-Committee as a possible breach of the Code of Conduct. The Sub-Committee, however, needs to make its own decision on these 5 criteria if a matter is brought before them.

- 1) Is the complaint within the jurisdiction of the Committee?
- 2) Is it a complaint against one or more named members or co-opted members of the Council covered by the Member Code of Conduct?
- 3) Was the Subject Member in office at the time of the alleged conduct and the Code of Conduct was in force at the time?
- 4) Would the complaint, if proven, be a breach of the Code under which the member was operating at the time of the alleged misconduct?
- 5) Is the complaint really about dissatisfaction with a Council decision?

Note – If the complaint fails one or more of the above tests it cannot be investigated as the breach of the Code.

- 6) Is there a prima facie evidence of a breach of the Code?
- 7) Is it serious enough to require investigation?
- 8) Is this part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and there is no other avenue left to deal with it except investigation?

Note - In considering the case the Sub-Committee will take into account the time that has passed since the alleged conduct occurred.

- 9) Is the case suitable for local investigation?
- 10) Is there enough information currently available to justify a decision to take the matter further for investigation?

Note - While anonymous complaints will not be accepted, in exceptional circumstances the Complainant's name will not be disclosed to the Subject Member, applying the following factors:

- 1) There are reasonable grounds for believing the Complainant will be at risk of physical harm if their identity is disclosed.
- 2) The Complainant is an Officer who works closely with the Subject Member and is afraid of the consequences to their employment if their identity is disclosed.
- 3) There is evidence of medical risks associated with the Complainant's identity being disclosed.
- 4) It is feasible for the complaint to be investigated without the Complainant's identity being disclosed.
- 5) There are grounds to believe that disclosure of the Complainant's identity and/or

the provision of the written summary of the allegation may lead to intimidation of a witness or the destruction of evidence.

The Subject Member has 14 days in which to respond in writing with their version of events, if they wish. They are advised they may wish to take professional advice. They can also speak to the Independent Person.

### **Assessment Sub-Committee**

The papers (including the Monitoring Officer's written advice) are sent to the Assessment Sub-Committee, consisting of three members of the Audit & Governance Committee (including at least one co-opted Town/Parish Member where the Subject Member is a Town/Parish Councillor).

The Assessment Sub-Committee meets privately with the Monitoring Officer and the first question asked is whether the Code of Conduct applies to the events described. If the answer to that question is "no" that is the end of the matter. Assuming the answer to that question is "yes", the Sub-Committee has to decide whether there is a potential breach of the Code of Conduct. If they decide there is no potential breach of the Code of Conduct that is the end of the matter. If they believe there is a potential breach of the Code of Conduct, they need to decide whether it is in the public interest for that to be further investigated at public expense, or whether informal guidance should be given to the Subject Member.

The results of their deliberations are sent in writing to the Complainant, to the Subject Member, to their Group Leader (if any), and to any relevant Town or Parish Council.

### **Review Sub-Committee**

If the Assessment Sub-Committee decides against the matter being investigated, the Complainant may ask for this decision to be reviewed. The Subject Member has no right to request a review. If the Complainant does request a review, a Review Sub-Committee is appointed consisting of three different members of the Audit & Governance Committee (including at least one co-opted Town/Parish Member where the Subject Member is a Town/Parish Councillor) to consider all the previous papers, any additional submissions that may be made by the Complainant, and the comments of the Subject Member.

The Review Sub-Committee goes through the same exercise in private and their deliberations are reported in the same way.

### **Investigation**

If the Assessment Sub-Committee and/or the Review Sub-Committee decides that the matter should be investigated, then an Independent Investigator is appointed by the Monitoring Officer within 10 working days of the decision to carry out that task.

The Independent Investigator will have no previous involvement or knowledge of the matter. The investigator will normally interview relevant persons and prepare a report and recommendations within two months of appointment. The Subject Member may be accompanied by a friend or an adviser when attending any meeting or interview as part of the investigation of the complaint.

The draft report will be shared with the Independent Person for their comments. It will then be shared with the Complainant and the Subject Member for their comments before the report is finalised.

### **Hearing Sub-Committee**

The finalised report is sent to the Hearing Sub-Committee, consisting of three different members of

the Audit & Governance Committee (including at least one co-opted Town/Parish Member where the Subject Member is a Town/Parish Councillor). If the report concludes there is no breach of the Code of Conduct and the Hearing Sub-Committee agrees, then that will be the end of the matter and it will be reported accordingly.

If, however, the Hearing Sub-Committee decides that there needs to be a hearing or the report suggests a breach of the Code of Conduct, then that will be set up and the report will be presented by the Investigating Officer.

The Subject Member will then be able to respond and be legally represented if they wish and call a limited number of witnesses. Witnesses may be questioned by the Hearing Sub-Committee members, the Independent Person, the Investigating Officer and the Subject Member.

This is a public meeting, and the Complainant may wish to be present. The Subject Member may choose to be represented, at their own cost. The Hearing Sub-Committee may refuse to allow any person to remain at the hearing if they are disruptive.

If the Subject Member does not attend the hearing, the Sub-Committee may adjourn the hearing or may continue to reach a decision on the basis of the Investigating Officer's report, and if it decides to do so, any evidence that it hears.

The Sub-Committee will decide disputed issues and whether the Subject Member has breached the Code of Conduct on the 'balance of probabilities'.

## **PROCEDURE**

### **Findings of Fact**

- (a) The Chairman introduces the Sub-Committee, and any other persons present, including the Monitoring Officer, the Independent Person, and the Investigating Officer.
- (b) The Subject Member introduces any person who is acting as their representative and any witnesses to be called on their behalf.
- (c) The Chairman shall explain the procedure that shall be followed.
- (d) The Investigating Officer is invited to present their report and to call any witnesses.
- (e) The Subject Member may ask questions of the Investigating Officer and/or any witnesses which are to be put through the Chairman.
- (f) The Members of the Sub-Committee may ask questions of the Investigating Officer.
- (g) The Subject Member is invited to respond to the Investigating Officer's report and to call any witnesses.
- (h) The Investigating Officer may ask questions of the Subject Member or any witnesses which are to be put through the Chairman.
- (i) The Members of the Sub-Committee may ask questions of the Subject Member.
- (j) The Chairman may request advice from the Monitoring Officer, and/or the Independent Person.

### **Decision**

- (a) The Sub-Committee shall adjourn to consider whether there has been a breach of the Code of Conduct. The Sub-Committee may request the presence of the Monitoring Officer to assist in setting out the reasons for their decisions.
- (b) The Sub-Committee shall reconvene to orally deliver its decision.
- (c) If the Sub-Committee decides that there has been a breach of the Code of Conduct, then it shall consider whether a sanction should be imposed.

## Sanctions

- (a) The Chairman shall invite representations from the Investigating Officer as to whether a sanction should be imposed.
- (b) The Chairman shall invite representations from the Subject Member as to whether a sanction should be imposed.
- (c) The Chairman shall ask the Monitoring Officer if they wish to express an opinion as to whether a sanction should be imposed, and whether to comment on the appropriate sanctions.
- (d) The Chairman shall ask the Independent Person if they wish to express an opinion as to whether a sanction should be imposed, and whether to comment on the appropriate sanctions.
- (e) The Sub-Committee shall adjourn to consider whether to impose a sanction.
- (f) The Sub-Committee may request the presence of the Monitoring Officer during their deliberations. In so doing, the Sub-Committee should consider all the mitigating and aggravating circumstances that appear to be relevant, e.g.:
  - (i) What were the actual and potential consequences of the breach?
  - (ii) How serious was the breach?
  - (iii) What is the attitude of the Subject Member now? Have they apologised?
  - (iv) Has the Subject Member previously been dealt with for a breach of the Code of Conduct?
- (g) The following are examples of mitigating and aggravating factors, (but these are not exhaustive):

## Mitigating Factors

- (a) An honest but mistaken belief that the action was not a breach of the Code of Conduct
- (b) A previous record of good service
- (c) Evidence that they were suffering from ill health at the time of the breach

## Aggravating Factors

- (a) Dishonesty
- (b) Continuing to deny the factors or blaming other people
- (c) Evidence of a failure to follow advice or warnings.

The priority of the Sub-Committee should be to ensure there are no further breaches of the Code of Conduct and that public confidence is maintained.

## The Decision

- (a) The Sub-Committee shall reconvene to orally deliver its decision in respect of a sanction.
- (b) The Chair will explain that written notice of the decision and the reasons for it shall be sent to all parties within 14 days of the date of the hearing, including the Town/Parish Council if the Subject Member is a Town Parish Councillor.
- (c) The Chairman will formally close the hearing.

The decision of the Hearing Sub-Committee is final and can only be challenged by way of judicial review.

## Sanctions

The powers of the Hearing Sub-Committee are limited to the sanctions below. If, however, there has been uncovered something that could potentially be a criminal offence, then the Hearing Sub-Committee should report it to the police for further investigation. They have no power themselves to



suspend or disqualify an elected member.

If an investigation is carried out and the Hearing Sub-Committee finds there has been a breach of the Code of Conduct, it may decide not to impose a sanction or it may impose one or more of the following sanctions:

- (a) The Monitoring Officer to send a formal letter to the Subject Member.
- (b) The Subject Member to make a public apology at Full Council. In the event of an apology not being made, the Subject Member may be censured at a meeting of the Full Council.
- (c) The Monitoring Officer to provide further training and guidance to the Subject Member.
- (d) The Subject Member to write a personal apology to the Complainant.
- (e) The Subject Member be excluded from the Council offices (except for attending formal meetings), and/or providing them with a single point of contact.
- (f) A recommendation to the relevant Group Leader that the Subject Member be removed from the Cabinet or a Committee (or Sub-Committee, Working Group or External Body) for a specified period of time.

# PART 6 MEMBERS' ALLOWANCES SCHEME

## Mid Sussex District Council Members' Allowances Scheme

The Mid Sussex District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 2003 as amended hereinafter called "the Regulations", hereby makes the following Scheme:

### **1.0 Validity of Scheme**

- 1.1 This Scheme may be cited as the Mid Sussex District Council Members' Allowances Scheme and shall have effect from 1<sup>st</sup> April 2013 and subsequent years.

### **2.0 Definitions**

- 2.1 In this Scheme,

"Councillor" means a Member of the Mid Sussex District Council who is a Councillor;  
"Year" means the 12 months ending with 31 March.

### **3.0 Basic Allowance**

- 3.1 Subject to paragraph 10, for each year a basic allowance as set out in Appendix 1 shall be paid to each Councillor.

### **4.0 Special Responsibility Allowances**

- 4.1 Subject to paragraph 10 for each year a special responsibility allowance shall be paid in addition to any basic and carers' allowances to those Councillors who hold the special responsibilities in relation to the Council that are specified in Appendix 1 to this Scheme.
- 4.2 Subject to paragraph 10 and sub-paragraph 4.3 below, the amount of each such allowance shall be the amount specified against that responsibility in Appendix 1.
- 4.3 Councillors should be entitled to claim only one Special Responsibility Allowance with the exception of allowances paid to Group Leaders.

### **5.0 Childcare Allowance**

To be payable for attendance at the approved duties as set out in Appendix 2. The rate is set out in Appendix 1. In order to claim this allowance, Members will need to submit a claim using a Childcare Allowance Form together with a valid business receipt issued by the care provider.

### **6.0 Dependent Carer's Allowance**

To be payable for attendance at the approved duties as set out in Appendix 2. The rate is set out in Appendix 1. In order to claim this allowance Members will need to provide a valid business receipt issued by the care provider.

## **7.0 Travelling and Subsistence Allowances**

**7.1** To be payable for attendance at approved duties as set out in Appendix 2. Rates are set out in Appendix 1.

## **8.0 Time Limit For Submission Of Expense Claims**

**8.1** Claims shall be submitted monthly by the 1<sup>st</sup> of the month. In any event, claims shall be submitted no later than two months after the entitlement to the claim arises. (Financial Procedure Rules D8)

## **9.0 Avoidance of Duplication of Allowances**

**9.1** Where in any period a Councillor undertakes approved duties as a member of more than one body, any allowance shall not be greater in total for that period than would have been payable had all the duties been performed as a member of only one of those bodies. Also, in respect of such approved duties, a Councillor shall not be entitled to take into account for the purposes of more than one claim, expenditure on travelling and any period of absence from home.

## **10.0 Renunciation**

**10.1** A Councillor may, by notice in writing, given to the Senior Democratic Services Officer elect to forego any part of their entitlement to an allowance under this Scheme.

## **11.0 Records**

**11.1** Records shall be kept of the payment made to Councillors in accordance with this Scheme.

**11.2** This record shall specify the name of the recipient and the amount and nature of each payment.

**11.3** The records shall be available, at all reasonable times, for inspection (free of charge) to any local government elector who may make a copy of any part of it.

## **12.0 Part-Year Entitlements**

**12.1** The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic, and special responsibility allowances where, in the course of a year, this Scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable

**12.2** If an amendment to this Scheme changes the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:

- (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect; and

- (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this Scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

**12.3** Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which their term of office subsists bears to the number of days in that year.

**12.4** Where this Scheme is amended as mentioned in sub-paragraph 2 and the term of office of a Councillor does not subsist throughout the periods mentioned in sub-paragraph 2, the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which their term of office as a Councillor subsists bears to the number of days in that period.

**12.5** Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle them to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which they have such special responsibilities bears to the number of days in that year.

**12.6** Where the Scheme is amended as mentioned in sub-paragraph 2 and a Councillor had during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 2 of that paragraph any such special responsibilities as entitle them to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which they have such special responsibilities bears to the number of days in that period.

## **13.0 Payment of Allowances**

13.1 Payments shall be made:

1. in respect of basic and special responsibility allowances, subject to sub-paragraph (b), in instalments of one-twelfth of the amount specified in this Scheme on the 20<sup>th</sup> of each month, or preceding banking day;
2. in respect of claims for travelling conference attendance subsistence and carers' allowance on the 20<sup>th</sup> of each month in respect of claims received on or before the 1<sup>st</sup> of the month before that date. Claims shall be made on the prescribed forms obtainable from Democratic Services.

13.2 Payment will be made direct to a Councillor's bank account on or before the 20<sup>th</sup> of the month.

13.3 A statement analysing the amount credited to the bank will be sent to the Councillor, on or before the 20<sup>th</sup> of the month.

13.4 Where a payment of one-twelfth of the amount specified in this Scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 10 they are entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which they are entitled.

#### 14.0 Income Tax, National Insurance and Benefits

14.1 Allowances will be subject to income tax and national insurance in accordance with instructions from HM Revenue and Customs.

14.2 Allowances may affect certain benefits received and so guidance should be sought from the local office of the Department of Work and Pensions or the Council's Benefits office.

### APPENDIX I

#### 1.0 Allowances

1.1 Basic Allowance £5,700 per annum.

1.2 The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, together with the amounts of those allowances.

Role	Current Allowance (£):
Basic Allowance	5,700
Executive Leader's Allowance	22,800
Deputy Leader's Allowance	11,400
Cabinet Member	9,120
Chairman of the Council	7,410
Vice-Chairman of Council	2,470
2x Planning Committee Chairman	14,250 (7,125 x 2)
2x Planning Committee Vice-Chairman	3,562 (1,781 x 2)
Licensing Committee Chairman	1,140
Standards Committee Chairman	1,140
Group Leader	250 per group member
2x Scrutiny Committee Chairman	9,120 (4,560 x 2)
2x Scrutiny Committee Vice Chairman	2,280 (1,140 x 2)
Audit Committee Chairman	3,420
3x Independent Persons for Standards Matters	2,250 (750 x 3)

1.3 Members are not eligible to join the Local Government Pension Scheme;

1.4 Childcare Allowance to be linked to the real living wage rate. Payment will be on receipt-based actual costs up to a maximum rate of £11 per hour for one child, or a maximum of £22 per hour for two or more children.

1.5 Dependent Carer's Allowance – Payment will be of receipt-based actual costs, up to a maximum rate of £22 per hour.

1.6 The following Travelling and Subsistence Rates apply:

Detail	Recommended Rate
<b>Vehicles</b>	
Car Mileage	45p per mile
Car Passenger Mileage Rate	3p per mile for 1 passenger 5p per mile for 2 or more passengers
Cycling Allowance	20p per mile
<b>Subsistence</b>	
Breakfast	£7.00
Lunch	£10.00
Tea	£4.00
Evening Meal	£13.00
Overnight Out of Pocket Expenses Per night	£6.00
Overnight Out of Pocket Expenses Per week	£24.00

**The Council will meet the costs of overnight accommodation, subject to its terms and conditions.**

## APPENDIX 2

### 1.0 Approved Duty

1.1 The duties referred to in this Scheme as approved duties for the purpose of the payment of Travel, Subsistence and Carers' Allowances are as follows:

Attendance at:

- Council
- The Cabinet
- Scrutiny Committees
- Audit Committee
- Area Planning Committees
- District Planning Committee
- Licensing Committee
- Licensing Sub-Committees
- Standards Committee or Sub-Committee

- Any Appeals Panel i.e., Members' Complaints Panel or any other Panel of Members convened to hear any appeal.
- Attendance at a meeting of any Committee or Sub-Committee of the Council by Councillors 'also present'.

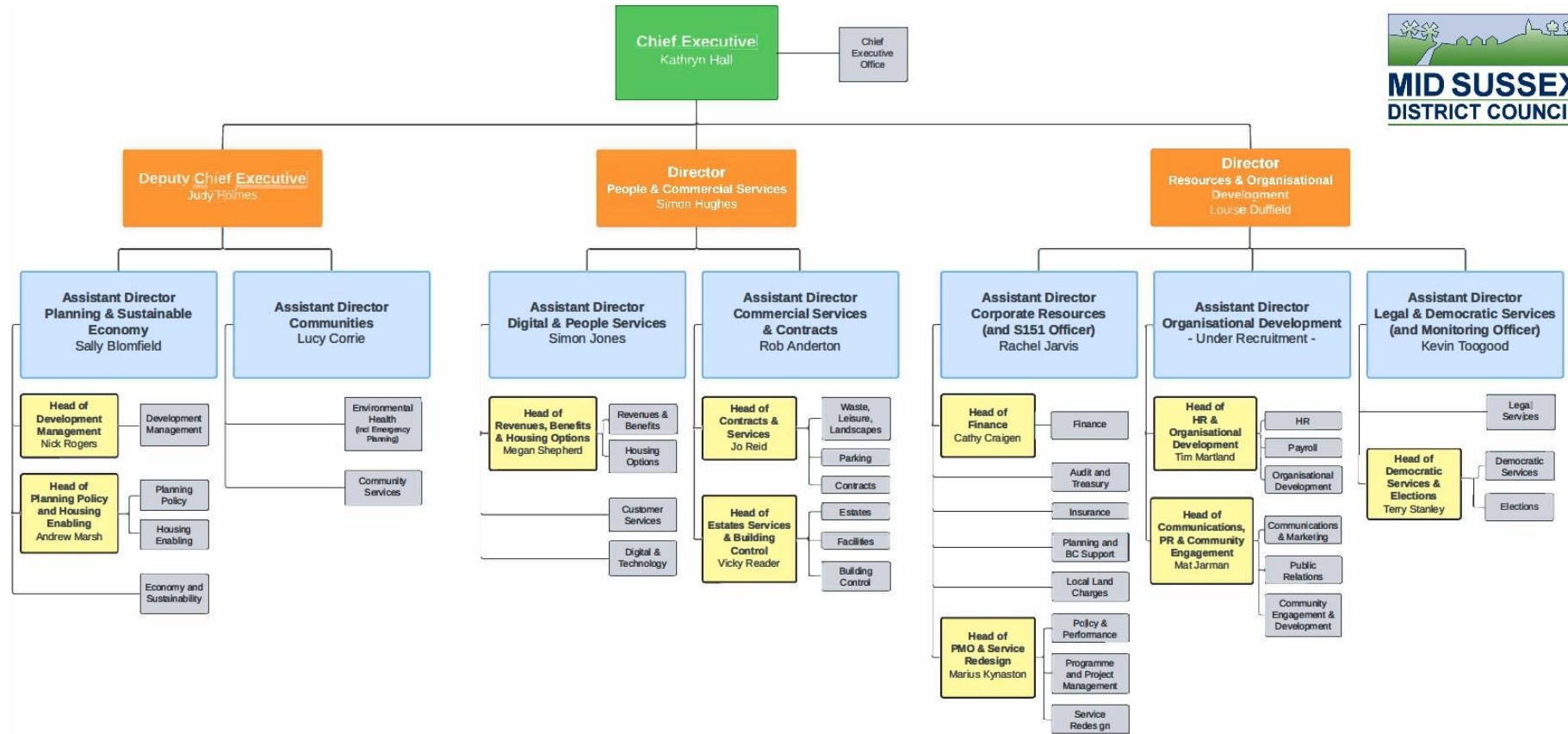
Attendance by Councillors at any approved conference, seminar, forum, training course or workshop.

Attendance at formally convened meetings of an Outside Body onto which they have been appointed to represent the Council.

Attendance by the Executive Leader of the Council, Chairman and Vice- Chairman of the Council, by Committee Chairmen or Vice-Chairmen, or by other members of the Council individually so authorised, either by the appropriate Cabinet Member, Committee or by the Chairman and Vice-Chairman thereof, at:

- (i) any public or specific invitation meeting convened by the Council, other than functions of a social nature;
- (ii) any public or specific invitation meeting not convened by the Council at which matters of concern to the Council are to be discussed;
- (iii) any meetings with individuals or representatives of other Local Authorities, organisations, etc. for the purpose of discussions or negotiations regarding Council business;
- (iv) pre-meeting conferences with Officers; and the making of visits with Officers to sites or locations

# PART 7 MANAGEMENT STRUCTURE



MSDC Leadership Structure Chart January 2023