

# Constitution of Fenland District Council

## PARTS

- 1 Summary and Explanation
- 2 Articles of the Constitution
- 3 Responsibility for Functions
- 4 Rules of Procedure
- 5 Codes and Protocols
- 6 Members' Allowances Scheme
- 7 Management Structure



## Fenland District Council Constitution Version Control Summary:

The Constitution was first adopted on the 16<sup>th</sup> May 2002 under minute 09/02. The Constitution changes frequently to reflect changes in legislation, policy and procedure.

In order to ensure the Public, Members and Officers have access to an up to date consolidated version and can reference this, with effect from the 1<sup>st</sup> August 2010 a file tracking form of Version Control has been introduced.

The full version of the Constitution has been broken into “Blocks” formed around the functional elements of the Constitution and the frequency of updates. These Blocks will be kept as electronic files and used to update sections of the Constitution.

Block	Part	Title	Version	Date
A	-	Cover & Version Control	15	14/12/2020
B	1	Summary and Explanation	11	04/05/2023
	2	Articles of the Constitution	12	26/02/2024
C	3	Responsibility for Functions, Table 1, Table 2, and Table 3.	18	26/02/2024
D	3	Table 4, Table 5	17	26/02/2024
E	4	Rules of Procedure 1, 2 and 3	17	26/02/2024
F	4	Rules of Procedure 4 and 5	10	07/05/2021
G	4	Rules of Procedure 6	3	26/02/2024
H	4	Rules of Procedure 7	3	20/11/2015
I	4	Rules of Procedure 8, 9,10 and 11	11	26/02/2024
Ia		Deleted		07/05/2021
J	5	Codes and Protocols 1, 2 and 3	5	07/05/2021
K	5	Codes and Protocols 4, 5 and 6	3	26/02/2024
L	6	Members Allowances Scheme	11	11/12/2023
M	7	Management Structure	4	26/02/2024

This version control does not list the history of amendments these can be identified based on the relevant reports and minutes.

The definitive version of the Constitution is held by the Monitoring Officer.

Documents produced by Fenland District Council are available on request in community languages, large print, Moon, Braille, on audio cassette and in electronic format upon request.

## **PART 1**

### **SUMMARY AND EXPLANATION**



## SUMMARY AND EXPLANATION

### 1. THE COUNCIL'S CONSTITUTION

- 1.1 Fenland District Council has agreed to a new Constitution which sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose.
- 1.2 The Constitution is divided into 16 articles which set out the basic rules governing the Council business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

Article 1 of the Constitution commits the Council to provide clear leadership in the community in partnership with citizens, business and other organisations; to take decisions effectively, to hold decision-makers to public account, and to improve the delivery of services to the community. 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);
- Citizens and the Council (Article 3);
- The Council Meeting (Article 4);
- Chairing the Council (Article 5);
- Overview and Scrutiny decisions (Article 6);
- The Cabinet (Article 7);
- Regulatory and other committees and panels (Article 8);
- The Conduct Committee (Article 9)<sup>1</sup>;
- Area committees (Article 10);
- 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); and
- Suspension, interpretation and publication of the Constitution (Article 16).

### 2. HOW THE COUNCIL OPERATES

- 2.1 The Council comprises 43<sup>2</sup> councillors all elected every four years. Councillors are democratically accountable to the

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<sup>1</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>2</sup> Amendment made May 2023

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.

- 2.2 Councillors have to agree to a code of conduct to ensure high standards in the way they undertake their duties. The Conduct<sup>3</sup> Committee trains and advises them on the code of conduct.
- 2.3 All Councillors meet together as the Council and meetings are normally open to the public<sup>4</sup>. Here Councillors decide the Council's overall policies and set the budget (which includes the annual revenue budget and capital programme) each year. The Council also approves the Policy Framework which comprises a series of major plans. The Cabinet has to work within the Budget and the Policy Framework approved by the Council. The Council can approve (or reject) any proposals from Cabinet for action which is outside the Budget or the Policy Framework.

### **3. HOW DECISIONS ARE MADE**

- 3.1 The Cabinet is the part of the Council that is responsible for most day to day decisions. The Cabinet is made up of the Leader of the Council appointed by the Council, usually for a four year term, and up to nine Councillors appointed by the Leader to form the Cabinet. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan as 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 members of the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions that are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, this must be to the Council as a whole to decide.<sup>5</sup>

### **4. OVERVIEW AND SCRUTINY**

- 4.1 The Overview and Scrutiny Panels support the work of the Cabinet and Council as a whole. The Panels allows citizens to have a greater say in Council matters by holding enquiries into matters of local concern. Reports and recommendations are prepared by the Panels that advise the Cabinet and Council as a whole on its policies, budget and service delivery. The Panels also monitor the decisions of the Cabinet. They can "call in" a decision that has been made by the Cabinet but not yet implemented. This enables the Panels to consider if the decision is appropriate. They may recommend that the Cabinet

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<sup>3</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>4</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>5</sup> Amendment approved 16<sup>th</sup> December 2010

reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.<sup>6</sup>

## **5. THE COUNCIL'S STAFF**

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

## **6. CITIZENS' RIGHTS**

6.1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, while others depend on the Council's own processes. The local Citizens' Advice Bureau or a solicitor can advise on individuals' legal rights.

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

6.3 Citizens have a right to: -

- vote at local elections if they are registered;
- contact their local Councillor(s) about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Cabinet, committees and panels<sup>7</sup> except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum for a mayoral form of executive;
- submit petitions in accordance with the Councils Petition Scheme<sup>8</sup>
- contribute to the investigations by the Overview and Scrutiny Panel by submitting evidence and comments on the enquiries being undertaken;
- find out from the Cabinet's forward plan what major matters are to be discussed by the Cabinet or decided by members of the Cabinet or officers and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided<sup>9</sup>;

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<sup>6</sup> Amendment approved 25<sup>th</sup> February 2010, amendment approved 26<sup>th</sup> July 2012

<sup>7</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>8</sup> Amendment approved 29<sup>th</sup> July 2010

- see reports and background papers and any record of decisions made by the Council and the Cabinet<sup>10</sup>;
- complain to the Council about the standard of service provided in accordance with the Council's complaints scheme;
- complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However they should only do this after using the Council's own complaints scheme;
- complain to the Conduct Committee<sup>11</sup> if they have evidence which they think that a Councillor has not followed the Council's code of conduct; and
- inspect the Council's accounts (when they are on deposit) and make their views known to the external auditor<sup>12</sup>.

6.4 The Council welcomes participation by its citizens in its work. Further information on your rights as a citizen can be obtained from the Council's Members Services at Fenland Hall, County Road, March, Cambridgeshire PE15 8NQ telephone 01354 654321<sup>13,14</sup>

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<sup>9</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>10</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>11</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>12</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>13</sup> Amendment approved 25<sup>th</sup> September 2008

<sup>14</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021



## PART 2

### ARTICLES OF THE CONSTITUTION

Article	1	The Constitution
	2	Members of the Council
	3	Citizens and the Council
	4	The Full Council
	5	Chairing the Council
	6	Overview and Scrutiny
	7	The Cabinet
	8	Regulatory and Other Committees and Panels
	9	Conduct Committee <sup>1</sup>
	10	Area Committees and Forums
	11	Joint Arrangements
	12	Officers
	13	Decision Making
	14	Finance Contracts and Legal Matters
	15	Review and Revision of the Constitution
	16	Suspension, Interpretation and Publication of the Constitution
Schedule 1		Description of Executive Arrangements

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<sup>1</sup> Amendment approved 26<sup>th</sup> July 2012



## **ARTICLE 1 – THE CONSTITUTION**

### **1. POWERS OF THE COUNCIL**

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

### **2. THE CONSTITUTION**

- 2.1 This Constitution, and all its appendices, is the Constitution of Fenland District Council.

### **3. PURPOSE OF THE CONSTITUTION**

- 3.1 The purpose of the Constitution is to:-
- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
  - (b) support the active involvement of citizens in the process of local authority decision making;
  - (c) support the Council in achieving its strategic vision for the District.
  - (d) help Councillors represent their constituents more effectively;
  - (e) enable decisions to be taken efficiently and effectively;
  - (f) create a powerful and effective means of holding decision-makers to public account;
  - (g) ensure that no one will review or scrutinise a decision in which they were directly involved;
  - (h) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
  - (i) provide a means of improving the delivery of services to the community.

### **4. INTERPRETATION AND REVIEW OF THE CONSTITUTION**

- 4.1 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.

## 5. COUNCIL MISSION, VISION AND VALUES<sup>2</sup>

Our twenty year vision for the area is a shared vision developed by the Fenland Strategic Partnership (FSP):

“A district where there is a high quality of life for all, now and in the future, which is known as a great place to live, work, learn and visit - a place to be proud of”

The FSP is made up of the following partners:

- Cambridgeshire ACRE
- Age Concern
- Business Link
- Central Association of Local Councils
- Cambridgeshire County Council
- Cambridgeshire Constabulary
- Fenland CVS
- NHS Cambridgeshire
- College of West Anglia
- Fenland District Council
- Roddons Housing Association
- Cambridgeshire Fire Authority

Our vision for the Council is to be:

“An efficient, progressive and well governed organisation which has the capacity to deliver current and future local and national priorities.”

Our mission as a Council is:

“To improve quality of life for people living in the Fenland district”

In support of our vision and mission we have developed organisational core values that underpin our approach to the work we do. Our core values are:

- Value, respect and dignity for all
- Adopt a positive one team approach
- Listen, talk and take action
- Understand, learn and improve
- Encourage, enable and effectively support
- Service excellence

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<sup>2</sup> Amendment approved 25 February 2010

## **ARTICLE 2 – MEMBERS OF THE COUNCIL**

### **1. COMPOSITION AND ELIGIBILITY**

#### **1.1 Composition**

The Council comprises 43<sup>3</sup> members, otherwise called councillors. One or more councillors are elected by the voters of each ward in accordance with the scheme drawn up by the Electoral Commission and approved by the Secretary of State.

#### **1.2 Eligibility**

Only registered voters of the Fenland District or those living or working here or own or rent land/property in the district are eligible to stand for the office of councillor.

### **2. ELECTION AND TERMS OF COUNCILLORS**

2.1 The regular election of all 43<sup>4</sup> councillors will be held on the first Thursday in May every four years beginning in May 2003 . 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 quadrennial election.

### **3. ROLES AND FUNCTIONS OF ALL COUNCILLORS**

3.1 **Key Roles** – All councillors will:-

- (a) collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- (b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (c) effectively represent the interests of their ward and individual constituents;
- (d) respond to constituents' enquiries and representations fairly and impartially;
- (e) participate in the governance and management of the Council;

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<sup>3</sup> Amendment made May 2023

<sup>4</sup> Amendment made May 2023

- (f) be eligible to represent the Council on other bodies; and
- (g) maintain the highest standards of conduct and ethics.

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

## **4. CONDUCT**

- 4.1 Councillors will at all times observe the Members’ Codes of Conduct and the Protocol on Member/Officer relations set out in Part 5 of this Constitution as from time to time revised by the Council.

## **5. ALLOWANCES**

- 5.1 Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution as from time to time approved<sup>5</sup> by the Council.

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<sup>5</sup> Amendment approved 25 February 2010

## ARTICLE 3 – CITIZENS AND THE COUNCIL

### 1. CITIZENS' RIGHTS

1.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution<sup>6</sup>

#### (a) Voting and Petitions

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

#### (b) Information

Citizens have the right to:-

- (i) attend meetings of the Council and its Cabinet, committees and panels except where confidential or exempt information is likely to be disclosed and the meeting is, therefore, held in private;
- (ii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
- (iii) see reports and background papers and any records of decisions made by the Council, the Cabinet, committees and panels;
- (iv) inspect the Council's accounts when they are on deposit and make their views known to the external auditor; and
- (v) submit petitions in accordance with the Councils Petition Scheme.<sup>7</sup>

#### (c) Participation

Citizens have the right to speak at Council meetings and Cabinet meetings in accordance with the relevant rules set out in part 4 of the Constitution.<sup>8</sup>

Citizens have the right to participate in investigations by the Overview and Scrutiny Panel.

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<sup>6</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>7</sup> Amendment approved 29 July 2010

<sup>8</sup> Amendment approved 25 February 2010

(d) **Complaints**

Citizens have the right to complain to:-

- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme; and
- (iii) the Conduct Committee<sup>9</sup> about a breach of the Members' Codes of Conduct.

**2. CITIZENS' RESPONSIBILITIES**

- 2.1 Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. They must not interrupt proceedings, speak, sing or otherwise create a disturbance when attending any meeting of the Council, Cabinet or other decision-making bodies of the authority.

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<sup>9</sup> Amendment approved 26 July 2012



## ARTICLE 4 – THE FULL COUNCIL

### 1. MEANINGS

1.1 **Policy Framework** – the policy framework means the following plans and strategies:<sup>10</sup>

- <sup>11</sup>(a) Corporate Plan
- (b) Community Strategy
- (c) Crime and Disorder Reduction Strategy
- (d) Development Plan Documents (DPDs)<sup>12</sup>
- (e) The Housing Strategy<sup>13</sup>
- (f) Corporate Asset Management Plan
- (g) Cultural Strategy
- (h) Economic Development Strategy
- (i) Waste Management Plan
- (j) Budget
- (k) Medium Term Financial Strategy
- (l) Capital Strategy
- (m) Making of Neighbourhood Plans and Neighbourhood Development Orders<sup>14</sup>

1.2 **Budget** – the budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits;

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

### 2. FUNCTIONS OF THE FULL COUNCIL

2.1 Only the Council will exercise the following functions:-

- (a) approving and reviewing the Council's Constitution to ensure the continuous improvement of local democracy

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<sup>10</sup> Amendment approved 21 December 2006

<sup>11</sup> Amendment approved 26 July 2012

<sup>12</sup> Amendment approved 14 December 2017

<sup>13</sup> Amendment approved 26 July 2012

<sup>14</sup> Amendment approved 14 December 2017

as recommended by the Cabinet or Scrutiny Review Panel via Cabinet;

- (b) approving or adopting the policy framework, budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader of the Council at the first annual Council meeting following a whole Council election or at any subsequent meeting, should the serving leader cease to be Leader;<sup>15</sup>
- (e) agreeing and/or amending the terms of reference for committees and panels, deciding on their composition and making appointments to them;
- (f) adopting an allowances scheme under Article 2.5;
- (g) changing the name of the area and any functions relating to electoral arrangements;
- (h) approving the appointment of and dismissing, the Chief Executive<sup>16</sup> and confirming the designation and dismissal<sup>17</sup> of Monitoring Officer and Chief Finance Officer;
- (h1) receive notification of nominated Deputy Monitoring Officer and Deputy Chief Finance Officer;<sup>18</sup>
- (i) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (j) the functions described in Article 11 (Delegation to and from other local authorities and under joint arrangements);

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<sup>15</sup> Amendment approved 16 December 2010

<sup>16</sup> Amendment approved 25 February 2010

<sup>17</sup> Amendment approved 11 May 2017

<sup>18</sup> Amendment approved 25 February 2010

- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (l) those functions set out in Sections 5-8 of the Licensing Act 2003 including determining Licensing Policy and appointing a Licensing Committee;
- (m) to approve<sup>19</sup> payments or provide other benefits in cases of maladministration
  - (m1) approval of the Council's Petitions Scheme<sup>20</sup>
  - (m3) approving the Council's senior pay policy<sup>21</sup>
- (n) all other matters which, by law, must be reserved to the Council.

### 3. **COUNCIL MEETINGS**

3.1 There are three types of Council meeting:-

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

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution<sup>22</sup>.

### 4. **RESPONSIBILITY FOR FUNCTIONS**

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

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<sup>19</sup> Amendment approved 25 February 2010

<sup>20</sup> Amendment approved 29 July 2010

<sup>21</sup> Amendment approved 11 May 2017

<sup>22</sup> Amendment approved 30 April 2020, deleted 7 May 2021



## **ARTICLE 5 – CHAIRING THE COUNCIL**

### **1. ROLE AND FUNCTION OF THE CHAIRMAN**

- 1.1 The Chairman will be elected by the Council annually in accordance with the Council Procedure Rules in Part 4 of this Constitution. The Chairman of the Council and, in his/her absence, the Vice-Chairman of the Council will have the following roles and functions:
- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution fairly and impartially when necessary in Council meetings;
  - (b) 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;
  - (c) 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 Councillors who are not on the Cabinet are able to hold the Cabinet to account;
  - (d) to promote public involvement in the Council's activities;
  - (e) to be the civic and ceremonial head of the Council and to attend such civic and ceremonial functions as the Council and he/she determines appropriate.



## ARTICLE 6 – OVERVIEW AND SCRUTINY

### 1. TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY PANEL

1.1 The Council will appoint Overview and Scrutiny Panels, as set out in Table 1 of the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution, to discharge the functions conferred by Section 21 of the Local Government Act 2000 as amended<sup>23</sup>.

### 2. GENERAL ROLE

2.1 Within its terms of reference, the Overview and Scrutiny Panel will:-

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions including the actions of other partner organisations within the Local Strategic Partnership<sup>24</sup>;
- (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 or to assist in the formation of policy<sup>25</sup>;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right of call-in, for reconsideration, decisions made but not yet implemented by the Cabinet, an individual member of the Cabinet, a committee of the Cabinet or a key decision made by an officer.
- (e) Deal with matters referred to it by Members acting in response to their duties under the Local Government Act 2000 as amended.<sup>26</sup>

### 3. SPECIFIC FUNCTIONS

3.1 The Overview and Scrutiny Panel will<sup>27</sup>:-

- (a) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;

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<sup>23</sup> Amendment approved 8 May 2008

<sup>24</sup> Amendment approved 8 May 2008

<sup>25</sup> Amendment approved 25 February 2010

<sup>26</sup> Amendment approved 8 May 2008

<sup>27</sup> Amendment approved 25 February 2010

- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question members of the Cabinet and/or committee and panels and senior officers\* about their views on issues and proposals affecting the area; and
- (e) liaise with other external organisations operating within the area whether national, regional or local to ensure that the interests of local people are enhanced by collaborative working,
- (f) review and scrutinise the decisions made by and performance of the Cabinet and/or committees and panels and senior officers\* both in relation to individual decisions and over time;
- (g) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas and make recommendations where these are identified<sup>28</sup>;
- (h) question members of the Cabinet and/or committees and panels 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;
- (h1) receive petitions calling officers to account in accordance with the Councils Petition Scheme.<sup>29</sup>
- (h2) review the steps taken to respond to a petition in accordance with the Councils Petition Scheme.<sup>30</sup>
- (i) make recommendations to the Cabinet and/or appropriate committees and panels and/or Council arising from the outcome of the scrutiny process;
- (j) review and scrutinise the performance of other public bodies in the area and receive reports from them by inviting them to address an Overview and Scrutiny Panel and local people about their activities and performance; and

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<sup>28</sup> Amendment approved 25 February 2010

<sup>29</sup> Amendment approved 29 July 2010

<sup>30</sup> Amendment approved 29 July 2010



- (k) question and gather evidence from any person (with their consent), including officers.

### 3.2 **Finance**

The Overview and Scrutiny Panel may exercise overall responsibility for the finances made available to it.

### 3.3 **Annual Report**

The Overview and Scrutiny Panel must report, at least annually, to the full Council on its workings and working methods.

## 4. **PROCEEDINGS OF THE OVERVIEW AND SCRUTINY PANEL**

- 4.1 The Overview and Scrutiny Panel will conduct its proceedings in accordance with the Procedure Rules set out in Part 4 of this constitution<sup>31</sup>

(\*Note: for the purpose of this Article, the term “senior officer” means Chief Executive, Corporate Directors and Assistant Directors<sup>32</sup>)

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<sup>31</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>32</sup> Amendment approved 26 July 2012 and 26 February 2024



## ARTICLE 7 – THE CABINET

### 1. THE CABINET

- 1.1 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

- 2.1 The Cabinet will consist of up to ten councillors but no fewer than two and will include the Leader of the Council acting as Chairman. The full Council will appoint the Leader at the first annual Council meeting following a whole Council election, or at any meeting if a vacancy occurs. The Leader shall determine the number of other councillors to be Cabinet members and appoint them.<sup>33</sup>
- 2.2 The Council will not subsequently alter the holder of the position of Leader unless any circumstances in paragraph 3 below apply.

### 3. LEADER

- 3.1 The Leader, who will be Chairman of the Cabinet, will be a Councillor and will be elected to the position of Leader by the Council at the first annual meeting following a whole Council Election. The Leader will hold office until the day of the post-election annual meeting which follows his / her election as Leader unless before the date of that meeting: -
- (a) he/she resigns from the office; or
  - <sup>34</sup>(b) he/she is no longer a Councillor; or
  - (c) he/she is removed from office by resolution of the Council.

If the serving leader ceases to be Leader for one of the above reasons, the Council will elect a new Leader to serve until the day of the post-election annual meeting which follows their election as Leader.<sup>35</sup>

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<sup>33</sup> Amendment approved 16 December 2010

<sup>34</sup> Amendment approved 26 July 2012

<sup>35</sup> Amendment approved 16 December 2010

<sup>33(i)</sup> Amendment approved 24 July 2014

#### 4. **CABINET MEMBERS** <sup>33(i)</sup>

4.1 <sup>36</sup>Cabinet members shall hold office until -

(a) they resign from the office (individually or collectively)

<sup>37</sup>(b) they are no longer Councillor(s) (individually or collectively); or

(c) they are removed from office either individually or collectively by the Leader<sup>38</sup>

4.2 Changes by the Leader to the membership of the Cabinet, including the introduction of a new Cabinet Member, will take place immediately but will be reported to Council at the next meeting.<sup>39</sup>

4.3 The Leader will nominate one member of the Cabinet as his/her deputy to assume the full powers of the Leader in any circumstances in which the Leader is unable to act. The Deputy Leader will also act as the Leader if the post of Leader is vacant.  
<sup>39 38(i)</sup>

4.4 [Deleted] <sup>40</sup>

4.5 The Deputy Leader will hold office until the end of the Leader's term of office, unless removed by the Leader or any of the reasons set out in in 4.1 (a) or (b) apply. <sup>39 38(i)</sup>

#### 5. **PROCEEDINGS OF THE CABINET**

5.1 Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution<sup>41</sup>.

#### 6. **RESPONSIBILITY FOR FUNCTIONS**

6.1 The Leader will maintain or arrange to be maintained a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees appointed by the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

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<sup>36</sup> Amendment approved 25 February 2010

<sup>37</sup> Amendment approved 26 July 2012

<sup>38</sup> Amendment approved 25 February 2010

<sup>39</sup> Amendment approved 25 February 2010

<sup>40</sup> Amendment approved 16 December 2010

<sup>38(i)</sup> Amendment approved 24 July 2014

<sup>39</sup> Amendment approved 23 July 2015

<sup>41</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- 6.2 The Cabinet will publish a Forward Plan for at least four months in advance showing the timetable for preparing, consulting and submitting draft Plans for the Council for consideration and adoption. The Plan will be updated at the first meeting of the Cabinet each month.
- 6.3 The Leader will determine the scope of portfolios to reflect the corporate themes and priorities. The Leader may assign a member of the Cabinet one or more than one portfolio as he or she decides. Portfolio changes will take effect whenever the Leader decides, thus giving the flexibility needed to cover all circumstances including short-term absences<sup>42</sup>

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<sup>42</sup> Amendment approved 25 February 2010



## **ARTICLE 8 – REGULATORY AND OTHER COMMITTEES AND PANELS**

### **1. REGULATORY AND OTHER COMMITTEES AND PANELS**

1.1 The Council will appoint the committees and panels set out in the left hand column of the Table 2, Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

1.2 <sup>43</sup>

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<sup>43</sup> Amendment approved 30 April 2020, deleted 7 May 2021





## **ARTICLE 9 – CONDUCT COMMITTEE & HEARING PANEL<sup>44</sup>**

### **1. CONDUCT COMMITTEE**

1.1 The Council will establish a Conduct Committee, the membership of which shall as far as practicable be politically proportionate.

#### **1.2 Membership**

1.2.1 The Conduct Committee shall comprise of 5 elected Councillors all of whom will be required to undertake relevant training.

1.2.2 The Committee will appoint, at its first meeting following the annual meeting of the Council, its Chairman and Vice-Chairman for the forthcoming year.

1.2.3 The Conduct Committee shall be entitled to co-opt up to two representatives from Town or Parish Councils from within the District who may sit with the Committee and consider matters before it. They shall have the right to speak and engage with the debate of the committee however they do not have a right to vote.

1.2.4 The Council's designated Independent Person shall sit alongside the Conduct and any Hearing Panel to offer advice in a non-voting capacity. Members must take account the views of the Independent Person in reaching decisions.

1.2.5 The Conduct Committee will be considered to be quorate where 3 or more members are present and Rule 24.3 of the Council's Standing Orders will not apply to Rule 7 in this context.

#### **1.3 Role and Functions**

1.3.1 The Conduct Committee will have the following role and functions in respect of the District Council and its members and Town and Parish councils and their members:

- promoting and maintaining high standards of conduct by Members;
- assisting Members and co-opted Members to observe their authority's Codes of Conduct;
- advising the Council on the adoption or revision of a Code of Conduct;

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<sup>44</sup> Amendment to Article 9 approved 18 September 2019

- monitoring the operation of the Codes;
- advising, training or arranging to train members and co-opted members on matters relating to the Code;
- to make recommendations to the Council on the appointment of its Independent Person(s); and
- to have oversight of Parish and Town Council's Codes of Conduct and Registers of Interests and authority to hear complaints relating to town or parish councillors.

1.3.2 The Monitoring Officer, in consultation with the Chairman of the Conduct Committee and the Independent Person, may issue dispensations to any member in respect of statutory and non-statutory disclosable interests. The Conduct Committee will receive a report on such cases at the next available meeting.

1.3.3 The Chairman of the Conduct Committee will be able to attend meetings of the full Council to present reports, answer questions and respond to motions on the work of the Committee in accordance with the appropriate provisions of the Rules of Procedure.

## **2. HEARING PANEL**

2.1. Whenever necessary the Chairman or Vice-Chairman of the Conduct Committee shall appoint a Sub-Committee in consultation with the Monitoring Officer for the purpose of considering and determining conduct complaints ("Hearing Panel").<sup>45</sup>

### **2.2. Membership**

2.2.1. The Hearing Panel shall comprise three members of the Conduct Committee, including either the Chairman or Vice-Chairman all of whom must be present for the meeting to be quorate.

2.2.2. The membership of the panel shall, as far as practicable, be politically proportionate.

2.2.3. The Council's designated Independent Person or Deputy shall sit alongside the Hearing to offer advice in a non-voting capacity.

2.2.4. Where the complaint relates to a Town or Parish Councillor the co-opted representatives will also be invited to sit alongside the Hearing Panel to offer advice in a non-voting capacity.

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<sup>45</sup> Amendment approved 30 April 2020, deleted 7 May 2021

### 2.3. Role and Functions

2.3.1. The Hearing Panel will have the following roles and functions in respect of members of the District, Town and Parish councils and shall perform these in accordance with Rule 9 of the Constitution:

- Hearing and determining complaints referred by the Monitoring Officer;
- Issuing appropriate sanctions when it has determined that the subject of a complaint has been found to have breached the Code of Conduct.



## **ARTICLE 10 – AREA COMMITTEES, FORUMS AND TASK GROUPS**

### **1. AREA COMMITTEES/FORUMS**

- 1.1 The Council may appoint area committees or forums as it sees fit. Such area committees or forums may be decision making if the Council is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.<sup>46</sup>
- 1.2 The Council will consult with the relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees or forums.

### **2. TASK GROUPS**

#### **2.1 ROLE**

- 2.1.1. The Council, the Cabinet, any Council body and Portfolio Holders may establish temporary Task Groups to undertake specific work within their remit. Task Groups may not be authorised to exercise the powers of the Council. Task Groups shall operate until they have completed their tasks unless they are disbanded sooner by the bodies or Portfolio Holder which established them. The main role of a Task Group is to act in an advisory capacity. It is expected that Portfolio Holders in particular may wish to establish Task Groups to act as a sounding board and to advise him/her on improving service delivery with his/her portfolio.

#### **2.2 COMPOSITION AND PROCEDURES**

- 2.2.1 Unless the Leader of each registered Political Group agrees to the contrary, Task Groups will be appointed in accordance with the rules on political proportionality contained in the Local Government and Housing Act 1989 and having regard to councillors' particular interests, expertise and willingness to participate.
- 2.2.2 Task Groups shall elect their own Chairman and Vice-Chairman who shall be a councillor but not necessarily the relevant Portfolio Holder.
- 2.2.3 Task Groups meetings shall be minuted and Terms of Reference agreed at its first meeting.

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<sup>46</sup> Amendment approved 30 April 2020, deleted 7 May 2021

## **2.3. SERVICE REVIEW AND DEVELOPMENT**

2.3.1 When undertaking service review and development tasks, Task Groups assist the Council, Cabinet and the Portfolio Holder in the development of services (including budget allocation) by studying and discussing service issues; and to that end may

- (a) call on other councillors and senior Council officers to share their views and experience relevant to the policy under consideration;
- (b) encourage participation by members of the public, relevant outside organisations and other local authorities;
- (c) within the Council's arrangements and budget, commission or conduct enquiry research and consultation in analysing service issues and options;
- (d) liaise with external organisations to enhance collaborative working.

## **ARTICLE 11 – JOINT ARRANGEMENTS**

### **1. ARRANGEMENTS TO PROMOTE WELL-BEING**

- 1.1 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; or
  - (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; or
  - (c) exercise on behalf of that person or body any functions of that person or body.

### **2. JOINT ARRANGEMENTS**

- 2.1 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. (Such arrangements may involve the appointment of a joint committee with these other local authorities).
- 2.2 The Council may upon a proposal by the Cabinet 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.
- 2.3 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.
- 2.4 The Cabinet may appoint Members to a joint committee from outside the Cabinet in the following circumstances –
- the joint committee has functions for only part of the area of the authority, and that area is smaller than two fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for an electoral ward which is wholly or partly contained within the area;
  - the joint committee is between Cambridgeshire County Council and the Council and relates to functions of the executive of the County Council. (In such cases, the executive of the County Council may appoint to the joint committee any Councillor who is a member for an

electoral division which is wholly or partly contained within Fenland).

In both of these cases the political balance requirements will not apply to such arrangements.

- 2.5 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**

- 3.1 The Access to Information Rules in Part 4 of this Constitution apply<sup>47</sup>
- 3.2 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.
- 3.3 If the joint committee contains members who are not on the Cabinet of either the County Council or the Council 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**

- 4.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- 4.2 The Council may, upon a proposal by the Cabinet, delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- 4.3 The decision whether or not to accept a proposal by the Cabinet under paragraphs 2.2 and 4.2 of this Article or to accept such a delegation from another local authority shall be reserved to the Council.

### **5. CONTRACTING OUT**

- 5.1 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.

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<sup>47</sup> Amendment approved 30 April 2020, deleted 7 May 2021



## ARTICLE 12 – OFFICERS

### 1. TERMINOLOGY

- 1.1 In this Article use of the word “officers” means all employees and staff engaged by the Council to carry out its functions and includes those engaged under short-term, agency or other non-employed situations.

### 2. MANAGEMENT STRUCTURE

- 2.1 **General** – the Council may engage such officers as it considers necessary to carry out its functions.

- 2.2 **Chief Officers** – the Council will engage persons for the following posts, who will be designated chief officers:-

- Chief Executive<sup>48</sup>
- Chief Finance Officer<sup>49 50</sup>
- Monitoring Officer<sup>51</sup>

Each of the Corporate Directors will deputise for the Chief Executive in his/her absence on a monthly rotating basis. Members will be provided with a copy of the rota for reference<sup>52</sup>.

- 2.3 **Head of Paid Service, Monitoring Officer and Chief Finance Officer** – the Council will designate the following posts as shown:-

Post	Designation
Chief Executive	Head of Paid Service
Corporate Director <sup>53</sup>	Monitoring Officer
Corporate Director <sup>54</sup> (Finance) <sup>55</sup>	Chief Finance Officer

Such posts will have the functions described in paragraphs 3 - 5 of this Article.

The Monitoring Officer and the Chief Finance Officer may designate suitably qualified persons to deputise for them in their

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<sup>48</sup> Amendment approved 25 February 2010

<sup>49</sup> Amendment approved 25 September 2008

<sup>50</sup> Amendment approved 25 September 2008, Amendment approved 29 July 2010

<sup>51</sup> Amendment approved 26 July 2012

<sup>52</sup> Amendment approved 11 May 2017

<sup>53</sup> Amendment made 18 September 2019

<sup>54</sup> Amendment approved 25 September 2008

<sup>55</sup> Amendment approved 26 July 2012

absence,<sup>56</sup> provided that their designation is reported to the next council meeting.<sup>57</sup>

- 2.4 **Structure** – the Head of Paid Service will determine and publicise a description of the overall staff structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

### 3. **FUNCTIONS OF THE HEAD OF PAID SERVICE**

- 3.1 **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 staff.
- 3.2 **Restrictions on Functions** - the Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.
- 3.3 **Overall Corporate Management** - the Head of Paid Service has overall corporate management and operational responsibility (including overall management responsibility for all officers).
- 3.4 **Providing advice** - the Head of Paid Service provides professional advice to all parties in the decision making process.
- 3.5 **Record keeping** - together with the Monitoring Officer, the Head of Paid Service has responsibility for a system of record keeping of all the Council's decisions.
- 3.6 **Representing the Council** - the Head of Paid Service represents the Council on partnership and external bodies (as required by statute or the Council).

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<sup>56</sup> Amendment approved 25 September 2008

<sup>57</sup> Amendment approved 25 February 2010

#### 4. FUNCTIONS OF THE MONITORING OFFICER

- 4.1 **Maintaining the Constitution** - the Monitoring Officer will ensure that the Constitution is regularly monitored and reviewed and that an up-to-date version of the Constitution is maintained and that it is widely available for consultation by Councillors, officers and the public.
- 4.2 **Ensuring Lawfulness and Fairness of Decision Making** - after consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given, or would give, rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 4.3 **Supporting the Conduct Committee<sup>58</sup>** - the Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Conduct Committee<sup>59</sup>.
- <sup>60</sup>4.4 **Proper Officer for Access to Information** - the Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- 4.5 **Advising whether Executive Decisions are within the Budget and Policy Framework** – the Monitoring Officer will advise whether executive decisions are in accordance with the budget and policy framework and (after consultation with the Chief Finance Officer) the budgetary framework.
- 4.6 **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 and staff.

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<sup>58</sup> Amendment approved 26 July 2012

<sup>59</sup> Amendment approved 26 July 2012

<sup>60</sup> Amendment approved 26 July 2012

- 4.7 **Restrictions on Post** - the Monitoring Officer may not be the Chief Finance Officer or the Head of Paid Service.
- 4.8 **Supporting Corporate Management** - the Monitoring Officer supports the corporate management of the authority, in particular giving professional advice to any member of staff at any time on any functions of the post.
- 4.9 **Whistleblowing** - the Monitoring Officer will receive and investigate any allegations by a member of staff of any unlawfulness and unfairness by the Council or its staff.

## 5. **FUNCTIONS OF THE CHIEF FINANCE OFFICER**

- 5.1 **Ensuring Lawfulness and Financial Prudence of Decision Making** – after consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers 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.
- 5.2 **Administration of Financial Affairs** – the Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 5.3 **Contributing to Corporate Management** – the Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 5.4 **Providing Advice** – the Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- 5.5 **Give Financial Information** – the Finance Officer will provide financial information to the media, councillors, members of the public and the community.

**6. DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND CHIEF FINANCE OFFICER**

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

**7. CONDUCT**

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

**8. EMPLOYMENT**

8.1 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**

- 1.1 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**

- 2.1 All decisions of the Council will be made in accordance with the following principles:-
- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
  - (b) due consultation and the taking of professional advice from officers including the Head Of Paid Service, the Monitoring Officer and the Chief Finance Officer whenever they choose or are requested to offer such advice;
  - (c) respect for human rights;
  - (d) a presumption in favour of openness and transparency and the spirit of the Freedom of Information Act 2000;
  - (e) clarity of aims and desired outcomes;
  - (f) the consideration of alternative options; and
  - (g) an explanation of the reasons for the decision.

### **3. TYPES OF DECISION**

#### **3.1 Decisions Reserved to Full Council**

Decisions relating to the functions listed in Paragraph 2 of Article 4 will be made by the full Council and not delegated.

#### **3.2 Key Decisions**

- (a) A “key decision” means an executive decision taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or an officer or under joint arrangements which if implemented would –
- to result in the local authority incurring expenditure which is, or the making of savings which are, in

excess of £100,000<sup>61</sup> (excluding in respect of land or property matters detailed below) either on its own or in partnership with other organisations; or ,

- require the acquisition or disposal of an interest in any land or property with a value in excess of £250,000.00; or,
- to be significant in terms of its effects on communities living or working in an area of the District comprising two or more wards.

The decision to enter into a contract or other arrangement shall not be treated as a Key Decision insofar as the purpose of the contract or arrangement is to fulfil the policy intention of a previously made Key Decision, implement an explicit policy within the approved Budget or Policy Framework, implement a capital project named in the approved capital programme or provide for the continuation of an established policy or service standard.<sup>62</sup>

- (b) In determining the meaning of “significant”, regard shall be had to any guidance for the time being issued by the Secretary of State.
- (c) The decision taker shall inform the Chief Executive and Chief Finance Officer<sup>63</sup> of all decisions (including those with a financial value below £100,000<sup>64</sup>) about which he/she has any doubt as to whether the decision may or may not be significant for the purposes of this paragraph and the Chief Executive in consultation with the Leader<sup>65</sup> may determine the decision as a key decision.
- (d) 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.

#### **4. DECISION MAKING BY THE FULL COUNCIL**

- 4.1 Subject to paragraph 8 of this Article, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter<sup>66</sup>

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<sup>61</sup> Amendment approved 25 February 2010

<sup>62</sup> Amendment approved 16 December 2010

<sup>63</sup> Amendment approved 25 February 2010

<sup>64</sup> Amendment approved 25 February 2010

<sup>65</sup> Amendment approved 25 February 2010

<sup>66</sup> Amendment approved 30 April 2020, deleted 7 May 2021



**5. DECISION MAKING BY THE CABINET**

5.1 Subject to paragraph 8 of this Article, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter<sup>67</sup>

**6. DECISION MAKING BY THE OVERVIEW AND SCRUTINY PANEL**

6.1 The Overview and Scrutiny Panel will follow the Overview and Scrutiny Procedure Rules set out in part 4 of this Constitution when considering any matter.<sup>68</sup>

**7. DECISION MAKING BY OTHER COMMITTEES AND PANELS ESTABLISHED BY THE COUNCIL**

7.1 Subject to paragraph 8 of this Article, other Council committees and panels will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as applied to them.<sup>69</sup>

**8. DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS**

8.1 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.<sup>70</sup>

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<sup>67</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>68</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>69</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>70</sup> Amendment approved 30 April 2020, deleted 7 May 2021



## **ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **1. FINANCIAL MANAGEMENT**

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

### **2. CONTRACTS**

2.1 Every contract made by the Council will comply with the Code of Procurement set out in Part 4 of this Constitution.

### **3. LEGAL PROCEEDINGS**

3.1 The Monitoring Officer<sup>71</sup> is authorised to institute, defend or participate in any legal proceedings in any case whether such action is necessary to give effect to decisions of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

### **4. COMMON SEAL OF THE COUNCIL<sup>72</sup>**

4.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer

4.2 The Seal shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or of the Cabinet, committee or panel to which the Council have delegated their powers in this behalf, or by a decision of a Cabinet member or an officer to which the Council, Cabinet, committee or panel similarly have delegated their powers. A decision will be a sufficient authority for sealing any document necessary to give effect to the decision.

4.3 The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The Seal shall be attested by an Officer authorised by the Monitoring Officer. A record of every document to which the Common Seal has been attached shall be made and consecutively numbered in a book to be provided for that purpose and each entry duly attested. The book shall be open for inspection by every member of the Council.

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<sup>71</sup> Amendment approved 26 July 2012

<sup>72</sup> Amendment approved 25 September 2008



## ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

### 1. DUTY TO MONITOR AND REVIEW THE CONSTITUTION

1.1 The Monitoring Officer, in consultation with the Chief Executive<sup>73</sup> and Chief Finance Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

1.2 The Leader may from time to time request that a committee, portfolio holder or Member may review the Constitution (or part of the Constitution) and make appropriate recommendations.<sup>74</sup>

### 2. PROTOCOL FOR MONITORING AND REVIEW OF CONSTITUTION BY MONITORING OFFICER

2.1 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.

To establish whether this is necessary the Monitoring Officer will on a regular basis<sup>75</sup> present a report to Cabinet seeking its recommendations to full Council for changes to the Constitution.

### 3. CHANGES TO THE CONSTITUTION

3.1 **Approval** – changes to the Constitution will only be approved by the Council after consideration of the proposals by Cabinet and any report on behalf of an Overview and Scrutiny Panel. Changes to the Members Scheme of Allowances will only be approved after consideration and proposals from the Independent Remuneration Panel. .

3.2 **Change from a Leader and Cabinet form of Executive to another arrangement, or Vice-Versa** – the Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

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<sup>73</sup> Amendment approved 25 February 2010

<sup>74</sup> Amendment approved 25 February 2010

<sup>75</sup> Amendment approved 25 February 2010



## **ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **1. SUSPENSION OF THE CONSTITUTION**

- 1.1 **Limit to Suspension** - the Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council to the extent permitted within those Rules and the law.
- 1.2 **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.
- 1.3 **Rules Capable of Suspension** – the following Rules may be suspended in accordance with this Article namely all the Council Procedure Rules in Part 4 of this Constitution.<sup>76</sup>

### **2. INTERPRETATION**

- 2.1 The ruling of the Chairman of the Council, after consultation with the Chief Executive or his/her nominee, as to the construction or application of this Constitution or as to any proceedings of the Council should 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**

- 3.1 Each member of the Council will receive a printed copy of this Constitution upon delivery of that individual's declaration of acceptance of office on the member first being elected to the Council.
- 3.2 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices, libraries and other appropriate locations including in electronic form on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- 3.3 The Monitoring Officer will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.

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<sup>76</sup> Amendment approved 30 April 2020, deleted 7 May 2021





## **SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

The following parts of this Constitution constitute the executive arrangements:-

- (i) Article 6 (Overview and Scrutiny Panel) and the Overview and Scrutiny Procedure Rules;
- (ii) Article 7 (the Cabinet) and the Cabinet Procedure Rules;
- (iii) Article 11 (Joint Arrangements) where joint arrangements have been made and functions delegated as appropriate by the Cabinet;
- (iv) Article 13 (Decision Making) and the Access to Information Procedure Rules; and
- (v) Part 3 (Responsibility for Functions).

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**PART 3**

**RESPONSIBILITY FOR  
FUNCTIONS**



## RESPONSIBILITY FOR FUNCTIONS

### INTRODUCTION

The Local Government Act 2000 and regulations made under the Act distribute responsibility for the Council's functions between the full Council and the Executive (Cabinet). The law allows the full Council to decide whether some functions (known as "local choice functions") should be exercised by the full Council, the Cabinet or another Council body.

The volume of the Council's business makes it impracticable for the full Council to make every decision that lies within its remit. The full Council has, therefore, delegated certain of its functions to other "Council bodies" which are known as 'Panels' and 'Committees'. Under the law, the full Council and the Cabinet may also delegate powers to officers to make decisions that they could make. The distribution of these powers to officers is set out in the "Scheme" of Delegation to Officers. Individual members of the Cabinet (Portfolio Holders) may also make decisions that could be made by the Cabinet.

This part of the Constitution describes the powers which may be exercised by the full Council, the Cabinet, other Council bodies and Portfolio Holders and sets out the scheme of delegation to officers.

Table 1	Local Choice Functions Council
Table 2	Responsibility for Functions
Table 3	Responsibility for Executive Functions
Table 4	Functions Delegated to Officers
Table 5	Functions Delegated to Portfolio Holders

### DEFINITIONS OF MEMBERSHIPS<sup>1</sup>

The following table defines the membership of the various decision making bodies used in Table 1 and Table 2<sup>2</sup>.

<b>Decision Making Body</b>	<b>Membership</b>
Council	All 43 <sup>3</sup> members of the Council
Cabinet	The Leader and up to 9 further members appointed by the Leader
Investment Board <sup>4</sup>	The Leader and up to two further Cabinet Members appointed by the Leader.

<sup>1</sup> Amendment approved 25 February 2010

<sup>2</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>3</sup> Amendment made 4 May 2023

<sup>4</sup> Amendment approved 9 January 2020

Decision Making Body	Membership
	<p>Two additional substitute Cabinet Members to be appointed by the Leader.</p> <p>The Investment Board shall be advised by the Chief Executive, s.151 and Monitoring Officers together with the Director of Growth [and its meetings may be attended by the Chairman or Vice Chairman of O&amp;S in an observatory capacity].</p>
Overview and Scrutiny Panels	<p>Up to 13<sup>5</sup> members of the Council (none of which may be part of the Cabinet) for each panel defined in Table 1 of the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution</p> <p>Six additional substitute members to be appointed.<sup>6</sup></p> <p>Each panel will have one Chairman and one Vice Chairman.</p>
Planning Committee	<p>Up to 7<sup>7</sup> members of the Council. No more than two<sup>8</sup> of which can be members of the Cabinet.</p> <p>The committee will have 1 Chairman and 1 Vice Chairman none of which can be members of the Cabinet.</p> <p>No planning decision will be taken at Committee if the number of Cabinet members is more than 50% of the voting members present.<sup>9</sup></p> <p>Each Political Group may appoint a number of substitutes precisely commensurate with their substantive allocation of seats up to a maximum of 4<sup>10</sup> who shall be subject to the rules of substitute members, and shall be required to abide by the training requirements for the Planning Committee.<sup>11</sup></p> <p>A new member appointed to Planning Committee must not take part in or vote on any decision made by Planning Committee until they have attended at least one internal and one external training session on planning related topics.</p>

<sup>5</sup> Amendment approved 19 May 2011, amendment approved 19 May 2021

<sup>6</sup> Amendment approved 18 July 2019

<sup>7</sup> Amendment approved 18 July 2019, amendment approved 8 December 2021, amendment approved 22 May 2023

<sup>8</sup> Amendment approved 8 December 2021, amendment approved 22 May 2023

<sup>9</sup> Amendment approved 8 December 2021

<sup>10</sup> Amendment approved 22 May 2023

<sup>11</sup> Amendment approved 19 May 2011

<b>Decision Making Body</b>	<b>Membership</b>
	<p>Existing members of Planning Committee who take part in or vote on any decision made by Planning Committee should attend at least one internal and one external training session on planning related topics during each municipal year. Failure to complete the training will be brought to the attention of the group leader prior to reappointment at annual council. Any new member undertaking initial training will meet their annual requirement. For the avoidance of doubt any member who fails to comply with the annual training provision will not by itself render a decision unlawful.</p>
Licensing Committee	<p>Up to 13<sup>12</sup> members of the Council. Power is given to the committee to appoint panels of 3 to determine individual cases.</p> <p>Six additional substitute members to be appointed.<sup>13</sup></p> <p>A new member appointed to the Licensing Committee must not take part in or vote on any decision made by Licensing Committee until they have attended at least one internal and one external training session on Licensing related topics.</p> <p>Existing members of Licensing Committee who take part in or vote on any decision made by Licensing Committee (or a panel) should attend at least one internal and one external training session on Licensing related topics during each municipal year. Failure to complete the training will be brought to the attention of the group leader prior to reappointment at annual council. Any new member undertaking initial training will meet their annual requirement. For the avoidance of doubt any member who fails to comply with the annual training provision will not by itself render a decision unlawful.</p>
Conduct Committee	<p>Up to 7<sup>14</sup> members of the Council.</p> <p>The Conduct Committee shall be advised by the Independent Person appointed in accordance with section 28 of the Localism Act 2011.</p>

<sup>12</sup> Amendment approved 3 November 2011, amendment approved 19 May 2021

<sup>13</sup> Amendment approved 18 July 2019

<sup>14</sup> Amendment approved 19 May 2021, amendment approved 22 May 2023

<b>Decision Making Body</b>	<b>Membership</b>
	<p>The committee may appoint up to two non voting members who are Town or Parish Councillors. <sup>15</sup></p> <p>Five<sup>16</sup> additional substitute members to be appointed.<sup>17</sup></p>
Audit and Risk Management Committee <sup>18</sup>	<p>Up to 7<sup>19</sup> members of the Council to be formed from:</p> <p>Up to 2<sup>20</sup> members of Cabinet and not to include the Portfolio Holder responsible for Finance</p> <p>Five<sup>21</sup> additional substitute members to be appointed.</p> <p>The Chairman may not be a member of Cabinet.</p>
Employment Committee <sup>22</sup>	<p>Up to 7 members of the Council.</p> <p>Five substitute members to be appointed.</p>
Appointments Panel	<p>Up to 7 members and not less than 3 nominated by the Leader to reflect political proportionality.</p> <p>Five<sup>23</sup> additional substitute members to be appointed.<sup>24</sup></p>
Culture, Arts and Heritage Executive Advisory Committee <sup>25</sup>	<p>7 members of the Council.</p> <p>5 substitute members to be appointed.</p> <p>To meet 3 times per year unless otherwise required.</p>
Rural and Farming Executive Advisory Committee <sup>26</sup>	<p>7 members of the Council.</p> <p>5 substitute members to be appointed.</p> <p>To meet 2 times per year unless otherwise required.</p>

<sup>15</sup> Amendment approved 26 July 2012

<sup>16</sup> Amendment approved 22 May 2023

<sup>17</sup> Amendment approved 18 July 2019, 3

<sup>18</sup> Amendment approved 14 December 2020 (replaces Staff Committee and Corporate Governance Committee), amendment approved 22 May 2023

<sup>19</sup> Amendment approved 19 May 2021

<sup>20</sup> Amendment approved 22 May 2023

<sup>21</sup> Amendment approved 22 May 2023

<sup>22</sup> Amendment approved 14 December 2020, amendment approved 22 May 2023 (replaces Audit and Risk Management Determination Sub-Committee)

<sup>23</sup> Amendment approved 22 May 2023

<sup>24</sup> Amendment approved 18 July 2019

<sup>25</sup> Amendment approved 17 July 2023

<sup>26</sup> Amendment approved 17 July 2023



<b>Decision Making Body</b>	<b>Membership</b>
Project Review Executive Advisory Committee <sup>27</sup>	<p>11 members of the Council.</p> <p>6 substitute members to be appointed.</p> <p>No members of Cabinet to serve on this committee.</p> <p>To meet on an ad hoc basis as required.</p> <p>The Chairman and Vice-Chairman of this committee to be appointed on a project by project basis as elected by the committee at its first meeting following a specific project having been referred.</p>

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<sup>27</sup> Amendment approved 17 July 2023

**TABLE 1 - LOCAL CHOICE FUNCTIONS<sup>28</sup>**

<b>Function</b>	<b>Decision-Making Body</b> (Memberships defined in table above)	<b>Delegation of Functions</b>
Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The conduct of Best Value Reviews in accordance with the provisions of any order for the time being having effect under Section 5 (best value reviews) of the Local Government Act 1999	Overview and Scrutiny Panel reporting findings to Council for decision	As defined in Tables 4 and 5 of this Part of the Constitution
<p>Any function relating to contaminated land:</p> <p>(i) approval of contaminated land strategy</p> <p>(ii) preparation of draft contaminated land strategy</p> <p>(iii) all other functions relating to contaminated land</p>	<p>Cabinet</p> <p>Cabinet</p> <p>Cabinet</p>	<p>As defined in Tables 4 and 5 of this Part of the Constitution</p> <p>As defined in Tables 4 and 5 of this Part of the Constitution</p> <p>As defined in Tables 4 and 5 of this Part of the Constitution</p>
The discharge of any function relating to the control of pollution or the management of air quality	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The service of an abatement notice in respect of a statutory nuisance	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution

<sup>28</sup> Amendment to table approved 25 September 2008 and 25 February 2010

<b>Function</b>	<b>Decision-Making Body</b> (Memberships defined in table above)	<b>Delegation of Functions</b>
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution`
The inspection of the authority's area to detect any statutory nuisance	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The investigation of any complaint as to the existence of a statutory nuisance	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The obtaining of particulars of a person's interest in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976:  (i) in so far as the information is required in connection with a function of the Planning Committee	Planning Committee	As defined in Tables 4 and 5 of this Part of the Constitution.
(ii) in so far as the information is required in connection with a function of the Licensing Committee  (iii) in so far as the information is required in connection with a function of the Cabinet	Licensing Committee  Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution  As defined in Tables 4 and 5 of this Part of the Constitution
The making of agreements for the execution of highways work	Planning Committee	As defined in Tables 4 and 5 of this Part of the Constitution

**TABLE 2 – RESPONSIBILITY FOR COUNCIL FUNCTIONS <sup>29</sup>**

<b>Decision-Making Body</b> (Memberships defined in table above)	<b>Functions</b>	<b>Delegations of Functions</b>
Council	<b>Corporate Asset Management Plan</b>	As defined in Tables 4 and 5 of this Part of the Constitution
Council	<b>Budget</b>	As defined in Tables 4 and 5 of this Part of the Constitution
	<b>Medium Term Financial Strategy</b>	
Council	<b>Cultural Strategy</b>	As defined in Tables 4 and 5 of this Part of the Constitution
Council	<b>Economic Development Strategy</b>	As defined in Tables 4 and 5 of this Part of the Constitution
Council	<b>The Housing Strategy <sup>30</sup></b>	As defined in Tables 4 and 5 of this Part of the Constitution
Council	<b>Waste Management Plan</b>	As defined in Tables 4 and 5 of this Part of the Constitution
Council	<b>Corporate Plan</b>	As defined in Tables 4 and 5 of this Part of the Constitution
Council	<b>Development Plan Documents (DPDs)<sup>31</sup></b>	As defined in Tables 4 and 5 of this Part of the Constitution

<sup>29</sup> Amendment to Table 2 approved 21 December 2006, 11 May 2017 and 9 January 2020

<sup>30</sup> Amendment approved 26 July 2012

<sup>31</sup> Amendment Approved 14 December 2017

<b>Decision-Making Body</b> (Memberships defined in table above)	<b>Functions</b>	<b>Delegations of Functions</b>
Council	<b>Making of Neighbourhood Plans and Neighbourhood Development Orders<sup>32</sup></b>	As defined in Tables 4 and 5 of this Part of the Constitution
Council	<b>Crime and Disorder Reduction Strategy</b>	As defined in Tables 4 and 5 of this Part of the Constitution
Council	<b>Elections and Electoral Registration</b>	As defined in Tables 4 and 5 of this Part of the Constitution
Council	<b>Health and Safety</b>  Functions relating to Health and Safety under any “relevant statutory provisions” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer	As defined in Tables 4 and 5 of this Part of the Constitution.
Council <sup>33</sup>	Commercial Investment Strategy	As defined in Tables 4 and 5 of this Part of the Constitution
Planning Committee	<b>Planning and Conservation</b>  Functions relating to town and country planning, conservation and listed buildings and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations)	As defined in Tables 4 and 5 of this Part of the Constitution

<sup>32</sup> Amendment approved 14 December 2017

<sup>33</sup> Amendment approved 9 January 2020

<b>Decision-Making Body</b> (Memberships defined in table above)	<b>Functions</b>	<b>Delegations of Functions</b>
	<b>Highways use and regulation</b>  The exercise of powers relating to the regulation and the use of highways as set out in Schedule 1 to the Functions Regulations	As defined in Tables 4 and 5 of this Part of the Constitution
	<b>Trees and Hedgerows</b>  The exercise of powers relating to the preservation of trees and protection of important hedgerows as set out in Schedule 1 to the Functions Regulations	As defined in Tables 4 and 5 of this Part of the Constitution
	<b>Brownfield Register (and other Registers)</b>  To undertake the functions of the Council under Part 2 of the Planning and Compulsory Purchase Act 2004 (local development), Section 14A (Register of Land), including preparation of a Brownfield Land Register as required by The Town and Country Planning (Brownfield Land Register) Regulations 2017. <sup>34</sup>	As defined in Tables 4 and 5 of this Part of the Constitution
	<b>Rights of Way<sup>35</sup></b>	As defined in Tables 4 and 5 of this Part of the Constitution

<sup>34</sup> Amendment approved 14 December 2017

<sup>35</sup> Amendment approved 14 December 2017

<b>Decision-Making Body</b> (Memberships defined in table above)	<b>Functions</b>	<b>Delegations of Functions</b>
Licensing Committee	<p><b>Licensing Act 2003</b> To discharge the functions of the Council as Licensing Authority under the Licensing Act 2003 with the exception of the Statement of Licensing Policy which is reserved to Council</p> <p><b>Taxi, gaming, entertainment, food and miscellaneous licensing</b></p> <p>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations</p>	<p>As defined in Tables 4 and 5 of this Part of the Constitution</p> <p>As defined in Tables 4 and 5 of this Part of the Constitution</p>
Conduct Committee <sup>36</sup>	<p><b>The promotion and maintenance of high standards and conduct within the Council</b></p> <p>To advise the Council on the adoption or revision of its Code of Conduct for Members</p> <p>To determine any complaints of a breach of The Members' Code of Conduct via the Sub-Committee Hearing Panel <sup>37</sup></p>	As defined in Tables 4 and 5 of this Part of the Constitution
	<p><b>Town/Parish Councils</b></p> <p>The promotion and maintenance of high standards of conduct within the Town and Parish Councils within Fenland and the determination of complaints made against these members in pursuance to the Code of Conduct.<sup>38</sup></p>	As defined in Tables 4 and 5 of this Part of the Constitution

<sup>36</sup> Amendment approved 26 July 2012

<sup>37</sup> Amendment approved 18 September 2019

<sup>38</sup> Amendment approved 26 July 2012

<b>Decision-Making Body</b> (Memberships defined in table above)	<b>Functions</b>	<b>Delegations of Functions</b>
Employment Committee <sup>39</sup>	<p>To receive reports from the Head of Paid Service and/or the Chief Finance Officer<sup>40</sup> on strategic employment policies, ie those employment policies immediately and directly affecting all employees and which incurs an additional cost to the service area in question.</p> <p>In collaboration with the Staff Side group to promote effective communications and consultation between the Council and its employees on general personal matters</p> <p>Exercise discretion allowed under the local government pension scheme, including the award of discretionary payments to employees</p>	As defined in Tables 4 and 5 of this Part of the Constitution

<sup>39</sup> Amendment approved 14 December 2020, amendment made 22 May 2023

<sup>40</sup> Amendment approved 26 July 2012



<b>Decision-Making Body</b> (Memberships defined in table above)	<b>Functions</b>	<b>Delegations of Functions</b>
Appointments Panel	<p><b>To appoint or dismiss the Head of Paid Service<sup>41</sup> Chief Officers and Directors</b></p> <p>Note: The appointment of the Chief Executive<sup>42</sup> must be confirmed by the full Council</p> <p>To take disciplinary action against the Chief Executive, and hear disciplinary appeals made by the<sup>43</sup> Chief Officers, the Monitoring Officer (and Deputy) and Chief Finance Officer (and Deputy) in accordance with the relevant provisions</p> <p>To consider and determine the terms and conditions of service of the Chief Executive and other employment related issues as they apply to the Chief Executive</p> <p>To consider any grievance submitted by the Chief Executive in accordance with the relevant provisions.</p>	As defined in Tables 4 and 5 of this Part of the Constitution
Overview and Scrutiny Panel	Overview and Scrutiny functions under the Local Government Act 2000 as amended <sup>44</sup>	As defined in Tables 4 and 5 of this Part of the Constitution
Audit and Risk Management Committee <sup>45</sup>	Functions relating to audit, the regulatory financial framework and accounting policies	As defined in Tables 4 and 5 of the Part of the Constitution

<sup>41</sup> Amendment approved 26 July 2012

<sup>42</sup> Amendment approved 25 February 2010

<sup>43</sup> Amendment approved 25 February 2010 and 26 July 2012

<sup>44</sup> Amendment approved 8 May 2008

<sup>45</sup> Amendment approved 14 December 2020

**TABLE 3 - RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

**3.1. CABINET**

<b>Who is responsible?</b>	<b>Membership</b>	<b>Functions</b>	<b>Onward Limit of Delegations</b>
Cabinet	Up to 10 members of the Council	All functions of the Council which are not the responsibility of any other part of the Council as defined in this Constitution	As defined in Tables 3 <sup>46</sup> , 4 and 5 of this Part of the Constitution
Leader	The member so appointed by the Council	The creation of portfolios of related functions and appointment of members of the Cabinet to portfolios	
Portfolio Holders	See Appendix	Responsible for functions delegated to Portfolio Holders by the Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution

3.1.1<sup>47</sup> Cabinet will be responsible for the following specific functions in relation to the Commercial Investment Strategy and the Council’s companies and partnerships:

- (a) Conducting a formal review of the Commercial Investment every 2 years and recommending any necessary amendments for approval by Full Council;
- (b) Agreement of process and documentation for approval of Part 2 and 3 proposals;
- (c) The establishment of any new company and/or partnership;
- (d) The decommissioning/winding up of existing companies or partnerships;

<sup>46</sup> Amendment approved 9 January 2020

<sup>47</sup> Amendment approved 9 January 2020

- (e) The determination of Articles of Association;
- (f) The determination of the percentage share of ownership;
- (g) The determination of Reserved Matters for example appointment or dismissal of Directors<sup>48</sup> unless delegated to the Investment Board;
- (h) Scheme of delegations to the Investment Board and Officers;
- (i) To delegate to the Investment Board the requisite funding allocated for delivery of the Council's Commercial Investment Strategy and to oversee spending against that budget in accordance with the agreed processes.

## **3.2 INVESTMENT BOARD** <sup>49</sup>

To create a new committee of Cabinet called the Investment Board which will have the delegated function set out at paragraph 3.2.1 to 3.2.3 below:

### **3.2.1 Purpose**

The Investment Board is responsible for implementing the Commercial Investment Strategy including oversight of the Council's companies and partnerships.

The Investment Board will act as a decision-making body in relation to the functions delegated to it and will report to Cabinet in relation to the exercise of those functions.

Support and advice will be provided to the Investment Board by the Chief Executive, Section 151 Officer, Monitoring Officer and Director of Growth.

### **3.2.2 Membership and Operation of the Investment Board**

The Investment Board will comprise a maximum of two Cabinet Members (one of whom should be the portfolio holder for finance if that position is not held by the Leader) in addition to the Leader who will determine their appointment annually.

The Leader will Chair the Investment Board and a Vice Chair will be selected from the elected members of the Investment Board. The Investment Board shall meet on a basis agreed by itself with a minimum of 3 meetings per year. The quorum shall be the Leader in the presence of a minimum of; • one other Cabinet Member; • one senior advisory officer (or their appointed deputy). If there are only 2

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<sup>48</sup> Amendment approved 9 January 2020

<sup>49</sup> Amendment approved 9 January 2020

voting members present, then any decision must be unanimous.<sup>50</sup> [An invitation to attend must have been provided to the Chair of O&S at least 5 clear days in advance of the meeting taking place. This notice period may be waived if the Chair of O&S or their nominated deputy so agrees.] An invitation to attend must also have been provided to the section 151 officer and the Monitoring Officer (or their nominated deputies) which will normally be at least 5 clear days in advance of the meeting taking place.

The provisions relating to substitution set out at paragraph 28 of the Standing Orders shall apply to meetings of the Investment Board save that the Leader and Cabinet Members may only be substituted by Cabinet Members [and the Chair of O&S may only be substituted by the Vice Chairman]. Such substitutions to be notified to Council as part of the annual nomination process. The Cabinet Procedure Rules shall apply to meetings of the Investment Board save in respect of paragraphs 1.6, 1.8, 2.2 (second paragraph), 2.3(g) and (h) and paragraph 2.5(d) which shall be disapplied.

### **3.2.3 Functions of the Investment Board**

- (a) To determine investment appraisals submitted under Part 2 of the Council's Commercial Investment Strategy together with the most appropriate means of delivery;
- (b) To determine business cases submitted under Part 3 of the Council's Commercial Investments Strategy by the Council's companies and partnerships;
- (c) To determine the amount and terms of any investments, loans and assets required for the delivery of proposals approved in accordance with paragraphs (a) and (b) above from the agreed budget allocation;
- (d) To produce a report to Cabinet twice a year summarising its activities in accordance with paragraphs (a) to (c) above.
- (e) Approve the business plans of the Council's companies and partnerships;
- (f) to monitor performance and financial delivery in line with the approved business plans;
- (g) To ensure that those companies and partnerships comply with relevant Council policies, strategies and objectives;
- (h) To exercise decisions, where delegated by Cabinet, in relation to a company or partnerships' reserved matters;
- (i) To oversee the relationships between the Council and the Council's companies and partnerships in accordance with the Council's objectives.
- (j) To prepare and present an annual report to the Overview and Scrutiny Committee;

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<sup>50</sup> Amendment approved 20 February 2020.

- (k) To determine for each individual company or partnership whether the Investment Board recommends to Cabinet the delegation of any functions to the officers of the Council.

All other matters not falling within the remit of the Investment Board functions set out at (a) to (k) above will be referred to Cabinet for decision.

### **3.3 EXECUTIVE ADVISORY COMMITTEES<sup>51</sup>**

#### **3.3.1 Purpose**

There shall be 3 Executive Advisory Committees the terms of reference of which are as set out at paragraphs 3.3.2 to 3.3.3 below.

The purpose of the Executive Advisory Committees shall be:

- (a) To involve Members who are not on the Executive in the work of the Executive and to promote collegiate working between the Executive and such Members;
- (b) As a forum for:
  - i. Members to raise issues pertaining to the discharge of the Council's functions;
  - ii. Officers and/or the Executive to inform Members and seek feedback via reports for noting and comment;
  - iii. Budget and Performance Monitoring

The Executive Advisory Committee will be tasked with making recommendations to Cabinet, individual Cabinet Members or Officers with delegated authority to take executive decisions. The recommendations of the Executive Advisory Committee shall be given reasonable and appropriate consideration by the appropriate decision maker before any relevant decision is taken. The Executive Advisory Committees will not take decisions and will not duplicate the work of the Overview and Scrutiny Committee.

Save in respect of the Project Review Executive Advisory Committee, each Executive Advisory Committee will elect a Chair and a Vice-Chair from its membership at the first meeting following the Annual Meeting of Council. The Project Review Executive Advisory Committee will elect a Chair and Vice-Chair from its membership (which shall not include any Cabinet members) for each specific project referred to it.

The Culture, Arts and Heritage Executive Advisory Committee will ordinarily meet 3 times per year and the Rural and Farming Executive Advisory Committee 2 times per year. Extraordinary

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<sup>51</sup> Amendment approved 17 July 2023

meetings can be arranged upon the request of the Council by resolution, the Leader of the Council, the Monitoring Officer and any five members of the Council if they have signed a requisition presented to the Leader of the Council and they have refused to call a meeting or have failed to call a meeting within seven days of presenting the requisition.

The Project Review Executive Advisory Committee will meet as and when required and subject to a project/proposal being referred to it for discussion. Once a project/proposal has been referred, the Project Review Executive Advisory Committee will determine its own schedule of meetings for the purpose of assimilating the information necessary to determine the requirement for recommendations to be made.

The quorum for all of the Executive Advisory Committees shall be 3.

### **3.3.2 CULTURE, ARTS & HERITAGE EXECUTIVE ADVISORY COMMITTEE**

The specific terms of reference of this committee are:

- To promote culture, the arts and heritage generally within Fenland.
- To identify opportunities to bring additional funding for culture, the arts and heritage into Fenland.
- To identify how monies generated from any voluntary top-up to Council Tax payments may be targeted towards improvement in culture, arts and heritage within Fenland.
- To oversee the management of the annual Fenland Poet Laureate Awards and to make recommendation as to the recipients of the award.

### **3.3.3 RURAL & FARMING EXECUTIVE ADVISORY COMMITTEE**

The specific terms of reference of this committee are:

- To act as a mouthpiece for the needs of Fenland's most rural communities, including the farming and wider agricultural sectors.
- To reflect any concerns that Fenland's most rural communities (including the farming and wider agricultural sectors) may have in matters for which Fenland District Council is responsible.

- Reflect upon flooding issues affecting the District.<sup>52</sup>

### **3.3.4 PROJECT REVIEW EXECUTIVE ADVISORY**

The specific terms of reference of this committee are to review and make recommendations to the relevant executive decision maker in relation to particular proposals or projects referred to it for consideration by Council, Cabinet or any committee of the Council (other than Licensing, Conduct or Planning Committees).

Where a referral is from a committee, no full member of that committee shall sit on the review of that particular proposal or project.

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<sup>52</sup> Insertion approved 26 February 2024

## APPENDIX

### FENLAND DISTRICT COUNCIL CABINET AND PORTFOLIOS<sup>53</sup>

Councillor Chris Boden	Leader and Portfolio Holder for Finance
Councillor Jan French	Deputy Leader and Portfolio Holder for Revenues and Benefits and CPE
Councillor Ian Benney	Portfolio Holder for Economic Growth and Skills
Councillor Sam Hoy	Portfolio Holder for Housing and Licensing
Councillor Dee Laws	Portfolio Holder for Planning and Flooding
Councillor Alex Miscandlon	Portfolio Holder for Leisure and IDBs
Councillor Peter Murphy	Portfolio Holder for Refuse and Cleansing, Parks and Open Spaces
Councillor Chris Seaton	Portfolio Holder for Transport, Heritage and Culture
Councillor Steve Tierney	Portfolio Holder for Transformation, Communication, Climate Change and Strategic Refuse
Councillor Sue Wallwork	Portfolio Holder for Community, Health, Environmental Health, CCTV, Community Safety and Military Covenant

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<sup>53</sup> Amendment made 23 May 2019, amendment made 21 January 2021, amendment made 22 May 2023



## TABLE 4<sup>1</sup>

### FUNCTIONS DELEGATED TO OFFICERS

#### INTRODUCTION

This scheme sets out the functions of the Council and the Cabinet which are delegated to Officers. Such delegated powers must be exercised in accordance with the conditions specified in paragraphs 1-3 below. The scheme must be read in conjunction with the Financial Rules and Scheme of Financial Delegation.

1. This scheme does not delegate to Officers:
  - a. Any matter reserved to full Council
  - b. Any matter which by law may not be delegated to an Officer.
2. Delegated powers must be exercised in accordance with the law, the rules, procedures, codes and protocols contained in the Council's Constitution and Council policy.
3. To the extent that it is permitted by law Officers have the power to authorise all or any of their delegated functions to other Officers either fully or under their general supervision and control. Such authorisation should be recorded in writing and a copy provided to the Monitoring Officer setting out:
  1. the name(s) of the officers who may exercise the power;
  2. the power that may be exercised;
  3. any limitations on the exercise of the power.

#### CHIEF EXECUTIVE<sup>2</sup>

1. To act as Head of Paid Service under and for the purposes of section 4 of the Local Government and Housing Act 1989
2. To determine the terms and conditions of service of the Deputy Chief Executive, Chief Officers and Directors.
3. To be the Returning Officer and to appoint Deputy Returning Officers for elections to the District Council and Parish Councils within the District.<sup>3</sup>
- 3A To be the Electoral Registration Officer and to appoint Deputy Electoral Registration Officers.<sup>4</sup>
4. To undertake the functions of the Council in relation to elections.

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<sup>1</sup> Amended version approved 25 September 2008

<sup>2</sup> Amendment approved 11 May 2017

<sup>3</sup> Amendment approved 29 July 2010

<sup>4</sup> Amendment approved 26 July 2012

5. To have delegated authority to affect immediate changes to membership of committees at the request of political groups within the allocations set at Council<sup>5</sup>, such changes to be reported to Council at its next meeting for ratification.
6. In cases of urgency to have a general power, after consultation with the member holding the appropriate portfolio in Cabinet, or the Chairman of the relevant committee as the case may be, to deal with any matter not delegated to any other officer by statute or other legislation on which the Chief Executive considers to require a decision before the next meeting of the appropriate body within the Council.<sup>6</sup>

### **CHIEF FINANCE OFFICER**

7. To act as Chief Financial Officer under s114 of the Local Government Finance Act 1988 and s151 of the Local Government Act 1972
8. To be responsible for, and do anything required for the proper administration of the financial affairs of the Council
9. To invest the funds of the Council in line with the approved Treasury Management Strategy.<sup>7</sup>
10. To make arrangements for the internal audit of the Council
11. To carry out street numbering and naming

### **In relation to Council Tax, Non-Domestic Rates, Community Charge, Housing Advances, Benefit Overpayment, Sundry Debtors and Miscellaneous Income, Housing and Council Tax Benefit**

12. To collect and recover Council Tax including determining the liability for the tax, benefits and discounts available. To enter into agreements regarding payment, to make any necessary adjustments to charges, to impose penalties, to request information and institute legal proceedings in the case of non-disclosure of information.
13. To administer the Housing Benefit and Council Tax Benefit scheme on behalf of the Council and to determine whether benefit payments should be made to a landlord.
14. To determine and administer applications under the Discretionary Housing Payment Scheme.
15. To authorise the prosecution for fraudulent claims for Housing and Council Tax Benefit and issue formal cautions and administrative penalties.

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<sup>5</sup> Amendment approved 13 May 2010.

<sup>6</sup> Amendment approved 17 May 2018

<sup>7</sup> Amendment approved 13 May 2010.

16. To appoint and authorised officers with powers to enter on to land and premises to secure the payment of sums due to the Council.
17. To recover debts due to the Council by civil action.
18. To institute, appear or authorise appropriate officers to appear on behalf of the Council in civil or criminal proceedings.
19. To write down debts in cases of bankruptcy/liquidation and to write off debts that are irrecoverable or uneconomic to recover up to the figures contained in the Financial Rules and Scheme of Financial Delegation in consultation with the Finance Portfolio Holder.<sup>8</sup>
20. To appoint Bailiffs or refer debts to bailiff or debt collection agencies.
21. To determine whether benefit overpayments are recoverable.
22. To authorise Government returns and subsidy claims.
23. To enter into joint working arrangements with external agencies.
24. To attend Valuation Tribunal hearings or to nominate an appropriate officer to present the Council's case.
25. To determine concurrent functions grants.
26. To approve fees and charges unless part of the annual budget setting in consultation with the appropriate Corporate Director and Finance Portfolio Holder.<sup>9</sup>
27. [Deleted]<sup>10</sup>

**In relation to Non-Domestic Rates.**

28. To conduct the annual review of the Rural Settlement List.
29. To determine claims for relief

**In relation to the billing, collection, recovery of the other income**

30. To action changes of interest rates on housing advances.
31. To institute possession proceedings in the County Court for the recovery of housing advance arrears.
32. To appoint debt recovery agents.

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<sup>8</sup> Amendment approved 13 May 2010.

<sup>9</sup> Amendment approved 13 May 2010.

<sup>10</sup> Amendment approved 13 May 2010.

## **In relation to the administration of Housing and Council Tax Benefits**

33. To determine claims, conduct reviews, administer discretionary housing payments, review decisions, issue formal cautions in administrative, initiate prosecutions and respond to appeals. To appear at Appeal Tribunal Hearings, to serve any relevant notices. To issue requests for rent or such determination and re-determinations.
34. To appoint authorised officers with powers to enter business premises, make enquiries and interview persons.
35. To determine whether benefit overpayments are recoverable and, if so, from whom.
36. To determine if benefit payments should be made to landlords.
37. To authorise Government returns and subsidy claims.
38. To agree Service Level Agreements with benefit agency, rent officer and other external agencies.
39. To appoint and train officers to verify documents comply with the document verification framework and to represent the Council at liaison meetings and to enter into joint working arrangements with the benefit agency.
40. To determine concurrent functions grants.
41. To make any financial transaction including the borrowing and lending of money in line with the member approved Treasury Management Strategy.<sup>11</sup>
42. To determine applications by staff for car loans under the Assisted Car Purchase Scheme.
43. To effect adequate insurance cover for the Council.
44. To authorise payments to employees for loss or damage to personal property up to a maximum of £500 for any one claim

## **MONITORING OFFICER**

45. To act as Monitoring Officer pursuant to s5 of the Local Government and Housing Act 1989
46. To act as the principle point of contact for the Conduct Committee and to undertake case management and investigations on behalf of the Conduct

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<sup>11</sup> Amendment approved 13 May 2010.

Committee in respect of Members of the District Council and Towns and Parish Councils.<sup>12</sup>

- 47A. To be the Proper Officer for the receipt of written requests for Dispensations within the meaning of section 33(1) of the Localism Act in respect of Disclosable Pecuniary Interests.<sup>13</sup>
- 47B. To consider and grant requests for Dispensations from section 31 of the Localism Act 2011 in accordance with paragraph 1.3.2 of Article 9.<sup>14</sup>
- 47. To amend the Constitution in any way whatsoever in order to secure compliance with the law and the convenient, effective discharge of any Council function provided that such amendment is reported to and ratified at the following meeting of the Council (in respect of any non-executive function) or the Cabinet in respect of any executive function. Decisions made or action taken in relation to amendments, which are not subsequently ratified, by the Council or Cabinet remain lawful.
- 48A. To amend the Constitution to ensure individual names, positions and job titles are updated to reflect changes in the composition of Cabinet, Committees, and Officers. Such changes to be notified to all members.<sup>15</sup>
- 48. To add any legislation to the list in Appendix A at any time provided that such amendment is reported to the following Annual meeting of the Council.
- 49. To sign and serve any notice, order or document or act as proper officer under s234 of the Local Government Act 1972 where no other officer is currently appointed, and any notice in respect of any land owned by or in the process of being acquired by the Council
- 50. To authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme.<sup>16</sup>
- 51. Management of the Councils civic ceremonial functions and to determine applications to use and authorise the use of the Councils coat of arms
- 52. To authorise the institution, defence or withdrawal or settlement of any claims or legal proceedings, civil or criminal in relation to any function of the Council or to protect any interest of the Council.
- 53. To prosecute or defend or appear in any legal proceedings and authorise any officer so to do.

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<sup>12</sup> Amendment approved 26 July 2012

<sup>13</sup> Amendment approved 26 July 2012

<sup>14</sup> Amendment approved 18 September 2019

<sup>15</sup> Amendment approved 19 May 2011

<sup>16</sup> Amendment approved 16 December 2010

54. To grant postponement of charges and the release of protective registrations in relation to financial charges on land in favour of the Council to include the postponement of charges in relation to discounts granted under the Right to Buy
55. In consultation with the Executive Director (Finance) and the relevant Director in relation to the subject matter to authorise any amendments and deeds of variation or rectification necessary to ensure legal agreements accurately reflect corporate decisions
56. To respond to requests for information and apply any necessary exemptions with respect to the Data Protection Act, 1998, Freedom of Information Act 2000, Environmental Information Regulations 2005 and the reuse of Public Sector Information Regulations 2005, and to maintain any relevant registers, registrations or records.
57. To maintain the Council's Data Protection registration and act as Data Protection Officer.
58. Authorise the use, loan or reproduction of the Councils archive material

## **CORPORATE MANAGEMENT TEAM**

**Such delegations to apply to each member of Corporate Management Team (as defined in Part 7 of the Constitution) jointly and severally.**

59. To manage and promote the services for which they are responsible and to enter into arrangements, or do anything else which is considered necessary or expedient in the management of the services and functions for which they are responsible including the acquisition of goods, works and services within budgets and policies approved by the Council and in compliance with the Financial Rules and Scheme of Financial Delegation and Code of Procurement
- 59a Monitoring Officer to make appointments to outside bodies in partnership with Group Leaders as vacancies arise throughout the year.<sup>17</sup>
60. Corporate Directors<sup>18</sup> to appoint staff (including temporary and agency staff) and in consultation with the Corporate Director or the Head of Human Resources and Organisational Development, to determine the terms and conditions of employment of staff subject to the same being within the Council's General Fund Budget and consistent with Council Policy including:
  - approval of overtime.
  - the payment of honoraria

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<sup>17</sup> Amendment approved 11 May 2017

<sup>18</sup> Amendment approved 26 July 2012

- the payment of post entry training (PET) and, in consultation with the relevant Corporate Director<sup>19</sup>, the waiving the re-payment of PET costs
  - to grant study leave
  - to grant unpaid and compassionate leave
  - to authorise payment of professional fees
  - to authorise attendance of officers at courses and conferences
- But not any employment matter reserved to full Council or the Appointments Panel.<sup>20</sup>

61. To manage disciplinary matters.
62. In consultation with the Corporate Director or the Head of Human Resources and Organisational Development to declare an employee redundant and to determine applications for ill-health retirement subject to Council Policy and in line with relevant reports to the Staff Committee.<sup>21</sup>
63. To vire within revenue budget blocks and between capital schemes within approved limits.
64. To sign statutory notices and advertisements and to apply for planning permission and building regulations approval.
65. To exercise on behalf of the Council any right to enter on land conferred by statute in relation to matters within his/her jurisdiction for the purposes of the exercise of the Council's functions with regard to such matters.
66. To authorise the write-offs of stocks and stores deficiencies in accordance with the Financial Rules and Scheme of Financial Delegation.
67. To deal with the media in accordance with Council Policy.
68. To submit responses to consultation papers.
69. To make ex gratia payments up to £500 to resolve justifiable complaints.
70. To approve expenditure from the consultation budget.
71. To incur reasonable expenses by way of hospitality.
- 71a <sup>22</sup>To authorise the allocation of external funding awarded to the Council, the approval of the Council's acquisition of goods, services and works (whether following a procurement exercise or otherwise)<sup>23</sup> and entry in to the associated financial and legal agreements up to £100,000 in consultation with the relevant portfolio holder and Leader of the Council.

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<sup>19</sup> Amendment approved 26 July 2012

<sup>20</sup> Amendment approved 13 May 2010.

<sup>21</sup> Amendment approved 13 May 2010.

<sup>22</sup> Amendment approved 14 December 2020

<sup>23</sup> Amendment approved 26 February 2024

## **CORPORATE DIRECTORS<sup>24</sup>**

### **Enforcement (General Provisions for all Corporate Directors<sup>25</sup>):**

72. Notwithstanding any specific powers detailed elsewhere to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of their functional area
73. To authorise officers to exercise rights of entry to land and premises

Each Director shall have the responsibility for those powers from the delegations listed below which relate to their functional areas.

### **Assets**

74. To manage the Council's property and engineering assets. To undertake the Council's asset management functions.

### **Building Control**

75. To exercise any power conferred on the Council under any of the acts or statutory instruments in Appendix A to the scheme of delegation in so far as each is relevant to the Council's Building Control function.
76. To act as the Council's Appointing Officer in respect of the Party Wall Act and to resolve disputes arising thereunder.
77. To act as a building authority.
78. To fix, vary, recover and advertise charges.
79. To authorise and serve building control enforcement notices irrespective of whether authorised work and work carried out in contravention of building regulations and other building control related legislation and to authorise officers to exercise rights of entry to land and premises.

### **Bus Station**

80. To operate and manage Wisbech Horsefair Bus Station including the authorisation of/or taking of enforcement action where appropriate.

### **Business Development**

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<sup>24</sup> Amendment approved 26 July 2012

<sup>25</sup> Amendment approved 26 July 2012



81. Generally to take action and operate all legislative and administrative procedures in pursuit of economic and industrial development of the district. Specifically, but not exclusively, to: -
1. Determine applications under Delegated Grant Schemes for Market Towns and Rural Development Initiative; to enter into leases and licences and assignments thereof in respect of the Council's commercial land and premises.
  2. To authorise expenditure on economic development initiatives in consultation with the portfolio holder.

### **Car Parking**

82. To operate and manage off street car parks including the authorisation of/or taking of enforcement action where appropriate.<sup>26</sup>

### **Caravan Sites**

83. To issue licences in respect of private travellers sites and to monitor the same including the authorisation of/or taking of enforcement action where appropriate.

### **CCTV**

84. To administer and operate the Council's CCTV system.

### **Cemeteries**

85. To grant burial rights and approve the erection of memorials in cemeteries and burial grounds.

### **Conservation of Historic Buildings**

86. Administrative and operational management of<sup>27</sup>: -
- i) Fenland Historic Building Grant Scheme
  - ii) Landscape Conservation Scheme
87. To:
- (i) issue Urgent Works Notices in relation to Listed Buildings and properties in conservation areas
  - (ii) issue Repairs Notices in relation to Listed Buildings and properties in conservation areas
  - (iii) in cases of urgency in consultation with the Chairman of the Planning Committee (unless such consultation would have a detrimental effect on this power) to:
    - a. authorise an application for an injunction
    - b. authorise the commencement of any legal proceedings

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<sup>26</sup> Amendment approved 13 May 2010.

<sup>27</sup> Amendment approved 13 May 2010

such actions to be notified to the next scheduled meeting of the Planning Committee

## Development Control

88. Having ensured that all statutory requirements and Council policies have been complied with and after considering all representations received;<sup>28</sup> 23(i)

(i) Determine all 'other', 'minor' and 'planning permission in principal (and associated technical consents)'<sup>29</sup> applications submitted under any of the Acts or Statutory Instruments set out in Appendix A to this Scheme unless:-

- Called-in by Member (the development must be within their ward area or adjacent ward area and the Member request has been granted by the Head of Planning in consultation with the Chairman of Planning or substitute<sup>30</sup>).
- 6 or more unresolved written opinions from 6 individuals, groups or organisations<sup>31</sup> are received from within the ward area or adjacent ward area which differ from the officer recommendation.
- Town/Parish views are in conflict with officer recommendation and the application is for more than 2 dwellings.
- The Head of Planning considers that the application merits committee consideration on the grounds of wider planning interests.<sup>32</sup>

For

- 'other' and 'minor' applications which have either FDC or Member involvement OR
- 'other' and 'minor' applications where the officer recommendation is for refusal

the following procedure will apply;

The Head of Planning will consult the Chairman of Planning Committee and decide if:

The application should be determined by the Planning Committee OR the application should be determined under delegated powers by the Head of Planning.

If in the opinion of the Head of Planning in consultation with the Chairman of Planning Committee the recommendation is accepted, the case officer's decision will be countersigned by the Head of Planning.

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<sup>28</sup> Amendment approved 18 September 2014

<sup>29</sup> Amendment approved 14 December 2020

<sup>30</sup> Amendment approved 6 August 2020

<sup>31</sup> Amendment approved 14 December 2020

<sup>32</sup> Amendment approved 6 August 2020

If in the opinion of the Head of Planning in consultation with the Chairman of Planning Committee there are wider planning issues to consider the matter will be placed on the Planning Committee agenda.<sup>33</sup>

- (ii) Determine all 'major' applications submitted under any of the Acts or Statutory Instruments set out in Appendix A to this Scheme unless:-
- FDC or Member involvement
  - Called-in by a Member (the development must be within their ward area or adjacent ward area and the Member request has been granted by the Head of Planning in consultation with the Chairman of Planning)<sup>34</sup>
  - 6 or more written views from 6 individuals, groups, or organisations<sup>35</sup> are received (from the ward or adjacent ward)<sup>36</sup> which conflict with the officer recommendation
  - Town/Parish views are in conflict with officer recommendation
  - Statutory Consultee views are in conflict with officer recommendation
  - The Head of Planning considers that the application merits committee consideration on the grounds of wider planning interests.<sup>37</sup>
  - The application is recommended for refusal in which case the following procedure will apply;

The Head of Planning will consult the Chairman of Planning Committee and decide if:  
The application should be determined by the Planning Committee  
OR  
the application should be determined under delegated powers by the Head of Planning.

If in the opinion of the Head of Planning in consultation with the Chairman of Planning Committee the recommendation is accepted, the case officer's decision will be countersigned by the Head of Planning.

If in the opinion of the Head of Planning in consultation with the Chairman of Planning Committee there are wider planning issues to consider the matter will be placed on the Planning Committee agenda.<sup>38</sup>

- (iii) determine all applications pursuant to conditions attached to permissions,
- (iv) determine all requests for minor amendments to permissions,

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<sup>33</sup> Amendment approved 6 August 2020

<sup>34</sup> Amendment approved 6 August 2020

<sup>35</sup> Amendment approved 14 December 2020

<sup>36</sup> Amendment approved 14 December 2020

<sup>37</sup> Amendment approved 6 August 2020

<sup>38</sup> Amendment approved 6 August 2020

- (v) determine all applications for certificates of lawfulness,
- (vi) respond to all consultations from Cambridgeshire County Council regarding applications submitted to them as the relevant Planning Authority,
- (vii) determine all applications for works to trees and those submitted under the Hedgerow Regulations 1997,
- (viii) determine all prior notification applications and all subsequent detailed submissions applications, but in the case of telecommunication applications where the officer is minded to recommend refusal the Head of Planning will consult the Chairman of Planning Committee and decide if:  
The application should be determined by the Planning Committee  
OR  
the application should be determined under delegated powers by the Head of Planning.<sup>39</sup>
- (ix) determine all requests for screening or scoping opinions under the relevant legislation,
- (x) determine all applications for Ancient Monument Consent,
- (xi) determine all applications for Hazardous Substances Consent,
- (xii) determine all queries relating to 'permitted development' i.e. is permission/approval/consent/notification required,
- (xiii) make and confirm Tree Preservation Orders unless any relevant objections are received.
- (xiv) Respond to applications for Goods Operators' Licences as appropriate,
- (xv) Respond to consultation regarding the erection or modification of overhead power lines and ancillary equipment,
- (xvi) Determine applications for Certificates of Appropriate Alternative Development,
- (xvii) To enter into legal agreements under Section 106 of the Town & Country Planning Act 1990.
- (xviii) To decline to determine applications under Section 70 A, B & C of the Town & Country Planning Act 1990.<sup>40</sup>

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<sup>39</sup> Amendment approved 6 August 2020

<sup>40</sup> Amendment approved 6 August 2020

Definitions for section:-

Major applications (Department for Communities and Local Government codes 1-5),

- 10 or more dwellings or site area of more than 0.5ha,
- All other land uses – involving floor space of more than 1,000 sq m or a site area of more than 1ha,

Minor applications (Department for Communities and Local Government codes 6-10),

- 1-9 dwellings
- All other land uses involving floor space of less than 1,000sqm or sites of less than 1ha,

Other applications (Department for Communities and Local Government codes 11-17)

- Changes of use (except where fall into major category)
- Householder developments (within the curtilage of a residential property except for changes of use and creation of additional dwellings),
- Advertisements,
- Listed Building consent to alter/extend
- Listed Building consent to demolish
- Conservation Area consents

FDC/Member involvement:-

- Landowner,
- Applicant
- Agent
- Staff member working in Development Service or in a closely associated Service

### *OVERALL PROVISOS TO SECTION 88*

any Fenland District Council member can require any delegated application in Category (ii) above to be referred to the Planning Committee for consideration by notification in writing to the Head of Development at [planning@fenland.gov.uk](mailto:planning@fenland.gov.uk)<sup>41</sup> within three weeks of registration date (such notification must provide planning reasons for requesting reference to Committee and these planning reasons must subsequently be incorporated in the report to Committee). The scrutiny of the weekly list of applications circulated to members will facilitate this safeguard.

Head of Planning consultation with the Chairman on officer delegated refusals and call in process:

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<sup>41</sup> Amendment approved 6 August 2020

- There is a 48-hour period (equivalent to 2 working days) allowed for a consultation response to be received.
- A nil or late response will automatically mean that a delegated decision will be made on the application.
- Where there is a conflict of interest for the Chairman or substitute, a delegated decision on the application will be made.
- The consultation reply must be in writing and give a planning justification for any request for Planning Committee consideration.
- The Chairman must advise the Head of Planning and Development Manager of times when the substitute is acting.<sup>42</sup>

#### 89. Planning Enforcement:

To:

- (i) issue Planning Contravention Notices;
- (ii) issue Requisitions for Information;
- (iii) authorise and issue Breach of Condition Notice proceedings;
- (iv) authorise and issue Waste Land Notices;
- (v) authorise and initiate Proceedings against Fly Posters;
- (vi) authorise and initiate Proceedings against Unauthorised Signs.
- (vii) issue Temporary Stop Notices
- (ix) issue Enforcement Notices
- (x) in cases of urgency in consultation with the Chairman of the Planning Committee (unless such consultation would have a detrimental effect on this power) to:
  - a. issue a Stop Notice
  - b. authorise an application for an injunction
  - c. authorise the commencement of any legal proceedings such actions to be notified to the next scheduled meeting of the Planning Committee
  - d. authorise prosecution following non-compliance with an enforcement notice of any type<sup>43</sup>
- (xi) issue notices requiring the Proper Maintenance of Land<sup>44</sup>

#### 89a. Brownfield Register

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<sup>42</sup> Amendment approved 6 August 2020

<sup>43</sup> Amendment approved 6 August 2020

<sup>44</sup> Amendment approved 29 July 2010

To prepare and publish sites in Part 1 of a Brownfield Land Register, as defined by The Town and Country Planning (Brownfield Land Register) Regulations 2017.<sup>45</sup>

- 89b. To operate the Council's neighbourhood planning function (except for the 'making' (adoption) of such Orders and Plans) including, but not necessarily limited by, the following:
- The designation of neighbourhood areas and neighbourhood forums
  - Providing comments on behalf of the Council to consultations on draft plans or orders
  - Making decisions on behalf of the Council on whether a plan meets the basic conditions and should proceed to referendum, following the receipt of a report from the independent examiner and publishing this decision.<sup>46</sup>

### **Food Safety Services, Health Services and Environmental Services**

90. Generally to take action, to operate all legislative and administrative procedures including, but not limited to authorising any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instrument set out in Appendix A to this Scheme, (including the power to appoint or revoke the appointment of authorised officers) if and in so far as each is relevant to the Council's environment functions.
91. Generally to take action and operate all legislative and administrative procedures in relating to the licensing and regulation of premises and activities. To issue licences and certificates or effect registration under powers conferred by any of the Acts or Statutory Instruments listed in Appendix A to this scheme of delegation and to make representations in respect of applications.
92. To act as inspector and to appoint others to act as inspectors (including the termination of appointment of those inspectors) in accordance with any powers contained in any of the Acts of or Statutory Instruments listed in Appendix A to this scheme of delegation in relation to the Council's food safety, environmental and health functions.

### **Housing Functions**

93. To allocate tenancies, set rents, approve disturbance payments, adaptations and alterations and consent to transfers and mutual exchanges and to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document and the determination of grants in accordance with any of

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<sup>45</sup> Amendment approved 14 December 2017

<sup>46</sup> Amendment approved 14 December 2017

the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of the Council's housing function.

94. To certify Housing Corporation and Registered Social Landlords.
95. To administer and manage the Council's homelessness functions and the Housing Register

### **Land Charges**

96. To act as the Registrar of Local Land Charges

### **Land Drainage**

97. To undertake and exercise the Council's land drainage functions, including the repair, maintenance and cleansing of Watercourses and culverts and the approval to culvert.

### **Land Ownership:**

98. To approve terms for any lease or letting of land or property where the rent payable is not less than the open market rent for that property.
99. To authorise the renewal and termination of commercial leases protected by Part 2 of the Landlord and Tenant Act 1954
100. To authorise the commencement and settlement of rent reviews in line with the provisions of existing leases to which the Council is a party
101. To authorise licences to assign for any lease, grant any wayleave or easement, or to agree any change (including revocation) of any freehold or leasehold covenant where it is in the Councils interest to do so.
102. To authorise the freehold acquisition or disposal of any land up to the value of £100,000<sup>47</sup>
103. To authorise the appropriation of land to any purpose provided that any statutory consultation has been complied with and in the absence of any representations

### **Licensing**

104. To administer and decide on Licensing applications including those under the Licensing Act 2003 in accordance with the following;

Matters to be dealt with	Sub Committee	Officers
Application for a Personal Licence	If Police objection	If no objection made

<sup>47</sup> Amendment approved 13 May 2010



Application for Personal licence with unspent convictions	All Cases	
Application for premises licence/club premise certificate	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn
Application for provisional statement	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary premises licence/club premises certificate.	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Off-sales review following the automatic modification of a relevant premises licence under the Business and Planning Act 2020. <sup>48</sup>	All cases	
Interim steps pending off-sales review. <sup>49</sup>		All cases
Determination of representations against	All cases	

<sup>48</sup> Amendment approved 6 August 2020

<sup>49</sup> Amendment approved 6 August 2020

interim steps pending off-sales review. <sup>50</sup>		
*Decision on whether a complaint is frivolous or vexatious		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on a minor variation		All cases
Determination of minor variation application		All cases
Making a representation on behalf of the Licensing Authority		Corporate Director
Initiating a Review on behalf of the Licensing Authority		Corporate Director

\*To determine whether a complaint is frivolous or vexatious the following procedure will apply:

The Licensing Manager will draft a report and make a recommendation which will be reviewed by the Corporate Director, the Chairman of Licensing and a Legal Officer.

If in the opinion of the Head of Service for Licensing and the Chairman of Licensing the recommendation is accepted, the Licensing Manager's decision will be countersigned by the Corporate Director and Chairman of Licensing.

If in the opinion of the Corporate Director and the Chairman of Licensing there are wider issues to consider the matter will be placed before a Licensing Committee Hearing.

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<sup>50</sup> Amendment approved 6 August 2020

#### 104A. Pavement Licences<sup>51</sup>

In relation activities under the Business and Planning Act 2020:

- (i) To conduct a public consultation review in respect of an application for a pavement licence;
- (ii) To grant a pavement licence for a minimum of 3 months but for no longer duration than 30th September 2023<sup>52</sup> and subject to any conditions published by the Secretary of State or as reasonably required by Fenland District Council;
- (iii) To refuse the grant of a pavement licence;
- (iv) To revoke the pavement licence or service notice on the licence holder requiring them to take steps to remedy a breach of the conditions of that licence where it is considered that such a breach has occurred;
- (v) To revoke the pavement licence where the licence holder fails to comply with a notice served under paragraph 104A(iv) above or to take the required steps and recover the costs of doing so from the licence holder.

105. To determine applications for licences to perform hypnotism entertainment.

106. Approval of applications for hackney carriages and private hire vehicle driver licences except those falling within the categories in paragraphs (i) to (v) below, when they will go to the Licensing Committee or panels thereof:-

- (i) Applications which disclose that the applicant has been convicted of an offence involving indecency or violence;
- (ii) Applications which disclose that the applicant has been convicted of an offence involving dishonesty or drugs;
- (iii) Applications which disclose that the applicant has been convicted of an offence under the provisions of the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976;
- (iv) Applications which disclose that the applicant has been convicted of an offence relating to the driving or ownership of a motor vehicle and has more than six penalty points on his/her licence;
- (v) Applications which disclose that the applicant has committed a breach of, or failed to comply with, the terms of an existing or previous hackney carriage or private hire licence.

107. To approve applications for hackney carriage and private hire drivers licences that fall within any of the categories set out in paragraphs (i) to (v) of the preceding paragraph if in the opinion of the Monitoring Officer any offence by the applicant is so minor or irrelevant as to have no proper bearing on the determination of the application.

108. In relation to activities under the Gambling Act 2005 to:

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<sup>51</sup> Amendment approved 6 August 2020

<sup>52</sup> Amendment made 3 August 2022, approved on 3 October 2022

1. Determine whether representations received in relation to applications are relevant;
  2. Undertake discussions and/or negotiations with applicants and objectors to overcome objections where possible;
  3. In respect of applications that have generated no relevant objections or where representations have been withdrawn to grant:
    - i. a premises licence
    - ii. applications for a variation of a premises licence
    - iii. a provisional statement
    - iv. a club gaming / club machine permit
    - v. other permits where there are no more than two permits in alcohol licensed premises
    - vi. a temporary use notice
  4. Where there are no representations from the Gambling Commission to grant a transfer of a licence
  5. Where all relevant parties agree to attach or exclude a condition from a premises licence
  6. Revoke a premises licence for non payment of the annual fee in accordance with section 193 of the Gambling Act 2005 in consultation with the Chairman of the Licensing Committee and the Legal Services Manager
109. In relation to Street Collections authority to:
1. grant any application for a collection; or
  2. refuse an application for a collection where in their opinion having consulted with the Chairman of the Licensing Committee the proposed collection will materially overlap with another collection either in terms of the location of the areas to be visited or the dates on which the collection will be undertaken. Such determination to have regard to the nature of the respective collections and the likelihood of material interference
110. In relation to House to House Collections authority to:
1. grant any application for a collection; or
  2. refuse an application for a collection where in their opinion having consulted with the Chairman of the Licensing Committee the proposed collection:
    - a. will materially overlap with another collection either in terms of the location of the areas to be visited or the dates on which the collection will be undertaken. Such determination to have regard to the nature of the respective collections and the likelihood of material interference; and/or they are satisfied that:
    - b. the total amount likely to be applied for charitable purposes as a result of the collection (including any amount already applied) is inadequate in proportion to the total value of the proceeds likely to be received (including any proceeds already received);
    - c. the promoter or a collector or any other person is likely to receive remuneration that is excessive in relation to the total amounts received;

- d. the applicant is not a fit and proper person to hold a licence as he/she has been convicted in the UK or any of the offences specified in the House to House Collections Act 1939, or has been convicted outside of the UK of any offence involving fraud or dishonesty, or any offence of a kind the commission of which would be likely to be facilitated by the grant of a licence.
3. revoke any licence where in their opinion and having consulted with the Chairman of the Licensing Committee the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted fails:
- a. to exercise due diligence to ensure that persons authorised to act as collectors for the purpose of the collection were fit and proper persons;
  - b. to secure compliance on the part of the persons so authorised with the provisions of the Regulations made under the Act;
  - c. to prevent prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised;
  - d. where the applicant or holder of the licence has refused or neglected to provide the licensing authority with such information as they may have reasonably been required to provide for the purpose of informing the licensing authority as to any of the matters specified in the foregoing paragraphs;
  - e. where any of the situations in 2 b to d inclusive occur following the grant of a licence.

111 The Chairman of Licensing has delegated authority to authorise the initiation of a public consultation exercise in relation to any matter for which the Licensing Committee has ultimate responsibility unless, in their opinion in consultation with the relevant Corporate Director, there are wider issues to consider in which case the matter will instead be placed before the Licensing Committee for determination.<sup>53</sup>

### **Markets and Fairs**

112. To operate and manage the Council's markets including
- 1. The granting of pitch licences
  - 2. The management and organisation of the markets and their activities
  - 3. Updating market regulations and codes of conduct in consultation with the relevant Portfolio Holder
  - 4. the authorisation of or the taking of enforcement action where appropriate.
113. To operate and manage fairs including the authorisation of or taking of enforcement action where appropriate

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<sup>53</sup> Amendment made by Monitoring Officer on 31 January 2022

## **Port**

114. The operation and administration of the Council's powers and duties as Harbour Authority including the authorisation and/or taking of enforcement action where appropriate.
115. To operate the Port Marine Safety Code.

## **Radio Communications**

116. To purchase, maintain all radio communications equipment and to manage the radio communications system and to enforce legislation to operate radio communications systems.

## **Recycling**

117. To set new rates for third party recycling credits.

## **Town Centres**

118. To authorise and manage the provision/erection of Christmas lights/trees, equipment in the town centres by Town Council and other bodies.

## **Transport Services**

119. To authorise and take enforcement action including the service of any notices, orders or other documents and administrative procedures in relation to the Council's transport functions.
120. To purchase all goods, vehicles, plant and equipment, parts and lubricants in accordance with the Financial Rules and Scheme of Financial Delegation and Code of Procurement;
121. To maintain the Council's fleet of vehicles, including lease cars, in accordance with the Construction and Use Regulations 1986;
122. To dispose of all used assets with regards to transport, plant and equipment owned by Fenland District Council in accordance with the Code of Procurement and Code of Financial Management;
123. To manage the annual inspection of all pressure vessels, lifting equipment and pumps that are owned by Fenland District Council and be responsible for the correct maintenance and repairs under the Transportable Pressure Receptacle Regulations 1989 and any other regulations associated with such equipment;
124. To suspend any employee from driving a Council vehicle if it is considered the driver is in contravention of any Act or is likely to cause an accident or injury to themselves or others.

125. To fulfil all responsibilities in relation to rights of way matters except where there are 5 or more unresolved objections.<sup>54</sup>

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<sup>54</sup> Amendment approved 14<sup>th</sup> December 2017

## APPENDIX A<sup>55</sup>

The list below of legislation is not to be taken as exhaustive and shall be taken to include any amended, consequential, ancillary, subsidiary, consolidating Act, Statutory Instrument, Regulation or Order

Animals Act 1976  
Animal Boarding Establishments Act 1963  
Animal Health Act 1981  
Approved Inspector Regulations 1995  
Anti-Social Behaviour Act 2003  
Betting, Gaming and Lotteries Act 1963  
Breeding of Dogs Act 1973  
Building Act 1984  
Building (Local Authority Charges) Regulations 1998  
Building Regulations 2000  
Caravan Sites and Control of Development Act 1960  
Carriage of Dangerous Goods by Road Act 1996  
Carriage of Goods by Road Act 1965  
Carriage by Air and Road Act 1979  
Carriers Act 1830  
Child Support, Pensions and Social Security Act 2000  
Cinemas Act 1985  
Civil Contingencies Act 2004  
Civil Defence Act 1948  
Civic Amenities Act 1967  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Construction and Use Regulations 1986  
Control of Asbestos at Work Regulations 1987  
Control of Pesticides Regulations 1986  
Control of Pollution Act 1974  
Coronavirus Act 2020<sup>56</sup>  
Crime and Disorder Act 1998  
Criminal Law Act 1976  
Criminal Law Act 1977  
Criminal Attempt Act 1981  
Criminal Justice and Immigration Act 2008<sup>57</sup>  
Criminal Justice and Police Act 2001  
Criminal Justice and Public Order Act 1994  
Crop Residues (Burning) Regulations 1983  
Dangerous Dogs Act 1991  
Dangerous Wild Animals Act 1976  
Data Protection Act 1984  
Dogs (Fouling of Land) Act 1996  
Egg Products Regulations 1993

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<sup>55</sup> Amendment to Appendix A approved 21 December 2006 further amendments approved 20 December 2007 and 8 February 2008

<sup>56</sup> Amendment approved 30 April 2020

<sup>57</sup> Inserted 15 June 2009



Employment Act 1973  
Environment Act 1995  
Environment Act 2021<sup>58</sup>  
Environmental Protection Act 1990  
European Communities Act 1972  
European Parliamentary Elections Act 1978.  
Factories Act 1961  
Food Premises (Registration) Regulations 1991  
Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992.  
Food Act 1984  
Food Act 1990  
Food Safety Act 1990  
Food and Environmental Protection Act 1985  
Freedom of Information Act 2000  
Fresh Meat (Health and I) Regulations 1992  
Fresh Meat, Poultry Meat (H,I&E)Regulations 1990  
Game Act 1831  
Gambling Act 2005  
Gaming Act 1968  
Gaming Act 2003  
Goods Vehicles (Licensing of Operators) Act 1995  
Guard Dogs Act 1975  
Health Act 2006  
Health and Safety at Work etc Act 1974  
Health and Safety at Work Act (Enforcing Authority) Regulations 1989  
Health and Safety at Work Act 1990  
Health and Social Care Act 2008<sup>59</sup>  
Health Protection (Local Authority Powers) Regulations 2010<sup>60</sup>  
Health Protection (Part 2A Orders) Regulations 2010<sup>61</sup>  
Health Protection (Notification) Regulations 2010<sup>62</sup>  
Highways Act 1980  
Highways Amendment Act 1986  
Home Energy Efficiency Act 1995  
Homelessness Act 2002  
House to House Collections Act 1939  
Housing Act 1985  
Housing Act 1989  
Housing Act 1996  
Housing Act 2004  
Housing Benefit (General Regulations) 1987  
Housing Grants, Construction and Regeneration Act 1996  
Housing (Homeless Persons) Act 1977  
Hypnotism Act 1952  
Insolvency Act 1986  
Land Compensation Act 1973

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<sup>58</sup> Inserted 12 December 2022

<sup>59</sup> Inserted 15 June 2009

<sup>60</sup> Amendment approved 13 May 2010.

<sup>61</sup> Amendment approved 13 May 2010.

<sup>62</sup> Amendment approved 13 May 2010.

Land Drainage Act 1976  
Land Drainage Act 1991  
Late Night Refreshment Houses Act 1969  
Licensing Act 1964  
Licensing Act 2003  
Local Authorities (Executive Arrangements) (Access to Information) Regulations (England) 2000  
Local Government (Access to Information) Act 1985  
Local Authorities (Members' Allowances) (England) (Amendment) Regulations 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government and Housing Act 1989  
Local Government and Public Involvement in Health Act 2007  
Local Government Act 1972  
Local Government Act 2000  
Local Government Finance Act 1988  
Local Government Finance Act 1992  
Localism Act 2011<sup>63</sup>  
Lotteries and Amusements Act 1976  
Milk and Dairies (General) Regulations 1959  
Milk (Special Designation) Regulations 1989  
Mobile Homes Act 1975  
Mobile Homes Act 1983  
National Assistance Act 1948  
National Assistance (Amendment) Act 1951<sup>64</sup>  
Noise and Statutory Nuisance Act 1993  
Noise Act 1996  
Office, Shops and Railways Premises Act 1963  
Party Wall (etc) Act 1996  
Pesticides Act 1998  
Pet Animals Act 1951  
Planning and Compulsory Purchase Act 2004  
Planning (Listed Buildings and Conservation Areas) Act 1990  
Planning (Hazardous Substance) Act 1990  
Police Act 1997  
Police, Factories etc (Miscellaneous Provisions) Act 1916  
Pollution, Prevention and Control Act 1999  
Poultry Meat (Hygiene) Regulations 1976  
Private Security Industry Act 2001  
Prevention of Damage by Pests Act 1949  
Protection from Eviction Act 1977  
Public Health Act 1925  
Public Health Act 1936  
Public Health Act 1961  
Public Health (Ships) Regulations 1979  
Public Health (Control of Disease) Act 1984

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<sup>63</sup> Amendment approved 26 July 2012

<sup>64</sup> Inserted 15 June 2009

Public Health Act 1907  
Refuse Disposal (Amenity) Act 1978  
Rent Agriculture Act 1976  
Regulation of Investigatory Powers Act 2000  
Representation of the People Act 1983  
Representation of the People Act 2001  
Riding Establishments Act 1964  
Riding Establishments Act 1970  
Road Safety Act 2006  
Road Traffic Act 1974  
Road Traffic (Drivers' Ages and Hours of Work) Act 1976  
Road Traffic Act 1988  
Road Traffic Act 1991  
Road Traffic Amendment Act 1967  
Road Traffic Regulation Act 1984  
Road Traffic Reduction Act 1997  
Road Traffic (New Driver) Act 1995  
Scrap Metal Dealers Act 1964  
Shops Act 1950  
Slaughter of Poultry Act 1967  
Social Security Act 1986  
Social Security Administration Act 1992  
Social Security Administration (Fraud) Act 1997  
Special Waste Regulations 1996  
Sunbeds (Regulation) Act 2010<sup>65</sup>  
Sunday Entertainments Act 1932  
Sunday Trading Act 1994  
Theatres Act 1968  
Town and Country Planning Act 1990  
Town and Country Planning (Listed Building and Conservation Areas) Act 1990  
Town and Country Planning (General Development Procedure Order) 1995  
Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999  
Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000  
Town and Country Planning (Inquiries Procedure) (England) Rules 2000  
Town Improvement Clauses Act 1875  
Town Police Clauses Act 1847  
Transport Act 1968  
Transport Act 1976  
Transport Act 1980  
Transport Act 1981  
Transport Act 1982  
Transportable Pressure Receptacle Regulations 1989  
Vehicles (Crime) Act 2001  
Vehicle Excise Registration Act 1994  
Water Industry Act 1991  
Wireless Telegraphs Act 1998  
Zoo Licensing Act 1981

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<sup>65</sup> Amendment Approved 19<sup>th</sup> May 2011

**APPENDIX B**

**FENLAND DISTRICT COUNCIL**

**RECORD OF AUTHORISATION  
(To be copied to Monitoring Officer)**

1. Authority/Power to be authorised (including paragraph reference) from Scheme of Delegation

Paragraph in scheme .....  
.....

2. Officer (title and name) authorising exercise of the power.

.....

**Signature**.....

**Date**.....

3. Officer (title and name) to whom power is authorised

.....

4. Details of any limits/condition imposed upon onward authorisation

.....

## TABLE 5 - FUNCTIONS DELEGATED TO ALL PORTFOLIO HOLDERS<sup>66</sup>

The following functions are delegated to portfolio holders, only to the extent to which they are outside of the specific functions delegated to officers in Table 4 of this document and the Codes of Financial Management and Procurement.

### All Portfolio Holders

1. To monitor all Performance Indicators within their Portfolio responsibility.
2. To monitor delivery of those elements of the Corporate Plan within their responsibility.
3. To approve grant applications in accordance with adopted policy and existing budget.
4. Selection of tenderers for contracts within approved budgets.
5. To respond to consultation documents within portfolio responsibility.
6. To respond to petitions not presented to Council.
7. To approve the acquisition or disposal of freehold land up to £250,000
8. To approve any action within their functional area up to a value of £250,000.
9. All portfolio holders, including the Leader, have delegated authority to take executive decisions on behalf of the Council in circumstances where the matter is urgent. A decision will be urgent if any delay would seriously prejudice the Council's or the public interest. The request for a decision to be deemed urgent will be considered by the Chairman of the Overview and Scrutiny Panel (in accordance with Rules of Procedure 2 and 5) and the relevant member of the Corporate Management Team/Chief Executive who will take into account the reasons provided. The decision will only be taken if the Chairman of the Overview and Scrutiny Panel and the relevant member of the Corporate Management Team/Chief Executive agree that the decision is a matter of urgency. The decision will be recorded via a Cabinet Member Decision Notice and the public record of the decision will state:
  - (a) Why in the opinion of the decision making person and the relevant member of Corporate Management Team/Chief Executive, the decision is urgent; and
  - (b) The consent of the Chairman of the Overview and Scrutiny Panel.

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<sup>66</sup> Amendments to Table 5 approved 17 May 2007, and further amendments on 20 December 2007

In the absence of the Chairman of the Overview and Scrutiny Panel, Rules of Procedure 2 will apply.<sup>67</sup>

10. <sup>68</sup>To authorise the allocation of external funding awarded to the Council, the approval of the Council's acquisitions of goods, services and works (whether following a procurement exercise or otherwise)<sup>69</sup> and entry in to the associated financial and legal agreements up to the following limits:

<b>Value</b>	<b>Designation</b>
Up to £100,000	Corporate Directors in consultation with the relevant Portfolio Holder and Leader of the Council.
Between £100,001 and £500,000	Cabinet Member and Leader of the Council
Over £500,001	Cabinet

### **Finance Portfolio Holder**

1. To authorise the writing-off of debts within approved limits.
2. To authorise the writing-off of stock within approved limits.

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<sup>67</sup> Amendment approved 19 July 2018

<sup>68</sup> Amendment approved 14 December 2020

<sup>69</sup> Amendment approved 26 February 2024

## PART 4

### RULES OF PROCEDURE

- 1 Council Procedure Rules (Standing Orders).
- 2 Access to Information Procedure Rules
- 3 Budget and Policy Framework Procedure Rules
- 4 Cabinet Procedure Rules
- 5 Overview and Scrutiny Procedure Rules
- 6 Financial Rules and Scheme of Financial Delegation
- 7 Code of Procurement
- 8 Officer Employment Procedure Rules
- 9 Conduct Committee Hearing Procedure Rules
- 10 Audit and Risk Management Committee Procedure Rules<sup>1</sup>
- 11 Employment Committee<sup>2</sup>

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<sup>1</sup> Amendment approved 14 December 2020

<sup>2</sup> Amendment approved 30 April 2020; previous rule 11 deletion made 7 May 2021, Addition made 22 May 2023





## **RULE 1 COUNCIL PROCEDURE RULES (STANDING ORDERS)**

### **1. ANNUAL MEETING OF THE COUNCIL**

#### **1.1 Timing and business**

- (i) In a year when there is an ordinary election of councillors the annual meeting will take place within 21 days of the retirement of the outgoing councillors. This meeting will in addition to the ordinary business of the annual meeting:
  - (a) Elect the Leader of the Council
  - (b) Be notified by the Leader of the Council of their Cabinet, to include the names and portfolios and who has been appointed the Deputy Leader.<sup>3</sup>
- (ii) In any other year, the annual meeting will take place in May and conduct the ordinary business of the annual meeting.<sup>4</sup>
- (iii) The ordinary business of the annual meeting will be<sup>5</sup>:-
  - (a) receive apologies for absence
  - (b) elect a person to preside if the Chairman of the Council is not present (a member of Cabinet may not be appointed);
  - (c) elect the Chairman of the Council (a member of Cabinet may not be appointed);
  - (d) elect the Vice-Chairman of the Council;
  - (e) approve the minutes of the last ordinary meeting or of any extraordinary or other meeting since then;
  - (f) receive any announcements from the Chairman and/or Head of the Paid Service;
  - (g) [Deleted]<sup>6</sup>
  - (h) appoint at least one Overview and Scrutiny Panel, a Standards Committee and such other panels and committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);

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<sup>3</sup> Amendment approved 24 July 2014

<sup>4</sup> Amendment approved 16 December 2010, updated 30 April 2020, deleted 6 August 2020

<sup>5</sup> Amendment approved 16 December 2010, updated 6 August 2020

<sup>6</sup> Amendment approved 16 December 2010

- (i) 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);
- (j) agree a programme of ordinary meetings of the Council for the year;
- (k) receive any declarations of interest from members;
- (l) receive questions from and provide answers to, Councillors in relation to matters which, in the opinion of the person presiding at the meeting, accord with the provisions of Procedural Rules 8.4 and 8.6<sup>7</sup>;
- (m) receive reports from Cabinet members with portfolio holder responsibilities in accordance with Procedure Rule 8.2<sup>8</sup>;
- (n) consider recommendations from Cabinet, the Overview and Scrutiny Panel and committees such recommendations to be presented by the Chairman of those bodies or their nominated representative;
- (o) receive petitions requiring debate at Full Council submitted in accordance with the Councils Petition Scheme<sup>9</sup>, and public questions in accordance with Procedure Rule 9A<sup>1011</sup>;
- (p) consider motions<sup>12</sup>;
- (q) consider any business set out in the notice covering the meeting in the order in which it appears in the Council summons but that order may be varied at the discretion of the Chairman or by resolution of the Council.

## 1.2 Selection of Councillors on Committees and Panels

At the annual meeting, the Council will:-

- (a) decide which committees and panels should be established for the ensuing municipal year;
- (b) decide the terms of reference for those committees/panels;

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<sup>7</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>8</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>9</sup> Amendment approved 29 July 2010

<sup>10</sup> Amendment approved 25 February 2010

<sup>11</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>12</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- (c) decide the allocation of seats and position of Chairman and Vice Chairman<sup>13</sup> to political groups in accordance with the political balance rules where appropriate;
- (d) receive notification<sup>14</sup> of councillors to serve on each committee and panel and to serve as Chairman and Vice Chairman from the political groups<sup>15</sup>; and
- (e) appoint to those committees and panels except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## 2. ORDINARY MEETINGS OF THE COUNCIL

2.1 <sup>16</sup>The business of the meeting will be as follows:

- (a) receive apologies for absence
- (b) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (c) approve the minutes of the last meeting and of any extraordinary or other meeting since then;
- (d) receive any announcements from the Chairman and/or the Head of Paid Service;
- (e) receive any declarations of interest from members;
- (f) receive questions from and provide answers to, Councillors in relation to matters which, in the opinion of the person presiding at the meeting, accord with the provisions of Procedural Rules 8.4 and 8.6;
- (g) receive reports from Cabinet members with portfolio holder responsibilities in accordance with Procedure Rule 8.2;
- (h) consider recommendations from Cabinet, the Overview and Scrutiny Panel and committees such recommendations to be presented by the Chairman of those bodies or their nominated representative;
- (i) receive petitions requiring debate at full Council submitted in accordance with the Council's Petition Scheme<sup>17</sup>, and public questions in accordance with Procedure Rule 9A<sup>18</sup>;

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<sup>13</sup> Amendment approved 25 February 2010

<sup>14</sup> Amendment approved 25 February 2010

<sup>15</sup> Amendment approved 25 February 2010

<sup>16</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>17</sup> Amendment approved 29 July 2010

- (j) consider motions;
- (k) consider any other business specified in the notice covering the meeting in the order in which it appears in the Council summons but that order may be varied at the discretion of the Chairman or by resolution of the Council.

2.2 At ordinary meetings, the Council will only deal with business that is set out on the summons, unless the Chairman decides that a matter is urgent. If the Chairman decides that a matter is urgent he/she will announce at the beginning of the meeting after apologies have been announced that an extra item is to be placed before the Council and will explain why the matter is so urgent. The reasons will be recorded in the minutes of the meeting.

2.3 The order of business set out in paragraph 2.1 above <sup>19</sup> may be changed:

- (a) by the Chairman with the Council's permission or
- (b) by resolution passed by the Council. The motion will be put without discussion, and does not have to be in writing.

### 3. EXTRAORDINARY MEETINGS

#### 3.1 Calling Extraordinary Meetings

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:-

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer; and
- (d) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of presenting the requisition.

#### 3.2 Business

The summons to an extraordinary meeting of the Council shall set out the business to be considered thereat and no business

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<sup>18</sup> Amendment approved 25 February 2010

<sup>19</sup> Amendment approved 30 April 2020, deleted 7 May 2021

other than that set out in the summons shall be considered at that meeting.

20.

#### **4. TIME AND PLACE OF MEETINGS**

4.1 The time and place of meetings will be determined by the Chief Executive and notified in the summons.

#### **5. NOTICE OF AND SUMMONS TO MEETING**

5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.<sup>21</sup>

5.2 At least five clear days before a meeting, the Chief Executive will send a summons to every member of the Council by such means as are appropriate including electronic delivery. 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<sup>22,23</sup>

#### **6. CHAIRMAN OF MEETING**

6.1 The person presiding at the meeting may exercise any power or duty of the Chairman. Whenever the Chairman rises during a discussion or a debate a member then standing shall resume his/her seat and the Council shall be silent. Where these Rules apply to Cabinet, committee and panel meetings, references to the Chairman also include the Chairman of those bodies.

#### **7. QUORUM**

7.1 The quorum of a meeting of full Council will be one quarter of the whole number of members. If during any meeting the number of members present falls below that sufficient for a quorum, the Chairman must adjourn the meeting. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting of the Council.<sup>24</sup>

#### **8. QUESTIONS BY MEMBERS**

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<sup>20</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>21</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>22</sup> Amendment approved 29 July 2010

<sup>23</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>24</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- 8.1 Every member of the Cabinet shall present a report to each ordinary meeting of the Council on matters of interest for which they have responsibility that have arisen since the last ordinary meeting of the Council.
- 8.2 A member of the Council may, without first giving notice, ask any Member of the Cabinet questions about any matter which falls within the portfolio of that Cabinet member.<sup>25</sup>
- 8.3 The Council will set aside a maximum of 60 minutes for members to put questions under Procedure Rule 8.2.
- 8.4 The Council will set aside a maximum of 20 minutes for the Leader of the main opposition group (or his/her nominated representative) to put questions to the Leader.
- 8.5 An answer under 8.2 and 8.4 above may take the form of:-
- (a) A direct oral answer;
  - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - (c) where the reply cannot conveniently be given orally, a written answer circulated to all members of the Council always providing that where the reply to a question may reveal exempt or confidential information, the question can only be answered after the Council has decided whether to exclude the media and public from the meeting.

**8.6 Written questions at full Council**

A member of the Council who gives written notice, via the Chief Executive no later than the third working day before the date of the meeting (not including the day on which the notice is given or the day of the meeting) may ask the Chairman, a member of the Cabinet, or the Chairman of any committee, any question on any matter in relation to which the Council has powers or duties or which affects the district

- 8.8 The Chief Executive may allow any question asked under this Procedure Rule if:
- (a) the subject matter of the question relates to the responsibilities of the person who is asked to reply to it; and

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<sup>25</sup> Amendment approved 17 June 2020

- (b) the question touches clearly upon a matter over which the Council possesses a power or duty, or which affects substantially the interests of the people of the district.

8.9 Unless the Chairman decides otherwise, every permissible question shall be asked and answered without debate but any member who receives an oral answer may ask one supplementary question of the member who answered. The supplemental question must arise directly out of the original question or the reply and will be limited to 2 minutes.

## 9. PETITIONS<sup>26</sup>

9.1 In receiving a relevant Petition requiring a Full Debate at Council submitted under the Councils Petition Scheme the following provisions of this section will apply.<sup>27</sup>

9.2 The Petition Organiser will be given 5 minutes to present the petition to Members.

9.3 Members shall have a period of no more than 15 minutes (unless such time is extended by majority vote of the Council) to debate the petition in accordance with the rules of debate. Members will on the completion of the debate determine the outcome of the Petition in accordance with the Petitions Policy.

9.4 <sup>28</sup>

## 9A. PUBLIC QUESTIONS<sup>29</sup>

9A.1 The conduct of public question time will be regulated by the Chairman of Council, having regard to the following guidelines. The Chairman's decision on the relevance of a question and on the method of dealing with any issue in connection with this procedure will be final.

9A.2 All questions:

- Must be clear and concise and be relevant to matters for which the Council has powers or duties.
- Should be limited to obtaining information or pressing for action.
- Should be capable of being adequately answered in three minutes.

9A.3 Questions should not:

- Contain offensive expressions.

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<sup>26</sup> Amendment approved 29 July 2010

<sup>27</sup> Amendment approved 30 April 2020, updated 6 August 2020

<sup>28</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>29</sup> Amendment approved 25 February 2010

- Divulge, or require the answer to divulge, confidential or exempt information.
- Repeat questions previously asked at earlier meetings unless there has been a material change of circumstances

9A.4 Questions may only be asked of the following:

- The Leader of Council.
- A portfolio holder (Cabinet member).
- The Chairman of a Scrutiny Committee.

9A.5 Members of the public wishing to ask a question at the Council meeting should provide the following details to the Council's Member Services team by no later than 12.00 noon, seven working days before the meeting:

- Name and address and contact details of the person asking the question.
- The name of an organisation if the question is being asked on their behalf.
- Details of the question to be asked.
- The name or position of the member of the Council to whom it is to be put.
- Brief information about how the subject of the question relates to the person asking the question (e.g. as a resident of the area, as a recipient of a service, the owner of a property affected by a proposal).

Only one question may be asked by each member of the public or organisation and the question must relate to a single topic.

9A.6 The following process will apply at the meeting<sup>30</sup>:

- The Chairman will invite questions to be asked at the meeting usually in the order in which they are received by Member Services.
- The Chairman of the Council will invite the member of the public to put his/her question from the floor of the Council Chamber using the microphone provided.
- The member of the public will then ask their question. Up to a maximum of three minutes will be allowed in which to ask the question.
- The named member will respond to the question which may take the form of:
  - a direct oral response of up to a maximum of two minutes;

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<sup>30</sup> Amendment approved 30 April 2020, updated 6 August 2020



- where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - where the reply cannot conveniently be given orally, a written response circulated later to the questioner and made available to all members of Council and to the public.
- After the response has been given, the questioner has up to a further minute in which to put one supplementary question or seek clarification of the response to the original question. The supplementary question must arise directly out of the original question or the reply and must not introduce new material.
  - The recipient of the original question then has up to a further three minutes in which to reply to the supplementary question.
  - The Chairman of the Council may, in exceptional circumstances, extend the time either for a question or its response. The timing of questions and responses is controlled by Member Services.
  - 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 response.
  - No debate will be allowed on any question or the response.

9A.7 (Deleted).<sup>31</sup>

## 10. MOTIONS ON NOTICE

### 10.1 Notice

Except for motions which can be moved without notice under Rule 11, notice of every motion signed by the member giving the notice must be delivered in writing or by electronic mail to the Chief Executive by not later than 12 Noon<sup>32</sup> at least 5<sup>33</sup> clear working days before the date of the relevant meeting (that is not counting the day of delivery or the day of the meeting). These will be dated, numbered in the order in which they are received and entered into a book which shall be open to public inspection.

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<sup>31</sup> Amendment approved 30 April 2020, deleted 6 August 2020

<sup>32</sup> Amendment approved 3 October 2022

<sup>33</sup> Amendment approved 14 December 2020

## 10.2 **Motions set out in agenda**

The Chief Executive shall set out in the summons for every meeting of the Council all motions of which notice has been duly given in the order in which they have been received, unless the members giving such notice intimated in writing when giving it, that (s)he proposed to move it at some later meeting, or subsequently had withdrawn it in writing.

## 10.3 **Scope**

Motions must be about matters for which the Council has a responsibility or which directly affect the district.<sup>34</sup>

## 10.4 **Failure to Move**

If a motion set out in the summons is not moved either by the member who gave notice thereof or by some other member on his/her behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

## 10.5 **Reference to Cabinet, Committee or Panel**

- (a) Subject to 10.5(c) of these Rules, if the subject matter of any motion of which notice has been duly given is within the terms of reference of the Cabinet, the Overview and Scrutiny Panel, a committee or panel, it shall, upon being moved and seconded, stand referred without discussion to the Cabinet, Overview and Scrutiny Panel, committee or panel as the Council may determine, provided that such Cabinet, Overview and Scrutiny Panel, committee or panel shall report on the matter with recommendations to an ensuing meeting of the Council.
- (b) The member who has moved the motion and the seconder to the motion will be notified by the Chief Executive of the date and time of the meeting to which the motion has been referred and has the right to attend the meeting and speak to the motion.
- (c) The Chairman may, if (s)he considers it convenient and conducive to the dispatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

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<sup>34</sup> Amendment approved 17 June 2020

## 11. MOTIONS WITHOUT NOTICE

11.1 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 Cabinet, a committee or panel or to an appropriate body or individual;
- (e) to appoint a committee or panel or member arising from an item on the summons for the meeting;
- (f) to receive, defer or refer back reports or adoption of recommendations of the Cabinet, the Overview and Scrutiny Panel, committees, panels or officers and any subsequent motions and amendments arising 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 of these Rules or to exclude them from the meeting under Rule 19.4 of these Rules;
- (p) to give the consent of the Council where its consent is required by this Constitution;
- (q) to invite a member to remain;
- (r) to record a vote in accordance with Rule 15.4 of these Rules;

- (s) in connection with voting on appointments in accordance with Rule 15.7 of these Rules; and
- (t) to extend the time limit for speeches.

## 12. RULES OF DEBATE

### 12.1 No Speeches until Motion Seconded

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

### 12.2 Right to Require Motion or Amendment in Writing

Unless notice of the motion or amendment has already been given, the Chairman may require the mover to put it in writing and hand it to him/her before it is discussed.

### 12.3 Seconded's Speech

When seconding a motion or amendment, a member may reserve his/her speech until later in the debate.

### 12.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order<sup>35</sup>. No speech may exceed 5 minutes in length without the consent of the Chairman.

### 12.5 When a Member May Speak Again

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

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;

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<sup>35</sup> Amendment approved 30 April 2020, updated 6 August 2020

- (e) on a point of order<sup>36</sup>; and
- (f) by way of personal explanation<sup>37</sup>;
- (g) to move or speak on a procedural motion set out in paragraph (e), (f) or (g) of Rule 12.10 of these Rules.

## 12.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to a motion and will either be to:-
  - (i) refer a subject of debate to the Cabinet, Overview and Scrutiny Panel, committee or panel for consideration or re-consideration;
  - (ii) leave out words;
  - (iii) leave out words and insert or add others; or
  - (iv) insert or add words

as long as such omission, insertion or addition of words does not have the effect of negating the motion before the Council.

- (b) An amendment may not be discussed until it has been moved and seconded.
- (c) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (d) No member may move or second more than one amendment to a motion.
- (e) If an amendment is not carried, other amendments to the original motion may be moved.
- (f) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (g) If an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments or speeches or if there are none, put it to the vote. An exception is in the case of such an amendment as is referred to in Rule 13.6(a)(i) of these Rules when no further amendment may be moved.

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<sup>36</sup> Amendment approved 30 April 2020, updated 6 August 2020

<sup>37</sup> Amendment approved 30 April 2020, updated 6 August 2020

(h) 38

### 12.7 **Alteration of Motion**

- (a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

### 12.8 **Withdrawal of Motion**

A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

### 12.9 **Right of Reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved and seconded, 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.
- (c) The mover of the amendment has no right of reply to the debate on his/ her amendment.

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

When a motion is under debate, no other motion may be moved except -

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;

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<sup>38</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- (d) that the vote be now taken;
- (e) to adjourn the meeting or debate;
- (f) to exclude the public and press in accordance with the Access to Information Rules;
- (g) to not hear further a member named under Rule 19.3 of these Rules or to exclude them from the meeting under Rule 19.4 of these Rules.
- (h) to suspend one or more of these Procedural Rules; and
- (i) to refer the subject of the debate back to Cabinet, Overview and Scrutiny Panel, committee or panel.

#### 12.11 Closure Motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:-
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn the meeting or debate.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been discussed sufficiently, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been discussed sufficiently, the Chairman will put the procedural motion to the vote. If it is passed, the Chairman will give the mover of the original motion the right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been discussed sufficiently and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- (e) If a motion to adjourn the meeting is seconded and the Chairman thinks that the remaining business before the meeting cannot be discussed sufficiently on that occasion, he/she shall put the adjournment motion to the vote without giving the mover to any motion under discussion

his/her right of reply. If the motion for the adjournment is carried, the remaining business shall stand adjourned to a time fixed by the Chairman at the time the meeting is adjourned, or otherwise, to the next ordinary meeting of the Council.

#### **12.12 Point of Order**

A member may raise a point of order at any time. The Chairman will hear that member immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.<sup>39</sup>

#### **12.13 Personal Explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.<sup>40</sup>

### **13. Effect of Interests<sup>41</sup>**

- 13.1 Any Member who has a Disclosable Pecuniary Interest (as defined in Part 2 of the Member Code of Conduct) in a matter under consideration and does not have a Dispensation shall leave the room containing the meeting for the duration of the consideration of the matter.<sup>42</sup>

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### **14. PREVIOUS DECISIONS AND MOTIONS**

#### **14.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of the Council within the previous six months cannot be moved unless a notice of motion is signed by at least 10 members of the Council.

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<sup>39</sup> Amendment approved 30 April 2020, deleted 6 August 2020

<sup>40</sup> Deleted 6 August 2020

<sup>41</sup> Amendment approved 26 July 2012

<sup>42</sup> Amendment approved 26 July 2012

<sup>43</sup> Amendment approved 30 April 2020, deleted 7 May 2021



## 14.2 **Motion Similar to One Rejected Previously**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the previous 6 months cannot be moved unless the notice of motion or amendment is signed by at least 10 members of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment within a further period of 6 months.

## 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 the casting vote.

### 15.3 **Show of Hands**

Unless a recorded vote is demanded under Rule 15.4 of these Rules, the Chairman will take the vote by a show of hands, or if there is no dissent by the affirmation of the meeting.

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### 15.4 **Recorded Vote**

If a decision is to be made in relation to budget and/or Council Tax or <sup>45</sup> at least 6 members present request it by rising in their seats and before the Chairman begins to take the vote, the names for and against the motion or amendment or abstaining from voting will be taken down and entered into the minutes.

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### 15.5 **Right to Require Individual Vote to be Recorded**

Where any member requests it immediately after the vote is taken, his/her vote will be so recorded in the minutes to show

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<sup>44</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>45</sup> Amendment approved 27 February 2014

<sup>46</sup> Amendment approved 30 April 2020, deleted 7 May 2021

whether he/she voted for or against the motion or abstained from voting.<sup>47</sup>

#### **15.6 Right to Require Number Voting to be Recorded**

Where any member requests it, before the vote is taken, the number of councillors voting for and against the motion or amendment and the number abstaining from voting will be taken down in writing and entered into the minutes.<sup>48</sup>

#### **15.7 Voting on Appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, 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. Alternatively, the Chairman may determine that voting on appointments be by means of a ballot.

### **16. MINUTES**

#### **16.1 Signing the Minutes**

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy and then only by motion duly moved and seconded.

#### **16.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purpose of paragraphs 41(1) and (2) of Schedule 12 relating to the signing of minutes.

#### **16.3 Form of Minutes**

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

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<sup>47</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>48</sup> Amendment approved 30 April 2020, deleted 7 May 2021

## 17. RECORD OF ATTENDANCE

- 17.1 All members present during the whole or part of the meeting must sign their names in the attendance book before the conclusion of every meeting to assist with the record of attendance.<sup>49</sup>

## 18. EXCLUSION OF THE PUBLIC

- 18.1 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 20 of these Rules (Disturbance by the Public).

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## 19. MEMBERS' CONDUCT

### 19.1 Standing to Speak

Unless permitted to remain seated by the Chairman, when a member speaks at full Council he/she must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the other must sit. Other members must remain seated whilst another member is speaking unless they wish to make a point of order or a point of personal explanation.

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### 19.2 Chairman Standing

When the Chairman stands during a debate any members speaking at the time must stop and sit down. The meeting must be silent.

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### 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 direct that the member be not heard further.<sup>53</sup>

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<sup>49</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>50</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>51</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>52</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>53</sup> Amendment approved 30 April 2020, deleted 7 May 2021

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

If the member continues to behave in a disorderly manner after being subject to a direction under 19.3 above, the Chairman may direct that either the member leaves the meeting or that the meeting be adjourned for a specified period.<sup>54</sup>

#### 19.5 **General Disturbance**

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

### 20. **DISTURBANCE BY THE 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 he/she continues to interrupt, the Chairman will order his/her removal from the meeting room.

#### 20.2 **Clearance of Part of Meeting Room**

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

#### 20.3 <sup>55</sup>

### 21 **PHOTOGRAPHY AND AUDIO/VISUAL RECORDING OF MEETINGS**

Any person attending a meeting which is open to the public is to be permitted to report on the meeting<sup>56</sup>

“reporting” means—

(a) filming, photographing or making an audio recording of proceedings at a meeting;

(b) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;

or

(c) reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present.”

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<sup>54</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>55</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>56</sup> Amendment approved 18 September 2014

## **22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **22.1 Suspension**

All of these Council Rules of Procedure except Rules 15.5 and 16.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting or part of the meeting.

### **22.2 Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **23. APPOINTMENT OF SUB-COMMITTEES, SUB-GROUPS AND ADVISORY/TASK GROUPS**

23.1 The Council, Cabinet and any committee or panel may appoint such sub-committees or sub-groups as they may consider necessary from time to time and shall specify the purpose, terms of reference and any delegated powers of such sub-committee or sub-group.

23.2 The Council, Cabinet, Cabinet portfolio holder and any committee or panel may appoint such advisory groups as they may consider necessary from time to time and shall specify the purpose, duration and terms of reference of such advisory group, except that such advisory group shall be of a deliberative nature only and shall report back with or without recommendations to the body or person that appointed them.

23.3 The appointment of members to any sub-committee, sub-group or advisory group, shall be in accordance with legislative or regulatory requirements for the representation of political groups and shall have regard in particular to 23.2 above.

## **24. APPLICATION TO COMMITTEES AND PANELS<sup>57</sup>**

24.1 All of the Council Rules of Procedure apply to meetings of full Council<sup>58</sup>

24.2 Meetings of the Cabinet are governed by the Cabinet Procedure Rules (Rule 4) only rules 18, 20, 21, 22, 23, 25, 26 and 27 of this

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<sup>57</sup> Amendment approved 29 July 2010

<sup>58</sup> Amendment approved 30 April 2020, deleted 7 May 2021

Rule 1 apply and shall be read in such a way as to apply to Cabinet where relevant<sup>59</sup>

24.3 Paragraphs 18, 20, 21, 22 and 23 of this Rule 1 apply and shall be read in such a way as to apply to the Investment Board where relevant.<sup>60</sup>

24.4 Paragraphs 4, 5, 6, 7, 14, 15, 16, 17, 18, 19, (but not rule 19.1), 20, 21, 22, 25, 26 and 28 shall apply and be read in such a way as to apply to the Executive Advisory Committees where relevant.<sup>61</sup>

24.5<sup>62</sup> Rules 3, 4, 5, 6, 7, 11, 12, 14, 15, 16, 17, 18, 19 (but not rule 19.1), 20, 21, 22, 23, 25, 26 and 27 apply to the proceedings of the Overview and Scrutiny Panels, committees, panels, sub-committees and sub-groups and shall be read in such a way as to apply to those meetings where relevant<sup>63</sup>

## **25. ITEMS ON COMMITTEE AGENDA**

25.1 Any member wishing to have an item placed on an agenda for a meeting of the Cabinet, Overview and Scrutiny Panel, committee or panel (other than by way of a notice of motion in accordance with Rule 11) shall contact the Chief Executive, or in his absence a member of Senior Management Team, requesting that an item be placed on the next available agenda for that body and the decision of the Chief Executive, or in his absence, a member of Senior Management Team, shall be final as to whether that item falls within the terms of reference of the Cabinet, Overview and Scrutiny Panel, a committee or panel.

## **26. ATTENDANCE BY MEMBERS OF THE COUNCIL AT MEETINGS OF WHICH THEY ARE NOT MEMBERS**

26.1 A member of the Council may address a meeting of the Cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group of which he/she is not a member on a specified item or terms of business where notice has been given to and prior permission obtained from the Chairman of the Cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group. In cases where the Chairman does not give such permission under this Procedure Rule, the member so refused may seek the approval of the Cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group and may attend for the purpose of stating his/her case. For the avoidance

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<sup>59</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>60</sup> Amendment approved 9 January 2020

<sup>61</sup> Amendment approved 17 July 2023

<sup>62</sup> Amendment approved 17 July 2023

<sup>63</sup> Amendment approved 30 April 2020, deleted 7 May 2021

of doubt the right to address the meeting does not confer a right to take part in the debate or vote.<sup>64</sup>

## **27. MOVER OF MOTION MAY ATTEND MEETING**

27.1 A member of the Council who has moved a motion which has been referred by the Council to the Cabinet, Overview and Scrutiny Panel, committee or panel shall receive notice of the meeting of the Cabinet, Overview and Scrutiny Panel, committee or panel at which it is proposed to consider the motion. He/she shall have the right to attend the meeting and if he/she attends shall have an opportunity of speaking to the motion and exercising the right of reply under Rule 12.9. These provisions are subject always to Rule 13.<sup>65</sup>

## **28 SUBSTITUTIONS<sup>66</sup>**

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

28.2 Substitute Members may attend meetings in that capacity only:

28.2.1 to take the place of an absent ordinary Member for whom they are the designated substitute; and

28.2.2 where the ordinary Member will be absent for the whole of the meeting; and

28.2.3 where notification has been given to the Members Services Team not less than one hour before the meeting

28.3 Provided the above conditions have been satisfied, the substitute Member shall retain the right to vote for the duration of the meeting and may not be replaced by the Member for whom he or she is substituting.

28.4 However, if the Member who is to be replaced ("the original Member") is present at the start of the meeting then the substitution shall not have effect for that meeting - so that the substitute may not speak and/or vote in that capacity at that meeting and may only otherwise speak with the prior consent of the Chairman or in accordance with a public speaking right.

28.5 Where the original Member is not present at the start of the meeting at which the substitute is present, but arrives later, the original Member may not speak and/or vote at that meeting as a member of that Member Body and may only otherwise speak

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<sup>64</sup> Amendment approved 29 July 2010

<sup>65</sup> Amendment approved 26 July 2012

<sup>66</sup> Amendment approved 19 May 2011

with the prior consent of the Chairman or in accordance with a public speaking right.

- 28.6 Such Rights shall not entitle any member to be present in the room when they would otherwise be excluded under Rule 13.<sup>67</sup>
- 28.7 Where Outside Bodies are concerned, the Leader of the relevant political group may nominate an alternative attendee where exceptionally, neither the approved substantive or substitute members are able to attend a meeting of the relevant Body and provided that the Body's Constitution/Terms of Reference permit that attendance.<sup>68</sup>

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<sup>67</sup> Amendment approved 26 July 2012

<sup>68</sup> Insertion approved 26 February 2024



## **RULE 2 ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

- 1.1 These Rules apply to all meetings of the Council, the Overview and Scrutiny Panel, committees, sub-committees, panels and sub-groups and public meetings of the Cabinet and Investment Board (together called meetings).<sup>69 70</sup>

### **2. ADDITIONAL RIGHTS TO INFORMATION**

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

### **3. RIGHTS TO ATTEND MEETINGS**

- 3.1 Members of the public may attend all meetings<sup>71</sup> subject only to the exceptions in these Rules.

### **4. NOTICES OF MEETING**

- 4.1 The Council will give at least five working clear days notice of any meeting by posting details of the meeting at the Council's offices at Fenland Hall, March<sup>72</sup>

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

- 5.1 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 days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the agenda has been sent out, the Monitoring Officer<sup>73</sup> shall make each such report available to the public as soon as the report is completed and sent to Councillors. The Council will make available a reasonable number of copies of the agenda for members of the public present at a meeting.<sup>74</sup>

### **6. SUPPLY OF COPIES**

- 6.1 The Council will supply copies of:-
- (a) any agenda and reports which are open to public inspection;

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<sup>69</sup> Amendment approved 9 January 2020

<sup>70</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>71</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>72</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>73</sup> Amended 25 September 2009

<sup>74</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive or the Monitoring Officer<sup>75</sup> thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person<sup>76</sup> on payment of a reasonable charge for postage and any other costs (no fee will be charged for inspection of any documents mentioned in this rule).

## **7. ACCESS TO MINUTES ETC. AFTER THE MEETING**

7.1 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, 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**

Every report shall list those documents (background papers) relating to the subject matter of the report, except exempt or confidential information (as defined in Rule 10), which:-

- (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.

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<sup>75</sup> Amended 25 September 2009

<sup>76</sup> Amendment approved 30 April 2020, deleted 7 May 2021

## 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.<sup>77</sup>

## 9. SUMMARY OF PUBLIC'S RIGHTS

9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the Council's offices at Fenland Hall, March.<sup>78</sup>

## 10. EXCLUSION OF THE PUBLIC FROM 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

(a) 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.

(b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 10.3 Meaning of Confidential Information

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

### 10.4 Meaning of exempt information<sup>79</sup>

Exempt information means information falling within the following 7 categories, subject to the relevant condition(s):-

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<sup>77</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>78</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>79</sup> Amended 21 December 2006

<b>Category</b>	<b>Condition</b>	<b>Public Interest</b>
1. Information relating to any individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information within paragraph 3 is not exempt if it must be registered under the Companies Act 1985, the or Charities Act 1993, the Friendly Societies Acts of 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978 and the Building Societies Act 1986.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in	Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or	Exempt information if and so long as in the circumstances of the case the public interest in

Category	Condition	Public Interest
<p>connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.</p>	<p>any other consultations or negotiations in connection with a Labour relations matter.</p> <p>“Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.</p>	<p>maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained</p>		<p>Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>6. Information which reveals that the authority proposes:-</p> <p>(A) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(B) to make an order or direction under any enactment</p>	<p>Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.</p>	<p>Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>

Category	Condition	Public Interest
7. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.		Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

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Information falling within any of paragraphs 1 – 7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS<sup>81</sup>

11.1 If the Chief Executive or his/her nominee thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10 of these Rules, the meeting is likely not to be open to the public. Such reports will be endorsed “Not for publication” together with the category of information likely to be disclosed.

11.2 There should be a paragraph in the body of such a report setting out an explanation of why the category of exempt information is applicable and whether on balance the public interest should override the application of the exemption.

11.3 Where practicable any exempt information required to enable a proper decision to be taken on the matter being reported to a meeting as specified in 1.1 above, should be separate from the body of the report in an appendix.

## 12. APPLICATION OF RULES TO THE CABINET

12.1 Rules 13 – 24 of these Rules apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 - 11 unless Rule

<sup>80</sup> Amendment approved 26 July 2012

<sup>81</sup> Amended 21 December 2006

15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in paragraph 3.2 of Article 13 of this Constitution.

12.2 If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 11 of these Rules unless Rule 15 of these Rules (general exception) or Rule 16 of these Rules (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

### 13. **PROCEDURE BEFORE TAKING KEY DECISIONS**

13.1 Subject to Rule 15 of these Rules (general exception) and Rule 16 of these Rules (special urgency), a key decision may not be taken unless:-

- (a) a notice (in the form of a “forward plan”) has been published in connection with the matter in question;
- (b) at least three clear 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, notice of the meeting has been given in accordance with Rule 4 of these Rules (notice of meetings).

### 14. **THE FORWARD PLAN**

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

Forward plans will be prepared by Cabinet to cover a period of four months, beginning with the first day of any month. They will be revised 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**

14.2.1 The Forward Plan will contain matters which the Cabinet has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an executive function 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, his/her 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.

14.2.2 The forward plan must be published at least 14 days before the start of the period covered. The Monitoring Officer<sup>82</sup> shall publish once a year a notice in at least one newspaper circulating in the area, stating:-

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four months period following its publication;
- (d) that each will be available for inspection at reasonable hours free of charge at the Council's main office;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;

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<sup>82</sup> Amended 25 September 2009



- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's main office.

14.2.3 Exempt information need not be included in a forward plan and confidential information cannot be included.

## **15. GENERAL EXCEPTION**

15.1 If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 of these Rules (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 Chief Executive has given notice in writing to the Chairman of the Overview and Scrutiny Panel, or if there is no such person, each member of that Panel in writing, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least three clear days have elapsed since the Chief Executive complied with (b) and (c).

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

## **16. SPECIAL URGENCY**

16.1 If by virtue of the date by which a decision must be taken Rule 15 of these Rules (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 Overview and Scrutiny Panel that the taking of the decision cannot be reasonably deferred.

- 16.2 If the Chairman of the Overview and Scrutiny Panel is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the consent of the Chief Executive or his/her nominee will suffice.
- 16.3 Decisions taken as a matter of urgency must be reported to the next available meeting of the Overview and Scrutiny Panel, together with the reasons for urgency.

## **17. REPORT TO COUNCIL**

### **17.1 When an Overview and Scrutiny Panel can require a report**

If an Overview and Scrutiny panel thinks that a key decision has been taken which was not:-

- (a) included in the forward plan;
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Overview and Scrutiny Panel Chairman or the Chairman of the Council or the Chief Executive or his/her nominee under Rule 16 of these Rules;

the Panel may require the Cabinet to submit a report to the Council within such reasonable time as the Panel specifies. The power to require a report rests with the Panel, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Panel when so requested by the Chairman or any three members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny panel.

### **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 working days of receipt of the written notice, or the resolution of the Panel, then the report may be submitted to the meeting after that. The report to the Council will set out particulars of the decision, the individual or body making the decision, and if the Cabinet is of the opinion that it was a key decision the reasons for that opinion

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on executive decisions taken in the circumstances set out in Rule 16 of these Rules (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**

18.1 After any meeting of the Cabinet or its committees, the Chief Executive 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. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

19.1 The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private but the presumption will be that they will be in public.

**20. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET**

20.1 Reports intended to be taken into account

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least three clear days after receipt of that report.

20.2 Provision of copies of reports to Overview and Scrutiny Panel

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 the Overview and Scrutiny Panel as soon as reasonably practicable, and make it publicly available at the same time.

20.3 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, he/she will prepare, or instruct the Chief Executive 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 of these Rules (inspection of documents after meetings) will also apply to the making of decision by individual members of the

Cabinet. This does not require the disclosure of exempt or confidential information.

## **21. OVERVIEW AND SCRUTINY PANEL'S ACCESS TO DOCUMENTS**

### **21.1 Rights to Copies**

Subject to Rule 21.2 of these Rules, the Overview and Scrutiny Panel (including its sub-panels) will be entitled to copies of any document which is in the possession or control of the Cabinet 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 .

### **21.2 Limit on Rights**

The Overview and Scrutiny panel will not be entitled to:-

- (a) any document that is in draft form; or
- (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.

## **22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **22.1 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 and contains material relating to any business previously transacted or relates to any key decision unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information set out in Rule 10.4 of these Rules.

### **22.2 Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless Rule 22.1 of these Rules applies.

### **22.3 Nature of rights**

These rights of a member are additional to any other right he/she may have.

## **RULE 3 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. THE FRAMEWORK FOR EXECUTIVE DECISIONS**

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

### **2. PROCESS FOR DEVELOPING FRAMEWORK**

- 2.1 The process by which the budget and policy framework shall be developed is:-
- (a) The Cabinet will publicise by including in the forward plan and/or publication at the Council's offices or by other means e.g. on its website or in the local press, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of those initial proposals. The Chairman of the Overview and Scrutiny Panel also will be notified. In the absence of the Chairman, the Vice-Chairman of the Panel will be notified. The consultation period shall in each instance be relevant to the proposals to be considered and sufficient for meaningful consultation.
  - (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Panel wishes to respond to the Cabinet in that consultation process then it may do so. As the Panel has responsibility for fixing its own work programme, it is open to the Panel to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Panel into account in drawing up firm proposals for the submission to the Council and its report to Council will reflect the comments made by consultees and the Cabinet's response.
  - (c) Once the Cabinet has approved firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.
  - (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.

- (e) If it accepts the recommendation of the Cabinet without amendment the Council may make a decision which has immediate effect otherwise it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised within three working days of the meeting in accordance with Article 4 and a copy shall be given to the Leader.
- (g) An in-principle decision will automatically become effective within five working days from the publication of the Council's decision, unless the Leader informs the Chief Executive in writing within that period of five working days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Chief Executive will call a Council meeting within a further 15 working days unless the Leader considers that the matter can reasonably be referred to the next ordinary meeting of the Council. The Council will be required to reconsider its decision and the Leader's written submission. The Council may:-
  - (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with Rules 5 and 6 of these Rules (virement and in-year adjustment). Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 3.1 Subject to the provisions of Rule 5 of these Rules (virement), the Cabinet committee of the Cabinet, individual members of the Cabinet and any officers 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 Rule 4 of these Rules.

- 3.2 If the Cabinet, a committee 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 Chief Finance Officer 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 Rule 4 of these Rules (urgent decisions outside the budget and policy framework) shall apply.

#### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 4.1 The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers 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 Leader and the Chairman of the Overview and Scrutiny Panel agrees that the decision is a matter of urgency.
- 4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the Leader and Chairman of the Overview and Scrutiny Panel'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 the Overview and Scrutiny Panel and/or the Leader, the consent of the Chairman of the Council, and in the absence of both, the Chief Executive or his/her nominee's consent will be sufficient.

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

## 5. **VIREMENT**

5.1 The Code of Financial Management in Part 4 of this Constitution includes provisions which set out the rules for moving monies between budgetary allocations including contingencies (virement).

## 6. **IN YEAR CHANGES TO POLICY FRAMEWORK**

6.1 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 and individuals except those changes:-

- (a) which will result in the closure and 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; or
- (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.

6.2 In each case a report on the action taken will be reported by the Cabinet to the next ordinary meeting of the Council.

## 7. **CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

7.1 Where the Overview and Scrutiny Panel 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 Chief Finance Officer.



- 7.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Panel if the Monitoring Officer or Chief Finance Officer conclude that the decision was not a departure.
- 7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Panel 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 working days of the request by the Overview and Scrutiny Panel. At the meeting it will receive a report on the decision or proposals and the advice of the Monitoring Officer and/or the Finance Officer. The Council may either:-
- (a) 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
  - (b) amend the Council's Code of Financial Management or policy concerned to encompass a 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
  - (c) 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 Council's 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 and/or Chief Finance Officer.

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## **RULE 4 CABINET PROCEDURE RULES**

### **1. OPERATION OF THE CABINET**

#### **1.1 Who May Make Cabinet Decisions**

The Leader will make arrangements for the discharge of Cabinet Functions as set out in Part 3 of the Constitution, the Leader may provide for executive functions to be discharged by some or all of the following: -<sup>1</sup>

- (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.

#### **1.2 Delegation by the Leader**

At the Annual Meeting of the Council and if any arrangements should change during the year at the next Council meeting<sup>2</sup>, the Leader will present for adoption or information as appropriate under this Constitution, the following information about executive functions in relation to the following year:-

- (a) the collation of relevant executive functions into related groups to be known as “portfolios”;
- (b) the names, addresses and wards of the people he/she is proposing to be appointed to the Cabinet and their responsibility for the individual portfolios;
- (c) insofar as they are not already set out in the Council’s adopted scheme:
  - (i) the extent of any authority delegated by the Leader to a member of the Cabinet individually (including him/herself), including details of any limitation (if any) on their authority;

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<sup>1</sup> Amendment approved 16 December 2010

<sup>2</sup> Amendment approved 25 February 2010

- (ii) the nature and extent of any delegation of executive functions proposed to any other authority or under any joint arrangements and the names of those Cabinet members and/or other members appointed to any joint committee under Article 11 of this Constitution for the coming year; and
- (iii) the nature and extent of any delegation to officers with details of any limitation (if any) on that delegation, and the title of the officer to whom the delegation is made.

### **1.3 Sub Delegation of Cabinet Functions**

- (a) where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for a cabinet function, they may delegate further to an area committee, joint arrangements or an officer;
- (b) unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Cabinet committee or to an officer;
- (c) unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer;
- (d) any proposal to delegate an executive function under joint arrangements or to another local authority shall be the subject of a recommendation to the Council under paragraphs 2 and 4 of Article 11 of this Constitution; and
- (e) even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the function.

### **1.4 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) If the Leader is able to decide whether to delegate executive functions (s)he may amend the scheme of delegation relating to executive functions at any time during the year. To do so the Leader must give written notice to the Chief Executive 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 or committee. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when it has been served on its Chairman.

## 1.5 **Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of 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 Codes of Conduct for Members in Part 5 of this Constitution.

## 1.6 **Cabinet meetings – Frequency and Venue**

The Cabinet will meet at least 8<sup>1</sup> times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or other locations to be agreed by the Leader.<sup>2</sup>

## 1.7 **Meetings of the Cabinet**

All meetings of the Cabinet will normally be held in public. Where the Cabinet is considering items of a confidential or exempt nature these may be heard in private provided that the subject matter of the item falls within one of the paragraphs in Part I of Schedule 12A to the Local Government Act, 1972.

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<sup>1</sup> Amendment approved 20 February 2020

<sup>2</sup> Amendment approved 30 April 2020, deleted 7 May 2021

## 1.8 **Quorum**

The quorum for a meeting of the Cabinet or a committee of it shall be three members.

## 1.9 **Decision Taking by the Cabinet**

(a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this 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.

## 2. **CONDUCT OF CABINET MEETINGS**

### 2.1 **Chairman**

If the Leader is present he/she shall preside at meetings of the Cabinet. In the absence of the Leader, the Deputy Leader will chair the meeting. If the Leader and Deputy Leader are not present, Cabinet will appoint a person from among those present<sup>1</sup> to preside at the meeting<sup>2</sup>

### 2.2 **Attendance**

The details are set out in the Access to Information Rules in Part 4 of this Constitution.

Members may attend and speak for up to 3 minutes on any item of business before the Cabinet providing that they confirm their intention to the Chief Executive no later than noon three working days before the meeting. Cabinet Members may ask questions of the member concerned but the member is not entitled to debate the item. For the avoidance of doubt this is not a public speaking right within the meaning of section 12(2) of the Code of Conduct for Members.<sup>3</sup>

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<sup>1</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>2</sup> Amendment approved 11 May 2017

<sup>3</sup> Amendment approved 25 February 2010

### 2.3 **Business**

At each meeting of the Cabinet, the following business will be conducted.<sup>1</sup>: -

- (a) apologies for absence
- (b) consideration of the minutes of the last meeting;
- (c) declarations of interest (if any);
- (d) any matters referred to the Cabinet (whether by the Overview and Scrutiny Panel or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (e) consideration of reports from the Overview and Scrutiny Panel; and
- (f) matters set out in the agenda for the meeting and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.
- (g) any petitions submitted to the Cabinet.
- (h) any Public Questions submitted under the terms of Standing Order 9A but marked for the attention of Cabinet are to be managed in accordance with rule 9A save that references to Council shall be read as references to Cabinet.<sup>2</sup>

### 2.4 **Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget or policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Panel 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.

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<sup>1</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>2</sup> Amendment approved 25 February 2010

## 2.5 Cabinet Agenda Items

- (a) Any member of the Cabinet may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request, the Chief Executive will comply.
- (b) The Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Panel or the full Council have resolved that an item be considered by the Cabinet.
- (c) Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting.
- (d) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Monitoring Officer and Chief Finance 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.



# **RULE 5 OVERVIEW AND SCRUTINY PROCEDURE RULES**

## **1. PRINCIPLES**

The purpose of these rules is to ensure that the Overview and Scrutiny function of the Council:

- adds value to the Council and the community
- provides an effective means of holding decision takers, in both the Council and other local service providers, to account
- includes the strategic development of policy
- reviews issues of concern to local people
- is cross-cutting, connected to public opinion and sets its own brief
- is deliberative, investigative, evidence based, open, transparent, responsive, outward looking, inclusive, proactive, flexible, cross-party, constructive and influencing
- protects the rights of minority political groups
- treats people with respect and does nothing to compromise the impartiality of those who work for, or on behalf of, the Council.

## **2. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY**

2.1 The Council will have Overview and Scrutiny Panels as set out in Article 6 and Table 1 to this rule and will appoint such members to them as it considers appropriate from time to time. The Panels may appoint Review teams to assist them. The Council may appoint other ad hoc Overview and Scrutiny Panels for a fixed period or for a specific purpose on the expiry or achievement of which they shall cease to exist. Such ad hoc panels will not have the power to call in but shall have all other powers of the Overview and Scrutiny Panel. In this rule the phrase Overview and Scrutiny Panel shall refer to whichever panel is relevant to the consideration, or all panels taken together.<sup>10</sup>

## **3. TERMS OF REFERENCE**

3.1 The terms of reference of the Overview and Scrutiny Panel will be to:-

1. formulate and co-ordinate its work programme relating to performance issues, including the programme of any task and finish groups it appoints, to ensure that there is efficient use of the panel's and task and finish groups' time, and that the potential for duplication of effort is minimised.

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<sup>10</sup> Amendment approved 25 February 2010

2. receive requests from the Executive, individual members<sup>11</sup> and/or the Full Council for reports from the Overview and Scrutiny Panel as appropriate.
3. put in place and maintain a system to ensure that referrals from Overview and Scrutiny to the Executive, either by way of report or for re-consideration are managed efficiently and do not exceed the limits set out in this Constitution.
4. at the request of the Executive to make decisions about the priority of referrals made, in the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business.
5. perform the Overview and Scrutiny role in relation to the following matters:
  - (a) reviewing and reporting to Executive on the local authority's performance against the Best Value Performance Plan;
  - (b) monitoring and assessing quality of service across the Council;
  - (c) reviewing information from satisfaction surveys;
  - (d) receiving reports on quality and service from the Executive, officers and committees and recommending improvements as appropriate;
  - (e) to review and scrutinise the performance of other local service providers or body in relation to the economic, social or environmental well-being of the district;
  - (f) development of the Council's annual budget;
  - (g) development of the medium-term financial strategy;
  - (h) development of the Council's Community Plan to promote the economic, social and environmental well-being of the area;

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<sup>11</sup> Amendment approved 8 May 2008

- (i) development of the Council's Best Value Performance Plan;
- (j) development of the Council's planning policies (including the Local Development Framework and other plans for the use and development of land);
- (k) development of the Crime and Disorder Reduction Strategy;
- (l) development of the plan and strategy which comprise the Housing Investment Programme;
- (m) conduct of elections;
- (n) assist the Executive in the development of the Council-wide policy and asset strategy;
- (o) identifying and promoting best practice in relation to service delivery;
- (p) recommendations to the Executive for matters to be included in the annual Best Value Performance Plan and/or Best Value Reviews to be conducted;
- (q) contributing to the development of policies other than those specified in the policy framework, including in relation to:
  - i) leisure, arts, sport, cultural and recreational activities;
  - ii) the regeneration of communities in the area;
  - iii) social inclusion and the Council's specific initiatives to promote it;
  - iv) the physical regeneration of the area including economic development;
  - v) health, housing and social care;
  - vi) the protection and enhancement of the environment;
  - vii) public protection;
  - viii) lifelong learning;
  - ix) the development of partnerships with external organisations;
- (r) to make recommendations to any other person or body to maintain or improve the economic, social or environmental well-being of the District.

- (s) In accordance with the Councils Petition Scheme:
  - i) Receive Petitions calling Officers to account
  - ii) Review the steps taken to respond to a petition<sup>12</sup>

#### **4. MEMBERSHIP OF THE OVERVIEW AND SCRUTINY PANEL**

4.1 The Overview and Scrutiny Panel will comprise a maximum of 12 members of the Council with seats allocated to political groups in proportion to the number of seats held by each group on the Council as a whole. All Councillors, except members of the Cabinet, may be members of the Overview and Scrutiny Panel. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

#### **5. CO-OPTEEES**

5.1 The Overview and Scrutiny Panel and any Review Teams it establishes shall be entitled to appoint up to 3 people at any one time as non-voting co-optees. The Panel or Review Team shall determine whether the co-options shall be effective for a specified period, for specific meetings or for specific items.

#### **6. MEMBERSHIP OF REVIEW TEAMS**

6.1 Review Teams will normally be Chaired by a member of an Overview and Scrutiny Panel and comprise the number of members drawn from all councillors who are not members of the Cabinet as determined by the Overview and Scrutiny Panel.

#### **7. MEETINGS OF THE OVERVIEW AND SCRUTINY PANEL**

7.1 There shall be no more than 12 ordinary calendar meetings of an<sup>13</sup> Overview and Scrutiny Panel. In addition, extraordinary meetings may be called from time to time as and when appropriate. The Overview and Scrutiny Panel meetings may be called by the Chairman of the Panel, by any three members of the Panel or by the Chief Executive if he/she considers it necessary or appropriate.

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<sup>12</sup> Amendment approved 29 July 2010

<sup>13</sup> Amendment approved 25 February 2010

<sup>14</sup> Amendment approved 30 April 2020, deleted 7 May 2021

## 8. QUORUM

- 8.1 The quorum for the Overview and Scrutiny Panel and Review Team shall be as set out for committees etc. in the Council Procedure Rules in Part 4 of the Constitution.

## 9. CHAIRMAN AND VICE-CHAIRMAN OF THE OVERVIEW AND SCRUTINY PANEL

- 9.1 The Chairman and Vice-Chairman of an Overview and Scrutiny Panel will be drawn from among the Councillors sitting on the Panel.<sup>15</sup>

## 10. WORK PROGRAMME

- 10.1 The Overview and Scrutiny Panel will be responsible for setting their own work programme and in doing so shall take into account the wishes of all members on the panel irrespective of political affiliation.

## 11. AGENDA ITEMS

- 11.1 Any member of an Overview and Scrutiny Panel shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Panel to be included on the agenda for the next available meeting of the Panel. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

- 11.2 Any member of the Council who is not a member of the Overview and Scrutiny Panel concerned may give written notice to the Chief Executive that they wish an item relevant to the functions of the Panel to be included on the agenda. If the Chief Executive receives such a notification, then he/she will include an item on the first available agenda for consideration by the Panel. The members will be entitled to appoint a spokesperson to attend the meeting at which the item is to be discussed and the member may speak on the issue but may not vote. The Committee shall determine the appropriate level of investigation for such matters and report accordingly.<sup>16</sup>

- 11.3 The Overview and Scrutiny Panel shall also respond as soon as its work programme permits to request from the Council and, if they consider it appropriate, the Cabinet to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Panel concerned shall report its findings and any

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<sup>15</sup> Amendment approved 25 February 2010

<sup>16</sup> Amendment approved 8 May 2008

recommendations back to the Council and/or Cabinet. If practicable the Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Panel at their next ordinary meeting after its receipt or at the ordinary meeting immediately after that.

## **12. POLICY REVIEW AND DEVELOPMENT**

- 12.1 The role of the Overview and Scrutiny Panel in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Rules in Part 4 of this Constitution.
- 12.2 In relation to the development of the Council's approach to the matters not forming part of its policy and budget framework, Overview and Scrutiny Panel or Review Teams appointed by the Panel, may make proposals to the Cabinet for developments insofar as they relate to matters within its terms of reference.
- 12.3 The Overview and Scrutiny Panel or Review Teams appointed by the Panel, may hold enquiries and/or investigate available options for future direction in policy development and may appoint advisors 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 they may reasonably consider necessary to inform their deliberations.<sup>17</sup> 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 allocation of funds approved by the Council.

## **13. REPORTS FROM THE OVERVIEW AND SCRUTINY PANEL**

- 13.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Panel will prepare a formal report and submit it 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).
- 13.2 If the Overview and Scrutiny Panel cannot agree upon a final report to the Council or Cabinet as appropriate, then up to one minority report or note of particular areas of disagreement may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

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<sup>17</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- 13.3 The Council or Cabinet will consider the report of the Overview and Scrutiny Panel no later than their second meeting following its receipt.

**14. CONSIDERATION OF OVERVIEW AND SCRUTINY PANEL REPORTS**

- 14.1 Once the report of the Overview and Scrutiny Panel on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda no later than the second meeting following its receipt. If for any reason the Cabinet does not consider the Overview and Scrutiny Panel's report within two months the matter will be referred to the Council for review, and the Chief Executive will call a Council Meeting to consider the report and make a recommendation to the Cabinet.
- 14.2 Once the Overview and Scrutiny Panel has completed its deliberations on any matter it will forward a copy of its final report to the Chief Executive who will allocate it to either or both the Cabinet and Council for consideration according to whether the contents of the report would have implications for the Council's budget and policy framework. The Cabinet will have one month in which to respond to the Overview and Scrutiny Panel's report and the Council will not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Panel on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny Panel's proposals.
- 14.3 Before submitting a Best Value Review Report and Improvement Plan to Council, the Overview and Scrutiny Panel shall have formally consulted the relevant portfolio holder(s) and Cabinet who shall be given reasonable time to respond to the consultation.
- 14.4 Where the Overview and Scrutiny Panel prepares a report for consideration by the Cabinet in relation to a matter where the Council or the Leader has delegated decision making power to another individual member of the Cabinet, the Overview and Scrutiny Panel will submit a copy of its report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Panel shall serve a copy on the Chief Executive and the Leader. If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Panel then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Panel. The

Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Panel within two months of receiving the report. A copy of his/her written response to it shall be sent to the Chief Executive and the Cabinet member will attend a future meeting of the Panel to respond.

**15. RIGHTS OF THE OVERVIEW AND SCRUTINY PANEL'S MEMBERS TO DOCUMENTS**

- 15.1 In addition to their rights as councillors, members of the Overview and Scrutiny Panel have the additional rights to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.<sup>18</sup>
- 15.2 Nothing in this paragraph prevent more detailed liaison between the Cabinet and the Overview and Scrutiny Panel depending upon the particular matter under consideration.

**16. MEMBERS AND OFFICERS GIVING ACCOUNT**

16.1 The Overview and Scrutiny Panel 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:-

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance;

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

16.1A Where a Panel of the Overview and Scrutiny Committee is responding to a Petition calling officers to account under the Councils Petition Scheme the following shall apply:

- (i) The questioning shall be confined to the subject of the Petition,
- (ii) The organiser of the Petition or it's supporters are not entitled by virtue of this rule to pose questions directly to officers, however they may suggest questions to the Chairman in writing up to three working days in advance.<sup>19</sup>

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<sup>18</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>19</sup> Amendment approved 29 July 2010



- 16.2 Where any member or officer is required to attend an Overview and Scrutiny Panel meeting under this provision, the Chairman of that Panel will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel will require the production of a report, the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 16.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, the Overview and Scrutiny Panel concerned shall, in consultation with the member or officer, arrange an alternative date for attendance to take place within a maximum of two months from the date of the original request.
- 16.4 The questioning of members and staff required to attend an Overview and Scrutiny Panel shall be conducted fairly and courteously. Members and staff giving account may be asked to provide factual information and to justify decisions or actions they have taken. No Councillor or member of staff shall be required to give an opinion on any decision or action to which they were not a party and for which they do not have any responsibility, whether individually or collectively. No member of staff shall be required to answer any question which would compromise their political impartiality, including supporting or opposing any stated policy associated with a political party. The questioning of members or staff shall not be used to make accusations or to allege any wrongdoing on their part. Any such accusations or allegations shall be dealt with under the provisions of the Protocol on Member/Staff Relations or whistleblowing policy and procedure in Part 5 of this Constitution. The questioning of a member of staff may be adjourned at their request for a period to be set by the Chair.
- 16.5 The most senior officer present, other than the one giving account, may request the Chairman to cease the questioning of an officer giving account where he or she considers that the provisions of these rules are being breached.
- 16.6 Where the Overview and Scrutiny Panel is reviewing the work of the Council which is not a function of the Cabinet, it should not scrutinise individual decisions made by the Council or any committee or panel thereof, particularly decisions in respect of development control, licensing, registration, consents and other

permissions. In making reports and recommendations on functions which are not the responsibility of the Cabinet, such reports and recommendations should normally be used as part of wider policy reviews.

(For the purposes of this Rule: “senior officer” has the meaning set out in Article 6); reference to Overview and Scrutiny Panel shall include reference to any Review Team).

## **17. ATTENDANCE BY OTHERS**

17.1 The Overview and Scrutiny Panel or Review Team may invite people other than those people referred to in Rule 16 of these Rules to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from Councillors who are not members of the Cabinet, residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend.

## **18. CALL- IN**

18.1 When a decision is made by the Cabinet, 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, including where possible by electronic means, and shall be made available at the main offices of the Council within three working days of being made.

18.2 The members of the Overview and Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

18.3 That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented on the expiry of five working days after the publication of the decision, unless it is called in.

18.4 During that period the Chief Executive shall call in a decision for scrutiny by the appropriate panel if so requested by: a Chairman or Vice Chairman of any panel, or any three members who are members of the Overview and Scrutiny Function, or any 10 members of the Council and shall then notify the decision maker of the call-in. A request for call in must be made in writing and shall specify the reason(s) why the decision is being called in. The decision called in will be referred by the Chief Executive to the next scheduled meeting of the relevant Panel but if no meeting is scheduled within 15 working days of the decision to call in, he/she shall call a meeting of the Panel on such date as he/she may determine, where possible after consultation with

the Chairman of the Panel, and in any case within 15 working days of the decision to call in.<sup>20</sup>

- 18.5 If, having considered the decision, the Overview and Scrutiny Panel does not object to a decision which has been made, no further action is necessary and the decision will be effective from the date of the meeting. If the Overview and Scrutiny Panel<sup>21</sup> 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 reconsider it within a further ten working days, amending the decision or not before adopting a final decision.
- 18.6 If, following an objection to the decision, the Overview and Scrutiny Panel does not meet in the period set out above or does meet but does not refer the matter back to the decision making person or body or refer the matter to full Council, the decision shall take effect on the date of the Overview and Scrutiny Panel meeting or the expiry of the 15 working days period whichever is the earlier.<sup>22</sup>
- 18.7 If the matter is referred to full Council it shall be dealt with at the next ordinary meeting of the Council. If the Council does not object to a decision which has been made, no further action is necessary and the decision will be effective from the date of the meeting.<sup>23</sup> However, if the Council does object, it 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 choose 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 reconvened to reconsider it within ten working days of the Council's request. Where the decision was made by an individual, the individual will reconsider it within ten working days of the Council's request.
- 18.8 If the Council does not meet or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or the expiry of the period in which the Council meeting should have been held whichever is the earlier.

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<sup>20</sup> Amendment approved 29 July 2010

<sup>21</sup> Amendment approved 29 July 2010

<sup>22</sup> Amendment approved 29 July 2010

<sup>23</sup> Amendment approved 29 July 2010

19. **EXCEPTIONS**

19.1 To ensure call-in is not abused, nor causes unreasonable delay, the Council may place limitations on its use.

20. **CALL-IN AND URGENCY**

20.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet, an individual member of the Cabinet, a committee of the Cabinet or a key decision by an officer with delegated authority from the Cabinet or under joint arrangements is urgent.

20.2 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 the 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.

20.3 The Chairman of the Overview and Scrutiny Panel or in his/her absence the Chairman of the Council must agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of both the Chairman of the Overview and Scrutiny Panel and the Chairman of the Council, the Chief Executive or his/her nominee's consent shall be required.

20.4 Decisions taken as a matter of urgency must be reported to the next available meeting of the Overview and Scrutiny Panel together with the reasons for the urgency.

21. **PROCEDURE AT THE OVERVIEW AND SCRUTINY PANEL MEETINGS**

21.1 The Overview and Scrutiny Panel shall consider the following business<sup>24</sup>:-

- (a) apologies for absence;
- (b) minutes of the last meeting;
- (c) declarations of interest;
- (d) consideration of any matter referred to the panel for a decision in relation to call-in of a decision;

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<sup>24</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- (e) responses of the Cabinet and the Council to reports of the Overview and Scrutiny Panel; and
- (f) the business otherwise set out on the agenda for the meeting.

21.2 Where the Overview and Scrutiny Panel, or a Review Team, conducts investigations (e.g. to review the Council's performance with a view to policy development) the Panel or Team may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles: -

- (a) that the investigation will be conducted fairly and all members of the Panel or Team will be given the opportunity to ask questions of attendees and to contribute and speak;
- (b) that those assisting the Panel or Team by giving evidence shall be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

21.3 Following an investigation or review, the Overview and Scrutiny Panel/Review Team shall prepare a report for submission to the Cabinet or Council as appropriate and shall make its report and findings public.

## **22. MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY PANEL OR<sup>25</sup> REVIEW TEAM**

22.1 Where a matter for consideration by an Overview and Scrutiny Panel or Review Team also falls within the remit of one or more other such Overview and Scrutiny Panel or Review Team the decision as to which Overview and Scrutiny Panel or Team will consider it will be resolved by the Chairman of the Overview and Scrutiny Panels acting jointly and the decision will be reported to the next meeting of the Overview and Scrutiny Panel.<sup>26</sup>

22.1A Where an Overview and Scrutiny Panel is considering a matter referred to it pursuant to section 18 (Call in) then any member of Overview and Scrutiny may attend the Panel for the purposes of that item and shall have the right to speak, take part in the debate and vote. Members attending under this provision do not form part of any consideration of Quorum which must be calculated on the membership of the Panel considering the

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<sup>25</sup> Amendment approved 25 February 2010

<sup>26</sup> Amendment approved 25 February 2010

matter. For the avoidance of doubt this provision does not create a public speaking right further to section 12 of the Code of Conduct for Members.

22.1B Where an Overview and Scrutiny Panel is considering a matter referred to it pursuant to section 16.1A (Petition Calling Officers to Account) then any member of Overview and Scrutiny may attend the Panel for the purposes of that item and shall have the right to speak, ask questions, take part in the debate and vote. Members attending under this provision do not form part of any consideration of Quorum which must be calculated on the membership of the Panel considering the matter. For the avoidance of doubt this provision does not create a public speaking right further to section 12 of the Code of Conduct for Members.<sup>27</sup>

22.1C Where a matter is not covered by rules 22.1A or 22.1B above, and if the matter could be considered by more than one Panel separately, and if it is considered by the Chairmen of the Panels concerned acting together that the matter is of such significance that one panel alone should not consider it. Then they may agree that one Panel shall consider the matter but that the members of the other relevant Panel(s) may attend the Panel for the purposes of that item and shall have the right to speak, take part in the debate and vote. Members attending under this provision do not form part of any consideration of Quorum which must be calculated on the membership of the Panel considering the matter. For the avoidance of doubt this provision does not create a public speaking right further to section 12 of the Code of Conduct for Members.<sup>28</sup>

22.2 Where a Review Team conducts a review of a matter which also falls (whether in whole or in part) within the remit of another such Team, then the Team conducting the review shall invite the Chairman of the other Team(s) (or his/her nominee) to attend its meeting when the matter is being reviewed.

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<sup>27</sup> Amendment approved 29 July 2010

<sup>28</sup> Amendment approved 16 December 2010

**TABLE 1<sup>29</sup>:**  
**TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY PANELS:**

OVERVIEW AND SCRUTINY PANEL<sup>30</sup>

1. To formulate and co-ordinate its work programme relating to policy and performance issues, including the programme of any task and finish groups it appoints, to ensure that there is efficient use of the Panel's and task and finish groups' time, and that the potential for duplication of effort is minimised.
3. To receive requests from the Executive and/or the Full Council for reports from the Overview and Scrutiny Panels as appropriate and to allocate them if appropriate to one or more Overview and Scrutiny task and finish Groups.
4. To put in place and maintain a system to ensure that referrals from Overview and Scrutiny to the Executive, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution.
5. At the request of the Executive to make decisions about the priority of referrals made, in the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business.
6. To perform the Overview and Scrutiny role in relation to the following matters:
  - (a) the development of the Council's Corporate Plan
  - (b) the development of the Council's annual budget;
  - (c) the development of the medium-term financial strategy;
  - (d) to review and scrutinise the Council's performance in relation to the Corporate Plan and associated budgetary management;
  - (e) the development of the Council's community strategy to promote the economic, social and environmental well-being of the area;
  - (f) the development of the Council's planning policies (including the Local Development Framework and other plans for the use and development of land);
  - (g) identifying and promoting best practice in relation to service delivery;
  - (h) monitoring and assessing quality of service across the Council;

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<sup>29</sup> Amendment approved 25 February 2010

<sup>30</sup> Amendment approved 19 May 2011

- (i) reviewing information from satisfaction surveys;
- (j) co-ordinating and publishing information on service performance;
- (k) receiving reports on quality and service from the Executive, officers and committees and recommending improvements as appropriate;
- (l) to review and scrutinise the performance of other local service providers or body in relation to the economic, social or environmental well-being of the District.
- (m) to make recommendations to any other person or body to maintain or improve the economic, social or environmental well-being of the District
- (n) contributing to the development of policies other than those specified in the policy framework, including in relation to
  - i) leisure, arts, sport, cultural and recreational activities;
  - ii) the regeneration of communities in the area;
  - iii) social inclusion and the Council's specific initiatives to promote it;
  - iv) the physical regeneration of the area including economic development;
  - v) health, housing and social care;
  - vi) the protection and enhancement of the environment;
  - vii) public protection;
  - viii) lifelong learning;
  - ix) the development of partnerships with external organisations;



### FINANCIAL RULES AND SCHEME OF FINANCIAL DELEGATION

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## **1. STATUS OF FINANCIAL RULES**

- 1.1 Financial rules, also referred to as Financial Regulations provide the framework for managing the Council's financial affairs. They apply to every councillor and officer of the Council and anyone acting on its behalf.
- 1.2 The rules identify the financial responsibilities of the full Council, the Cabinet, committees, the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and Corporate Management Team (CMT) should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers references to members of CMT in the rules should be read as referring to them.
- 1.3 All councillors and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.4 The Chief Finance Officer is responsible for maintaining a continuous review of the financial rules and submitting any additions or changes necessary to the full Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the financial rules to Council.
- 1.5 The Council's detailed financial procedures, setting out how the rules will be implemented, are contained in the five financial rules which follow.
- 1.6 CMT is responsible for ensuring that all staff under its control are aware of the existence and content of the Council's financial rules and other internal regulatory documents and that it complies with them. They must also ensure that an adequate number of copies are available for reference within their Service Unit.
- 1.7 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the financial rules that members, officers and others acting on behalf of the Council are required to follow.
- 1.8 In the event of conflict between these rules and other processes of the Council these rules shall be deemed definitive unless contrary to statute.

# **FINANCIAL RULE A – FINANCIAL MANAGEMENT**

## **INTRODUCTION**

- A.1** Financial management covers all financial accountabilities in relation to the running of the Council.

## **THE FULL COUNCIL**

- A.2** The full Council is responsible for adopting and changing the Council's Constitution and for approving the Council's policy framework and budget. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in its Constitution.
- A.3** The full Council is responsible for approving procedures for recording and reporting decisions taken as part of its Constitution. This includes those key decisions delegated by the Council and decisions taken by the Council, the Cabinet, portfolio holders, committees and officers. These delegations and details of who has responsibility for which decisions are set out in Part 3 of the Constitution, and these rules. The full Council is responsible for the making or amendment of these rules.

## **OVERVIEW AND SCRUTINY PANEL**

- A.4** The Overview and Scrutiny Panel is responsible for keeping under review and recommending changes as necessary to the Council's financial rules.

## **THE STATUTORY OFFICERS**

### **HEAD OF PAID SERVICE AND CHIEF EXECUTIVE**

- A.5** The functions of the Head of Paid Service are contained in Article 12 of the Constitution.

### **MONITORING OFFICER**

- A.6** The functions of the Monitoring Officer are contained in Article 12 of the Constitution.

### **CHIEF FINANCE OFFICER**

- A.7** The functions of the Chief Finance Officer are contained in Article 12 of the Constitution. The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972

- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2003.

**A.8** Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council or the Cabinet and external auditor if the Council or the Cabinet or an officer:

- has made, or is about to make, a decision which involves incurring unlawful expenditure
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
- is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
- the Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

## **CORPORATE MANAGEMENT TEAM**

**A.9** CMT is responsible for ensuring that members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.

**A.10** It is the responsibility of CMT to consult with the Chief Finance Officer<sup>1</sup> and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

## **OTHER FINANCIAL ACCOUNTABILITIES**

### **Virement**

**A.11** The Full Council is responsible for agreeing procedures for virement of expenditure between budget headings.

**A.12** CMT is responsible for agreeing in-year virements within delegated limits (see Rule **A.25**), in consultation with the Chief Finance Officer.

## **TREATMENT OF YEAR-END BALANCES**

**A.13** The full Council is responsible for agreeing procedures for carrying forward under- and overspendings on budget headings.

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<sup>1</sup> Amendment approved 26 July 2012

## **ACCOUNTING POLICIES**

- A.14** The Chief Finance Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

## **ACCOUNTING RECORDS AND RETURNS**

- A.15** The Chief Finance Officer is responsible for determining the accounting procedures and records for the Council.

## **THE ANNUAL STATEMENT OF ACCOUNTS**

- A.16** The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Council Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). Full Council is responsible for approving the statement of accounts.

## **FINANCIAL MANAGEMENT STANDARDS**

- A.17** All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues.

### **Responsibilities of the Chief Finance Officer**

- A.18** To ensure the proper administration of the financial affairs of the Council.
- A.19** To set the financial management standards and to monitor compliance with them.
- A.20** To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff in the Council.
- A.21** To advise on the key strategic controls necessary to secure sound financial management.
- A.22** To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

### **Responsibilities of CMT**

- A.23** To promote the financial management standards set by the Chief Finance Officer in Service Units and to monitor adherence to the standards and practices, liaising as necessary with the Chief Finance Officer.
- A.24** To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

## MANAGING EXPENDITURE

### SCHEME OF VIREMENT

- A.25** This scheme is administered by the Chief Finance Officer within guidelines set by the full Council. Any variation from this scheme requires the approval of the full Council. The destination of all virement must be a project, scheme or budget that has previously been approved for funding.
- A.26** The overall budget is agreed by the Cabinet and approved by the full Council. CMT is authorised to incur expenditure in accordance with the estimates that make up the budget.
- A.27** For the purposes of this scheme, a budget head is an item in the approved Revenue Estimates booklet or other item as determined from time to time by the Chief Finance Officer. Virements shall only be made within and not between the following areas: -
- General Fund Revenue Account
  - Housing Revenue Account
  - Capital Programme

There must be sufficient budget provision remaining in the source of the virement to meet all expenditure for the rest of the year. The virement authorisation limit is subject to a maximum of 20% of the total budget head as well as the limiting amount as stated in the following paragraphs, whichever is the lower.

- A.28** CMT may not approve virements which support recurring expenditure from one-off sources of savings or additional income, or create future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. CMT must plan to fund such commitments from within its own budgets.

### Responsibilities of the Chief Finance Officer

- A.29** To prepare jointly with any member of CMT a report to Cabinet where virements in excess of £50,000 are proposed or where virements in contravention of Rule **A.28** are proposed.
- A.30** To determine from time to time those budget heads from which virement may not be made. This will include: -
- Support service budgets within service budgets
  - Central and departmental recharges
  - Capital Financing charges

## Responsibilities of CMT

- A.31** CMT may exercise virement on budgets under his or her control for amounts up to and including £50,000 on any one budget head during the year, following prior notification to the Chief Finance Officer on a form to be determined by the Chief Finance Officer, and subject to the conditions in rules **A.28 to A.36**.
- A.32** Following a joint report by the Chief Finance Officer and CMT, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial years. Amounts greater than £50,000 and up to £200,000 require the approval of Cabinet. Virements of over £250,000 require the approval of full Council.
- A.33** The prior approval of the Chief Finance Officer is required for any virement, of whatever amount, where it is proposed to vire between budget heads managed by different budget holders.
- A.34** Virement that is likely to impact on the level of service activity of another budget holder should be implemented only after agreement with the relevant member of CMT.
- A.35** No virement relating to a financial year will be made after 31 March in that year.
- A.36** No virement will be made from budget heads determined under Rule **A.30** above.
- A.37** Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- (a) the amount is used in accordance with the purposes for which it has been established and is approved by the Chief Finance Officer.
  - (b) the appropriate Committee has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to members.

## VIREMENT AUTHORISATION LIMITS

Virement Type	Authorisation Level		
	CORPORATE MANAGEMENT TEAM	CABINET	COUNCIL
Within a Service	Up to £50,000 Or 20 %	£50,000 £250,000	to Over £250,000
Between Services	Up to £50,000 Or 20 %	£50,000 £250,000	to Over £250,000
Between	Up to £50,000	£50,000	to Over £250,000

Capital Projects      Or 20 %                      £250,000

For the purpose of virement “Service” is defined as a Service Unit or cost centre as defined by the Chief Finance Officer within the Council’s Budget Book. Housing Revenue Account is defined as a Service Unit.

## **TREATMENT OF YEAR END BALANCES – SCHEME OF CARRY FORWARD**

**A.38** For the purposes of this scheme, a budget head is an item in the individual summaries of net requirements included in the approved Revenue Estimates.

### **Responsibilities of the Chief Finance Officer**

**A.39** To administer the scheme of carry-forward within the guidelines of financial regulations.

**A.40** To report all overspendings and underspendings on service estimates carried forward to the Cabinet.

**A.41** To determine from time to time those budget heads or elements of budget heads, underspendings which may not be carried forward. This will include central recharges and apportionments.

### **Responsibilities of CMT**

**A.42** Any overspending on budget heads in total under the control of CMT will be carried forward to the following year, and will constitute the first call on budget heads in the following year, except where the Chief Finance Officer is satisfied that the reason for the overspend was outside the control of the budget holder it was necessary to meet service objectives. The Chief Finance Officer will report the extent of overspendings carried forward to Cabinet.

**A.43** Net underspendings on budget heads under the control of CMT may be carried forward, subject to:

- (a) the Council budget being underspent overall
- (b) prior notification to the Chief Finance Officer by 30 April in the year following the year in question
- (c) the approval of CMT where the underspending exceeds 10% of the individual net budget heading (excluding items determined under Rule **A.41** above) or £5,000, whichever is less
- (d) CMT may not approve the carrying forward of underspendings which support recurring expenditure in future years or create future commitments for more than one year
- (e) CMT may not approve the carrying forward of underspendings on items determined under Rule **A.41** above

**A.44** Trading account surpluses shall be retained for the benefit of the Council and their application shall require the approval of Cabinet.



## **ACCOUNTING POLICIES**

**A.45** The Director of Finance is responsible for the preparation of the Council's Statement of Accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Council Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.

### **Responsibilities of the Chief Finance Officer**

**A.46** To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:

- (a) separate accounts for capital and revenue transactions
- (b) the basis on which debtors and creditors at year end are included in the accounts
- (c) details on substantial provisions and reserves
- (d) fixed assets
- (e) depreciation
- (f) capital charges
- (g) work in progress
- (h) stocks and stores
- (i) deferred charges
- (j) accounting for value added tax
- (k) Government grants
- (l) leasing
- (m) pensions.

### **Responsibilities of CMT**

**A.47** To adhere to the accounting policies and guidelines approved by the Chief Finance Officer.

## **ACCOUNTING RECORDS AND RETURNS**

### **Responsibilities of the Chief Finance Officer**

**A.48** To determine the accounting procedures and records for the Council.

**A.49** To arrange for the compilation of all accounts and accounting records under his or her direction.

**A.50** To comply with the following principles when allocating accounting duties:

- (a) separating the duties of providing information about sums due to or from then Council and calculating, checking and recording these sums from the duty of collecting or disbursing them
- (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

**A.51** To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2003.

**A.52** To monitor the making of all claims for funds, including grants, and recommend any appropriate action to CMT.

**A.53** To prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable and with the requirement for the full Council to approve the statement of accounts within this timetable.

**A.54** To administer the Council's arrangements for under-and overspendings to be carried forward to the following financial year.

**A.55** To ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention schedule.

### **Responsibilities of CMT**

**A.56** To consult and obtain the approval of the Chief Finance Officer before making any changes to accounting records and procedures.

**A.57** To comply with the principles outlined in Rule **A.50** when allocating accounting duties.

**A.58** To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

**A.59** To ensure that all claims for funds including grants are made by the due date.

**A.60** To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Chief Finance Officer.

## **THE ANNUAL STATEMENT OF ACCOUNTS**

### **Responsibilities of the Chief Finance Officer**

**A.61** To select suitable accounting policies and to apply them consistently.

**A.62** To make judgements and estimates that are reasonable and prudent.

- A.63** To comply with the *Code of Practice on Local Authority Accounting in Great Britain: A Statement of Recommended Practice* (CIPFA/LASAAC).
- A.64** 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 year ended 31 March 20xx.
- A.65** To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

### **Responsibilities of CMT**

- A.66** To comply with accounting guidance provided by the Chief Finance Officer and to supply the Chief Finance Officer with information when required.

## **FINANCIAL RULE B – FINANCIAL PLANNING**

### **POLICY FRAMEWORK**

#### **THE FULL COUNCIL**

- B.1** The full Council is responsible for approving or adopting the policy framework under Article 4 of the Constitution.

### **PREPARATION OF PLANS AND STRATEGIES**

#### **Responsibilities of the Chief Finance Officer**

- B.2** To advise and supply the financial information that needs to be included in plans in accordance with statutory requirements and agreed timetables.
- B.3** To contribute to the development of corporate and service targets and objectives and performance information.
- B.4** To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- B.5** To ensure that performance information is monitored sufficiently frequently to allow, wherever possible, corrective action to be taken if targets are not likely to be met.

#### **Responsibilities of CMT**

- B.6** To contribute to the development of plans in line with statutory requirements.
- B.7** To contribute to the development of corporate and service targets and objectives and performance information.

### **BUDGETING**

#### **THE FULL COUNCIL**

- B.8** The full Council is responsible for approving the budget as defined in Article 4 of the Constitution.

#### **THE CABINET**

- B.9** The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

## **FORMAT AND PREPARATION OF THE BUDGET**

### **Responsibilities of the Chief Finance Officer**

- B.10** To advise CMT on the format of the budget to be submitted to members and the full Council. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.
- B.11** To ensure that CMT prepares a revenue budget on an annual basis and a general revenue plan on a rolling basis for consideration by Cabinet, before submission to the full Council.
- B.12** To issue instructions to CMT on the general content of the budget and the budget preparation timetable following approval by Cabinet.

### **Responsibilities of CMT**

- B.13** To comply with accounting guidance provided by the Chief Finance Officer.
- B.14** To ensure that budget estimates reflecting agreed service plans are submitted to Cabinet and that these estimates are prepared in line with guidance issued by the Chief Finance Officer.

## **BUDGET MONITORING AND CONTROL**

### **Responsibilities of the Chief Finance Officer**

- B.15** To establish an appropriate framework of budgetary management and control that ensures that:
  - (a) budget management is exercised within annual cash limits unless the full Council agrees otherwise
  - (b) CMT should provide timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
  - (c) all officers responsible for committing expenditure comply with relevant guidance, and the financial rules
  - (d) each cost centre has a single named manager, determined by CMT. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
  - (e) significant variances from approved budgets are reported to budget managers regularly.
- B.16** To administer the authority's scheme of virement and scheme of carry forward.

- B.17** To submit reports to Cabinet, in consultation with CMT, where a budget holder is unable to balance expenditure and resources within existing approved budgets under his or her control.
- B.18** To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

### **Responsibilities of CMT**

- B.19** To maintain budgetary control within their Service Units, in adherence to the principles in Rule **B.15**, and to ensure that all income and expenditure are properly recorded and accounted for.
- B.20** To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the members of CMT (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- B.21** To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- B.22** To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and that it is operating effectively.
- B.23** To prepare and submit to the appropriate committee(s) reports on the service's projected expenditure compared with its budget, in consultation with the Chief Finance Officer.
- B.24** To ensure prior approval by Cabinet for new proposals, of whatever amount, that:
- (a) create financial commitments in future years
  - (b) change existing policies, initiate new policies or cease existing policies
  - (c) materially extend or reduce the Council's services.
  - (d) reports on such proposals must contain full financial implications and be subject to consultation with the Chief Finance Officer.
- B.25** To ensure compliance with the schemes of virement and carry forward.
- B.26** To agree with the relevant member of CMT where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or service activity.

## **BUDGETS AND MEDIUM TERM PLANNING**

### **Responsibilities of the Chief Finance Officer**

- B.27** To prepare and submit reports on budget prospects for Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- B.28** To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the full Council.
- B.29** To prepare and submit reports to Cabinet on the aggregate spending plans of services and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- B.30** To advise on the medium-term implications of spending decisions.
- B.31** To encourage the best use of resources and value for money by working with CMT 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.

### **Responsibilities of CMT**

- B.32** To prepare estimates of income and expenditure, in consultation with the Chief Finance Officer, to be submitted to relevant Committees.
- B.33** To prepare budgets that are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Chief Finance Officer. The format should be prescribed by the Chief Finance Officer in accordance with these rules.
- B.34** To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- B.35** In consultation with the Chief Finance Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the appropriate committee.
- B.36** When drawing up draft budget requirements, to have regard to:
- (a) spending patterns and pressures revealed through the budget monitoring process
  - (b) legal requirements
  - (c) policy requirements as defined by the full Council in the approved policy framework
  - (d) initiatives already under way.

## **RESOURCE ALLOCATION**

### **Responsibilities of the Chief Finance Officer**

- B.37** To advise on methods available for the funding of resources, such as grants from central Government and borrowing requirements.
- B.38** To assist in the allocation of resources to budget managers.

### **Responsibilities of CMT**

- B.39** To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- B.40** To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## **CAPITAL PROGRAMMES**

### **THE FULL COUNCIL**

- B.41** Full Council is responsible for approving the programme of capital expenditure.

### **THE CABINET**

- B.42** The Cabinet is responsible for considering and keeping under review the Council's capital expenditure plans and making in-year adjustments as appropriate.

### **Responsibilities of the Chief Finance Officer**

- B.43** To prepare capital estimates with CMT and report them to Cabinet for approval. Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the full Council.
- B.44** To report to Cabinet on the annual and medium term capital resources available and the implications for the Council's revenue budget.
- B.45** To determine the definition of 'capital' having regard to Government rules and accounting requirements.
- B.46** To prepare and submit reports to Cabinet on the projected income, expenditure and resources compared with the approved estimates, and to make any adjustments to the rolling programme between financial years where there is no effect on total forecast expenditure or resources.
- B.47** To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques.



**B.48** To obtain authorisation from Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than an amount specified from time to time by the Chief Finance Officer.

### **Responsibilities of CMT**

**B.49** To comply with guidance concerning capital schemes and controls issued by the Chief Finance Officer.

**B.50** To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by CMT and that capital spending plans are in accordance with the Capital Investment Strategy and Asset Management Plan.

**B.51** To prepare regular reports reviewing the capital programme schemes for which CMT members are responsible; and to prepare regularly returns of progress compared with timetable and estimated final costs of schemes for submission to the Chief Finance Officer.

**B.52** To ensure that adequate records are maintained for all capital contracts.

**B.53** To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Corporate Asset Management Group (or equivalent).

**B.54** To prepare and submit reports, after consultation with the Chief Finance Officer, to the appropriate committee, of any variation in contract costs greater than the approved limits. The Corporate Asset Management Group (or equivalent) may agree cost increases of up to 10% of the scheme by virement from savings elsewhere within the capital programme.

**B.55** To prepare and submit reports, after the consultation with and the agreement of the Chief Finance Officer, to the appropriate committee, where it is proposed to bid for or exercise additional borrowing approval not anticipated in the capital programme.

**B.56** To ensure that accountability for each proposal and agreed capital scheme is accepted by a named person.

### **MAINTENANCE OF RESERVES**

#### **Responsibilities of the Chief Finance Officer**

**B.57** To advise the Council on prudent levels of reserves for the Council.

**B.58** To ensure that reserves are maintained in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC) and agreed accounting policies.

**B.59** To ensure, for each reserve established, that the purpose, usage and basis of transactions are clearly identified and are not varied without the approval of Cabinet.

### **Responsibilities of CMT**

**B.60** To authorise, subject to the approval of the Chief Finance Officer, expenditure that will be charged to the revenue account that will at the year end be funded from reserves within the conditions set for the use of that reserve.

# **FINANCIAL RULE C – RISK MANAGEMENT AND CONTROL OF RESOURCES**

## **RISK MANAGEMENT**

### **INTRODUCTION**

**C.1** 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. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these.

### **Responsibilities of the Chief Finance Officer**

- C.2** To prepare and promote the Council's risk management policy statement.
- C.3** To develop risk management controls in conjunction with CMT.
- C.4** To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.
- C.5** To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

### **Responsibilities of CMT**

- C.6** To notify the Chief Finance Officer immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Chief Finance Officer or the Council's insurers.
- C.7** To take responsibility for risk management, having regard to advice from the Chief Finance Officer and other specialist officers (eg crime prevention, fire prevention, health and safety).
- C.8** To ensure that there are regular reviews of risk within their units.
- C.9** To notify the Chief Finance Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

- C.10** To consult the Chief Finance Officer and the Director of Central Services and Enforcement on the terms of any indemnity that the Council is requested to give.
- C.11** To ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## **INTERNAL CONTROL**

### **Responsibilities of the Chief Finance Officer**

- C.12** To assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and rules.

### **Responsibilities of CMT**

- C.13** 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.
- C.14** 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 Chief Finance Officer.
- C.15** To ensure staff have a clear understanding of the consequences of lack of control.

## **AUDIT REQUIREMENTS**

### **INTERNAL AUDIT**

#### **Responsibilities of the Chief Finance Officer**

- C.16** To ensure that internal audit comply with the Auditing Practices Board's guideline *Guidance for Internal Auditors*, as interpreted by CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom*.
- C.17** To ensure that internal audit staff have the authority to:
- (a) access Council premises at reasonable times
  - (b) access any and all assets, records, documents, correspondence and control systems
  - (c) receive any information and explanation considered necessary concerning any matter under consideration

- (d) require any employee of the Council to account for cash, stores or any other Council asset under his or her control
- (e) access records belonging to third parties, such as contractors, when required
- (f) directly access the head of paid service.

**C.18** To approve the strategic and operational audit plans which take account of the characteristics and relative risks of the activities involved.

**C.19** To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

### **Responsibilities of CMT**

**C.20** To ensure that internal auditors are given access at all reasonable times to any premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

**C.21** To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

**C.22** To consider and respond promptly to recommendations in audit reports.

**C.23** To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

**C.24** To notify the Chief Finance Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, members of CMT should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

**C.25** 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 Chief Finance Officer prior to implementation.

### **EXTERNAL AUDIT**

#### **Responsibilities of the Chief Finance Officer**

**C.26** To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.

**C.27** To ensure there is effective liaison between external and internal audit.

**C.28** To work with the external auditor and advise the full Council, committees and CMT on their responsibilities in relation to external audit.

## **Responsibilities of CMT**

- C.29** To ensure that external auditors are given access at all reasonable times to all premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- C.30** To ensure that all records and systems are up to date and available for inspection.

## **PREVENTING FRAUD AND CORRUPTION**

### **INTRODUCTION**

- C.31** The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.
- C.32** The Council's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- C.33** The Council also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

### **Responsibilities of the Chief Finance Officer**

- C.34** To develop and maintain an anti-fraud and anti-corruption policy.
- C.35** To maintain adequate and effective internal control arrangements.
- C.36** To ensure that all suspected irregularities are reported to internal audit, and where appropriate to the Head of Paid Service, and the Monitoring Officer; and, where financial impropriety is discovered, and where sufficient evidence exists to believe that a criminal offence may have been committed, to determine whether the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.

### **Responsibilities of the Monitoring Officer**

- C.37** To ensure that whistle blowing procedures are in place and operate effectively.
- C.38** To maintain a corporate register of interests in which any relevant hospitality or gifts accepted by members and employees must be recorded.

## **Responsibilities of CMT**

- C.39** To ensure that all suspected irregularities are reported to the Chief Finance Officer.

- C.40** To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behavior.
- C.41** To ensure that where financial impropriety is discovered or suspected, the Chief Finance Officer is informed immediately.

## **ASSETS**

### **Responsibilities of the Chief Finance Officer**

- C.42** To ensure that an asset register is maintained in accordance with best practice and the Council's Asset Management Plan.
- C.43** To receive the information required for accounting, costing and financial records from each Service Manager.
- C.44** To ensure that assets are valued in accordance with the *Code of Practice on Local Council Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC)*.

### **Responsibilities of CMT**

- C.45** The Corporate Director/Assistant Director<sup>2</sup> shall ensure that a property database in a form approved by the Chief Finance Officer for all properties, plant and machinery and moveable assets currently owned or used by the Council. Any use of property by a service or establishment should be supported by documentation identifying terms, responsibilities and duration of use, and be in accordance with the Council's Asset Management Plan.
- C.46** To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by CMT in consultation with the Chief Finance Officer and Monitoring Officer<sup>3</sup>, has been established as appropriate.
- C.47** To ensure the proper security of all buildings and other assets under their control.
- C.48** Where land or buildings are surplus to requirements and subject to limits contained in the scheme of financial delegation, a recommendation for sale should be the subject of a report to Cabinet or CMT. The report and recommendations should clearly indicate the relevant aspects of the Asset Management Plan.
- C.49** To pass title deeds to the Monitoring Officer<sup>4</sup> who is responsible for custody of all title deeds.

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<sup>2</sup> Amendment approved 26 February 2024

<sup>3</sup> Amendment approved 26 July 2012

<sup>4</sup> Amendment approved 26 July 2012

- C.50** To ensure that no Council asset is subject to personal use by an employee without, exceptionally, the authority of CMT and the Chief Finance Officer.
- C.51** To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- C.52** To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the Chief Finance Officer.
- C.53** To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- C.54** To consult the Chief Finance Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- C.55** To ensure cash holdings on premises are kept to a minimum.
- C.56** To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times, and that the loss of any such keys is reported to the of the Chief Finance Officer as soon as possible.
- C.57** To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following a joint report with the Chief Finance Officer, the appropriate Committee agrees otherwise.
- C.58** To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Chief Finance Officer.
- C.59** To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.

## **INVENTORIES**

- C.60** To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above a value notified from time to time by the Chief Finance Officer.
- C.61** To carry out an annual check of all items on the inventory in order to verify location, review condition and take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.



- C.62** To make sure that property is only used in the course of the Council's business, unless, exceptionally, CMT and the Chief Finance Officer have given permission otherwise.

## **STOCKS AND STORES**

- C.63** To make arrangements for the care and custody of stocks and stores in the service.
- C.64** To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- C.65** To investigate and remove from the Council's records (ie write off) discrepancies as necessary, or to obtain the approval of the Chief Finance Officer if they are in excess of a limit advised from time to time by the Chief Finance Officer.
- C.66** To authorise the write off or disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless agreed otherwise by the Chief Finance Officer in a particular case.
- C.67** To seek the Chief Finance Officer's approval to the write-off of redundant stocks and equipment in excess of a sum advised from time to time by the Chief Finance Officer.

## **INTELLECTUAL PROPERTY**

### **Responsibilities of the Chief Finance Officer**

- C.68** To develop and disseminate good practice through the Council's intellectual property procedures.

### **Responsibilities of CMT**

- C.69** To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

## **ASSET DISPOSALS**

### **Responsibilities of the Chief Finance Officer**

- C.70** To issue guidelines representing best practice for disposal of assets.

**C.71** To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

### **Responsibilities of CMT**

**C.72** To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.

**C.73** To ensure that income received for the disposal of an asset is properly banked and coded.

**C.74** To ensure that assets for disposal are identified and are disposed of at the most appropriate time, at the best price obtainable and in accordance with the Council's Asset Management Plan and Resources Plan. For items of significant value, disposal should be by competitive tender or public auction.

## **TREASURY MANAGEMENT**

### **TREASURY MANAGEMENT AND BANKING**

The key recommendations of CIPFA's Treasury Management in the Public Services (TMPs): Code of Practice (the Code) 2001 as described in section 4 of that Code will be adopted and will create and maintain, as the cornerstones for effective treasury management:

- a treasury management policy statement (TMPS), stating the policies and objectives of its treasury management activities
- suitable treasury management practices (TMP), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The Council will receive reports on its treasury management policies, practices and activities including an annual strategy and plan in advance of the year, and an annual report after its close, in the form prescribed in the TMPs. Responsibility for the implementation and monitoring of treasury management policies and practices is delegated to the Chief Finance Officer, and for the execution and administration of treasury management decisions who will act in accordance with the policy statement and TMPs and CIPFA's Standard of Professional Practice on Treasury Management.

### **Responsibilities of the Chief Finance Officer**

**C.75** To report to Cabinet, which will recommend to the full Council, before the start of each financial year a proposed treasury management Policy for the coming financial year setting out the matters detailed in paragraph 15 of CIPFA's *Code of Practice for Treasury Management in Local Authorities*.

- C.76** To report to Cabinet in each financial year on the activities of the treasury management operation and on the exercise of his delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.
- C.77** To arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the Council's treasury management policy statement and Policy.
- C.78** To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Chief Finance Officer.

### **Responsibilities of CMT**

- C.79** To follow the instructions on banking issued by the Chief Finance Officer.

### **INVESTMENTS AND BORROWING**

#### **Responsibilities of the Chief Finance Officer**

- C.80** To ensure that all investments of money are made in the name of the Council or in the name of nominees approved by the full Council.
- C.81** To ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate member of CMT.
- C.82** To effect all borrowings in the name of the Council.
- C.83** To act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.

## **Responsibilities of CMT**

- C.84** 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 full Council, following consultation with the Chief Finance Officer.

## **TRUST FUNDS AND FUNDS HELD FOR THIRD PARTIES**

### **Responsibilities of CMT**

- C.85** To arrange for all trust funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities, etc. relating to the trust with the Chief Finance Officer, unless the deed otherwise provides.
- C.86** To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Chief Finance Officer, and to maintain written records of all transactions.
- C.87** To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

## **IMPREST ACCOUNTS**

### **Responsibilities of the Chief Finance Officer**

- C.88** To provide employees of the Council with cash or bank imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules and procedures for operating these accounts. Minor items of expenditure should not exceed a prescribed amount notified from time to time by the Chief Finance Officer.
- C.89** To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- C.90** To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

### **Responsibilities of CMT**

- C.91** To ensure that employees operating an imprest account:
- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
  - (b) make adequate arrangements for the safe custody of the account
  - (c) produce upon demand by the Chief Finance Officer cash and all vouchers to the total value of the imprest amount
  - (d) record transactions promptly
  - (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder

(f) provide the Chief Finance Officer with a certificate of the value of the account held at 31 March each year

(g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made

(h) on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Chief Finance Officer for the amount advanced to him or her.

## **STAFFING**

### **Responsibilities of the Chief Finance Officer**

**C.92** To ensure that budget provision exists for the approved establishment.

**C.93** To act as an advisor to CMT on areas such as National Insurance, PAYE and pension contributions, as appropriate.

**C.94** To produce an annual staffing budget.

### **Responsibilities of CMT**

**C.95** To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

**C.96** To ensure that checks and references are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

**C.97** To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

**C.98** To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

**C.99** To ensure that the Executive Director and the Chief Finance Officer are immediately informed if the staffing budget is likely to be materially over- or underspent.

# FINANCIAL RULE D – FINANCIAL SYSTEMS AND PROCEDURES

## GENERAL

### Responsibilities of the Chief Finance Officer

- D.1** To make arrangements for the proper administration of the Council's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the Council's behalf
  - (b) determine the accounting systems, form of accounts and supporting financial records
  - (c) establish arrangements for audit of the Council's financial affairs
- approve any new financial systems to be introduced  
approve any changes to be made to existing financial systems.

### Responsibilities of CMT

- D.2** To ensure that accounting records are properly maintained and held securely.
- D.3** To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Chief Finance Officer.
- D.4** To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- D.5** To incorporate appropriate controls to ensure that, where relevant:
- (a) all input is genuine, complete, accurate, timely and not previously processed
  - (b) all processing is carried out in an accurate, complete and timely manner
  - (c) output from the system is complete, accurate and timely.
- D.6** To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- D.7** To ensure there are documented and tested business continuity plans to allow information system processing to resume quickly in the event of an interruption.
- D.8** To ensure that systems are documented and staff trained in operations.

- D.9** To consult with the Chief Finance Officer before changing any existing system or introducing new systems.
- D.10** To establish a scheme of delegation identifying officers authorised to act upon any member of CMT's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- D.11** To supply lists of authorised officers, with specimen signatures and delegated limits, to the Chief Finance Officer, together with any subsequent variations.
- D.12** To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- D.13** To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- D.14** To ensure that relevant standards and guidelines for computer systems issued by the appropriate officer are observed.
- D.15** To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- D.16** To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) only software legally acquired and installed by the Council is used on its computers
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## **INCOME AND EXPENDITURE**

### **Responsibilities of the Chief Finance Officer**

- D.17** To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- D.18** To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself regarding the arrangements for their control.
- D.19** To approve all debts to be written-off.
- D.20** To ensure that appropriate accounting adjustments are made following write-off action.

### **Responsibilities of CMT**

- D.21** To establish a charging policy for the supply of goods or services, except in respect of those charges delegated to committees, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- D.22** To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- D.23** To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- D.24** To issue official receipts or to maintain other documentation for income collection.
- D.25** To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- D.26** To hold securely receipts, tickets and other records of income for the appropriate period as specified in the document retention schedule.
- D.27** To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- D.28** To ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis by a person who is not involved in the collection or banking process.
- D.29** To ensure income is not used to cash personal cheques or other payments.
- D.30** To supply the Chief Finance Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Chief Finance Officer to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this, CMT should use established performance management systems to monitor recovery of income and flag up areas of concern to the Chief Finance Officer.
- D.31** To recommend to the Chief Finance Officer all debts to be written off and to keep a record of all sums written off. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- D.32** To notify the Chief Finance Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer and not later than 30 April.



## **PROCUREMENT OF WORK, GOODS AND SERVICES**

### **GENERAL**

- D.33** Every officer and member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with, and as defined in, the Codes of Conduct and the Gifts and Hospitality Procedure Rules.
- D.34** Official orders must be in a form approved by the Chief Finance Officer.
- D.35** Each order must conform to the Council's Procurement Procedure Rules and Procurement Code of Practice.
- D.36** Apart from petty cash the normal method of payment from the Council shall be by electronic means, cheque or other instrument or approved method, drawn on the Council's bank account by the Chief Finance Officer. The use of direct debit shall require the prior agreement of the Chief Finance Officer.
- D.37** Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

### **Responsibilities of the Chief Finance Officer**

- D.38** To ensure that all the Council's financial systems and procedures are sound and properly administered.
- D.39** To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- D.40** To approve the form of official orders and associated terms and conditions.
- D.41** To make payments from the Council's funds on certification that the expenditure has been duly incurred in accordance with financial rules.
- D.42** To make any payment, whether or not provision exists within the estimates, where :
- in his/her opinion it reduces or mitigates the risk or likelihood of a loss, or greater cost, falling to the council at a later date, for example in a sudden emergency such as a flood or fire or
  - the payment is required to meet statutory provision statute, or
  - is made under a court order.
- D.43** To make payments to contractors on certification which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

## **Responsibilities of CMT**

- D.44** To ensure that official orders are used for goods and services in accordance with the Council's Code of Procurement.
- D.45** To ensure that orders are only used for goods and services provided to the service unit. Individuals must not use official orders to obtain goods or services for their private use.
- D.46** To ensure that only those staff authorised to sign or otherwise transmit orders and to maintain an up-to-date list of such authorised staff, including specimen signatures or other unique identifier, showing in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that procurement is in accordance with the Council's Code of Procurement.
- D.47** To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- D.48** To ensure that payment is not made unless checked, coded and certified for payment, confirming:
- (a) receipt of goods or services
  - (b) that the invoice has not previously been paid

- (c) that expenditure has been properly incurred and is within budget provision
- (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
- (e) correct accounting treatment of tax
- (f) that the invoice is correctly coded
- (g) that discounts have been taken where available

**D.49** To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed or otherwise transmitted the order, and in every case, a different officer from the person checking a written or electronically received invoice, should authorise the invoice.

**D.50** To ensure that the service units maintain and review periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures or other unique identifiers and details of the limits of their authority shall be forwarded to the Chief Finance Officer.

**D.51** To ensure that all payments are made only on receipt of a formal invoice.

**D.52** To encourage suppliers of goods and services to receive payment electronically. It is essential, however, that payments made by direct debit have the prior approval of the Chief Finance Officer.

**D.53** To ensure that employees are aware of the national code of conduct for local government employees.

**D.54** To ensure that loans, leasing or rental arrangements are not entered into without prior agreement and written approval of the Chief Finance Officer because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements.

**D.55** To notify the Chief Finance Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer and, in any case, not later than 30 April.

- D.56** With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Chief Finance Officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- D.57** To notify the Chief Finance Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- D.58** To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

### **Responsibilities of the Chief Finance Officer**

- D.59** To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- D.60** To record and make arrangements for the accurate and timely payment of tax, National Insurance, pension and other deductions.
- D.61** To make arrangement for payment of all travel and subsistence or financial loss allowances.
- D.62** To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- D.63** To provide advice and encouragement to secure payment of salaries and wages by the most economical means.

### **Responsibilities of CMT**

- D.64** To ensure appointments are made in accordance with the rules of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.
- D.65** To notify the Chief Finance Officer 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 Chief Finance Officer.

- D.66** To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- D.67** To send an up-to-date list of the names of officers authorised to sign records to the Executive Director and the Chief Finance Officer, together with specimen signatures.
- D.68** To ensure that payroll transactions are processed only through the payroll system. CMT should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition of employee status, and advice should be sought from the Chief Finance Officer.
- D.69** To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and the Chief Finance Officer informed where appropriate.
- D.70** To ensure that the Chief Finance Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- D.71** To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

### **Responsibilities of Members**

- D.72** To submit claims for members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

### **TAXATION**

### **Responsibilities of the Chief Finance Officer**

- D.73** To advise Chief Officers and Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- D.74** To complete all Inland Revenue returns regarding PAYE.
- D.75** To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.
- D.76** To provide details to the Inland Revenue of the construction industry tax deduction scheme.
- D.77** To maintain up-to-date publications for issuing as information for Council employees on taxation issues.

### **Responsibilities of CMT**

- D.78** To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise rules.
- D.79** To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- D.80** To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- D.81** To follow the guidance on taxation issued by the Chief Finance Officer in the Council's accounting manual and VAT manual.

## **FINANCIAL RULE E – EXTERNAL ARRANGEMENTS**

### **PARTNERSHIPS**

- E.1** A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project or
  - (b) a body whose nature or status give it a right or obligation to support the
  - (c) project.

### **Responsibilities of the Chief Finance Officer**

- E.2** To advise on effective controls that will ensure that resources are not wasted.
- E.3** To advise on the key elements of funding a project. They include:
- (a) a scheme appraisal for financial viability in both the current and future years
  - (b) risk appraisal and management
  - (c) resourcing, including taxation issues
  - (d) audit, security and control requirements
  - (e) carry-forward arrangements.
- E.4** To approve all partnership arrangements, where there is a financial liability and to ensure that the accounting arrangements are satisfactory.

### **Responsibilities of CMT**

- E.5** To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Chief Finance Officer.
- E.6** To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the CMT and Chief Finance Officer.
- E.7** To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.
- E.8** To ensure that all agreements and arrangements are properly documented.

- E.9** To provide appropriate information to the Chief Finance Officer to enable a note to be entered into the Council's Statement of Accounts concerning material items.

## **EXTERNAL FUNDING**

### **Responsibilities of the Chief Finance Officer**

- E.10** To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- E.11** To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- E.12** To ensure that audit requirements are met.

### **Responsibilities of CMT**

- E.13** To ensure that all claims for funds are made by the due date.
- E.14** To ensure that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded.

## **WORK FOR THIRD PARTIES**

### **Responsibilities of the Chief Finance Officer**

- E.15** To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **Responsibilities of CMT**

- E.16** To ensure that the approval of the Chief Finance Officer, and if appropriate members, is obtained before any negotiations are concluded to work for third parties.
- E.17** To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Chief Finance Officer.
- E.18** To ensure that appropriate insurance arrangements are made.
- E.19** To ensure that the Council is not put at risk from any bad debts.
- E.20** To ensure that no contract is subsidised by the Council.
- E.21** To ensure that, wherever possible, payment is received in advance of the delivery of the service.



- E.22** To ensure that the service/unit has the appropriate expertise to undertake the contract.
- E.23** To ensure that contracts do not impact adversely upon services provided for the Council.
- E.24** To ensure that all contracts are properly documented.
- E.25** To provide appropriate information to the Chief Finance Officer to enable a note to be entered into the statement of accounts.

## SCHEME OF FINANCIAL DELEGATION

**F.1** This scheme summarises and supplements delegations contained in financial rules, to which reference should be made and which are authoritative.

### GENERAL

<b>Power</b> <b>F.2</b> To delegate or devolve decisions to other responsible officers.	<b>By</b> CMT	<b>Financial Rule</b> Status – para. 1.2
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### FINANCIAL MANAGEMENT

<b>Power</b> <b>F.3</b> To incur expenditure in accordance with the estimates that make up the budget.	<b>By</b> CMT	<b>Financial Rule</b> A.26 (see also B.20)
<b>VIREMENT</b> <b>F.4</b> To approve virements as per schedule at A37.	CMT	A.12, A.25 to A.37
<b>BUDGET CARRY FORWARD</b> <b>F.5</b> To carry forward net underspending on budget heads up to 10% of budget or £5,000 whichever is the lesser.	CMT in consultation with the CFO	A38 to A44

### FINANCIAL PLANNING

<b>Power</b> <b>CAPITAL PROGRAMMES</b> <b>F.6</b> To meet cost increases of up to 15% by virement from savings elsewhere within their capital programme.	<b>By</b> CMT	<b>Financial Rule</b> B.54
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<b>Power</b> <b>RESERVES</b> <b>F.7</b> To authorise expenditure to be met from reserves.	<b>By</b> CMT. In consultation with the CFO	<b>Financial Rule</b> B.60
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### RISK MANAGEMENT AND CONTROL OF RESOURCES

<b>Power</b>	<b>By</b>	<b>Financial Rule</b>
<b>STOCKS AND STORES</b> <b>F.8</b> To write off discrepancies up to prescribed limits.	CMT. In consultation with the CFO.	C.65
<b>F.9</b> To write off or dispose of redundant stocks and equipment up to prescribed limits.	CMT. In consultation with the CFO.	C.66 and C.67
<b>TREASURY MANAGEMENT AND BANKING</b> <b>F.11</b> To arrange the borrowing and investments of the Council.	Chief Finance Officer.	C.77
<b>F.12</b> To open and operate bank accounts as necessary.	Chief Finance Officer.	C.78

### **FINANCIAL SYSTEMS AND PROCEDURES**

<b>Power</b>	<b>By</b>	<b>Financial Rule</b>
<b>F.13</b> To make arrangements for the proper administration of the Council's financial affairs.	Chief Finance Officer.	D.1
<b>F.14</b> To authorise officers to act on their behalf in respect of payments, income collection and orders.	CMT	D.10
<b>Power</b> <b>F.15</b> To approve all debts to be written off.	Chief Finance Officer	D.19
<b>F.16</b> To establish a charging policy for goods and services.	CMT	D.21
<b>F.16</b> To recommend all debts to be written off.	CMT	D.32
<b>F.17</b> To make any payments required by statute, a court, or to mitigate future costs where no budget provision exists.	Chief Finance Officer	D.43
<b>F.18</b> To certify travel and subsistence claims and other allowances.	CMT	D.74
<b>F.19</b> To set an employee's	CMT	Within band for post as

starting salary.		evaluated.
<b>F.20</b> To set the car user status of a post.	CMT	In consultation with Director of Policy & Performance
<b>F.21</b> To grant special paid leave of up to 5 days.	CMT	In accordance with national agreement;
<b>F.22</b> To award honoraria to employees.	CMT	
<b>F.23</b> To accept tenders.	CMT	In accordance with standing orders relating to contracts.
<b>F.24</b> To approve car purchase or other loan applications.	Chief Finance Officer	
<b>F.25</b> To settle any action to which the Council is a party.	Monitoring Officer	In consultation with Chief Finance Officer.



# ***Code of Procurement<sup>1</sup>***

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<sup>1</sup> Approved 17 May 2007, new version approved 26 July 2012, new version approved 20 November 2015



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## **1. Interpretation and scope**

1.1 The Code of Procurement defines the regulatory and legal framework for procurement. It has been adopted in accordance with the requirements of Section 135(2) of the Local Government Act 1972 and the Public Procurement Regulations 2015.

1.2 What the Code covers?

This Code applies to the procurement, commissioning, hire, rental, lease or disposal by the Council of:

- (a) land and buildings, roads or other infrastructure;
- (b) vehicles or plant;
- (c) equipment, furniture and fittings;
- (d) construction and engineering works;
- (e) information and communication technology - hardware and software;
- (f) goods, materials, stationery, services and utilities;
- (g) repairs and maintenance; and
- (h) consultants, agency staff, agents and professional services.
- (i) sponsorship via funding, goods or services.

All procurements or sales made by or on behalf of the Council shall comply with this Code, subject to any overriding requirements of:

- the Council's Rules of Procedure and Code of Financial Management; and
- British or European Union law or regulation.

1.3 Fenland District Council as a Local Authority within the meaning of the Local Government Act 1972, is bound to comply with all relevant legislation of England and Wales and European Regulations in performing/undertaking any procurement. In the event any officer intends to procure goods or services they should confirm legal requirements with the procurement team. For the avoidance of doubt, all Tenderers must comply with Fenland District Council's obligations created above in their tender submissions.

### **1.4 Local Trade**

The Council recognises the important role it has in shaping the local area, encouraging the local economy and supporting local businesses. In so far as EU Directives, collaborative procurement and value for money allow, the Council will seek to use local traders in its supply of goods, services and works (in accordance with Table 1 at 4.3)

## 1.5 Who the Code covers?

The Council includes all member bodies and person(s) acting in accordance with delegated authority on behalf of the Council. Reference to the “purchaser” shall mean any authorised employee, consultant or agency staff representing the Council in relation to creating a procurement transaction.

Throughout the Code, reference to contractor(s) or sub-contractor(s) shall mean any person, company or supplier(s) who have:

- (b) requested to be on an approved list of tenderers;
- (c) been approached to provide a quotation or tender
- (d) provided a quotation or tender; or
- (e) been awarded a contract in accordance with the provisions of this Code.
- (f) entered a partnering arrangement with the Council for purposes of procurement except where that is with other public bodies/consortium.
- (g) offered to supply sponsorship via funding, goods or services.

## 2. Step 1 - Buying

### 2.1 Delegated authority

In the interest of efficiency, CMT should delegate authority to people who can demonstrate skills and knowledge appropriate to the task. Each senior manager must keep a list of names of people who can make purchases, specifying a maximum financial limit for each transaction that is within those limits set out in table 1 at paragraph 4.3. The list is to be copied to the Corporate Director and Chief Finance Officer to aid financial control.

### 2.2 ICT purchases

In order to safeguard the integrity of the Council’s Information and Communication Technology (ICT) network, purchases of ICT software and hardware that forms part of any of the ICT network should be purchased only following advice from the Corporate Director and Chief Finance Officer or the ICT Manager, and in accordance with the Council’s ICT strategy.

### 2.3 Consultants

Rules surrounding procurement by the consultants/agency staff we employ can be found in section 12 of this document.

### 2.4 Procurement Cards

The Procurement Team have the facility to purchase low value goods and services by using a procurement credit card.

## 2.5 Internet purchasing

Goods can be purchased from the internet, by authorised signatories only, either by the use of an official order, where accepted, or by submitting a request, form PC1, to the Procurement Team to purchase an item(s) using a procurement card. (A copy of form PC1 can be obtained from the Procurement Team)

Discuss your direct internet purchasing requirements with the Procurement Team before placing an order; see paragraph 3.9 to guide internet purchase decisions.

The Council does not permit any personal purchasing from the internet.

## 2.6 Ordering of Goods and Services

All purchases should be made using the Council's Procure to Pay System (Agresso) and all orders should be approved by the relevant officer in accordance with the authorisation levels set by CMT.

# 3. Step 2 - Identifying the procurement route.

## 3.1 Procurement value calculation

In this context, the value of a procurement means the estimated total monetary value over a contract's full duration (N.B. an aggregated value (see paragraph 4.2) and not a single annual value). Where the duration of a procurement is indeterminate, the contract value will be taken to be the estimated value of the contract over a four year period. **On no account should any requirement be split in an attempt to avoid using the proper procedure under this code.**

Every effort should be made to make the best use of our buying power by aggregating purchases whenever possible to benefit from economies of scale.

The purchaser must ensure that adequate budget is available prior to commitment to any contractor and value for money (vfm) is being obtained. In the event that there are insufficient funds, then the procurement cannot proceed until funds are identified in accordance with the Councils Financial Regulations.

## 3.2 Secondhand purchases and purchases from auctions

The Council accepts that there may be circumstances where the purchase of previously used goods, to obtain better value for money or to remain within the allocated budget, is allowable, subject to the following processes and rules.

- There must be documentary assurance that the goods being purchased are fit for purpose.
- Price comparisons must be sought for similar goods, in line with procurement thresholds outlined in table 1 paragraph 4.3.
- Maintenance or replacement options must be covered either by the supplier or by in-house Council expertise.
- The condition of the goods must be assessed by the officer likely to be using the goods, to ensure the goods are fit for purpose.
- Warranties included in the procurement must be used to cover repair, maintenance or return of goods as appropriate.

All other procurement procedures, outlined within this document, must be adhered to.

### 3.3 Before starting the procurement process; -

- Notify the Procurement Team of any Category “B” tenders (value between £5,000 - £25,000) and Category “C” or “D” tender process, (services or goods with an aggregated value over £25,000). Government Legislation mandates that all procurements over £5000 are to be registered for transparency regulations and all procurements over £25,000 are to be advertised via the Governments Contracts Finder Portal.
- The Procurement Team will;
  - review the procurement against other contracts/purchases made by other services. (To co-ordinate spend and achieve improved deals through discount for bulk.)
  - update and maintain their ‘Contracts Database’ and transparency register
  - advertise requirements via Contracts Finder where required.
- Seek advice from the Procurement Team, on;-
  - Existing corporate contracts
  - Government contracts
  - Buying consortia
  - Existing suppliers on the Council’s ‘Supplier Database’
  - Collaborative opportunities
  - Following correct procedures
  - In-house service providers
  - Local suppliers
  - Social Enterprises
  - Value for Money (vfm)

### 3.4 Existing corporate contracts.

- Corporate contracts exist to rationalise the number of suppliers supplying the same service or product, for instance cleaning or catering, and to make efficiency gains surrounding the administration of the quotation and tendering processes. Where the Council has tendered for a service, such as cleaning or catering, then all similar requirements for that type of service must

join an existing corporate contract subject to quality and value for money assessment. (See paragraph 13 for exemptions.)

- All corporate contracts will be regularly reviewed and tendered with the assistance of the Procurement Team.
- A list of corporate contracts can be found on the Procurement Pages on the Council's intranet.

### 3.5 Register of Tenders and Contracts

- All intentions to tender must be notified to the Procurement Team, where it will be logged before any formal documentation, supplier contact or advertisement has commenced in line with the Public Contract Regulations 2015.
- Once a contract has been awarded, whether following a tender process or not, the details of that contract must be notified to the Procurement Team and these details will be recorded on the Council's Contracts Database and Transparency Register.

### 3.6 Government buying contracts and other buying consortia

- Organisations such as Eastern Shires Purchasing Organisation (ESPO(Pro5)) and Crown Commercial Services (CCS) , have a vast range of pretended contracts for goods and services available to Local Government.
- These contracts, regardless of value, including EU threshold regulations, prevent the need for formal processes for quotations and tenders. This improves administrative efficiency and reduces the time needed to acquire either goods or services. (Note: These contracts must match the Council's requirement exactly.)
- If there is more than one pretended supplier that can supply the goods or services required, then it is advisable to operate a 'mini competition' which involves obtaining a price/quotation from all suppliers capable of supplying the requirements. The Procurement Team can offer advice and guidance in this area.

### 3.7 Advertising on Contracts Finder

- All invitations to tender must be advertised on the Governments Contracts Finder Website coinciding with the timings surrounding the tender process.

### 3.8 Internet purchasing

- Internet purchasing can be made via the following routes and methods in conjunction with an Agresso Order; -

- Via the Print room for stationery and ICT consumables from Banner, ESPO and CCS.
- Via the Purchasing Manager for any Banner, ESPO or CCS purchases.
- From any web supplier, direct via authorised signatories only, who will accept an official FDC order, .
- From any web supplier via the Procurement Team who have access to credit facilities by use of Government Procurement Cards.

The Council does not permit any personal purchasing from the internet.

### 3.9 Use of internet auction sites

Unless specifically part of a Local Government tender process, use of internet auction sites for purchases is prohibited, e.g. e-Bay.

### 3.10 Award Criteria

Tender documentation must state how submitted tenders will be evaluated and what weighting/multiplier, if any, will be applied to the calculation. Advice from the Procurement Team should be sought prior to the start of the procurement process.

### 3.11 Breaching of the Code of Procurement

**The Code of Procurement is part of the Council's Constitution. A breach of this Code may lead to disciplinary action.**

A breach is defined as any non-compliance or failure to evidence compliance with any part of this Code.

### 3.12 Checking all tenders

The Procurement Team are to be given all tender documentation one week prior to sending out.

- To review document
- Ensure standardisation
- Scrutinise the process

### 3.13 Electronic procurement

Where this option is available or offered as part of a collaborative procurement, seek advice from the Procurement Team before commencing the procurement process.

Quotes for category “A” and category “B” procurements can be requested and received via e-mail.

Tenders for Category “C” and category “D” procurements can be distributed via either the postal system or e-mail. Tender responses can be received via the post or e-mail in the method described in paragraph 5.2(a) and 5.2(b). However, if e-mail is chosen, seek procedural advice from the Procurement Team.

#### **4. Step 3 – Identifying Suppliers.**

##### **4.1 Retaining documentation**

The purchaser should record and retain quotations and tenders obtained to provide evidence of competition, fairness, value to the Council and the basis of decisions made for a period.

Document retention guidelines will be supplied by the Procurement Team, including statutory requirements as appropriate.

##### **4.2 Aggregation Rules**

Any contract value or estimated contract value must be an accumulation of the ‘whole life’ costs of the contract, i.e. any cost associated with the procurement must be included to determine which procurement category should be used.

(Note: for aggregation purposes and where there is no specific contract length, purchasers should assume a contract length of at least 4 years for the purpose of this calculation.)

Having determined the proposed contract total value purchasers shall then follow one of the procedures, outlined in paragraph 4.3 table 1, which shall be used in all procurements or disposals.

4.3 Table 1 – procurement classification

Category	Estimated total value of procurement		Requirement	Exemptions
	Supplies & Services	Works		
A	Up to £5,000	Up to £10,000	An official order pertaining to at least one estimate shall be completed. An estimate from a local supplier should be included if possible. It is good practice to obtain more than one estimate/quotation. Officers must be sure that they have obtained value for money. (vfm) See advice in section 4.4	Not applicable.
B	Between £5,000 and £25,000	Between £10,000 and £100,000	Obtain at least three competitive quotations. At least one quotation to be obtained from a local supplier if possible.	Unless exceptions apply as per section 13.
C	Between £25,001 and £172,514	Between £100,001 and £4,322,012	Competitive tenders shall be obtained using one of the tendering options in this code and a formal written contract prepared. At least one tender sought from local suppliers where practical. <i>(Where externally compiled lists are to be used, e.g. Constructionline, then where possible a minimum of six suppliers should be sought for tendering.)</i>	Unless exceptions apply as per section 13.
D	Over £189,330 (Applicable from 01/01/20 to 31/12/21).	Over £4,733,252 (Applicable from 01/01/20 to 31/12/21).	The appropriate EC procurement directive shall be complied with.	See 3.6 & 4.8, pre-tendered Government contracts.



#### 4.4 Category A Procurement

- For transactions valued up to £5,000, (£10,000 for works), competitive quotations are not required under this code, though it is always good practice to seek more than one quote if other suppliers are available. Officers must in all instances ensure the council is receiving value for money (vfm). If an officer is unsure of vfm when only one quote is received, they should either consult with the procurement team or obtain further quotes.

#### 4.5 Category B Procurement

- For transactions valued between £5,000, and £25,000, (for works over £10,000, but at or below £100,000), at least three written quotations must be invited, specifying the supplies, services or works and setting out prices, terms and conditions of contract and terms of payment before a formal purchase order is issued.
- E-mailed quotations or catalogue prices are acceptable in these cases (as detailed in 4.8).
- If the Council is not bound to accept the lowest quote then this must be outlined in correspondence to those suppliers intending to submit quotes. Officers must in all instances ensure the council is receiving value for money (vfm).

#### 4.6 Category C Procurement

- For transactions valued at over £25,000, (£100,000 for works) a formal tender procedure must be conducted in the manner outlined below.
  - Open
  - or Negotiated should be selected as the most appropriate for the transaction.
  - Officers must in all instances ensure the council is receiving value for money (vfm).

##### 4.6.1 Open and Restricted Procedures

Open procedure is where anyone can submit a tender and it requires the following process:

- a) An advertisement must be placed on Contracts Finder web site. No pre-qualifying questionnaires are allowed and tenders should be sent to all companies who express their interest in the tender exercise.
- b) The advertisement should specify a time limit (minimum 10 working days) within which interested parties must express their interest in tendering. After the expiry of this period, invitations to tender should be sent to all the interested parties, specifying a period of not less than 15 working days for the return of tenders.
- c) Restricted is currently only used for Category D procurements.

#### 4.6.3 Negotiated Procedure

Negotiated procedure is identical to that for the open procedure, except that post-tender negotiation is permitted. Advice should be sought from the Procurement Team prior to the start of the procurement process.

#### 4.7 Category D Procurement

For transactions valued at over £189,330 for goods/services and £4,733,252 for works (or relevant threshold published at the time under EU rules) an EC procurement directive must be complied with. Under EC Directives, the contract may be tendered under the Open, Restricted or, in exceptional circumstances, the Negotiated procedure. These are essentially the same as the procedures for category C transactions but with additional formalities. The EC Directives are very detailed and consequently, advice should be sought from the Procurement Team prior to the start of the procurement process. For each contract, usually, a Contract Notice must be published in the Supplement to the Official Journal of the European Union (OJEU).

#### 4.8 Government Catalogues

In its determination to improve the efficiency and economy of Public Authority procurement, Central Government has developed an executive unit of its own, Crown Commercial Services (CCS). This unit has links to a number of catalogues for a variety of supplies and services from suppliers that have been competitively evaluated and quality assessed. FDC can access these catalogues in order to identify suppliers for its own needs, subject to requirements of this Code as follows. (This also includes the Eastern Shires Purchasing Organisation (ESPO) and its merger with other purchasing organisations, named Pro5.)

Use of these catalogues enables procurement to take place without tendering even where EC thresholds are exceeded, because suppliers listed have already tendered in order to get on the list. However, all suppliers listed within the same framework/catalogue, and able to provide the required product, must be approached and offered an opportunity to show interest or, provide a quotation or tender.

#### 4.9 Selection Criteria

(a) Sufficient vetting shall be undertaken to ensure that all contractors: -

- comply with minimum standards of insurance;
- have the necessary Health & Safety policy and performance and (where applicable) membership of the Contractor's Health and Safety Scheme or equivalent health and safety standard;
- are financially viable based on a risk-based assessment;

- have an appropriate environmental policy;
  - comply with equalities legislation and policy; and
  - possess the experience and capacity required.
- (b) The Procurement Manager shall provide an appropriate questionnaire for the purpose of vetting contractors.

## **5. Step 4 – Receiving and opening tenders**

### **5.1 Category “B” transactions**

For category “B” transactions the principles of this code shall be applied in that fair and ethical procedures shall ensure that the most economically advantageous arrangement is obtained for the Council and that no potential contractor is treated any less fairly than another.

### **5.2 Category “C” or “D” transactions**

Where tenders or quotations for category “C” or “D” transactions are invited, in accordance with this Code, no tender or quotation will be considered unless:

- (a) contained in a plain envelope which shall be securely sealed and shall bear the word “Tender” or “Quotation” followed by the subject to which it relates. Contractors shall be notified accordingly. The envelope shall not bear any distinguishing matter or mark intended to indicate the identity of the sender. Such envelopes shall be addressed impersonally to the Procurement Manager; or
- (b) it has been sent electronically to a specific e-mail address, an e-vault, which the Procurement Manager has sole access to once the tender expiry date has been reached.

### **5.3 Opening tenders**

All envelopes or e-mails received shall be kept securely and shall not be opened or accessed until the time appointed for their opening. All tenders or quotations invited in accordance with this Code shall be opened at one time only and by at least two officers, one of whom must be an officer from the Procurement Team.

All tenders or quotations upon opening shall be recorded in writing on either a tender or quotation opening record, as is appropriate. The Form of Tender or Quotation and any accompanying documentation shall be marked with the date of opening and signed by at least two officers present at the opening. The tender or quotation opening record shall also be signed by at least two officers present at the opening. The Procurement Manager shall retain the original opening record.

#### 5.4 Late quotes and tenders

Generally, any tenders or quotations received after the specified time shall be returned promptly to the contractor by the Procurement Manager. However, if it can be evidenced that no other tenders have been opened prior to receipt of the late tender or that no other tenders have been received then a late tender may be accepted at the discretion of the Procurement Manager. In the event that a tender has to be returned unaccepted then the tender or quotation may only be opened to ascertain the name of the contractor but no details of the tender or quotation shall be disclosed.

### 6. Step 5 – Evaluation of tenders and quotations.

#### 6.1 Single tenders

For transactions in category “B” or “C” single tenders may only be accepted after a waiver has been obtained for this purpose under the procedure set out in section 17 of this Code.

#### 6.2 Category “A” or “B” procurements

Where written quotations are invited for transactions in category “A” or “B” then the bidder submitting the lowest price bid should be awarded any resulting contract, unless alternative pre-determined criteria are used. In which case the tender providing the most economically advantageous arrangement to the Council according to the pre-determined criteria shall be selected.

#### 6.3 Category “C” or “D” procurements

For transaction in category “C” or “D”, a more complex Best Value tender evaluation procedure based on the identification of the Most Economically Advantageous Tender (“MEAT”) should be used in preference to a price-only evaluation where appropriate.

This evaluation involves scoring tenders objectively, by a panel selected from officers and/or independent experts. The panel must be chosen by the appropriate member of CMT, using criteria that should:

- (a) be pre-determined and listed in the invitation to tender documentation
- (b) be strictly observed at all times throughout the tender process
- (c) reflect the principles of Best Value/Value for money
- (d) include price

- (e) consider whole-life costing, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal should be taken into account
- (f) measure achievement of technical requirements where appropriate
- (g) be capable of objective assessment
- (h) be weighted according to their respective importance
- (i) include, where applicable, the quality of the tenderers' proposals to transfer staff under the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 1981
- (j) avoid discrimination or perceived discrimination on the basis of nationality, or other discrimination contrary to the Council's Equality Policy.

Where this evaluation methodology is used, any resulting contract must be awarded to the tenderer who submits the most economically advantageous tender, i.e., the tender that achieves the highest score in the objective assessment.

#### 6.4 Negotiated Procedure

Where a Negotiated Procedure has been used and post-tender negotiation has been entered into, all tenderers should be invited to submit their best and final offers at the conclusion of negotiations under the same procedure as for the receipt and opening of tenders above. In this case, the best and final offers should be evaluated by revisiting the objective scoring process and revising scores as appropriate.

#### 6.5 Criteria for works contracts

Further criteria for works contracts must be applied, regardless of value, and a contractor must be selected who: -

- i) can confirm a business contact address and telephone number has an acceptable level of public liability insurance.
- ii) is registered for tax and holds a valid certificate (where appropriate).
- iii) is capable of undertaking the work safely and competently and is a member of a recognised trade association, e.g., NICEIC or ECA for electrical installation works or Gas Safe for gas installation works.

#### 6.6 Criteria for service contracts

A further criterion for service contracts must be applied, regardless of value, a contractor must be selected who has appropriate indemnity insurance.

## **7. Arithmetical Errors**

- 7.1. Contractors can alter their tenders or quotations after the date specified for their receipt but before the acceptance of the tender or quotation, where examination of the tender or quotation documents reveals arithmetical errors or discrepancies which affect the tender or quotation figure. The contractor shall be given details of all such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing this offer in writing.

## **8. Step 6 – Awarding contracts**

### **8.1 Recording results**

The results of the tender evaluation process should be recorded and retained by the Procurement Manager in accordance with paragraph 4.1 of this Code.

### **8.2 Contract authorisation/signing**

Contracts must only be signed by a member of CMT or officers authorised to do so by a member of CMT. In nominating authorised officers, consideration shall be given to length, value and complexity of contract. All contract awards over £25,000 need to be published on Contracts Finder in line with Public Procurement Regulations 2015.

### **8.3 Formal contract for category “C” or “D”**

A formal contract must be agreed for any procurement of supplies, services and works falling into category “C” or “D”.

### **8.4 Awarding EU contracts**

All contracts awarded under EU Directives, should be formally notified to the Corporate Director and Chief Finance Officer.

All contracts awarded under EU Directives must observe a ten day ‘cooling off’ period after the award decision. Ten working days to start once all tender participants have been notified in writing of the decision.

## **9. Use of closed membership categories**

### **9.1 Externally compiled lists.**

Only those lists containing details of contractors that are compiled and maintained by an external organisation in a manner approved by the Corporate Director and Chief Finance Officer or Procurement

Manager shall be adopted as approved lists of tenderers, e.g. Constructionline. Any approved list of tenderers shall be reviewed periodically and at least prior to the third anniversary of its initial or further adoption and must be again approved by the Corporate Director and Chief Finance Officer or Procurement Manager. Adoption of such lists must be notified to the Corporate Director and Chief Finance Officer or Procurement Manager to be registered as a source for procurement.

For each use of the list, where the transaction falls into category “C”, invitations to tender for a contract should be sent to no less than six entrants by means of the application of pre-determined and objective tenderer selection criteria.

- In using a list, where tenders are for similar goods, services or works, i.e. have been tendered for previously within the last 9 months, then, to show fair competition, the new tender can include the best two returns from the previous tender and must include two new tenderers to replace the two lowest placed tenderers from the previous tender. The two remaining tender places can be taken by either local suppliers or tenderers from a previous tender. However, where possible, at least one of the six tenderers should be a local supplier.

Where the total is expected to fall into category “D”, tenders may be invited using the standing list but each requirement must also be advertised under the EU Directives.

## **10. Framework Agreements**

### 10.1 What is a framework agreement?

Where the Council wishes to establish a supply relationship with a number of companies who provide similar goods or services it can create a framework agreement.

A framework agreement is where a limited number of companies can supply a specific service to the whole Council, and this will usually be created for corporate use by the Procurement Team. All purchases for this service will be acquired via the framework agreement, which will be reviewed every three years.

### 10.2 Using agreements

Once the Council has created a framework agreement all services requiring such a service must use the framework agreement.

External framework agreements, i.e. through the County Council or other Cambridgeshire Councils, must be used where appropriate, e.g. temporary staff and printing framework agreements.

## 11. Contracts

### 11.1 Cambridgeshire Procurement Group and collaborative/shared contracts

Collaboration exists between Cambridgeshire councils and to ensure Fenland's contracts are available to other Cambridgeshire councils the following statement must be included in all tender and contract documentation for category C and D procurements.

*"It is possible that the contract may be extended to encompass the requirements of one or more of Cambridgeshire's five District Councils, Peterborough City Council and/or Cambridgeshire County Council at some point during the lifetime of the contract. It will be the responsibility of the appropriate Council to make this decision.*

*The District Councils are as follows:*

- *Cambridge City Council;*
- *East Cambridgeshire District Council;*
- *Fenland District Council;*
- *Huntingdonshire District Council;*
- *South Cambridgeshire District Council*

*The terms and conditions of this contract, as awarded, will apply to any of the named councils above should they so wish to utilise the procurement of goods, services or works within this contract.*

Any contracts entered into through collaboration with other Local Authorities or other public bodies, where a competitive process has been followed that complies with the Contract Regulations/Code of Procurement of the leading organisation (but does not necessarily comply with Fenland's Code of Procurement), will be deemed to comply with our Code of Procurement but will require an exemption as per paragraph 13.3 of this Code. However, advice must be sought from the Procurement Team in the first instance.

In general, to use this type of contract the FDC specification, including terms and conditions, and price (budget availability), must be matched.

### 11.2 Contract extensions

Only contracts containing 'contract extension' clauses can be extended, unless paragraph 14.1 applies.

In all circumstances a contract extension must be approved in writing by the appropriate member of CMT (Complete form CE1 obtained from the Procurement Team).



### 11.3 Contracts Register/Contracts Database

All managers shall ensure that all category “B”, “C” and “D” procurements are notified to the Procurement Team so that they can be added to the Council’s ‘Contracts Database’ and Transparency Register.

### 11.4 Letters of intent

Letters of intent provide a contractor with the authority to proceed prior to the award of a contract. Use of this type of process is considered a ‘high risk’ and consequently can only be used under exceptional circumstances.

Letters of intent must be in a form approved by the Council’s Legal Team and must be signed by the member of CMT responsible for the relevant service.

This directive applies to both new contracts and contract extensions.

## 12. Consultants

### 12.1 Procurement and purchasing authorisation

Only permanent employees of Fenland District Council can have any procurement and purchasing authorisation.

- Therefore, consultants, agents, contractors, professional advisors and agency staff, have no authority to; -
  - Authorise Official Orders.
  - Make any verbal or written commitment on behalf of the Council.
  - Authorise invoices for payment
- Exemptions to the above can be approved by the Corporate Director and Chief Finance Officer, but in so doing must form part of the terms and conditions of their contract/relationship/employment by Fenland DC.
  - It shall be a condition of the engagement of any consultants, agents, contractors, professional advisors and agency staff who are to be responsible to the Council for the award or supervision of a contract on its behalf, that in relation to that contract they shall:
    - comply with this Code as though they were an employee of the Council;
    - at any time during the carrying out of the contract produce to CMT, on request, all the records maintained by them in relation to the contract; and

- on completion of the contract transmit all records that they have produced or received that relate to the contract to the appropriate member of CMT.

## 13. Exemptions

### 13.1 EU exemptions

See paragraph 3.6 for possible procedural exemptions.

### 13.2 Category “B” or “C” exemptions

Purchasers may apply an exemption from steps 3 and 5 for category “B” or “C” when:

- a) work to be executed or goods, services or materials to be supplied consist of repairs to or the supply of parts of existing proprietary machinery, equipment, hardware or plant and the repairs or the supply of parts cannot be carried out practicably by alternative contractors.
- b) specialist suppliers, consultants, agents or professional advisers are required and:
  - there is no satisfactory alternative; or
  - evidence indicates that there is likely to be no genuine competition; or
  - circumstances are such that a specialist needs to be assigned with urgency to mitigate against a legal and/or financial claim and delay would worsen the claim.
- c) the work is of a short-term nature to enable services to continue; short term is defined as a maximum of 3 months.
- d) the work is of a one-off emergency nature to prevent danger or harm to any person.
- e) a tendering exercise has been performed in accordance with this Code and only one tender has replied and has met the Council’s specified requirements in accordance with Step 3 of this Code.
- f) it is in the best interest of the Council to employ consultants or suppliers already contracted or previously contracted, within the last 12 months, following valid tendering procedures from other Council’s or partners, to be employed for further work associated with, but not critical to an existing project.

- g) a decision is taken by the Corporate Director and Chief Finance Officer, which is supported by the relevant Portfolio Holder, to suspend formal tendering procedures. All reasoning surrounding this decision must be clearly minuted and copied to the Procurement Manager.
- h) Where a contract is to be entered into through collaboration with other Local Authorities or other public bodies and where a competitive process has been followed that complies with the Contract Regulations/Code of Procurement of the leading organisation but does not necessarily comply with Fenland's Code of Procurement. Appropriate checks will be carried out by the Procurement Team to ensure this Council's interests are safeguarded.

### 13.3 Valid reasons to bypass quote or tender procedures

Nothing in this Code shall require tenders or quotations to be sought:

- for purchases through any local authority or government consortium, collaboration or similar body, where the procurement rules of that organisation have been adopted. Rules of another organisation can only be adopted with the approval, of the Corporate Director and Chief Finance Officer. (Exception see paragraph 11.1.); or
- for purchases through any Framework Agreement (See paragraph 11) where this Code of Procurement has been adopted. The Corporate Director and Chief Finance Officer or Procurement Manager shall approve and keep under review the continued suitability of any such Framework Agreements.
- for purchases made at public auction;
- Value for money should still be considered in any instance.

### 13.4 Applying exemptions

**To exercise any of the above exemptions** the purchaser shall compile and retain a record:

- reasoning the decision; and
- evidencing approval by the relevant member of CMT and the Corporate Director and Chief Finance Officer (or a nominated authorised signatory from within the Finance Service for procurements under EU threshold limits); and
- evidencing any action taken to ensure that the most economically advantageous arrangement has been obtained from the negotiations with the tenderer.

### 13.5 Corporate contracts

Exemptions from the use of corporate contracts must be obtained in writing from the appropriate member of CMT along with documented valid reasoning. Documentary copies to be forwarded to the Procurement Team.

### 13.6 Advice on exemptions

In the first instance, advice and decisions on applying exemptions will come from the Procurement Team. Should there be a requirement for further advice and a decision then the following hierarchy will be used;-

- Chief Accountant
- Corporate Director and Chief Finance Officer
- CMT
- Cabinet

## 14. Extensions

14.1 An existing contract may be extended once using the exemption in paragraph 13.2 (f) of this Code if all of the following apply:

- (a) If budgetary provision is available
- (b) If the terms and conditions will be unchanged
- (c) If continuing with the existing contract can be shown to provide better value for money than re-tendering on the basis of identifying possible suppliers (subject to 14.1(d))
- (d) If extending the contract does not take its whole value beyond the EC thresholds and does not increase the term by more than 12 months.

14.2 In all circumstances a contract extension must be approved in writing by the appropriate member of CMT.

## 15. Disposals

15.1 The same competitive process for buying supplies, services and works must also be applied to the disposal of surplus or obsolete goods, though separate procedures apply to the sale of land and/or property.

In principle:

- (a) competitive bids must be invited for all goods falling into category "A", except where the item is unlikely to attract any interest, in which case written approval must be sought from

the Procurement Manager before disposal.

- (b) if the estimated value of the goods falls into category “B” then a minimum of three bids must be invited.
- (c) if the estimated value of the goods falls into category “C” or “D” then a professional valuation should be obtained, a minimum of 3 sealed bids must be invited and opened in accordance with the procedure in section 5/step 4 of this code.

15.2 In case of doubt, professional advice should be sought when making valuations. For higher value items, sale by auction should be considered as an alternative to sealed bids, but care should be taken to evaluate the full cost of the process.

15.3 In all cases, the highest bid received must be accepted, unless it can be demonstrated that an alternative bid is more economically advantageous overall to the Council in which case the reasoning for the decision should be recorded and prior approval sought from the Corporate Director and Chief Finance Officer or Procurement Manager.

15.4 Public Auction can be used for items of any value where deemed most likely to achieve greatest interest in the goods for disposal. In the case of auction then a reserve value should be agreed with the Corporate Director and Chief Finance officer or Procurement Manager prior to sale commencement or in accordance with a valuation process approved by the Corporate Director and Chief Finance Officer or Procurement Manager.

15.5 Disposal by auction can be made either by a professional auction house or an internally managed formal auction process.

- The Council’s intranet can be used for the internal auction process

## **16 Prompt Payment Code**

16.1 The Public Procurement Regulations 2015 require the Council to pay suppliers promptly. This means that in dealing with suppliers it will: -

- Pay suppliers through the Council’s Procure to Pay system (Agresso), on time within the terms agreed at the outset of the contract (usually 30 days) without attempting to change payment terms retrospectively without changing practice on length of payment for smaller companies on unreasonable grounds.
- Provide suppliers with clear and easily accessible guidance on payment procedures ensuring there is a system for dealing with complaints and disputes which is communicated to suppliers advising them promptly if there is any reason why an invoice is in dispute.

- Ensure that a maximum 30 day payment term is written into all contracts and that contractors pass this through the entire supply chain.

16.2 Before committing to suppliers wishing to operate different payment terms to the usual 30 days, the Chief Finance Officer should be notified of the alternative requirement to ensure that the terms can be met.

## 17. Terms and conditions

17.1 All orders placed by the Council shall be on the Council's Terms and Conditions or industry standard terms and conditions used by the Council, including compliance with the requirements of the Prompt Payment Code, see paragraph 16 above.

17.2 Where a contractor formally insists on trading on Terms and Conditions other than those of the Council, these must be approved, prior to an order being placed, by the Chief Solicitor, except for:-

- Any framework agreement adopted by the Council.
- Any Government Catalogue or ESPO (Pro5) contract.
- Orders for less than £5,000, where goods or services are purchased on a retail basis on terms available to the general public.
- Orders for software where the licence is for a 'standard' product, but not where customisation, development or on-site service is required for a 'standard' product.

17.3 All contracts for category "C" or "D" procurements must have a contract, bearing the relevant Terms and Conditions agreed by the relevant member of CMT, signed by both parties.

17.4 Performance bonds

Where a contract (other than for the performance of legal or consultancy services) is estimated to exceed EU Thresholds and is for the execution of the works by a particular date or series of dates or in cases where the relevant member of CMT so decides, the contractor shall supply a performance bond in the sum of 10% of the contract sum or such lower amount as the Corporate Director and Chief Finance Officer shall certify as the maximum loss which could be suffered by the Council. The surety shall be a substantial bank or insurance company approved for that purpose by the relevant member of CMT and approved by the Corporate Director and Chief Finance Officer.

Exceptionally, a parent company guarantee may be given in lieu of the provision of a performance bond if the relevant member of CMT and the Corporate Director and Chief Finance Officer agree.

17.5 All procurement processes should have regard to the Council's Anti-Fraud and Corruption Policies. Expenditure holders who authorize orders should make sure they are fully aware of these policies to safeguard the authority.

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## **RULE 8 OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. RECRUITMENT AND APPOINTMENT**

#### **1.1 Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, step-child, 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 person.
- (b) No candidates so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

#### **1.2 Seeking Support for Appointment**

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

### **2. RECRUITMENT OF HEAD OF PAID SERVICE, CORPORATE DIRECTORS AND ASSISTANT DIRECTORS<sup>1</sup>**

2.1 Where the Council proposes to appoint the Head of Paid Service or a Corporate Director or an Assistant Director<sup>2</sup> and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:-

- (a) draw up a statement specifying:-
  - (i) the duties of the officer concerned; and

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<sup>1</sup> Amendment approved 26 July 2012 and 26 February 2024

<sup>2</sup> Amendment approved 26 July 2012 and 26 February 2024

- (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph 2(a) to be sent to any person upon request.

### 3. **APPOINTMENT OF HEAD OF PAID SERVICE**

- 3.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of the Appointments Panel<sup>3</sup>.

### 4. **APPOINTMENT OF CORPORATE DIRECTORS AND ASSISTANT DIRECTORS<sup>4</sup>**

- 4.1 In the event that a Corporate Director or Assistant Director<sup>5</sup> post becomes vacant, with the exception of internal reviews whereby the Chief Executive will be responsible for any changes to the Management Structure, the Appointments Panel in conjunction with the Chief Executive will make the appointment. <sup>6</sup>

### 5. **OTHER APPOINTMENTS**

#### 5.1 **Heads of Service**

The Chief Executive, Corporate Director or Assistant Director<sup>7</sup> will appoint Heads of Service in consultation with relevant Cabinet members and opposition representatives who should sit on the appointment panel.

- 5.2 **Officers below Heads of Service** – appointment of officers below heads of service level is the responsibility of the Chief Executive, Corporate Directors, Assistant Directors<sup>8</sup> or their nominee, and may not be made by Councillors.

- 5.3 **Assistants to political groups** – in the event of an appointment of an assistant to a political group such appointment shall be made in accordance with the wishes of that political group.

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<sup>3</sup> Amendment approved 13 May 2010

<sup>4</sup> Amendment approved 26 July 2012 and 26 February 2024

<sup>5</sup> Amendment approved 26 July 2012 and 26 February 2024

<sup>6</sup> Amendment approved 13 May 2010

<sup>7</sup> Amendment approved 26 July 2012 and 26 February 2024

<sup>8</sup> Amendment approved 26 July 2012 and 26 February 2024

## 6. DISCIPLINARY ACTION

- 6.1 **Suspension** – the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will usually last <sup>8(i)</sup> no longer than two months.
- 6.2 (Deleted)<sup>8(i)</sup>
- 6.3 National conditions of service as supplemented by agreed local arrangements shall apply to all disciplinary actions.
- 6.4 Councillors will not be involved in the disciplinary action against any officers below Heads of Service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

## 7. DISMISSAL

- 7.1 Councillors will not be involved in the dismissal of any officer below head of service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.
- 7.2 (Inserted 8 (i)) In this section-
- “**relevant officer**” shall mean the Head of Paid Service, Monitoring Officer and Chief Finance Officer, as the case may be;
  - “**Independent Person**” means a person appointed under section 28(7) of the Localism Act 2011;
  - “**local government elector**” means a person registered as a local government elector in the register of electors in the Council's area in accordance with the Representation of the People Acts;
  - “**members**” means current Fenland District Councillors;
  - “**the panel**” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council;
  - “**relevant meeting**” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer;

**“relevant independent person”** means any independent person who has been appointed by the Council.

(a) A relevant officer may not be dismissed by the Council unless the procedure set out below is complied with -

- The Monitoring Officer, or other relevant officer or the Deputy Monitoring Officer as appropriate, must invite 2 relevant independent persons to be appointed to a panel. In addition the panel will consist of 5 other Councillors to be nominated by Group Leaders in accordance with the requirements of political proportionality.
- The Monitoring Officer, or other relevant officer or Deputy Monitoring Officer, will appoint to the panel such relevant independent persons as necessary in accordance with the following priority order –
  - (i) A relevant independent person who has been appointed by the Council and who is a local government elector.
  - (ii) Any other relevant independent person who has been appointed by the Council.
  - (iii) A relevant independent person who has been appointed by another council or councils.
- The Monitoring Officer, or other relevant officer as appropriate, must appoint the panel at least 20 working days before the relevant meeting.
- Before taking a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account-
  - (i) any advice, views or recommendations of the panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the relevant officer.

(a) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the Localism Act 2011.

## RULE 9: PROCEDURE FOR RESPONDING TO CONDUCT COMPLAINTS AND HEARING PANEL PROCEDURE RULES<sup>9</sup>

### 1. INTRODUCTION

- 1.1. Fenland District Council (“the Authority”) is responsible for receiving and determining conduct complaints for both District Councillors, and the Town and Parish Councillors within the District.
- 1.2. All members are required to conduct themselves in accordance with a locally agreed Code of Conduct. Fenland District Council’s Code can be found at Part 5 of Fenland District Council’s Constitution [[https://www.fenland.gov.uk/media/1862/Codes-and-Protocols---4-5-and-6/pdf/K\\_v2\\_Codes\\_and\\_Protocols\\_4\\_5\\_and\\_6.pdf](https://www.fenland.gov.uk/media/1862/Codes-and-Protocols---4-5-and-6/pdf/K_v2_Codes_and_Protocols_4_5_and_6.pdf)] and in all other cases on the websites of the relevant Town or Parish Councils.
- 1.3. Where it is considered that a Member has breached the Code of Conduct, this Procedure shall apply.
- 1.4. Where a particular number of working days has been specified for compliance with any given stage of this process, this is intended as an indication of best practice but may be varied with the consent of the Monitoring Officer where exceptional circumstances exist for example to take into account periods of unavailability resulting from illness or leave.
- 1.5. Any function of the Monitoring Officer in this procedure may be delegated to the Deputy Monitoring Officer at any time.
- 1.6. In this Procedure and the Conduct Committee Hearing Procedure, the following definitions shall apply:
  - 1.6.3. **Chairman:** in this procedure references to the Chairman are references to the Chairman of the Conduct Committee and should also be taken to include references to the Vice Chairman of the Conduct Committee. The Vice Chairman will act in the Chairman’s place where he/she is unavailable for any reason to include where a conflict of interest exists.
  - 1.6.4. **Code of Conduct:** means the Code of Conduct for Members adopted by Fenland District Council to promote high standards of behaviour amongst the elected and co-opted members of the Council whenever they are acting in their capacity as a member of the Authority or giving the impression of acting as a representative of the Authority.
  - 1.6.5. **Conduct Committee:** Means the committee with authority to hear conduct complaints referred by the Monitoring Officer whose terms of reference are set out at [Rule 9 of the Constitution - <https://www.fenland.gov.uk/localgov/documents/s5917/Rules%20of%20Procedure%208%209%20and%2010.pdf>

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<sup>9</sup> Revised Rule 9 approved 18<sup>th</sup> September 2019  
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- 1.6.6. **Independent Person:** The Independent Person is a lay person who has been appointed by a majority of all the Councillors on the District Council. The Independent Person is invited to attend all meetings of the Conduct Committee. Their views are sought and taken into consideration: (a) before the Monitoring Officer decides whether to investigate a complaint (b) before the Monitoring Officer decides whether to refer an investigated Complaint for hearing or for Summary Resolution (c) before the Conduct Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the respective Code of Conduct.
- 1.6.7. **Subject(s):** means the Councillor(s) who is/are the subject of the complaint(s).

## 2. PROCEDURE FOR DEALING WITH CONDUCT COMPLAINTS

### 2.1. Reporting Concerns & Confidentiality

- 2.1.3. All complaints should be submitted in the prescribed form which can either be accessed on-line [<https://www.fenland.gov.uk/memberconduct>] or emailed/posted upon request to the Monitoring Officer. Completed forms should also be returned to the Monitoring Officer at Fenland Hall, County Road, March, Cambridgeshire, PE15 8NQ, or by email to [monitoringofficer@fenland.gov.uk](mailto:monitoringofficer@fenland.gov.uk).
- 2.1.4. Complaints will be acknowledged in writing within 5 working days of receipt and where necessary the Monitoring Officer will clarify any points of uncertainty as soon as possible and before any further action is taken.
- 2.1.5. In order to ensure that a fair process can be followed and subject to paragraph 2.1.7 details of the complaint together with the name of the complainant will be shared with the Subject concerned as soon as practicable after receipt (or where clarification is sought, as soon as possible after that). At that stage the Subject will be given 7 working days to provide an initial response to the concerns which the Monitoring Officer will take into account in determining what if any further action to take under this procedure.
- 2.1.6. The Monitoring Officer can obtain any other preliminary information as may be of assistance such as minutes of meetings, policy or procedural documents and published media. This can be done at any stage in the process if it is felt it will aid decision making.
- 2.1.7. Anonymous complaints will not be acted on unless there is a clear public interest to do so however, complainants can request that their identities remain confidential in exceptional circumstances. Requests for confidentiality will be considered by the Monitoring Officer and the complainant will be informed in writing of the outcome before the complaint proceeds any further.
- 2.1.8. The Monitoring Officer will keep the Complainant, the Subject and the Clerk (if appropriate) informed of the progress of the Complaint, unless the Monitoring Officer considers that this may prejudice any investigation.

- 2.1.9. The existence and content of all complaints will remain strictly confidential and shall not be published, discussed or otherwise disclosed until a conclusion has been reached and unless it is a requirement of this or the hearing process (for example at an investigative interview or hearing) or the Subject waives this requirement by making the disclosure themselves.
- 2.1.10. Complainants can withdraw their complaint at any time during the process by informing the Monitoring Officer in writing. The Monitoring Officer does however reserve the right to pursue the issues giving rise to the complaint where it is considered to be in the interests of good governance to do so.

## **2.2. Initial Consideration of the Complaint**

- 2.2.3. The Monitoring Officer will consider the complaint and determine, in consultation with the Chairman and Independent Person which of the following actions to take:
- No further action required;
  - Further action through information resolution;
  - Referral to the Police in any circumstance where there is evidence of potential criminal conduct;
  - Referral for investigation in accordance with paragraph 2.3 of this Procedure;
  - Summary Resolution in accordance with paragraph 2.5 of this Procedure
  - This should only be used if this is also agreed unanimously by the Chairman and Independent Person
- 2.2.4. It is likely that no action will be taken in the following (non-exhaustive) circumstances:
- Where there is insufficient information upon which to base a decision;
  - A significant amount of time (typically more than 6 months) has elapsed since the events which are the subject of the complaint;
  - The issue complained of in relation to the particular Subject(s) have already been considered under this Procedure;
  - The complaint appears to be politically motivated, trivial, vexatious, tit for tat, repetitious or otherwise a general misuse of this Procedure;
  - The conduct occurred at a time when the Subject was not or could not have been considered to be acting in their official capacity (as defined by the Code of Conduct);
  - The complaint concerns someone who is no longer a Councillor; and
  - The complaint is essentially against the Council as a whole and should not be directed at an individual.
- 2.2.5. Where it is appropriate to take some action and depending on the nature of the concerns raised it may be possible to resolve complaints informally and without the need for formal determination and/or sanction. The view of both the complainant and the Subject will be sought and will most likely be

appropriate in circumstances where the concerns raised are not in dispute and/or are not of a serious nature.

- 2.2.6. Where following informal action the complainant's concerns are not resolved, they may submit a request in writing for reconsideration by the Monitoring Officer. Where the Subject or Fenland District Council makes a reasonable offer of informal resolution but the person complaining is not willing to accept that offer, the Monitoring Officer will take account of this in deciding what if any further action to take. Where appropriate, the Monitoring Officer may again consider the options under paragraph 2.2.3 of this procedure.
- 2.2.7. Where a Police or other regulatory investigation is necessary, no further action will be taken by the Monitoring Officer until that procedure has been concluded and/or it is appropriate to do so. The Monitoring Officer has the power to make such a referral and must do so in all circumstances in which a criminal and/or regulatory offence may have occurred.
- 2.2.8. In all circumstances the Monitoring Officer will give a summary of the reasons for the decision in the form of a Decision Notice.

### **2.3. Referral for Investigation**

- 2.3.3. The Monitoring Officer, in consultation with the Chairman and Independent Person, will take a decision as to whether a formal investigation is required and will take into account the following (non-exhaustive factors):
  - Whether there is enough evidence to make a decision without the need for investigation;
  - Whether the allegations amount to a potential breach of the Code;
  - The seriousness of the allegations;
  - Whether it is in the public interest to investigate.
- 2.3.4. Where a formal investigation is required, the Monitoring Officer, in consultation with the Chairman and Independent Person will determine the level and scope of the investigation.
- 2.3.5. The Investigating Officer may be an officer of Fenland District Council, another Council or an appropriate experienced external investigator.
- 2.3.6. The Monitoring Officer will inform the complainant and the subject(s) of the complaint of the proposed timescales of the investigation which will most likely involve interviewing them and other witnesses as well as reviewing any relevant paperwork. Unless exceptional circumstances exist every effort should be made to ensure that the investigation is completed within 3 months of the referral.
- 2.3.7. In the event of a material change of circumstances the Monitoring Officer in consultation with the Chairman and Independent Person may terminate the investigation before it has concluded. Examples of when this may be appropriate are as follows:



- The Member has resigned (or not been re-elected) from the relevant Council, Town or Parish Council,
- The Member is seriously ill, or
- The Member has died.

2.3.8. If the Subject fails to respond to correspondence from the Investigating Officer the complaint will be progressed and concluded in the absence of their input. If the complainant fails to respond, the complaint will be treated as withdrawn subject to paragraph 2.1.10 above. All parties are encouraged to respond promptly to any correspondence in relation to the complaint and within any deadline set.

2.3.9. The Investigating Officer will prepare a draft report on the outcome of the investigation and will provide the complainant and Subject with a copy for review and comment within an agreed period. 2.3.10. The Investigating Officer will submit a final version of the report to the Monitoring Officer as soon as reasonably practicable once the deadline for providing comments in accordance with paragraph 2.3.9 has elapsed. The Investigating Officer will be expected to give their view of the evidence and whether or not a breach of the Code of Conduct has occurred.

2.3.11. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.

## 2.4. **Consideration of the Investigation Report**

2.4.3. The Monitoring Officer will review the Investigating Officer's report in consultation with the Chairman and Independent Person and will reach a determination as to what if any further action is required within 7 working days of receiving the Report.

2.4.4. Where the Investigating Officer concludes that there is no evidence of a breach of the Code and the Monitoring Officer, Chairman and Independent Person are in agreement, the final report will be sent to the Complainant, the Subject and the Clerk (if appropriate) with confirmation that no further action will be taken.

2.4.5. Where the Investigating Officer concludes that there is evidence of a breach of the Code and the Monitoring Officer, Chairman and Independent Person are in agreement, they will then either seek a summary resolution or refer the matter for hearing by the Conduct Committee.

## 2.5. **Summary Resolution**

2.5.3. The Monitoring Officer may consider that a complaint can be reasonably resolved without the need for a hearing. In that event they will consult with the Chairman, Independent Person and the complainant with a view to agreeing a fair outcome. Such outcomes include the Subject offering an apology, removing posts from social media, attending training and/or mediation.

2.5.4. If the Subject accepts and complies with the suggested resolution no further action will be taken.

2.5.5. Where the Subject refuses to accept the suggested resolution, the matter will be referred to the Hearing Panel of the Conduct Committee for a hearing.

## 2.6. Referral to the Hearing Panel

2.6.3. If the Monitoring Officer considers that a summary resolution is not appropriate, or it is impossible to achieve, the matter will be referred to the Conduct Committee for a hearing to decide whether the Subject has failed to comply with the Code of Conduct and, if so, what if any action to take..<sup>10</sup>

## 3. HEARING PANEL PROCEDURE RULES

### 3.1. Attendance and Right to be Accompanied

3.1.3. The Subject will be requested to attend the hearing and may choose to be accompanied and/or represented by a fellow Councillor, friend, colleague or legal representative (“the Representative”). The hearing will be arranged taking into account the availability of the Subject and their Representative(s) unless this is likely to cause unreasonable delay to the conclusion of the complaint.

3.1.4. The Complainant will be notified of the date of the hearing however, unless the Investigating Officer wishes to call them as a witness, there will be no requirement for them to attend.

3.1.5. An Independent Person must be present at the hearing and unless this will cause unreasonable delay to the conclusion of the complaint, this will normally be the same person that the Monitoring Officer has consulted throughout the process.

3.1.6. Where the subject of the complaint fails to attend the hearing the Hearing Panel may, having regard to any written representations:

- resolve to proceed with the hearing; or
- adjourn the hearing to another date.

### 3.2. The Hearing

#### 3.2.3. Order of Business

3.2.3.1. Subject to paragraph 3.2.3.8 below, the order of business will be as follows:

3.2.3.2. Elect a Chairman (if either the Chairman or Vice-Chairman of the Conduct are not present);

3.2.3.3. Apologies for absence;

3.2.3.4. Declarations of Interest;

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<sup>10</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- 3.2.3.5. In the absence of the Subject, consideration as to whether to adjourn or to proceed with the hearing in accordance with paragraph 3.2.3.9 below;
- 3.2.3.6. Introduction by the Chairman of the persons present and participating in the hearing to include members of the Panel, the Independent Person, the Monitoring Officer, the Investigating Officer, the complainant, the subject of the complaint and any legal representatives;
- 3.2.3.7. To receive representations from the Monitoring Officer and/or the Subject as to whether any part of the hearing should take place in private and/or whether any documents (or parts thereof) should be withheld from the public/press in accordance with Schedule 12A of the Local Government Act 1972;
- 3.2.3.8. The Chairman may exercise their discretion and amend the order of the business where it is considered expedient to do so in order to ensure that a fair hearing takes place.
- 3.2.3.9. The Hearing Panel may resolve to adjourn the hearing at any time.

#### 3.2.4. Presentation of the Complaint

- 3.2.4.1. The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points should be introduced at this stage in the process;
- 3.2.4.2. The Subject or their Representative may question the Investigating Officer and any witnesses called by them;
- 3.2.4.3. The Hearing Panel may question the Investigating Officer and any witnesses called by them.

#### 3.2.5. Presentation by the Subject of the Complaint

- 3.2.5.1. The Subject of the complaint or their Representative presents their case and calls witnesses.
- 3.2.5.2. The Investigating Officer may question the Subject and any witnesses called by them. The Subject will normally be expected to answer questions on their own behalf rather than via the Representative.
- 3.2.5.3. The Panel may question the Subject and any witnesses called by them.

#### 3.2.6. Summing Up

- 3.2.6.1. The investigating Officer sums up the complaint.
- 3.2.6.2. The Subject or their Representative sums up their response.

#### 3.2.7. Views/Submissions of the Independent Person

- 3.2.7.1. The Chairman will invite the Independent Person to express their view on whether or not they consider that on the facts presented there has been a breach of the Code of Conduct.

### 3.2.8. Deliberations of the Hearing Panel

- 3.2.8.1. The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by the Monitoring Officer where required) to consider whether or not the Subject has failed to comply with the Code of Conduct.
- 3.2.8.2. The Independent Person may retire with the Hearing Panel and contribute to the discussion but will not be a decision maker.
- 3.2.8.3. The Hearing Panel may at any time reconvene the hearing in order to seek additional evidence from the Investigating Officer, the Subject and/or their witnesses.
- 3.2.8.4. If the Hearing Panel require additional information which cannot be obtained by the persons present at the hearing they may resolve to adjourn and issue directions specifying what they require from whom. Any information requested must not have the effect of introducing new points.
- 3.2.8.5. Where the hearing is adjourned in accordance with paragraph 3.2.8.4 above:
- 3.2.8.6. any additional information provided will be copied to the Investigating Officer, the complainant and the Subject within 5 working days of the reconvened hearing; and
- 3.2.8.7. at that hearing, there will then be an opportunity for each of the parties to make verbal or written representations in relation to the additional information. Where appropriate the Hearing Panel will also provide an opportunity for the parties to ask questions of each other and sum up their position in relation to the additional information before again retiring to deliberate.

### 3.3. **The Decision**

- 3.3.3. The Hearing Panel will reconvene the hearing at the conclusion of their deliberations and the Chairman will announce whether or not on the facts found, it is considered that there has been a breach of the Code of Conduct.
- 3.3.4. Where the Hearing Panel finds that there has been a breach of the Code of Conduct the Chairman will invite the Investigator, the Subject, the Independent Person, and the Monitoring Officer to make any representations as to whether or not any sanctions should be applied and if so, what form they should take.
- 3.3.5. When deciding whether to apply one or more sanctions, the Hearing Panel will ensure it is reasonable and proportionate to do so. The Hearing Panel will consider the following questions along with any other relevant circumstances or factors specific to the local environment to include (but not exhaustively):
  - What was the subject of the complaint's intention and did they know they were failing to follow the Code of Conduct;
  - Did the subject of the complaint receive advice from officers before the incident and was that advice acted on in good faith;
  - Has there been a breach of trust;

- Has there been financial impropriety e.g. improper expense claims or procedural irregularities;
- What was the result/impact of failing to comply with the Code of Conduct;
- How serious was the incident;
- Does the Subject accept that they were at fault;
- Did the Subject apologise to the complainant or other relevant persons;
- Has the subject of the complaint previously been reprimanded or warned for similar misconduct within the last 12 months;
- Has the Subject previously breached the Code of Conduct within the last 12 months;
- Is there likely to be a repetition of the incident.

3.3.6. Having heard the representations of the Independent Person, the Subject and the Monitoring Officer, the Hearing Panel will adjourn and deliberate in private to reach a decision as to the sanctions to be applied. The Hearing Panel may be accompanied by the Monitoring Officer and the Independent Person who again may contribute to the discussion but will not take part in the decision.

3.3.7. The Hearing Panel will make its decision on the balance of probabilities based on the evidence before it at the hearing.

3.3.8. Where there is more than one complaint, the Hearing Panel will set out the reasons for their decision in relation to each aspect but may impose a separate or collective sanction or recommendation.

3.3.9. If evidence presented to the Hearing Panel highlights other potential breaches of the Code of Conduct then the Chairman will outline the concerns identified and recommend that the matter is referred to the Monitoring Officer as a new complaint.

#### 3.4. **Announcement of the Decision**

3.4.3. The Hearing Panel will reconvene the hearing and the Chairman will announce:

3.4.4. the decision as to whether or not the Subject has failed to comply with the Code of Conduct and the principal reasons for the decision;

3.4.5. the sanctions (if any) to be applied;

3.4.6. the recommendations (if any) to be made to the relevant authority or Monitoring Officer;

3.4.7. that there is no right of appeal against the Hearing Panel's decision.

#### 3.5. **Public Record**

3.5.3. The Monitoring Officer will arrange for the Decision Notice to be published with the Minutes on the Council's website.

### 3.6. **Range of Possible Sanctions**

3.6.3. Where the Hearing Panel determines that the Subject has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied:

- Report its findings to Full Council for information;
- Issue a formal Letter of reprimand;
- Recommend to the Subject's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Subject be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Recommend to Council to remove the Subject from all outside appointments to which they have been appointed or nominated by the authority;
- Recommend to Council that it withdraws facilities provided to the Subject by the Authority such as a computer, website and/or email and internet access;
- Recommend to the Council that it excludes the Subject from the Council's office or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub- Committee meetings.
- Offer additional training for the Subject.
- Publication of formal notification of breach in a newspaper circulating in the area.

3.6.4. The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' allowances however, this Hearing Procedure should be read in conjunction with the legislation as it exists at the time its decisions are taken and where additional sanctions are prescribed by law, they will be available to the Hearing Panel as if they formed part of this Procedure. The Monitoring Officer will then make the necessary arrangements to amend the Hearing Procedure at the next scheduled meeting of Full Council.

## 4. **APPEALS**

4.1. There are no direct rights of appeal against the decisions of the Monitoring Officer or the Conduct Committee. If the complaint has not been resolved to the satisfaction of the complainant they are entitled to raise the issue with the Local Government Ombudsman

## **NEW RULE 10 – AUDIT AND RISK MANAGEMENT COMMITTEE PROCEDURE RULES<sup>11</sup>**

### **AUDIT AND RISK MANAGEMENT COMMITTEE**

#### **Statement of purpose**

1. Our Audit and Risk Management Committee is a key component of Fenland District Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
2. The purpose of our Audit and Risk Management Committee is to provide independent assurance to the members and other parties of the adequacy of the risk management framework and the internal control environment. It provides independent review of Fenland District Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place. It also ensures the Council is managing the risk of ensuring services have the resources to deliver on the Council's statutory responsibilities and corporate priorities whilst recognising the Council's financial position.

#### **Governance, risk and control**

3. To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
4. To review the AGS prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account Internal Audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
5. To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
6. To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
7. To monitor the effective development and operation of risk management in the Council.
8. To monitor progress in addressing risk-related issues reported to the committee.
9. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
10. To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.

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<sup>11</sup> Adopted 14 December 2020, amendment approved 22 May 2023

11. To monitor the counter-fraud strategy, actions and resources.
12. To review the governance and assurance arrangements for significant partnerships or collaborations.

### **Internal Audit**

13. To approve the internal audit charter.
14. To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
15. To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
16. To approve significant interim changes to the risk-based internal audit plan and resource requirements.
17. To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.
18. To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - a) updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work
  - b) regular reports on the results of the QAIP
  - c) reports on instances where the internal audit function does not conform to the PSIAS and LGAN, considering whether the non-conformance is significant enough that it must be included in the AGS.
19. To consider the Head of Internal Audit's annual report:
  - a) The statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement – these will indicate the reliability of the conclusions of internal audit.
  - b) The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the AGS.
20. To contribute to the QAIP and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
21. To consider a report on the effectiveness of internal audit to support the AGS, where required to do so by the Accounts and Audit Regulations.



### **External audit**

22. To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.
23. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
24. To consider specific reports as agreed with the external auditor.
25. To comment on the scope and depth of external audit work and to ensure it gives value for money.

### **Financial reporting**

26. To review the annual statement of accounts.
27. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability arrangements**

28. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
29. To report to Full Council on an annual basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

### **Membership <sup>12</sup>**

30. There shall be a maximum of 7 members of the Council on the Audit and Risk Management Committee with seats allocated to political groups in proportion to the number of seats held by each group on the Council as a whole. Up to two members from Cabinet may be members. A Cabinet member may not be Chairman.

### **Co-optees**

31. The Committee shall be entitled to appoint up to 3 people at any one time as non-voting co-optees. The Committee shall determine whether the co-options shall be effective for a specified period, for specific meetings or for specific items.

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<sup>12</sup> Amendment made 22 May 2023

### **Meetings**

32. There shall be no more than 5 ordinary calendar meetings of the Committee<sup>1</sup>. In addition, extraordinary meetings may be called from time to time as and when appropriate.
33. The Committee meeting may be called by the Chairman of the Committee, by any three members of the Committee, by the Chief Executive or by the Section 151 officer.

### **Quorum**

34. The quorum for the Audit and Risk Management Committee shall be as set out for committees, in the Council Procedures Rules at Part 4 of the Constitution.
35. The Chairman and Vice-Chairman of the Audit and Risk Management Committee will be drawn from among the Councillors sitting on the Committee and subject to this requirement and that of 34 above, the Committee may appoint such persons as it considers appropriate as Chairman and Vice-Chairman. A member of Cabinet may not be Chairman.

### **Work programme**

36. The Audit and Risk Management Committee will be responsible for setting its own work programme and in doing so shall take into account the wishes of all members on the panel irrespective of political affiliation in line with its terms of reference.

### **Agenda items**

37. Any member of the Audit and Risk Management Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.
38. Any five members of the Council who are not members of the Audit and Risk Management may give written notice to the Chief Executive that they wish an item relevant to the functions of the Committee to be included on the agenda.

## **NEW RULE 11 – EMPLOYMENT COMMITTEE**<sup>13</sup>

### **Statement of Purpose**

1. Our Employment Committee has decision-making powers in relation to the following delegated functions:
  - (a) To receive reports from officers on strategic employment matters & policies;
  - (b) To consider staffing restructures and changes to the establishment;
  - (c) In collaboration with the Staff Side group to promote effective communications and consultation between the Council and its employees on general personnel matters; and
  - (d) Exercise discretion allowed under the local government pension scheme, including the award of discretionary payments to employees.

### **Membership & Meetings**

2. There shall be a maximum of 7 members of the Council on the Employment Committee with seats allocated to political groups in proportion to the number of seats held by group on the Council as a whole.

### **Quorum**

3. The quorum for the Employment Committee shall be 3.

The Chairman and Vice-Chairman of the Employment Committee will be drawn from the Councillors sitting on the committee and subject to this requirement the committee may appoint such persons as it considers appropriate as Chairman and Vice-Chairman.

### **Work Programme**

4. The Employment Committee will be responsible for setting its own work programme and in doing so shall take into account the wishes of all members on the panel irrespective of political affiliation in line with its terms of reference.

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<sup>13</sup> New committee formed 22 May 2023 (replaced Audit and Risk Management Determination Sub-Committee)

**Agenda Items**

5. Any member of the Employment Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

Any five members of the Council who are not members of the Employment Committee may give written notice to the Chief Executive that they wish an item relevant to the functions of the committee to be included on the agenda.

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## **PART 5**

### **CODES AND PROTOCOLS**

- 1 Code of Conduct for Members
- 2 Local Code of Conduct on Planning Matters
- 3 Local Code of Conduct on Local Plan Process
- 4 Code of Conduct for Employees
- 5 Protocol for Member/Officer Relations
- 6 Protocol on Open Government



# CODE 1 CODE OF CONDUCT FOR MEMBERS<sup>1</sup>

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should borne in mind when interpreting the meaning of the Code:-

- i **Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- ii **Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- iii **Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- iv **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- v **Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- vi **Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- vii **Leadership** Holders of public office should promote and support these principles by leadership and example.

## PART 1 GENERAL PROVISIONS

### 1. Introduction and interpretation

- 1.1. This Code applies to **you** as a member of Fenland District Council (Fenland).
- 1.2. The term "**the Authority**" used in this Code refers to Fenland.
- 1.3. "**Member**" means any person being an elected or co-opted member of the Authority.
- 1.4. It is **your** responsibility to comply with the provisions of this Code.

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<sup>1</sup> New code adopted 26<sup>th</sup> July 2012, revised and adopted 14 December 2020

1.5. In this Code –

“**Meeting**” means any meeting of:-

- a) The Authority;
- b) Any meetings with the Council’s officers;
- c) Any of the Authority’s Committees, sub-committees, joint committees, joint sub-committees, or area committees<sup>2</sup>;
- d) Any site visits to do the business of the Authority;
- e) Any of the Authority’s advisory groups and, working parties and panels.

1.6. In this Code “relevant authority” has the meaning given to it by section 27(6) of the Localism Act 2011.

## 2. **Scope**

2.1. You must comply with this Code whenever you act, claim to act or give the impression you are acting in your official capacity as a Member of the Authority. For example, members will be deemed to be acting in their official capacity if:

- they are talking in a Council meeting or public forum where they are there as part of their Councillor role
- they are writing on an online forum that is open to the public (ie a closed or private forum or private message thread is less likely to engage the Code of Conduct) and in which they have made it clear they are responding in their official capacity either by directly saying so, or by responding to a question about Council business in a way that suggests they are doing so
- they are talking to a member of the electorate about matters which pertain to Council business<sup>3</sup>

2.2. Where you act as a representative of the Authority:-

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

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<sup>2</sup> Amendment approved by MO Decision 30 April 2020, deleted 7 May 2021

<sup>3</sup> Amended approved 14 December 2020



### 3. **General obligations**

The “scope” of the Code of Conduct is important here and these general obligations only appear, as specified earlier in this document, to situations which fall within that scope.

- 3.1. You must treat others with respect. It is not considered disrespectful to disagree with somebody or to argue a different point of view with them. This is in fact vital to the proper functioning of any democratic authority. You should not however subject individuals, groups of people or organisations to personal attack or use any speech which could be considered to be ‘hate speech’ or otherwise unlawful.

Other examples of disrespect include:

In a meeting, failure to follow the rulings and guidance of the Chairman in regards to conduct and behaviour within the meeting is considered disrespectful.

Within the scope of the Code of Conduct, to swear or use foul language in a meeting could be considered disrespectful. The Chairman might choose to give a warning about such behaviour.<sup>4</sup>

- 3.2. You must not:-

- (a) do anything, which may cause the Authority to breach UK equalities legislation.
- (b) bully any person.
- (c) intimidate or attempt to intimidate any person who is or is likely to be:-
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority’s code of conduct.
- (d) do anything, which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

However, it is again important to note that members can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner without this necessarily amounting to bullying, harassment and/or discrimination.<sup>5</sup>

- (e) conduct yourself in a manner, which could reasonably be regarded as bringing your office or authority into disrepute. For example, behaviour that is considered criminal, dishonest and/or deceitful can bring your authority into disrepute together with false statements about Council matters given to and published by the press. However, members may choose to, in their official capacity, civilly express their

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<sup>4</sup> Amendment approved 14 December 2020

<sup>5</sup> Amendment approved 14 December 2020

honestly and reasonably held views, and that is not a breach of the Code of Conduct provided that their comments are lawful – debate and disagreement do not bring the Council into disrepute, they are a necessary facet of democracy. Members are however encouraged to raise their concerns via the most appropriate forum for dealing with them for instance by referring criminal matters to the Police, reporting breaches of the Code to the Monitoring Officer and/or raising concerns about officers with their line manager.<sup>6</sup>

4. You must not:-

4.1. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is:-
  - (i) reasonable and in the public interest; and
  - (ii) made in good faith and in compliance with the reasonable requirements of the authority.

4.2. prevent another person from gaining access to information to which that person is entitled by law.

5. You must not:-

5.1. use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage.

6. You must:-

6.1. when using or authorising the use by others of the resources of the Authority:-

- (a) act in accordance with your Authority's reasonable requirements;
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and

6.2. have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

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<sup>6</sup> Amendment approved 14 December 2020

## PART 2 INTERESTS

### 7. Disclosable Pecuniary Interests

7.1. Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions.

7.2. You have a Disclosable Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State (Appendix A) and either:

- (a) it is an interest of yours, or
- (b) it is an interest of:
  - (i) your spouse or civil partner,
  - (ii) a person with whom you are living as husband and wife, or
  - (iii) a person with whom you are living as if you were civil partners,

and you are aware that that other person has the interest.

### 8. Registration of Disclosable Pecuniary Interests

8.1. Subject to paragraph 12 (sensitive interests), **you must**, within 28 days of:

- (a) this Code being adopted or applied by the Authority; or
- (b) your election or appointment (where that is later),  
notify the Authority's Monitoring Officer in writing of any Disclosable Pecuniary Interests you have at that time.

8.2. Subject to paragraph 12 (sensitive interests), **you must**, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new Disclosable Pecuniary Interest or change.

### 9. Disclosable Pecuniary Interests in matters considered at meetings

9.1. If you attend a meeting<sup>7</sup> and have and are aware that you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at that meeting, –

- (a) **you must disclose** to the meeting the fact that you have a Disclosable Pecuniary Interest in that matter. **If you have not already done so, you must notify the Authority's Monitoring Officer** of the interest before the end of 28 days beginning with the date of the disclosure, and
- (b) whether the interest is registered or not you **must not** – unless you have obtained a dispensation from the Authority's Monitoring Officer –
  - (i) participate, or participate further, in any discussion of the matter or vote at the meeting; or
  - (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

**Note: Council Procedure Rule 13 requires you to leave the room where the meeting is held<sup>8</sup> while any discussion or voting takes place.**

<sup>7</sup> Amendment approved by MO Decision 30 April 2020, deleted 7 May 2021

<sup>8</sup> Amendment approved by MO Decision 30 April 2020, deleted 7 May 2021

## 10. Other Interests

10.1. In addition to the requirements of Paragraph 3, if you attend a meeting<sup>9</sup> at which any item of business is to be considered and you are aware that you have a "non-disclosable pecuniary interest or non-pecuniary interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent

10.2. You have a "non-disclosable pecuniary interest or non-pecuniary interest" in an item of business of your authority where -

- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
- (b) it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

## 11. **Sensitive interests**

11.1 Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "sensitive interest" for the purposes of the Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed, in accordance with paragraphs 8 9 and 10.

### **Note: Register of interests**

Interests under paragraph 8 will be notified to the Monitoring Officer on a form approved for the purpose by the Monitoring Officer and for this purpose will be deemed the "register of interests". A copy of the register will be available for public inspection and will be published on the authority's website.

## 12 **Gifts and Hospitality**

12.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.

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<sup>9</sup> Amendment approved by MO Decision 30 April 2020, deleted 7 May 2021

## **Appendix A**

### **Disclosable Pecuniary Interests**

This note explains the requirements of the Localism Act 2011 (Ss 29-34) in relation to Disclosable Pecuniary Interests. These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

#### **1 Notification of Disclosable Pecuniary Interests**

<i>Disclosable Pecuniary Interest</i>	<i>description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land, which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial

interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions:

“the Act” means the [Localism Act 2011](#);

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land, which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“Member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the [Financial Services and Markets Act 2000](#) and other securities of any description, other than money deposited with a building society.

## **Offences**

It is a criminal offence to

- Fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election
- Fail to disclose a Disclosable Pecuniary Interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a Disclosable Pecuniary Interest (without a dispensation)
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such interest to a meeting

**The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for up to 5 years.**

## CODE 2 LOCAL CODE OF CONDUCT ON PLANNING MATTERS

10

### Lobbying

1. In most cases it should be possible for a member to listen to a particular body of opinion, without engaging in lobbying for a particular outcome, and wait until the Planning Committee, to hear all the evidence presented, before making a final decision.
2. Members who are lobbied on a planning matter before the Committee meets to consider it:
  - may listen to what is being said;
  - may give procedural advice (eg. to write to the Planning Department, the name of the Case Officer, the deadline for comments, whether the application is to be determined by the Planning Committee or the Development Control Manager, how decisions are reached through Officer recommendation/Planning e Committee);
  - should refer the person and any relevant correspondence to the Case Officer, so that their views can be recorded and, where appropriate, summarised in or attached to the report to the Committee;
  - should not express an opinion which may be taken as indicating that they have already made up their mind on the issue before they have considered all the evidence and arguments;
  - should make it clear that members will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee;
  - should not openly declare which way they intend to vote in advance of the relevant Committee meeting, or otherwise state a commitment to opposeor
  - support the application (or enforcement case or Local Development Framework proposal);
  - should not negotiate detailed planning matters with applicants, agents, objectors, etc;
  - should pass relevant correspondence to the Case Officer prior to any Committee meeting.

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<sup>10</sup> Amendment approved by MO Decision 30 April 2020, deleted 7 May 2021

3. Members who have openly declared their voting intention (on a planning or any other application, enforcement case or Local Development Framework proposal) in advance of the relevant Committee meeting should declare their interest and not vote because they could be considered to have fettered their discretion. In those circumstances a member should not speak and vote as a member of the Planning Committee.

In such cases the member has been excluded not because of the code but because the member's previous actions have fettered his/her discretion and possibly laid the Council open to the objection that the planning process has been tainted.

4. To avoid impressions of improper influence which lobbying by members can create:
  - Members should avoid organising support for or opposition to a planning matter to be determined by the District Council, and should not lobby members of the Planning Committee - such actions can easily be misunderstood by parties to the application and by the general public;
  - Members should not put pressure on officers for a particular recommendation;
  - political group meetings should not discuss planning application matters;
  - members should not act as agents or advocates for planning applications or any other applications, enforcement cases or Local Development Framework proposals to be determined by the District Council. Where a member is involved in a particular planning matter, she/he should take care not to appear to try to influence other members, and should declare an interest at the relevant Committee meeting;
  - whenever a member is approached or lobbied on any particular application that member should distribute a standard acknowledgement letter/postcard which makes clear the neutral stance which members need to adopt to remain impartial pending consideration of all the material facts at the Committee meeting;
  - Members should not attend private site meetings at the request of the applicant.

### **Decisions contrary to officer recommendations or to Development Plan policies**

5. The proposer of the motion to go against the officers' recommendation, or the Chairman, should state the planning reasons for the proposal before a vote is taken the Ombudsman has said that the reasons should be convincing and be material planning considerations.



6. The Planning or Legal Officer present at the meeting should be given the opportunity to comment upon whether the reasons for the proposal are planning matters and, if an approval is proposed, to recommend appropriate planning conditions.
7. If the decision could be contrary to the Local Development Framework, then the officer should comment on the extent to which the other planning considerations could be seen to override the Local Development Framework, and on whether the decision would be a significant departure from the Plan requiring reference to the Secretary of State.
8. A detailed minute of the Committee's reasons for departing from the recommendation should be taken and a copy placed on the application file; if the decision is contrary to the Local Development Framework, the minute should state that and clearly set out those planning considerations which override the Local Development Framework.
9. If a Committee wishes to amend or add conditions to an approval, then the wording should be decided at the meeting.

#### **Approval of Repeat Applications for Development previously refused**

10. The principles which can be distilled from Ombudsman cases are as follows:
  - there is perversity and maladministration, if a Local Planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
  - the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
  - the perversity of approving a planning application, which has been previously refused, where there has been no significant change in the planning circumstances, is maladministration if:
    - insufficient weight has been given to officers' recommendations and Central Government guidance; and
    - there is failure to give and record reasons for the Authority's change of mind.
11. Members are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant change in the planning circumstances.
12. If a Committee is minded to approve an application for development previously refused, the proposer of the motion for approval or the Chairman

should state what the significant change in the planning circumstances justifying approval before a vote is taken.

13. If there is a history of refusals by the Council and Inspectors appointed by the Secretary of State, the proposer of the motion for approval or the Chairman should also state why the Inspector's decision should no longer be followed before a vote is taken.

### **Parish or Town Council Membership**

14. A member of the Planning Committee may also serve as a member of a Town or Parish Council, which makes representations about a planning application to be considered by the Planning Committee. If the member is present at a meeting of the Town or Parish Council (or one of its committees) when the attitude of the Town or Parish Council to the application is under consideration, he or she may take part in the discussion,. He or she may express any view on the application, but should ask for his or her membership of the District Council Planning Committee and the fact that before making any decision at District Council level, he or she will consider all relevant matters, to be recorded.
15. At Planning Committee, any Member who has expressed a view on the merits of an application at a meeting of a Town or Parish Council, should make this known, and should repeat that they will consider all relevant matters before coming to a decision.
16. Although the consultation response from a Parish/Town Council is a relevant consideration, members should not automatically defer to the Parish/Town Council view, because Parish/Town Councils do not have the advice of professional Planning Officers in reaching their decision.

### **The Role of Officers**

17. To ensure that Committees give consideration to the Development Plan and other material considerations, Committee decisions on planning applications, enforcement cases and Local Development Framework proposals will normally be taken only after the Committee has received a written officer report. Written officer reports will reflect the collective view of the Department - not the view of the individual author.
18. Reports should be accurate and should:
  - cover, amongst other things, the substance of objections and the views of people who have been consulted;
  - include reference to relevant material and Local Planning policies and their implications for the case; the site or related history (where relevant) and any other material considerations;

- have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;
  - contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;
  - if the recommendation is contrary to the provisions of the Development Plan, clearly state the material considerations which justify this;
  - describe the purpose and content of any planning agreement or obligation proposed in association with the planning permission...
19. Officers must always act impartially. The Royal Town Planning Institute Code of Conduct says planners:
- shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions;
  - shall act with competence, honesty and integrity;
  - shall fearlessly and impartially exercise their independent professional judgment to the best of their skill and understanding;
  - shall discharge their duty to their employers, clients, colleagues and others with due care and diligence;
  - shall not discriminate on the grounds of race, sex, sexual orientation, creed, religion, disability or age and shall seek to eliminate such discrimination by others and to promote equality of opportunity;
  - shall not bring the profession or the Royal Town Planning Institute into disrepute.
20. These guidelines should apply to all Planning Officers. A requirement for staff to act impartially is likely to be a requirement of the statutory employees' code.

### **The Role of Members**

21. Whilst Members should take account of differing views, they should not favour any person, company, group or locality, nor put themselves in a position where they, appear to do so. Members who do not feel that they can act in this way should consider whether they are best suited to serve on a Planning Committee.
22. The District Council has adopted the new Model Code of Conduct including paragraph 12.2. This means that members who have a prejudicial interest may address the Committee in the same way that members of the public can, and answer any question put to them after which they must leave the room, before any voting takes place. Members may not remain to observe the

meetings consideration even in the public gallery and should not attempt to improperly influence the decision.

23. <sup>11</sup>

### **The Basis for Planning Decisions**

24. It is the responsibility of officers in preparing reports and recommendations to members, and in advising Committees, to identify the material planning considerations and to ensure members are aware of those matters which are not material to planning decisions.

25. Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the Development Plan where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the Development Plan. Section 54A of the Town and Country Planning Act says that planning decisions shall be made in accordance with the Development Plan, unless material considerations indicate otherwise.

26. Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes (PPGs), Regional Planning Guidance, Circulars' and Ministerial announcements;
- planning briefs and other 'supplementary planning guidance' approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;

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<sup>11</sup> Amendment approved by MO Decision 30 April 2020, deleted 7 May 2021

- public proposals for using the same land; and
- legitimate planning gain/community benefit.

27. There is much case law on what are, and are not material planning matters. Planning matters must relate to the use and development of land. For example, the following are not normally planning matters and cannot be taken into account in planning decisions:

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;

- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

## **The Media**

28. The principles of this Code also apply to press contact. Members and officers when commenting to the media on planning matters should:
- have regard to the points made in the section on lobbying;
  - ensure that they do not give the -impression that they have pre-judged the planning application;
  - make clear that members will retain an open mind until such time as the full facts are available and these are debated by the appropriate Committee;
  - for delegated applications, make clear that the Development Control Manager will retain an open mind until such time as the full facts are available and presented for decision.
29. Any officers can provide facts about a planning matter which are in the public domain and available to the media (see guidance note on the Local Government Act 1972). However, the media should be referred to the Development Control Manager for attributable comments.

## **Participation at Planning Committee**

30. The Planning Committee in coming to a decision on a particular planning application, will listen to and take account of representations made by local Town and Parish Councillors, local residents, objectors, applicants, planning agents, and non-Planning Committee District Councillors (in relation to applications in either their ward or adjacent wards) as well as other relevant information.

31. In order to efficiently and effectively manage the business of the Planning Committee and also to give equal opportunity to those people who wish to participate, the following procedure will apply:-
- Local Town or Parish Councillors, objectors, their representatives, applicants, their representatives, planning agents and non-Planning Committee District Councillors will be given five minutes in which to make their representations to the Planning Committee. Where there is more than one participant in a given category for example, where there are two objectors who wish to participate, they will be limited to a maximum of five minutes in total.<sup>12</sup>
  - Local Town and Parish Councillors, objectors, their representatives, applicants, their representatives, and members of the public (either objectors or supporter), planning agents and non- Planning Committee District Councillors or others wishing to participate at Planning Committee must confirm their intention to participate in accordance with the guidance issued by the Council no later than noon on the day before the Planning Committee meeting.<sup>13</sup>
32. The Chairman of the Planning Committee will remind participants of the timescales that apply and will indicate when the timescales have been reached

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<sup>12</sup> Amendment approved by MO Decision 30 April 2020, deleted 7 May 2021

<sup>13</sup> Amendment approved by MO Decision 30 April 2020, deleted 7 May 2021





**CODE 3  
CODE OF CONDUCT  
ON  
LOCAL PLAN PROCESS**

1. All members of the Council with a beneficial interest in land who wish to make proposals about that land or on other matters which affect that land will
  - make such proposals in writing;
  - indicate clearly by delineation on an ordnance survey map or equivalent the precise extent of their beneficial interest in the land.
  
2. If any member of the Council becomes aware of any proposals or expressions of interest in possible proposals for land in which they have a beneficial interest they will
  - not discuss such proposals either directly or indirectly with anyone;
  - direct any such matters to the relevant officers of the Council who will progress the matter in a way which will not leave members open to potentially justifiable accusations of breach of the code of conduct.
  
3. If any member of the Council becomes aware of such proposals or expressions of interest described above relevant to such beneficial interests held by friends, relatives, employers or close associates they will conduct themselves in the manner described above.

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## CODE 4 CODE OF CONDUCT FOR EMPLOYEES

*The present Code of Conduct for Employees is set out in the Employees' Handbook at paragraph 4.1.<sup>1</sup>*

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<sup>1</sup> Amendment approved 26<sup>th</sup> July 2012



# **CODE 5 PROTOCOL FOR MEMBER/OFFICER RELATIONS**

## **1. INTRODUCTION**

- 1.1 The purpose of this protocol is to guide Members and officers of the Council in their dealings with one another to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such dealings, this protocol is not intended to be (and should not be read as) a rigid set of prescriptive rules to be applied in a legalistic way. Rather it is a workable flexible framework, the main principles of which are:
  - the political neutrality of officers and officer support;
  - mutual respect between Members and officers;
  - Acceptance of the different roles responsibilities and accountabilities of Members and officers;
  - confidentiality.
- 1.3 The guidance set out in this document should be interpreted in the light of those principles.
- 1.4 This protocol is largely a written statement of current practice and convention but seeks to promote greater clarity and certainty. If the advice is followed it should also ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members. The Council will thereby benefit as an organisation in terms of its efficiency and effectiveness.

## **2. ROLES OF MEMBERS AND OFFICERS**

- 2.1 Traditionally, the distinction between roles turns on Members being responsible for determining policy whilst officers are responsible and accountable for implementing policy and managing the organisation. Given these roles, officers are expected to work within and pursue Council policies. Equally, Members are not expected to interfere with executive matters that are the responsibility of officers.
- 2.2 Organisational, political and other changes in local government have combined to make it increasingly difficult to define clearly at all times the respective roles of Members and officers. However, the traditional distinction set out in paragraph 2.1, remains a useful benchmark to guide both Members and officers. The former should guard against becoming involved in operational detail whilst the latter must demonstrate commitment

to and should not go beyond the properly formulated policies of the Council irrespective of any personal views.

- 2.3 Legislation provides that specific named officers will be responsible for the discharge of some functions. These functions are set out in the Scheme of Delegation in Part 3 of this Constitution. Whilst officers can act directly without reference to Members, in many cases action will only be taken following consultation with Members. Similarly, portfolio holders will have powers delegated to them either by the Council or by the Leader or the Cabinet where they would wish to consult with officers before exercising those powers.
- 2.4 Officers are accountable to their Corporate Director/Assistant Director<sup>2</sup> from whom they will normally receive their work through the line management structure. There will be occasions when officers receive instructions from a portfolio holder or requests from a Chairman. Officers will routinely liaise with their line managers on their capacity to undertake such tasks. There may be occasions when the Corporate Management Team member or other senior officer reverts to the Member concerned to discuss the impact of new work on existing priorities.
- 2.5 Finally, it must be remembered that officers within a service are accountable to the Chief Executive, or the relevant Corporate Director/Assistant Director<sup>3</sup>. Where officers assist Members they must not, in doing so, go beyond the bounds of whatever authority they have been given.<sup>4</sup>

### **3. RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

- 3.1 Mutual respect between Members and officers is essential to the good running of the Council, particularly, for example, the relationship between portfolio holders and the Corporate Management Team and between a Chairman and officers supporting his/her/their committee/panel. It is important though that such a relationship is open and transparent so that it does not lead to questions about an officer's ability to deal impartially with other Members, including Party Groups. It is equally important that abuse of power or offensive, abusive, intimidating, malicious or otherwise inappropriate behaviour does not taint the relationship.
- 3.2 Decisions on Council business can only be made either by properly constituted Member bodies or by the officers or portfolio holders to whom the decision has been delegated. Outside of

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<sup>2</sup> Amendment approved 26 July 2012 and 26 February 2024

<sup>3</sup> Amendment approved 26 February 2025

<sup>4</sup> Amendment approved 26 July 2012

the scheme of delegation, chairmen, leaders of political groups, party group meetings etc. cannot lawfully make decisions on behalf of the Council.

- 3.3 Members and officers shall not engage in open criticism of each other (for example, in a public forum). It is unlikely to be conducive to good Member/officer working relations and may be damaging to morale within the Council.
- 3.4 Members and officers may consider that criticism is from time to time justified. However, it is generally neither possible nor appropriate for Members or officers to defend themselves in a public forum.
- 3.5 Members will not comment openly or through the media on the conduct of officers and officers will not comment openly or through the media on the conduct of Members. This is particularly applicable to comment in relation to any pending or ongoing complaint or disciplinary process involving a Member or an officer where such comment may be used in the proceedings and may prejudice their outcome.
- 3.6 Members concern about the actions of officers should be directed to the relevant Director concerned or the Chief Executive.<sup>5</sup>
- 3.7 Officers concern about the actions of Members should be referred to the Council's Monitoring Officer or to the Chief Executive.

#### **4. MEMBER DEALINGS WITH THE COUNCIL**

- 4.1 To avoid potentially causing embarrassment to staff, Members dealing with the Council other than in their capacity as a Fenland District Councillor and including as a private individual should normally advise the relevant member of the Corporate Management Team of that fact.
- 4.2 Officers finding themselves in the same situation should similarly advise, as they should when seeking help from a local councillor about an issue not related to their position as an officer of the Council.
- 4.3 The Scheme of Delegation to Officers specifically requires that all applications which are submitted on behalf of a Member of the Council in his/her or her private capacity or by a relative or the partner of a Member will be determined by Planning

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<sup>5</sup> Amendment approved 26 July 2012

Committee Members are asked to draw to the attention of the Chief Planning Officer in writing where this is relevant.<sup>6</sup>

## 5. ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 5.1 Members may approach any Council service to provide them with information, explanation or advice (about that service's functions) as they may reasonably need to assist them to discharge their role as an elected Member. This can range from a request for general information about some aspect of the service delivery to a request for specific information on behalf of a constituent. Such approaches should normally be to the relevant member of the Corporate Management Team or through Member Services.<sup>7</sup>
- 5.2 The legal rights of Members to inspect Council documents are covered partly by statute law and partly by common law.
- 5.3 Members have a statutory right to inspect any Council document *which contains material relating to any business which is to be transacted at Council, Committee or Sub-Committee Meeting*. This right applies irrespective of whether the Member is a member of the particular body and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the "exempt" part of the agenda. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations. Without prejudice to its right to apply the statutory provisions, it is this Council's practice to provide such agenda reports to all Members on request.
- 5.4 The common law right of Members is much broader. It is based on the principle that any Member has a prima facie right to inspect Council documents *so far as his/her or her access to the documents is reasonably necessary to enable the member properly to perform his/her or her duties as a member of the Council*. This principle is commonly referred to as the "need to know" principle.
- 5.5 In most circumstances a Member's "need to know" will be presumed. In other circumstances (for example, a Member wishing to inspect documents that contain personal information about third parties) a Member will normally be expected to justify

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<sup>6</sup> Amendment approved 26 July 2012

<sup>7</sup> Amendment approved 26<sup>th</sup> July 2012



the request in specific terms. Furthermore there will be a range of documents which, because of their nature, are either not accessible by Members or are accessible only by the political group forming the administration. This is particularly relevant in the case of the Cabinet. For example, draft documents compiled in the context of emerging Council policies and draft reports if disclosed prematurely might be against the Council's and the public interest.

- 5.6 The exercise of this common law right depends, therefore, upon the Member's ability to demonstrate the "need to know". In this respect a Member has no right to a roving commission to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". The particular member of the Corporate Management Team will initially determine this. Where a member of the Corporate Management Team is minded to decline to make information available the matter will be dealt with in consultation with the Chief Executive and the Monitoring Officer. In the event of a dispute, the Chief Executive may be asked to review the request for information and the decision taken by the Chief Executive, in consultation with party group leaders, will be final. Members do, of course, have the option to challenge the decision in the courts.
- 5.7 Further and more detailed advice about Members' rights to inspect Council documents may be obtained from the Chief Executive, or the Monitoring Officer.<sup>8</sup>
- 5.8 Finally, any Council information provided to a Member must only be used in connection with the proper performance of the Member's duties as a councillor. This point is emphasised in the Council's, Code of Conduct<sup>9</sup> for Members which is set out elsewhere in this Part of the Constitution.

## **6. OFFICERS AND THE CABINET/PORTFOLIO HOLDERS**

- 6.1 It is the prerogative of the Cabinet to set its own agenda. However, the Chief Executive and the remainder of the Corporate Management Team are the managers of the services. They are responsible for the efficiency and the effectiveness of those services to meet the policy objectives and targets set by the Council. They are also responsible for providing professional advice and are often required by their own professional institution to ensure they provide impartial and independent advice. The Cabinet should not, therefore, operate

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<sup>8</sup> Amendment approved 26 July 2012

<sup>9</sup> Amendment approved 26 July 2012

in such a way that prevents or inhibits the professional responsibilities of its officers.

- 6.2 Before presenting reports to Cabinet, Corporate Management Team shall discuss their content with the relevant portfolio holder and, in the case of the more important issues or “delicate” issues, with the Leader also. Members should be given sufficient time for proper consideration of reports.
- 6.3 Cabinet Members should not seek to unduly influence an officer’s professional advice and the final decision on any changes requested by Cabinet Members to a professional officer’s report will rest with the writer of the report.
- 6.4 Where portfolio holders submit reports to Cabinet, officers should be given sufficient time to undertake the necessary research and internal consultation and be given the opportunity to comment on legality, consistency with Council policy and practice and budgetary and other implications.
- 6.5 Where a portfolio holder in line with his/her/her delegated authority takes a decision, it is the responsibility of the portfolio holder to ensure that the decision is properly recorded. To implement such a decision a portfolio holder may only issue an instruction to a senior officer or an officer so nominated by the relevant member of the Corporate Management Team.
- 6.6 The Cabinet should manage its business in such a way as not to place unsustainable burdens on officer workloads and will discuss resource requirements with relevant officers before making commitments.

**7. OFFICERS AND THE OVERVIEW AND SCRUTINY PANEL, REGULATORY COMMITTEES AND STANDARDS COMMITTEE**

- 7.1 Paragraphs 6.1, 6.2, 6.3 and 6.6 should also be read with reference to the Overview and Scrutiny Panel, Regulatory Committees and the Standards Committee.
- 7.2 In exercising its powers to call an officer to give evidence to it, the Overview and Scrutiny Panel may only call the Chief Executive or other members of the Corporate Management Team. These officers may be accompanied by another officer or, with the agreement of the Chairman of the panel/review team, may be represented by another officer.

## 8. OFFICER ADVICE TO PARTY GROUPS

- 8.1 Officers of all grades are politically impartial in relation to Council business. It is particularly important that party groups recognise this, especially when asking for officer input on any matter.
- 8.2 Where a political group believes its discussions would be helped by officer advice the Group Leader (or other nominated member) should advise the Chief Executive of the subject matter and request officer attendance at a set time and date of a future group meeting. The Chief Executive will arrange for the appropriate officer(s) to attend and advise the Group Leader accordingly.
- 8.3 Officer input in these circumstances will not extend beyond providing input and advice on matters of **Council** business. Officers must not be involved in advising on matters of party business. Officers should not, therefore, be present at party group meetings when matters of party business are to be discussed or when other than Fenland staff or Councillors are present.
- 8.4 Party group meetings cannot make decisions on the part of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and neither officers nor Members must interpret or act on them as such.
- 8.5 Information and advice given by officers to party group meetings is not a substitute for, nor does it preclude, the need for all necessary information and advice to be given to any other Member or any other Member body considering the issue in question.
- 8.6 Confidentiality must be maintained. Officers will not relay the content of any such group meeting to other groups, any other Member or any other external party, nor will group members purport decisions made at those meetings to be Council decisions or to have the backing or otherwise of officers.

## 9. CHAIRMEN'S/MEMBERS' BRIEFINGS

- 9.1 A Chairman who requires a briefing on the published agenda for a meeting should advise the relevant member(s) of Corporate Management Team or the committee officer of such requirement. The Corporate Management Team member(s) shall make appropriate arrangements for all relevant officers to meet and brief the Chairman. It is the Chairman's prerogative to invite any other Member (usually the Vice-Chairman) to be present at the briefing.

- 9.2 Full agenda briefings will not normally be available to other Members but individual Members, or groups of Members, may require information on a specific agenda item. In such cases Members should get in touch with the contact officer on the report or the committee officer who will make arrangements for a briefing by the appropriate officer.

## 10. **PUBLIC MEETINGS AND CONSULTATIONS**

- 10.1 Whenever the Council organises a public meeting to consider any issue, Group Leaders, relevant Portfolio Holders and the local Member(s) will be invited.
- 10.2 Similarly when the Council organises a public consultation exercise on any issues, Group Leaders, Members of relevant Panels/Committees and appropriate local Members will be informed.

## 11. **CORRESPONDENCE (including e-mail)**

- 11.1 Correspondence between an individual Member and an officer should not normally be copied by the officer to any other Member. If, in exceptional circumstances, it is necessary to do so this will be made clear to the original Member.
- 11.2 Official letters sent on behalf of the Council will normally bear the name of the officer concerned and not the Member.
- 11.3 Members are provided with their own letterheads but these are mainly for internal use or in replying to minor issues raised by their constituents.
- 11.4 Occasions where letters are justifiably from a Chairman or from a portfolio holder will be relatively rare and will normally be drafted by or in consultation with the relevant member of Corporate Management Team. Where a Member intends to write and send a letter in his/her/her official Fenland District Council capacity Corporate Management Team /Monitoring Officer will be available to advise on matters of fact and law. A copy of the final draft of the letter should be passed to the relevant officer for record purposes.

## 12. **MEDIA AND PR**

- 12.1 The Council has a protocol on media releases that covers most situations likely to be encountered.
- 12.2 Officers will not, and must not, be asked to prepare or issue press releases on behalf of any individual Member or any party group.

### 13. **COMPLAINTS**

- 13.1 Complaints officers will notify local Members of the receipt of any formal complaint from a constituent or relating to a matter within their ward.<sup>10</sup>

### 14. **CEREMONIAL EVENTS**

- 14.1 The Chairman of the Council, or in his/her/absence the Vice-Chairman of the Council, and the Chief Executive will be the appropriate persons to lead Council events and to represent the Council by invitation at ceremonial events of other organisations.
- 14.2 Where an event is specifically associated with a Cabinet function the Leader of the Council, the appropriate portfolio holder and a member of Corporate Management Team should be invited as a minimum.
- 14.3 Appropriate Panel/Committee Chairmen, or where they are not available, Vice-Chairmen, together with relevant Corporate Management Team members should be invited to ceremonial events within the scope of their panel/committee.
- 14.4 Local Members should always be informed of, and where possible, invited to ceremonial events taking place related to their wards.
- 14.5 Any Member or officer taking part in a ceremonial event must not seek disproportionate personal publicity. A Member should not use the occasions for party political advantage bearing in mind that the Member is representing the Council as a whole.
- 14.6 For this purpose “ceremonial event” is an event where the Council is seeking to promote its public image outside of the normal operating environment. It includes opening ceremonies, VIP visits, formal presentation of awards both to and by the Council, new service initiatives, for example composting and similar activities. It does not include fact-finding visits or seminars etc. where only the Members directly involved with the particular service may, or may not, attend.

### 15. **CIVIL EMERGENCIES**

- 15.1 In an emergency, the community will look to the emergency services and the Council for help in coping with the consequences of the emergency, and to restore normality. In

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<sup>10</sup> Amendment approved 26 July 2012

doing so, this Council will essentially undertake its normal activities in abnormal circumstances.

15.2 The Chief Executive, or such other officer nominated by him/her, is responsible for the organisation and co-ordination of the Council's response.

15.3 The circumstances of any emergency may require action to be taken promptly and without delay. It is, therefore, recognised that:

- action may have to be taken by an officer acting on his/her initiative in the circumstances as understood at any given time, which may go beyond that formally authorised by the Council's scheme of delegation;
- expenditure may have to be incurred as a matter of urgency by the officer in charge;
- there may not always be time in dealing with a major emergency to sustain normal channels of communication and administration.

15.4 A major issue in an emergency, however, is the provision of information and the Council's Emergency Plans contain arrangements for dealing with the media and for providing information to enquirers.

15.5 The Chief Executive will ensure that the Cabinet and relevant local Members are kept informed of the action being taken by the Council and that queries from elected Members are answered.

15.6 Members should use available channels of communication to contact the Chief Executive or his nominated representative for information and should not approach operational officers at the scene of the emergency, for example in rest centres, without prior contact with the officer in charge.

## 16. **NON-ADHERENCE TO THE PROTOCOL**

16.1 Breaches of this protocol by officers should be dealt with under the Council's officer disciplinary procedures.

16.2 Breaches by Members may be referred to the relevant Group Leader or "whip" for the party group to take any action felt to be appropriate. More serious breaches, or breaches by non-party group Members, should be reported to the Chief Executive and

the Monitoring Officer and may be reported to the Council's Conduct Committee.<sup>11</sup>

**17. ADVICE**

- 17.1 Queries from both Members and officers can be referred to the Chief Executive, the Monitoring Officer or the Leader of the Council for advice on the application of this Protocol.

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<sup>11</sup> Amendment approved 26 July 2012





# **CODE 6 PROTOCOL ON OPEN GOVERNMENT**

## **1. INTRODUCTION**

- 1.1 Fenland District Council is committed to ensuring that local people have information easily available to them and to making its work with and on behalf of local people as transparent and open as possible.
- 1.2 The principles on which this protocol are based are that:
- the Council will conduct its business with a presumption in favour of openness and transparency and the spirit of the Freedom of Information Act 2000
  - information is made available if possible in response to all reasonable requests
  - information about the Council and its services is easily available to local people
  - personal privacy and confidentiality is fully respected.

## **THE PROTOCOL**

### **2. ACCESS TO FRONT- LINE COUNCILLORS**

- 2.1 The Council publishes and maintains a list of the names, addresses, email address and other available contact details of all councillors together with the wards they represent and their roles within the council.

### **3. ACCESS TO DECISION MAKING**

- 3.1 The Council publishes and maintains a Forward Plan of decisions in accordance with the Access to Information Procedure Rules to inform local people which key decisions it will be taking and when it intends to take them. The forward plan includes details of consultation the council is conducting, or plans to conduct, and how best representations may be made to influence the decisions before they are taken.
- 3.2 The Council publishes and maintains a list of members of the Cabinet, the membership of decision making committees and the staff management structure, including contact details for the people listed.
- 3.3 The Council publishes and maintains a table showing the responsibilities of the Council, the Cabinet and staff
- 3.4 The Council publishes and maintains a schedule of dates on which there will be meetings of the cabinet or decision making committees.
- 3.5 The Council publishes the agenda for all decision making meetings at least 5 clear working days before the meeting, and all the public reports that are known will be considered at the meeting. The published

agenda includes a description of any items for which there is no public access and an explanation of why the item is to be considered in private.

- 3.6 In determining which reports, if any, are not to be published there is always a presumption in favour of openness and where the reason for non-publication relates to only a part of the report, consideration is given to making publicly available the other parts of the report.
- 3.7 Reports are written in plain language to be understandable by local people.
- 3.8 Documents that have been used in writing a report are listed in the report and available for local people to consult once the report has been published.
- 3.9 The Council seeks to hold meetings at times and in locations that are convenient to local people. Where it is known that large numbers of local people wish to attend a meeting consideration is given to holding the meeting at a location with the capacity to accommodate them.
- 3.10 Where a decision is to be taken that is known to particularly affect any community, the Council always seeks the views of that community before the decision is taken.
- 3.11 Before any meeting reaches a decision it takes into account the representations that have been made and there is an opportunity given for an individual or a representative to address the meeting in accordance with the council procedure rules or right to speak at meetings.
- 3.12 Reasons are given for the decisions that are taken.
- 3.13 A list of the decisions taken at any meeting of the Cabinet is published within three working days of a meeting.
- 3.14 Minutes of meetings are published. Where possible a publicly available minute of any item discussed in private is available. Where this is not possible a summary of items discussed in private is published.

#### **4. ACCESS TO OVERVIEW AND SCRUTINY**

- 4.1 Overview and Scrutiny Panel meetings are conducted in a way that encourages public participation in their work.
- 4.2 The Council publishes and maintains Overview and Scrutiny Procedure Rules and Budget and Policy Framework Procedure Rules which set out how decisions taken but not yet implemented can be reviewed by Overview and Scrutiny Panel. The Council publishes and maintains a list of members of Overview and Scrutiny Panel together with their

contact details to enable local people to seek to persuade them to review issues.

- 4.3 Paragraphs 3.6 to 3.14 apply to the Overview and Scrutiny Panel except for substituting their role for references to decision making.

## **5. ACCESS TO INFORMATION**

- 5.1 The Council has published a Publication Scheme that aims to let everyone know what information it routinely publishes and to continue to open up the relationship between the Council and the public in accordance with the provisions of the Freedom of Information Act 2000.

- 5.2 All letters from the Council clearly show the name, telephone number and email address of the member of staff who can help with the matter.

- 5.3 Members of staff give their names when answering the telephone, and will give their jobs and contact details if asked except in circumstances where it would be inappropriate.

- 5.4 Unless there are good reasons why it should not be disclosed (see paragraph 5.8), local people are given access to information held by the council within 20 days of asking or paying the fee if there is one, or they are told why it will take longer.

- 5.5 Where there is a charge for providing the information this is kept as low as possible.

- 5.6 Paragraph 5.4 above applies to private individuals seeking information for their personal use and possession and not to individuals or organisations seeking information for commercial purposes.

- 5.7 The access given to the information is, if practicable, a copy of it, either on paper or electronically as preferred by the applicant or the opportunity to inspect a record containing the information.

- 5.8 The Council gives reasonable assistance to anyone who is seeking information.

- 5.9 Information will not be provided if it is

- personal information about someone other than the applicant
- information supplied to the Council in confidence by someone other than the applicant and there is no legal obligation on the Council to disclose it

- information that the government or the courts have instructed the Council not to make available, or that the law prohibits the council from disclosing
- intended to be made publicly available in the future
- exempt information as defined in the Access to Information Procedure Rules in the Constitution (for example if it is about individual members of staff, or individual tenants of the Council, or it is legal advice that the Council has been given, or it is about court proceedings to which the Council may be a party, or that would prejudice someone's commercial interests)
- information which if disclosed would, or would be likely to, endanger the safety or physical or mental health of any individual
- communications with Her Majesty, other members of the Royal Family or Household or if it relates to the conferring by the Crown of any honour or dignity
- so expensive to produce that it would not be in the wider public interest to provide it
- an unreasonably repeated or vexatious request, and if refused on these grounds the applicant has the right to have that refusal reviewed by the Director or Deputy Chief Executive
- If a request is made for information that has been classed as exempt in the past, that classification is reviewed to ensure that it still applies, and, if not, the information is disclosed
- If a request for information is refused, the applicant is told why and he/she has the right to have that decision reviewed under the Council's comments and complaints system.

## PART 6

### MEMBERS' ALLOWANCES SCHEME<sup>1</sup>

1. Introduction
2. Basic Allowance
3. Special Responsibility Allowance
4. (Deleted)<sup>2</sup>
5. Dependents' Carers' Allowance
- 5a. Parental Leave
6. Travelling and Subsistence Allowances
7. Co-optees' Allowance
8. Foregoing Allowances
9. Withholding Allowances
10. Part Year Entitlements
11. Claims and Payments
12. Equipment and Consumables
13. Updating
14. Independent Remuneration Panel
15. Publicity

#### Schedule of allowances

1. Members' Allowances
2. Subsistence Allowances
3. Travelling Allowances
4. Overnight Subsistence

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<sup>1</sup> Scheme initially approved 8 November 2007 – significant amendments to scheme approved 3 November 2011, 5 November 2015, 4 November 2019, 19 May 2021 and 11 December 2023

<sup>2</sup> Deletion approved 5 November 2015

## MEMBERS' ALLOWANCES SCHEME

### 1. INTRODUCTION

#### 1.1 This Scheme

- (a) will be known as the Fenland District Council Scheme and shall have effect from 1<sup>st</sup> April 2023<sup>3</sup>. At its meeting on 11 December 2023<sup>4</sup>, the Council adopted a scheme based upon the recommendations of an Independent Remuneration Panel.
- (b) has been prepared in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003.

#### 1.2 In this Scheme

- (a) "Councillor" means an elected member of Fenland District Council.
- (b) "Leader of the Council" means the councillor appointed by the Council to fill that office.
- (c) [Deleted]<sup>5</sup>
- (d) "Opposition Group Leader" means the councillor notified to the Chief Executive as the councillor elected as leader of the political groups established under the provisions of the Local Government and Housing Act 1989 and subsequent regulations.
- (e) "Main Opposition Group Leader" means the Opposition Group Leader of the largest opposition group. For the purposes of this scheme no Main Opposition Group Leader Allowance will be paid to a group of less than 5 members
- (f) "Cabinet Member" or <sup>6</sup>2(ii) "Portfolio Holder" means a councillor appointed by the Leader as a member of the Cabinet in accordance with the Council's Constitution <sup>2(ii)</sup>
- (g) Deleted<sup>7</sup>
- (h) Deleted<sup>8</sup>

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<sup>3</sup> Approved 5 November 2015, amended 19 May 2021 and 11 December 2023

<sup>4</sup> Approved 5 November 2015, amended 19 May 2021 and 11 December 2023

<sup>5</sup> Approved 24 July 2014

<sup>6</sup> Amendment and subsequent deletion approved 5 November 2015

<sup>7</sup> Deletion approved 5 November 2015

<sup>8</sup> Deletion approved 5 November 2015

(i) "Year" means the twelve months ending with 31 March.

## 2. BASIC ALLOWANCE

- 2.1 For each year a basic, flat rate allowance shall be paid to each councillor, the level of the allowance being specified in the schedule to this scheme.
- 2.2 The basic allowance is designed to contribute towards expenses occurred as a result of undertaking Council business – such as the use of a home telephone and internet access and other semi-official activities carried out by councillors. This allowance is not intended to recompense councillors for all the time that they devote to Council business. It is assumed that some elements of the work of councillors are undertaken on a voluntary basis.

## 3. SPECIAL RESPONSIBILITY ALLOWANCE

- 3.1 For each year a special responsibility allowance shall be paid to those councillors who hold special responsibilities outlined within the Schedule of Allowances.
- 3.2 The amount of each such allowance shall be that specified in the schedule to this scheme.<sup>9</sup>
- 3.3 A councillor may receive no more than one<sup>10</sup> special responsibility allowance at any one time, with the exception of the allowance to Planning Committee members and the allowance to members of the Combined Authority.<sup>11</sup>
- 3.4 In considering the Allowances for Opposition Group Leaders, the Main Opposition Group Leader Allowance will be given to the Leader of the largest group, of 5 members or more. Any other opposition group leaders will receive the Other Opposition Allowance regardless of the size of the group. In the event there are two or more equal sized opposition groups each having 5 or more members then they will all receive the Main Opposition Group Leader Allowance. In the event there are two or more Other Opposition Group Leaders then they will all receive the Other Opposition Group Leader Allowance.<sup>12</sup>

## 4. Deleted<sup>13</sup>

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<sup>9</sup> Deletion approved 5 November 2015

<sup>10</sup> Amendment approved 5 November 2015

<sup>11</sup> Amendment approved 4 November 2019 and 11 December 2023.

<sup>12</sup> Amendment approved 4 November 2019

<sup>13</sup> Deletion approved 5 November 2015

## 5. **DEPENDENTS' CARERS' ALLOWANCE**

### 5.1 **Child Care**

The scheme provides for reimbursement of expenditure incurred by councillors in providing child care arrangements to facilitate their attendance at approved duties of the Council.<sup>14</sup>

### 5.2 **Care of Dependants**

The reimbursement of expenditure on professional care for an elderly, sick or disabled dependent relative normally residing with the councillor and requiring constant care.<sup>15</sup>

### 5.3 **General Conditions**

The following conditions will apply to both types of allowance:

- payments are made on the basis of reimbursement of actual hourly rate expenditure incurred for each hour of a councillor's absence from home and are subject to the production by the councilor of satisfactory receipts
- councillors to self-certify claims confirming that they have incurred expenditure in accordance with the scheme
- that qualifying meetings be restricted to those regarded as approved duties in the Council's scheme (see 6 below).
- Individual arrangements can be made with the Council via the Leader of the Council and Monitoring Officer for flexible financial arrangements for Dependents' Carers' Allowance which would not exceed the payments made under the current criteria, reflecting the individualizing of social care packages nationally.<sup>3</sup>

## 5A. **PARENTAL LEAVE<sup>16</sup>**

5A.1 All councillors shall continue to receive their Basic Allowance in full for a period up to six months in the case of absence from their councillor duties due to leave relating to maternity, paternity, adoption, shared parental leave or sickness absence.

5A.2 Councillors entitled to a Special Responsibility Allowance shall

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<sup>14</sup> Amendment approved 4 November 2019

<sup>15</sup> Amendment approved 4 November 2019

<sup>16</sup> Addition approved 11 December 2023



continue to receive their allowance in full for a period of six months, in the case of absence from their councillor duties due to leave relating to maternity, paternity, adoption, shared parental leave or sickness absence.

5A.3 Where for reasons connected with sickness, maternity leave, adoption leave, paternity leave or shared parental leave a councillor is unable to attend a meeting of the Council for a period of six months, a dispensation by Council can be sought in accordance with Section 85 of the Local Government Act 1972.

5A.4 If a replacement to cover the period of absence under these provisions is appointed by Council or the Leader (or in the case of a party group position the party group) the replacement shall be entitled to claim a Special Responsibility Allowance pro rata for the period over which the cover is provided.

## 6. TRAVELLING AND SUBSISTENCE ALLOWANCES

6.1 Subject to the provisions set out in the attached schedule, travelling and subsistence allowances shall be paid to those councillors attending meetings in respect of the following duties:

- A meeting of the Cabinet or any committee of the Cabinet
- A meeting of the Council or a committee, sub-committee or other body of the Council (for which proper notice is given)
- A meeting held under joint arrangements with another authority (for which proper notice is given)
- Training and induction courses, seminars and conferences
- Planning Committee Site Inspection visits (subject to compliance with site inspection visit rules)<sup>17</sup>
- For the Chairman of Planning Committee to visit sites in his consideration of whether a proposed refusal under delegated powers should be referred to Planning Committee<sup>18</sup>
- Formal meetings of outside bodies as a representative of the Council
- Undertaking civic duties as Chairman or Vice-Chairman of the Council
- Any other duty which has been approved by the Chief Executive.

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<sup>17</sup> Amendment approved 11 December 2023

<sup>18</sup> Addition approved 11 December 2023

6.2 All claims for travel expenses and subsistence should be made on the appropriate claim form and backed by receipts as applicable.

6.3 Mileage can only be claimed from Councillors normal place of residence or at a meeting on Council business to which the Councillor travelled from home<sup>19</sup>. Mileage can only be claimed for journeys undertaken wholly and exclusively in pursuance of Council duties as set out in 6.1.

## **7. CO-OPTEEES' ALLOWANCE**

7.1 The Town and Parish Council representatives<sup>20</sup> of the Council's Conduct<sup>21</sup> Committee shall each be paid an annual co-optees' allowance, at the rate specified in the schedule to this scheme.

7.2 Those persons in receipt of a co-optees' allowance from this Council shall be entitled to claim travelling and subsistence allowances where appropriate.

## **8. INDEPENDENT PERSON AND DEPUTY INDEPENDENT PERSON<sup>22</sup>**

8.1 The Independent Person and Deputy Independent Person of the Council's Conduct Committee shall be paid an annual allowance at the rate specified in the schedule to this scheme, which will be updated in line with the employees pay award.

8.2 Those persons in receipt of this allowance shall be entitled to claim travelling and subsistence in accordance with the terms set out in Section 6.

## **9. FOREGOING ALLOWANCES**

9.1 A councillor may, by notice given in writing to the Chief Executive, elect to forgo all or any part of his/her entitlement to an allowance under this scheme.

## **10. WITHHOLDING ALLOWANCES**

10.1 Where a councillor is suspended or partially suspended from his/her duties and responsibilities as a member of the Council, the relevant allowances (eg basic; special responsibility; travelling and subsistence) normally payable to him/her will be

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<sup>19</sup> Amendment approved 4 November 2019

<sup>20</sup> Amendment approved 5 November 2015

<sup>21</sup> Amendment approved 5 November 2015

<sup>22</sup> Amendment approved 4 November 2019

withheld by the authority for the duration of the suspension period.

## 11. **PART YEAR ENTITLEMENTS**

11.1 If the term of office or duty undertaken by a councillor begins or ends part way through a municipal year or amendment of the scheme during a municipal year or changes to the councillor's responsibilities during the year results in changes in the amount to which a councillor is entitled, calculation of the allowance payable shall be on a pro-rata basis having regard to the proportion that the term of office, period of duty or relevant periods of the scheme bear to the municipal year in which they occur.

## 12. **CLAIMS AND PAYMENTS**

12.1 Payment of the basic and special responsibility allowances and the co-optees' allowance and Independent Person/Deputy Independent Person allowance<sup>23</sup> shall be made in twelve equal monthly instalments on or around 26th day of each month, subject to the arrangements for part year payment provisions set out above.

12.2 Claims for dependents' carers' and travelling and subsistence allowances under this scheme will need to be submitted in writing (using the prescribed claim form) to Member Services within one month at the end of each financial quarter (June, September, December, March) to which the claim relates.

12.3 Where a member of Fenland District Council is also a member of another local authority, (s)he shall not receive allowances from more than one authority in respect of the same duties.

## 13. **MEMBERS' ICT<sup>24</sup>**

13.1 That the ICT Team publish a recommended preferred standard build of personal computers/tablet devices, which best support the Council's software, to help members make an informed choice regarding future computer/tablet purchases and meaningful support is provided to members to enable them to fulfil their role including the effective use of ICT.

13.2 A loan scheme is provided to enable members to purchase the Council's recommended standard build IT equipment necessary

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<sup>23</sup> Amendment approved 5 November 2015

<sup>24</sup> Amendment approved 4 November 2019

to fulfil their role. The costs to be deducted direct from the Basic Allowance.

13.3 The ICT team provide members with the option to purchase recommended equipment directly via them to ensure members are able to purchase equipment at a preferential rate which is available as a result of economies of scale.

13.4 IT equipment and other consumables to enable members to fulfil their role are to be met from the Basic Allowance.

#### 14. **UPDATING**

14.1 The Basic Allowances, Special Responsibility Allowances and the Independent Person and Deputy Independent Person Allowance be increased annually in line with the percentage increase in staff salaries where all staff are awarded a universal percentage increase. In instances where staff are awarded a lump sum payment or variation of lump sum and percentage increase then members allowances will be linked to what the lump sum increase represented in terms of median percentage increase to all locally determined pay points above the maximum of pay spine but graded below deputy chief officer. The annual increase to take place in this manner from April 2023 for a period of up to four years.<sup>25</sup>

14.2 The allowances specified in respect of mileage claims will be linked to changes in the approved rates issued by HM Revenue and Customs from time to time.

#### 15. **INDEPENDENT REMUNERATION PANEL**

15.1 An Independent Remuneration Panel has been established in accordance with the 2003 Regulations to produce reports making recommendations in respect of this allowances scheme and the Council must have regard to the recommendations of the panel in respect of allowances to be paid to councillors.

15.2 The scheme will be reviewed by the Independent Remuneration Panel on a periodic basis, with the next review being no later than December 2027 <sup>26</sup>.

15.3 Deleted <sup>27</sup>10

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<sup>25</sup> Amendment approved 4 November 2019 and 11 December 2023

<sup>26</sup> Amendment approved 4 November 2019, amended 19 May 2021 and 11 December 2023

<sup>27</sup> Deletion approved 5 November 2015

## 16. PUBLICITY

- 16.1 The Council, as soon as reasonably practicable after determining a scheme of allowances, will ensure that copies of the scheme are available for inspection and publicised in accordance with the 2003 Regulations.
- 16.2 As soon as reasonably practicable, in each year, the Council will publish in its area the total sum paid to each councillor in respect of basic, special responsibility, travelling and subsistence and dependents' carers' allowances together with the amounts of co-optees' and travelling and subsistence allowances paid to each<sup>28</sup> Member.

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<sup>28</sup> Deletion approved 5 November 2015

## SCHEDULE OF ALLOWANCES

The following allowances are applicable with effect from 1 April 2023<sup>29</sup>:

### 1. MEMBERS' ALLOWANCES

#### (i) Basic Allowance

Payable to all members £5,304 p.a.<sup>30</sup>.

#### (ii) Special Responsibility Allowance

Payable to the following post holders:

Leader of the Council	£18,654 p.a. <sup>31</sup>
Cabinet Member	£9,282p.a. <sup>32</sup> .
Chairman of Overview and Scrutiny Panel	£7,426 p.a. <sup>33</sup> .
Chairman of Planning Committee	£7,426 p.a. <sup>34</sup>
Vice-Chairman of Planning Committee	£2,122 p.a. <sup>35</sup> .
Members of Planning Committee	£523 p.a. <sup>36</sup>
Substitute Members of Planning Committee	£105 p.a. <sup>37</sup>
Chairman of Licensing Committee	£3,448 p.a. <sup>38</sup>
Chairman of Conduct Committee <sup>39</sup>	£1,856 p.a. <sup>40</sup>
Chairman of Audit and Risk Management Committee <sup>41</sup>	£1,856 p.a. <sup>42</sup>
Vice-Chairman of Audit and Risk Management Committee <sup>43</sup>	£0 p.a. <sup>44</sup>
Chairman of Employment Committee	£1,856 p.a. <sup>45</sup>
Chairman of Culture, Arts & Heritage Executive Advisory Committee	£1,856 p.a. <sup>46</sup>
Chairman of Rural & Farming Executive Advisory Group	£1,856 p.a. <sup>47</sup>
Chairman of Council **	£4,455 p.a. <sup>48</sup>
Leader of the Main Opposition Group	£6,365 p.a. <sup>49</sup>
Leader of other Opposition Groups	£2,122 p.a. <sup>50</sup>
Combined Authority Board Member	£6,126 p.a. <sup>51</sup>
Combined Authority Substitute Board Member	£1,225 p.a. <sup>52</sup>
Combined Authority Committee Members	£1,225 p.a. <sup>53</sup>

<sup>29</sup> Amendment approved 4 November 2019, 19 May 2021 and 11 December 2023

<sup>30</sup> Amendment approved 19 May 2021 and 11 December 2023

<sup>31</sup> Amendment approved 19 May 2021 and 11 December 2023

<sup>32</sup> Amendment approved 19 May 2021 and 11 December 2023

<sup>33</sup> Amendment approved 4 November 2019, 19 May 2021 and 11 December 2023

<sup>34</sup> Amendment approved 4 November 2019, 19 May 2021 and 11 December 2023

<sup>35</sup> Amendment approved 11 December 2023

<sup>36</sup> Amendment approved 4 November 2019 and 19 May 2021

<sup>37</sup> Amendment approved 4 November 2019 and 19 May 2021

<sup>38</sup> Amendment approved 19 May 2021 and 11 December 2023

<sup>39</sup> Amendment approved 26 July 2012

<sup>40</sup> Amendment approved 19 May 2021 and 11 December 2023

<sup>41</sup> Amendment approved 14 December 2020

<sup>42</sup> Amendment approved 19 May 2021

<sup>43</sup> Amendment approved 14 December 2020, Deletion approved 11 December 2023

<sup>44</sup> Amendment approved 19 May 2021, Deletion approved 11 December 2023

<sup>45</sup> Addition approved 11 December 2023

<sup>46</sup> Addition approved 11 December 2023

<sup>47</sup> Addition approved 11 December 2023

<sup>48</sup> Amendment approved 19 May 2021 and 11 December 2023

<sup>49</sup> Amendment approved 19 May 2021 and 11 December 2023

<sup>50</sup> Amendment approved 19 May 2021 and 11 December 2023

<sup>51</sup> Addition approved 11 December 2023

<sup>52</sup> Addition approved 11 December 2023

\*\* payable in addition to the “Civic Dignitaries” allowance paid under the provisions of the Local Government Act 1972 (see (vi) overleaf)

DELETION .<sup>54</sup>

(iii) **Dependents’ Carers’ Allowance**

Payable at actual cost per hour for care of dependents whether children, elderly or people with disabilities, while a member is on Council business.

Individual arrangements can be made with the Council via the Leader of the Council and Monitoring Officer for flexible financial arrangements for Dependents’ Carers’ Allowance which would not exceed the payments under the current criteria, reflecting the individualising of social care packages nationally<sup>55</sup>.

(iv) **Independent Persons Allowance**<sup>56</sup>

Payable to Independent Person advising the Conduct Committee - £1061\* p.a.<sup>57</sup> and for the Deputy Independent Person £530 \*p.a. <sup>58</sup>

(v) **Co-Optees Allowance**<sup>59</sup>

Payable to Town/Parish Council co-optees of the Conduct Committee - £142 p.a.

(vi) **Other Allowances – for information**

The following are paid pursuant to the Local Government Act 1972 (approved by the Council at each annual meeting):

* Chairman of the Council	£4,116 p.a. (for 2023/24)
* Vice-Chairman of the Council	£1,000 p.a. (for 2023/24). <sup>60</sup>

## 2. **SUBSISTENCE ALLOWANCES**

For approved duties both inside and outside the District the following rates apply:

- |  |       |
|--|-------|
| (i) Breakfast allowance<br>(where away from normal place of residence between 6:30am and 10am) | £6.06 |
| (ii) Lunch allowance<br>(more than 4 hours away from normal place of residence including       | £8.43 |

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<sup>53</sup> Addition approved 11 December 2023

<sup>54</sup> Deletion approved 5 November 2015

<sup>55</sup> Amendment approved 5 November 2015

<sup>56</sup> Amendment approved 26 July 2012

<sup>57</sup> Amendment approved 19 May 2021 and 11 December 2023

<sup>58</sup> Amendment approved 26 July 2012, 19 May 2021 and 11 December 2023

<sup>59</sup> Amendment approved 4 November 2019

<sup>60</sup> Amendment approved 5 November 2015

- the lunchtime between 12 noon and 2.00 pm)
- (iii) Evening meal allowance  
(more than 4 hours away from normal place of residence ending after 7.30 pm) £12.50

Any claim for subsistence allowance must be backed by a receipt for food or drinks consumed during the relevant meal period. No claim may be made in relation to any meal period for which the council or any other body hosting a meeting has provided refreshments.

In exceptional circumstances the Leader will consider and determine any variation from the subsistence allowances for Members. For members of opposition groups this will be in consultation with the relevant group leader. Where the Leader is concerned, the Chief Executive or Chief Finance Officer will consider any variation from the subsistence allowances.

### 3. TRAVELLING ALLOWANCES

#### (i) Motor Mileage Allowance

The rate for motor cars is 45p per mile for the first 10,000 miles of travel and thereafter in accordance with HMRC rates.<sup>61</sup>

Passenger Supplement - for passengers, not exceeding 4, a supplement of 5.0 pence per mile for each passenger carried.

#### (ii) Motorcycle Allowance

The rate for motorcycles is 24p per mile.

#### (iii) Bicycle Allowance

The rate for bicycles is 20p per mile.

#### (iv) Public Transport

For most forms of public transport and the use of taxicabs, the actual cost will be reimbursed on production of a receipt. In the case of train journeys, a "rail warrant" will normally be provided by the Council for standard (or second class) fare travel only.

First Class travel is only permitted when the price of the ticket is less than or equal to a Standard Class fare. If a Member wishes to travel First Class, the difference between a First Class and Standard Class fare can be paid by the Member at their own personal expense.

In exceptional circumstances the Leader will consider and determine any requests for first class travel expenses for Members. For members of opposition groups this will be in consultation with the relevant group leader. Where the Leader is concerned, the Chief Executive or Chief Finance Officer will consider any appropriate first class travel expenses.

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<sup>61</sup> Such rate to be implemented from and including the 18 May 2011.



In the event that a councillor hires a motor vehicle (other than a taxicab) they shall only be entitled to claim the standard mileage rate for the distance travelled irrespective of the cost of hire; unless such hire has been approved in advance by the Corporate Director/Assistant Director<sup>62</sup>/Chief Finance Officer in which case the actual cost of hire and fuel may be claimed.

The rate for travel by air shall not exceed the rate applicable to travel by appropriate alternative means of transport together with an allowance equivalent to the amount of any saving in subsistence allowance consequent on travel by air:

provided that where the body resolves, either generally or specifically, that the saving in time is so substantial as to justify payment of the fare for travel by air, there may be paid an amount not exceeding:

- (a) the ordinary fare or any available cheap fare for travel by regular air service, or
- (b) where no such service is available or in case of urgency, the fare actually paid by the member.

This rate applies if travel results in a substantial saving of the member's time or is in the interests of the body or is otherwise reasonable.

#### 4. **OVERNIGHT SUBSISTENCE**

Members will be expected to book all overnight accommodation in advance through member services, however if this is not possible then the actual cost of accommodation up to the following values will be recoverable on production of receipts.

Allowance for absence overnight from the usual place of residence	£92.14
Allowance for such absence in London (within specified London Boroughs) or for attendance at the annual conference of the Local Government Association	£105.09

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<sup>62</sup> Amendment approved 26 February 2024

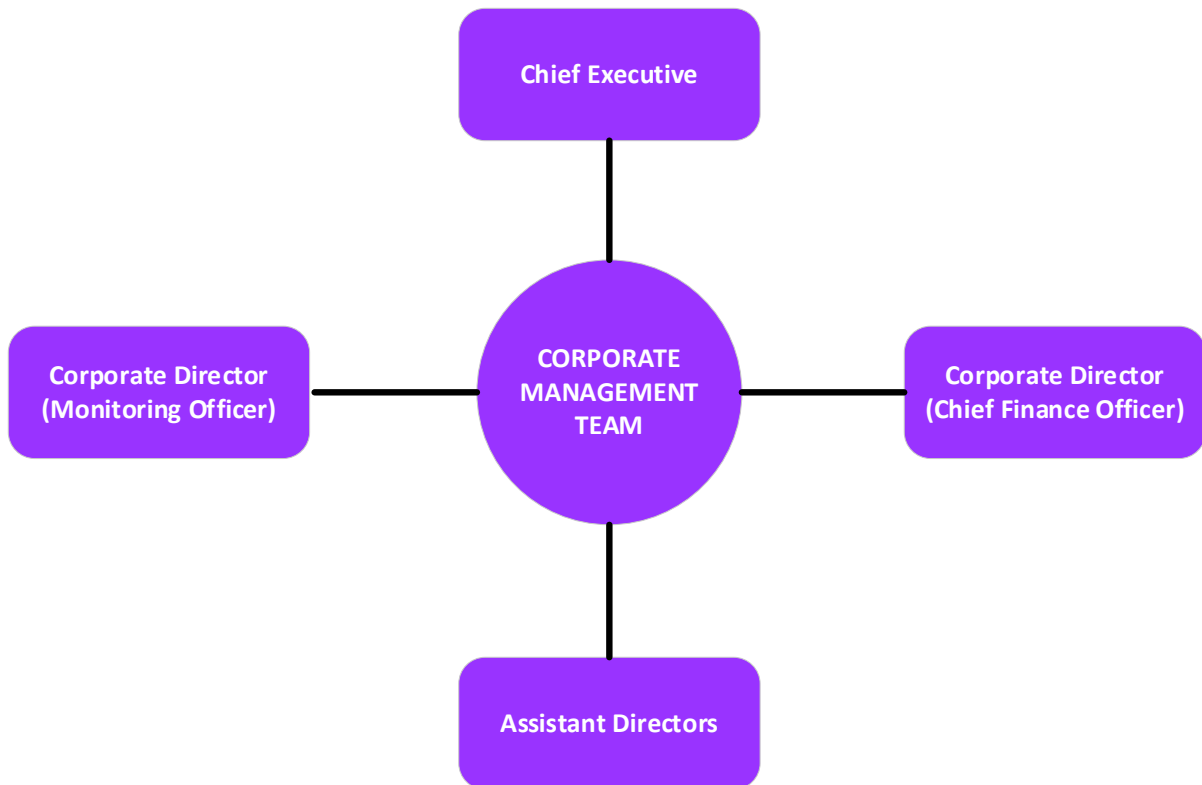
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**PART 7**

**MANAGEMENT STRUCTURE**

# MANAGEMENT STRUCTURE<sup>1</sup>

Corporate Management Team Shall be:



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<sup>1</sup> Amendment made 23 May 2019 and 26 February 2024