# PART 4: RULES OF PROCEDURE

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**RULES OF PROCEDURE**

**COUNCIL PROCEDURE RULES**

## 1. ANNUAL MEETING OF THE COUNCIL

### 1.1 Management of Business at Annual Meetings of Council

As set out in paragraphs 1.2 and 1.3 below:

a) Part 1 of the Annual Meeting shall deal with Mayor-making; and Part 2 shall deal with selection matters including the election of the Leader of the Council (when required) and the appointment of Committee Chairs.

b) Parts 1 and 2 of the Annual Meeting will usually be held on separate days and in consecutive order. If they are held on the same day, then they should be separate and distinct meetings, with a clear break between the meetings.

### 1.2 Timing and business

Both Parts of the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors.

At the Annual Meeting the Council shall:

a) elect a person to preside if the retiring Mayor and Deputy Mayor are not present;

b) elect the Mayor in accordance with Mayoral protocols; and

c) elect the Deputy Mayor.

### 1.3 Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, the Council shall also:

a) approve the minutes of the previous meeting;

b) receive any announcements from the Mayor and/or the Chief Executive;

c) elect the Leader for a four year term of office, when required;

d) receive details of Cabinet Members appointed by the Leader, and their portfolios;

e) 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);

f) confirm the allocation of seats to political groups in accordance with the political balance rules;

g) review the size of Committees when required;

h) appoint Councillors to serve on Committees for the Council year in accordance with the expressed wishes of political groups, together with standing panels of substitute members;

i) elect the Chairs of Committees for the Council year subject to paragraph 4 of the Committee Procedure Rules. Where more than one Councillor is proposed, election will be by show of hands, or if requested by a recorded vote;

j) make appointments of Councillors to outside bodies except where the appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet; and

k) consider any other business set out in the agenda convening the meeting.

## 2. ORDINARY MEETINGS

The order of business at Ordinary Meetings will be as follows:

a) to elect a person to preside at the meeting if the Mayor and Deputy Mayor are absent;

b) to receive any declarations of interest from Councillors;

c) to approve the minutes of the previous meeting;

d) to receive any announcements from the Mayor, the Leader of the Council and Chief Executive;

e) to receive and respond to any questions from the public;

f) to receive petitions;

g) to receive any resignations and make any necessary appointments (including that of Leader if a vacancy has arisen);

h) to dispose of any business remaining from the previous meeting;

i) to receive and consider recommendations to Full Council from the Cabinet and from Committees;

j) to consider reports and recommendations from Officers;

k) to consider Notices of Motion;

l) to deal with questions from Councillors;

m) to deal with questions to the Cabinet and/or Chairs of the Overview and Scrutiny Committees and other Committees on the minutes of their previous meetings since the last council meeting. A table showing the details of previous meetings will be included in the Agenda to support this; and

n) to consider any urgent business.

The order of business may be varied by the Mayor

## 3. EXTRAORDINARY MEETINGS

### 3.1 Calling Extraordinary Meetings

The Chief Executive may call Council meetings in addition to scheduled meetings after consultation with the Mayor if there is urgent business to transact. In addition, those listed below may request the Chief Executive to call additional Council meetings:

a) the Council by resolution;

b) the Mayor;

c) the Section 151 Officer;

d) the Monitoring Officer;

e) any five Councillors if they have signed a requisition presented to the Mayor and s/he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

The nature of the business to be considered must be contained in the request to hold an Extraordinary Meeting.

### 3.2 Business

The business to be conducted at an Extraordinary Meeting shall be restricted to the items of business contained in the request for the Extraordinary Meeting and there shall be no consideration of previous minutes or reports from Committees etc. except that the Mayor may at his/her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

## 4. DATE, TIME, PLACE AND DURATION OF MEETINGS

### 4.1 Date, Time and Place of Meetings

The date, time and place of meetings will be determined by the Council annually or by the Chief Executive in consultation with the Mayor and notified in the agenda. (Meetings will usually be held in the Council Chamber on a Thursday, starting at 6.30pm.)

### 4.2 Duration of Meetings

a) At an Ordinary Meeting of the Council, when three hours have elapsed after the commencement of the meeting, the Mayor shall request a vote on whether the meeting should adjourn at a convenient point. Thereafter the Mayor may request a further vote on whether the meeting should continue, provided that the meeting shall not normally continue beyond 11 pm.

b) Where a meeting is adjourned, the remaining business on the agenda will be considered at a time and date fixed by the Mayor or if no date is fixed it will be carried forward to the next Ordinary Meeting of the Council.

## 5. NOTICE OF MEETINGS

The Chief Executive will give notice to the public of the date, time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Chief Executive will send a summons and agenda signed by him/her to every Councillor. The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by the reports.

## 6. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the Mayor.

## 7. QUORUM

The quorum for a meeting will be one-third of the whole number of Councillors. During any meeting if the Mayor counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. The remaining business will be considered at a time and date fixed by the Mayor. If s/he does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

## 8. RULES OF DEBATE

The Rules of Debate shall apply to all matters put before the Council by motions for debate or recommendations for adoption, except that rule 14 shall apply to Motions on Notice.

### 8.1 Speaking at Meetings

When a Councillor speaks at Full Council s/he must stand and address the meeting through the Mayor. If more than one Councillor signifies his/her intention to speak, the Mayor will ask one to speak. Other Councillors must remain silent whilst a Councillor is speaking unless they wish to make a point of order or a point of personal explanation.

### 8.2 Mayor speaking

When the Mayor speaks during a debate, any Councillor speaking at the time must stop.

### 8.3 No speeches until Motion formally 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.

### 8.4 Right to require Motion in writing

Unless notice of the Motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

### 8.5 Seconder's speech

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

### 8.6 Content and length of speeches

a) Speeches must be directed to the question under discussion or to a point of personal explanation or a point of order.

b) A speech by the mover of a Motion may not exceed five minutes without the consent of the Mayor.

c) Subject to paragraph d) below, speeches by other Councillors may not exceed five minutes without the consent of the Mayor.

d) When the Council's annual budget is under discussion, the Leader of the Council and the Leader of each of the other political groups on the Council may speak for an unlimited period, sequentially at the beginning of the meeting.

## 8.7 When a Councillor may speak again

A Councillor 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 Councillor;

b) to move a further amendment if the Motion has been amended since s/he last spoke;

c) if his/her first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which s/he spoke was carried);

d) in exercise of a right of reply in order to sum up;

e) on a point of order;

f) by way of a point of personal explanation; and

g) a question relating to the conduct of the meeting.

## 8.8 Amendments to Motions

a) An amendment to a Motion must be relevant to the Motion and will either be:

i. to refer the matter to an appropriate body or individual for consideration or reconsideration;

ii. to leave out words;

iii. to leave out words and insert or add others; or

iv. to insert or add words

as long as the effect of ii) to iv) is not to negate the Motion.

b) Only one amendment may be moved and discussed at any one time.

c) No further amendment may be moved until the amendment under discussion has been disposed of.

d) If an amendment is not carried, other amendments to the original Motion may be moved.

e) 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.

f) After an amendment has been carried, the Mayor or Chief Executive will read out the amended Motion before accepting any further amendments, or if there are none, put it to the vote after any further debate.

g) The ruling of the Mayor on whether an amendment satisfies the requirements of paragraph 8.8 a) will be final. To assist the Mayor in this respect, notice of amendments should, where possible, be given in writing to the Chief Executive before the start of the meeting.

h) An amendment to a Motion on Notice must be agreed by the mover and seconder.

**8.9 Alteration of Motion**

a) A Councillor may alter a Motion of which s/he has given notice provided it does not change its substance.

b) A Councillor may alter a Motion which s/he has moved without notice with the consent of the seconder.

c) Only alterations which could be made as an amendment may be made.

**8.10 Withdrawal of Motion**

A Councillor may withdraw a Motion which s/he has moved with the consent of the seconder. No Councillor may speak on the Motion after the Mover has withdrawn it.

**8.11 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, the mover of the original Motion may speak on the amendment.

c) The mover of the amendment has a right of reply to the debate on the amendment, immediately before it is put to the vote.

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

When a Motion is under debate, no other Motion may be moved except the following Procedural Motions:

a) to withdraw a Motion;

b) to amend a Motion;

c) to proceed to next business;

d) that the question be now put;

e) to adjourn a debate,

f) to adjourn a meeting;

g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and

h) to not hear further a Councillor named under rule 19.1 or to exclude him/her from the meeting under rule 19.2.

**8.13 Closure Motions**

a) A Councillor may move, without comment, the following Motions at the end of a speech of another Councillor:

i. to proceed to next business; or

ii. that the question be now put; or

iii. to adjourn a debate; or

iv. to adjourn a meeting.

b) If a Motion to proceed to next business is seconded, and the Mayor thinks that the item has been sufficiently discussed, s/he will give the mover of the original Motion a right of reply to the debate and then put the Procedural Motion to the vote. If the vote is carried the item will be considered terminated or lost.

c) If a Motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, s/he will put the Procedural Motion to the vote. If it is passed s/he will give the mover of the original Motion a 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 Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, s/he will put the Procedural Motion to the vote without giving the mover of the original Motion the right of reply.

**8.14 Point of Order**

A point of order is a request from a Councillor to the Mayor to rule on an alleged irregularity in the procedure of the meeting. A Councillor may raise a point of order at any time. The Mayor will hear it immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure, or the law. The Councillor must indicate the breach of these Rules of Procedure or rule of law and the way in which s/he considers it they have been broken. The ruling of the Mayor on the matter will be final.

### 8.15 Personal Explanation

A Councillor may make a point of personal explanation at any time. A point of personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The fact that a Councillor has been named in debate will not in itself be accepted as a reason for allowing a point of personal explanation. The ruling of the Mayor on the admissibility of a point of personal explanation will be final.

## 9. PREVIOUS DECISIONS AND MOTIONS

### 9.1 Motion to rescind a previous decision

A Motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved unless the Notice of Motion is signed by at least 15 Councillors.

### 9.2 Motion similar to one previously rejected

a) Subject to paragraph (b) below, a Motion, or amendment, in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless that Notice of Motion, or amendment, is signed by at least 15 Councillors. Once that Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.

b) Paragraph (a) above shall not prevent a Councillor from moving a Motion or amendment in similar terms to one that has been terminated or lost as a result of the Council carrying a Motion to proceed to next business in accordance with rule 8.13 (b).

## 10. QUESTIONS TO THE LEADER OR CHAIR OF THE COMMITTEE IN RELATION TO THE MINUTES OF PREVIOUS MEETINGS

c) The Mayor shall identify those meetings of the cabinet and or committees that have:

   i. taken place since the last meeting of the council and

   ii. those that took place before the last meeting of the council but whose minutes had not been made available to councillors before the last meeting of council.

d) When the Mayor identifies a Cabinet or Committee meeting, any Councillor may indicate to the Mayor his/her intention to ask a question of the Leader or Committee Chairman (as appropriate) in

respect of the minute number specified by the Councillor asking the question.

e) Wherever possible Councillors who wish to ask such questions should give notice in writing containing the wording of any question to the Chief Executive by 12 noon on the Tuesday prior to the meeting.

f) Questions shall be dealt with in accordance with rule 13.

## 11. QUESTIONS BY THE PUBLIC

### 11.1 General

Members of the public may ask questions of the Leader, Cabinet Members and Committee Chairs at Ordinary Meetings of the Council. The total time allocated for questions by the public shall normally be limited to 20 minutes.

### 11.2 Order of Questions

Questions will be asked in the order in which notice of them was received, except that the Mayor may group together similar questions which shall be asked in the order they were received unless the Mayor considers business may be better transacted by varying such order, and shall as far as possible ensure that all those persons who have given notice of a question, receive an answer.

### 11.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing to the Chief Executive no later than 12 noon two workings days before the day of the Council meeting. Each question must give the name, address and telephone number of the questioner.

### 11.4 Scope of Questions

a) Questions must relate to matters for which the Council has a responsibility or which affect the Borough.

b) The Chief Executive may reject a question if it:

i. is defamatory, frivolous, vexatious or offensive; or

ii. is substantially the same as a question which has been put at a meeting of the Council in the past six months; or

iii. requires the disclosure of confidential or exempt information.

### 11.5 Record of Questions

Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

### 11.6 Asking the Question at the Meeting

The Mayor will invite the questioner to put the question to the Councillor named in the question. Each questioner has 2 minutes in which to ask his/her question. If a questioner who has submitted a written question (or his/her representative) is unable to be present, the Mayor may ask the question on his/her behalf, invite another Councillor to do so, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

### 11.7 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds set out in rule 11.4 above.

### 11.8 Written Answers

Every member of the public who asks a question is entitled to an answer. 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 Councillor to whom it was to be put, will be dealt with by a written answer which will be sent to the questioner within 10 working days and circulated to all Councillors.

### 11.9 Reference of a Question to the Cabinet or a Committee

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

## 12. PETITIONS FROM THE PUBLIC

Petitions may be presented to meetings of the Council, the Cabinet and Committees, as set out in the Council's Petitions Scheme.

## 13. QUESTIONS BY MEMBERS

### 13.1 Questions on the minutes Cabinet or Committees

At a meeting of the Council, other than the annual Mayor-making meeting, a Member of the Council may ask the Leader or the Chair of a Committee any question without notice upon an item on the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

The time taken to respond to each question shall not exceed 2 minutes and 2 minutes for any supplementary question and answer.

**13.2 Questions on Notice at full Council**

Subject to rule 13.3, a Member of the Council may ask:

a) the Mayor;

b) the Leader or any other member of the Cabinet; or

c) the Chair of any Committee or Sub-Committee,

a question on any matter in relation to which the Council has powers or duties or which affects the Borough.

**13.3 Notice of Questions**

A Councillor may ask a question under rule 13.2 if either:

a) s/he has given notice of the question in writing to the Chief Executive no later than 12 noon two working days before the day of the Council meeting; or

b) the question relates to an urgent matter, and s/he has the consent of the Mayor, or Councillor to whom the question is to be put**,** and the content of the question is given in writing to the Chief Executive by 10.00am on the day of the meeting.

**13.4 Order of Questions**

Questions shall be dealt with as follows:

a) Questions shall be "rotated" according to the size of political groups;

b) Subject to the overriding principle in paragraph 13.4a above:

c) Members' first questions shall be dealt with in the order in which they were received by the Chief Executive;

d) Once a first question has been dealt with, any second questions shall be dealt with in the order in which they were received by the Chief Executive;

e) Any third or further questions shall be dealt with successively in the

order in which they were received in the same way as the first and second questions; and

f) The Chief Executive shall publish the order in which any questions received are to be dealt with.

**13.5 Response**

An answer may take the form of:

a) a direct oral answer at the meeting;

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 will be sent to the questioner within 10 working days and circulated to all Councillors.

An answer may be declined.

**13.6 Supplementary Question**

A Councillor asking a question may ask up to one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

**13.7 Time Allowed for Questions at Council Meetings**

The total time allotted to all questions, supplementary questions and answers under rule 13.2 shall not, without the consent of the Council, exceed 40 minutes.

a) The time taken to respond to each question shall not exceed 4 minutes in total, 2 minutes for the original reply, 1 minute for the supplementary question and 1minute for the supplementary answer.

b) At the conclusion of the answer to the question under consideration at the expiry of 40 minutes, or such longer period as the Council has consented from the time when the first questioner started to speak, the Mayor shall conclude the question session of the meeting.

Any remaining questions shall be responded to in writing within 10 working days and circulated to all Councillors.

## 14. MOTIONS ON NOTICE

### 14.1.1 Notice

Notice of Motions must be given in writing to the Chief Executive before 4pm on the ninth working day prior to the meeting. The Chief Executive shall set out in the agenda for the next meeting of the Council the content of each Notice of Motion received and the name of the Member who proposed it, in the order in which they were received.

14.1.2 If notice is given of any Motion which proposes action that is considered to be ultra vires, unconstitutional or otherwise illegal by the Monitoring Officer, and the proposer does not agree with the advice of the Monitoring Officer, the Mayor may:

a) propose amendments, subject to the agreement of the proposer and the seconder, to make the motion legal; and

b) if the amendments are not agreed by the proposer and the seconder prior to the deadline for printing of the Council Summons then the Mayor may exclude the motion from the council agenda and the said motion shall not be printed in the Council Summons

14.1.3 If the Monitoring Officer considers that a motion is otherwise out of order, such motion shall be submitted forthwith to the Mayor. The Mayor shall, in his/her absolute discretion, have the right to either rule the Motion out of order or place it on the Council Summons if, in their opinion it is one that ought properly to be considered by the Members of the Council with a view to determining its validity.

14.1.4 In the event of a Motion being rejected, the Chief Executive shall so inform the Member giving notice as soon as reasonably practicable.

### 14.2 Scope

Motions must be about matters for which the Council has a responsibility or which affect the Borough.

### 14.3 Procedure for Dealing with Motions

A Motion set out in the agenda must be moved and seconded at the meeting before it can be debated by the Council, otherwise it shall be treated as withdrawn, and may not be moved without fresh notice.

Subject to the agreement of the mover and seconder, a Notice of Motion may have its wording altered after its receipt by the Chief Executive and after its publication in the relevant Council agenda. It may also have its wording altered during the course of the meeting.

Subject to agreement of the mover and seconder of the Notice of

Motion, individual elements of the motion may be voted upon separately, with the consent of the Council.

### 14.4 Time Allowed for Motion

a) The Motion having been moved and seconded shall be debated for a period of time not exceeding 20 minutes followed by a closing statement by the proposer not exceeding 5 minutes and then (subject to sub-paragraph (b) below) shall be put to the vote A simple majority, will determine whether it shall either be

   i. Agreed as a decision which can be taken by Council or

   ii. rejected without referral or

   iii. referred to Cabinet or

   referred to such Overview and Scrutiny Committee within whose terms of reference the subject matter falls.

b) Where a Motion concerns a Council function (and not an Executive Function), and where it is approved by Full Council, then the Motion may be actioned immediately.

c) The Cabinet, or Committee(s) to which a Notice of Motion has been referred shall consider the Motion and make a report or recommendation to Council. The Cabinet to whom a Notice of Motion has been referred may consult the relevant Overview and Scrutiny Committee, if necessary.

d) The Councillor who proposed the Notice of Motion shall have notice of the meeting at which the Cabinet or Committee is to consider it and shall have the right to attend and to explain the Motion to the meeting but not the right to vote in respect of it unless s/he is a Member of the Cabinet or that Committee.

## 15. MOTIONS WITHOUT NOTICE

The following Motions may be moved without notice:

a) to appoint a Chair 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 on the agenda;

d) to refer something to an appropriate body or individual;

e) to appoint a Committee or Councillor arising from an item on the agenda for the meeting;

f) to receive reports, or adopt recommendations of Committees or Officers and any resolutions following from them;

g) to withdraw a Motion;

h) to amend a Motion, subject to the provisions of the Budget and Policy Framework Procedure Rules in relation to amendment of the Cabinet's proposals for the Council's Budget and Policy Framework;

i) to proceed to next business;

j) that the question be now put;

k) to adjourn a debate, or a meeting;

l) to suspend a particular Council Procedure Rule;

m) to exclude the public and press in accordance with the Access to Information Procedure Rules;

n) to not hear further a Councillor named under rule 19.1 or to exclude him/her from the meeting under rule 19.2; and

o) to give the consent of the Council where its consent is required by this Constitution.

## 16. VOTING

### 16.1 Majority

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

### 16.2 Mayor's Casting Vote

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

### 16.3 Method of Voting

Unless a recorded vote is demanded under rule 16.4 the Mayor will take the vote by show of hands, or by electronic voting, or if there is no dissent, by the affirmation of the meeting.

### 16.4 Recorded Vote

a) If any Councillor present at the meeting demands it, the names for and against the Motion or amendment or abstaining from voting will be recorded in the minutes.

b) Where immediately after a vote is taken at a budget meeting of the Council, there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the question or against the question or who abstained from voting.

### 16.5 Right to require individual vote to be recorded

Where any Councillor requests it immediately after the vote is taken, his/her vote will be so recorded in the minutes to show whether s/he voted for or against the motion or abstained from voting.

### 16.6 Voting on appointments

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

If there is more than one appointment to be made and the number of nominees exceeds the number of vacancies:

a) each Councillor shall have the same number of votes as there are vacancies;

b) voting may be by written ballot; and

c) the vacancies shall be filled by the nominees who receive the largest number of votes.

## 17. MINUTES

### 17.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### 17.2 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 an Extraordinary Meeting, then the next following meeting after the Extraordinary Meeting will be treated as a suitable meeting for the purposes of signing the minutes.

### 17.3 Form of minutes

Minutes will contain all Motions and amendments in the form and order the Mayor put them.

## 18. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or rule 20 (Disturbance by Public).

## 19. COUNCILLORS' CONDUCT

### 19.1 Councillor not to be heard further

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

### 19.2 Councillor to leave the meeting

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

### 19.3 General disturbance

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

## 20. DISTURBANCE BY PUBLIC

### 20.1 Removal of member of the public

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If s/he continues to interrupt, the Mayor 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 Mayor may call for that part to be cleared.

## 21. RECORDING OF BUSINESS

a) A member of the public may report on the proceedings as authorised by the law so long as that meeting is open to members of the public.

b) The Council webcasts its meetings and shall produce a written record of the minutes of its meetings as soon as practicable after the meeting.

## 22. FAILURE TO ATTEND MEETINGS

a) Subject to paragraphs b) and c) below, under section 85 of the Local Government Act 1972, if a Councillor fails throughout a period of six consecutive months from the date of his/her last attendance to attend any meeting of the authority, s/he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a Councillor of the authority.

b) Attendance as a Councillor at a meeting of any Committee or Sub-Committee of the authority, or Cabinet, or any Joint Committee, Joint Board or other body by whom any of the functions of the authority are being discharged, or who were appointed to advise the authority on any matter relating to the discharge of their functions, and attendance as representative of the authority at a meeting of any body of persons, shall be deemed to be attendance at a meeting of the authority.

c) For this purpose the discharge by a Councillor, acting alone, of any function which is the responsibility of the Cabinet and attendance as a Councillor at a meeting of a Committee of the Cabinet shall each be deemed to be attendance at a meeting of the Cabinet.

## 23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

### 23.1 Suspension

All of these Council Rules of Procedure except rule 16.4, 16.5 and 17.2 may be suspended by Motion with or without notice if at least half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

### 23.2 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.

## 24. CONVENTIONS OF FULL COUNCIL

No person shall distribute or display advertisements or literature promoting the activities of any political party at meetings of Council.

**RULES OF PROCEDURE**

**COMMITTEE PROCEDURE RULES**

## 1. APPOINTMENT OF COMMITTEES

At its annual meeting the Council shall:

a) review the size of Committees when required;

b) review the proportional political allocation of places on Committees (and at other times as required); and

c) appoint Councillors to serve on Committees in accordance with the expressed wishes of political groups.

The Monitoring Officer may make appointments to committees of either committee members or substitute members as notified by the leaders of political groups.

## 2. SIZE OF COMMITTEES

Committees of the Council shall not normally exceed 12 members each and the Human Resources and Audit and Accounts Committees shall not normally exceed nine elected members each, subject to review by the Council as required.

## 3. SUBSTITUTION ON COMMITTEES

At its Annual Meeting the Council shall also appoint a panel of named substitutes to serve on each of its Committees. The following procedure will apply to the appointment of substitute Councillors to Committees.

a) Subject to paragraph e) below, a panel of substitute Councillors shall be appointed by the Council for each Committee comprising an equal number of Councillors from each political group as the group has on the Committee;

b) A substitute Councillor may only attend a meeting if the appointed Councillor cannot do so;

c) Substitute Councillors may attend meetings in that capacity only:

   i. to take the place of the ordinary Member for the duration of the whole meeting;

   ii. after notifying the Proper Officer as set out in paragraph d) below.

d) Attendance of a substitute at a forthcoming meeting will be notified to

the Proper Officer as soon as possible and by no later than half an hour before the start of the meeting. Either the absent Member or a group representative may notify the Proper Officer; the substituting Councillor cannot give the notice. Democratic Services will notify the Chair of any substitutes attending at the start of the meeting.

e) The substitution rules shall not apply to Cabinet Members attending meetings of the Cabinet, nor to meetings of the Licensing Sub-Committees as separate statutory arrangements apply to those meetings.

## 4. COMMITTEE CHAIRS AND VICE-CHAIRS

a) The Chairs of the Resources, Environment and Infrastructure and Resident Services Overview and Scrutiny Committees shall be elected by the Council from amongst the Councillors sitting on the relevant Committee. Subject to this proviso, the Council may elect such persons as it considers appropriate, provided that:

The Chair of the Resources Overview and Scrutiny Committee shall be a member of one of the 'non-administration' groups on the Council.

In the case of meetings hearing the call-in of a decision under paragraph 19 of the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution, the meeting shall be chaired by a member of one of the non-administration groups. If the elected Chair or Vice-Chair is not a member of a non-administration group, the Committee will elect one of the non-administration group committee members to Chair the call-in item on the agenda.

b) The Chairs of the Policy Committees, regulatory and all other Committees shall be elected by the Council from amongst the Councillors sitting on the relevant Committee. Subject to this proviso, the Council may appoint such persons as it considers appropriate on merit, recognising the importance of ensuring that the Committees are ably led and effectively managed at Councillor level.

c) The Vice-Chairs of the overview and scrutiny Committees, regulatory and all other Committees shall be elected by the Committees at their first available meeting after the annual meeting of Council. In the absence of the Chair the Vice-Chair shall exercise the powers of the Chair.

d) Where more than one Councillor is proposed, the matter will decided by a simple majority, determined by show of hands, or if requested by a recorded vote.

e) The ruling of the Chair as to the application of these procedure rules shall be final.

## 5. COMMITTEES' TERMS OF OFFICE

a) Subject to paragraphs b) and c) below, all Committees, and their respective Chairs and Vice-Chairs, shall hold office until the following Annual Meeting of the Council when their successors will be appointed for the new council year.

b) In the year of a Council election, Members of the Council whose term of office expires shall cease to be members of any Committee of the Council on the fourth day after the elections unless re-elected as Councillors for a new term of office.

c) If any Councillor resigns as a member of a Committee during the year, or as it's Chair or Vice-Chair (or is otherwise removed from the Committee for whatever reason), a new Councillor may be appointed to fill the vacancy at the next meeting of the Full Council.

## 6. SUB-COMMITTEES, WORKING PARTIES AND TASK AND FINISH GROUPS

a) Committees may, at their discretion, appoint Sub-Committees and delegate their powers and duties to meetings of those Sub-Committees. Where they do so, these procedure rules shall also apply to meetings of the Sub-Committees.

b) Committees and Cabinet members may also appoint Member groups to assist them with their work. Member Advisory Panels are intended to advise Cabinet members on issues within their areas of responsibility. They are appointed by Cabinet members either on the nomination of Overview and Scrutiny Committees or Group Leaders. Task and finish groups are appointed by an Overview and Scrutiny Committees to tackle specific issues, usually on a 'task and finish' basis. Neither have any decision-making powers.

c) These Member groups should as far as possible be time-limited and task specific, and where appropriate re-appointed at the start of each new Council year.

d) The process must be open and publicly accountable even though these meetings may be held in private. This means that issues considered by a working group or task and finish group, whether in public or private session, must be the subject of a formal report to a publicly convened meeting, whether a Committee or Cabinet, or to a Cabinet Member, where an Executive Function has been delegated by the Leader. The date, time and place of working group meetings should be published in the calendar of meetings and their conclusions and actions should be recorded and accessible to all Councillors. Provided that this course is followed there should be no concern about public accountability.

e) At the conclusion of their work, or as required, Member groups should make recommendations for decision either by a Committee meeting in public or by a Cabinet Member, based on a publicly available report. If not then they should make reports available on their work.

f) Although the rules of political proportionality do not apply, as a general rule member groups and task and finish groups should include at least one Councillor from each political group on the Council.

## 7. MEETINGS

### 7.1 Date, Time and Place of Meetings

The Council may determine an annual cycle of meetings. Additional meetings may be called by the Chair, or by any five Members of the Committee where necessary, or by the Proper Officer if s/he considers it necessary or appropriate. The Chair may also change dates or cancel meetings on the Committee's behalf.

### 7.2 Notice of Meetings

The Proper Officer will give notice to the public of the date, time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Proper Officer will send an agenda to every Member of the Committee. The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by all reports.

### 7.3 Apologies for Absence

Any apologies for absence given by Members and received by the Chair will be noted in the Minutes of the meeting, together with any substitutions.

### 7.4 Duration of Meetings

When three hours have elapsed after the commencement of the meeting the Chair shall request a vote on whether the meeting should adjourn at a convenient point. Thereafter the Chair may request a further vote on whether the meeting should continue, provided that the meeting shall not normally, in any event, continue beyond 11pm.

### 7.5 Attendance by Visiting Members

a) Any Member of the Council is entitled to attend and speak at any meeting of any Committee of the Council except meetings of the Human Resources Committee, when making senior officer appointments, or where the Council has directed otherwise. As a general rule a Councillor may speak for no more than 4 minutes at a

time.

b) Any Councillor wishing to attend and speak at a meeting of the Planning Committee shall follow the guidance set out in Part 2 of 'Public Participation at Cabinet and Committee Meetings.'

c) Any Councillor wishing to attend a meeting and speak under paragraph a) above is requested to give prior notice to Democratic Services by noon on the day of the meeting.

### 7.6 Public Participation at Meetings

Members of the public may speak at meetings of the Council's Committees in accordance with the guidance set out in 'Public Participation at Cabinet and Committee Meetings.'

## 8. QUORUM

a) Business shall not be transacted at a meeting of any Committee unless a quorum is present. The quorum for meetings of Council committees shall be one-third of the voting Members.

b) In the case of Sub-Committees, a quorum shall be not fewer than three voting Members.

c) If after 30 minutes from the scheduled start time of any meeting, or if during a meeting, there is not a quorum present, the meeting shall adjourn.

## 9. ADJOURNED MEETINGS

a) Where a Committee decides to adjourn, the meeting shall reconvene on an agreed date. A Committee will not adjourn midway through an item of business save in exceptional circumstances. The adjourned meeting will be a continuation of the original meeting and will confine itself to the unfinished business on the agenda for that meeting.

b) Except as provided for in paragraph c) below, the membership of the adjourned meeting may, if necessary, differ from that present at the original meeting by making use of the agreed substitution arrangements in these procedure rules.

c) Where a meeting of the Planning Committee, the Licensing Committee (and any of its Sub-Committees), adjourns without reaching a decision on a planning or licensing application, the membership of the adjourned meeting may not be changed by the use of substitute Councillor.

## 10. MINUTES

### 10.1 Signing the minutes

The Chair will sign the minutes of the proceedings at the next meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### 10.2 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 an Extraordinary Meeting, then the following meeting will be treated as a suitable meeting for the purposes of signing the minutes.

## 11. RULES OF DEBATE

a) For each substantive item of business the following order will normally apply:

   i. Introduction of report by Chair, Cabinet Member, Officer or visiting speaker as appropriate;

   ii. Presentation if required;

   iii. Contributions by visiting Councillors to the Chair;

   iv. Contributions and discussion by Members of the Committee;

b) Conclusion of discussion followed by formulation of recommendation or decision as appropriate.

Note: Visiting Councillors may be permitted to speak again on an item at the discretion of the Chair.

c) It is expected that Committees will as far as possible seek to reach a consensus after discussion without applying the formal rules of debate. However, where there are differences of view which are unlikely to be resolved by consensus, the Chair may invite a formal motion, including seconding thereof, and after debate put the matter to a vote. Amendments may be moved during the debate although, with the consent of the meeting, the Chair may choose to handle these informally where this is likely to assist the Committee in reaching an agreed conclusion.

d) On occasion, and again with the consent of the meeting, the Chair may also apply the rules of debate to the handling of a recommendation in an officer's report.

e) Where the formal rules of debate are applied to the proceedings in a meeting, the relevant paragraphs in the Council Procedure Rules shall apply.

f) Speeches and comments made by Members must be directed to the question under discussion.

## 12. VOTING

### 12.1 Majority

All matters before a Committee shall be decided by a simple majority of those Members present and voting at the time the question is put.

### 12.2 Chair's Casting Vote

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

### 12.3 Method of Voting

Unless a recorded vote is demanded under paragraph 12.4 the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### 12.4 Recorded Vote

If any Member present at the meeting demands it, the names for and against the motion, amendment or recommendation or abstaining from voting will be recorded in the minutes.

### 12.5 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 whether s/he voted for or against, or abstained from voting.

## 13. INTERRUPTIONS AND DISORDERLY CONDUCT

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, or in any other way behaves improperly, the relevant paragraphs in the Council Procedure Rules shall apply.

## 14. DISTURBANCE BY PUBLIC

If a member of the public interrupts proceedings, or if there is a general disturbance in the meeting, the relevant paragraphs in the Council Procedure Rules shall apply.

## 15. SPECIAL PROVISIONS – LICENSING COMMITTEE

### 15.1 Appointment of Sub-Committees

The Licensing Committee shall appoint one or more Sub-Committees comprising three members of the Committee in accordance with the Licensing Act 2003 to determine applications and discharge such other functions under the Act which may not be discharged by an officer pursuant to Section 10(4) of the Act and to discharge such other appeal and review functions under other licensing legislation as may be delegated to it by the Committee.

### 15.2 Selection of Sub-Committee Members

The Members of each Sub-Committee for the time being shall be selected by the Proper Officer from the Members of the Licensing Committee in rolling alphabetical order of surname who can participate in the Sub-Committee.

### 15.3 Quorum

No business may be transacted at a meeting of a Licensing Sub-Committee unless all Members are present.

### 15.4 Election of Chair

A Licensing Sub-Committee shall elect a Chair on each occasion it meets, to act for the duration of the meeting.

### 15.5 Procedure at Licensing Sub-Committees

A procedure note will be drawn up and applied by Chairs at all Sub-Committee meetings setting out how licensing applications will be handled and specifically covering the conduct of the hearing as follows:

a) The Licensing Officer will outline details of the application.

b) The police, other statutory consultees or technical advisers (if any) will make their representations.

c) The applicant may ask questions of the police, other statutory consultees and/or technical advisers.

d) Members of Sub-Committee may ask questions of the police, other

statutory consultees and/or technical advisers.

e) The applicant may ask questions of the Licensing Officer and any other witnesses.

f) Members of the Sub-Committee may ask questions of the Licensing Officer and any other witnesses.

g) The applicant will be invited to present his/her case including any witnesses, and comment if desired on any representations made by objectors during public participation.

h) The Licensing Officer will provide advice and information on relevant matters as and when required by all parties.

i) Members of the Sub-Committee may ask questions of the applicant and any other witnesses.

The procedure note will also cover closing statements by the Licensing Officer and the applicant, the decision-making process, and notification of the decision.

## 16. MEMBERS' ATTENDANCE

Members' attendance at Council, Cabinet and Committee meetings will be recorded and published including details of any visiting Councillor.

## 17. CONVENTIONS

Except in the case of urgency with the exception of the Planning Committee, its Viewing Panel and Licensing Sub-Committee meetings, no meeting of the Council, its Committees, Sub-Committees, Panels, Working Parties etc shall be held during the period 1-31 August.

If a call-in should occur during this period, then the matter shall be presented to the Overview and Scrutiny Committee at its September meeting.

## RULES OF PROCEDURE

## CABINET PROCEDURE RULES

### 1. HOW DOES THE CABINET OPERATE?

#### 1.1 Who May Make Executive Decisions?

The arrangements for the discharge of Executive Functions are determined by the Leader. The Leader may provide for Executive Functions to be discharged by:

a) the Cabinet as a whole;

b) a Committee of the Cabinet;

c) an individual member of the Cabinet;

d) an Officer;

e) joint arrangements; or

f) another Local Authority

#### 1.2 Delegation by the Leader

Following the Annual Meeting of the Council, the Head of Law and Governance, at the direction of the Leader, will draw up a written record of Executive Delegations made by the Leader for inclusion in the Council's Scheme of Delegation at Part 3 of this Constitution. This will contain the following information about Executive Functions:

a) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them;

b) the extent of any authority delegated to Cabinet Members individually as Portfolio Holders, including details of the limitations on their authority;

c) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made; and

d) the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements.

At the Annual Meeting, the Leader shall report the name of the Councillor appointed as Deputy Leader and the names of the other Councillors appointed to the Cabinet together with details of their portfolios.

## 1.3 Sub-delegation of Executive Functions

Where the Cabinet, a Committee of the Cabinet or an individual member of the Cabinet is responsible for an Executive Function, they may delegate further to joint arrangements with another Local Authority or to an Officer.

Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to joint arrangements with another Local Authority or to an Officer.

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

The Leader may amend the scheme of delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the Head of Law and Governance 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 Head of Law and Governance will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

Where the Leader seeks to withdraw delegation from a Committee of the Cabinet, notice will be deemed to be served on that Committee when s/he has served it on its Chair.

## 1.5 Conflicts of Interest

Where the Leader or any other member of the Cabinet has a conflict of interest in any matter this should be dealt with as set out in the Council's Code of Conduct for Members or the Probity in Planning Code of Practice in relation to planning applications in Part 5 of this Constitution

If the exercise of an Executive Function has been delegated to a Committee of the Cabinet, an individual Member of Cabinet or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person, or body, by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

### 1.6 Cabinet Meetings

The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's civic offices or another location to be agreed by the Leader.

### 1.7 Public and Private Meetings of the Cabinet

The Cabinet will hold its meetings in public, except where it is likely that confidential or exempt information would be disclosed, in which case the Cabinet will pass a resolution to exclude the public for that part of the meeting in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.

### 1.8 Quorum

The quorum for a meeting of the Cabinet shall be 3 Members. The quorum for a meeting of a committee of the Cabinet shall be 2.

### 1.9 How Decisions are taken by the Cabinet?

Executive Decisions made by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.

These rules shall also apply to Executive Decisions delegated to a Committee of the Cabinet.

## 2. HOW ARE CABINET MEETINGS CONDUCTED?

### 2.1 Who Presides?

The Leader will preside at any meeting of the Cabinet or its Committees at which s/he is present. In his/her absence, the Deputy Leader will preside. In his/her absence, then a person appointed to do so by those present shall preside.

### 2.2 Who May Attend?

These details are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

### 2.3 What Business?

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

a) confirmation of the minutes of the previous meeting;

b) declarations of interest, if any;

c) a period for questions and comments for members of the public and for Councillors, to be taken with the relevant item;

d) matters referred to the Cabinet (whether by Overview and Scrutiny Committees 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 Overview and Scrutiny Committees; 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.

Cabinet meetings should not normally exceed 3 hours in length and the Chair will be responsible for ensuring that the Cabinet conducts its business as efficiently and effectively as possible in order to complete the business on the agenda within that time and in any event shall not normally continue beyond 11pm.

**2.4 Management of Business**

The following order will normally apply to business which has not previously been considered by a Committee:

a) Introduction of the report by the Chair, Cabinet Member, Officer or visiting speaker as appropriate;

b) Presentation if required;

c) Contributions by visiting Councillors to the Chair;

d) Contributions and discussion by Members of the Cabinet;

e) Conclusion of discussion followed by decision.

**2.5 Attendance by Visiting Councillors**

a) Any Councillor is entitled to attend and speak at any meeting of the Cabinet. As a general rule a Councillor may speak for no more than 4 minutes at a time.

The Chair of an Overview and Scrutiny Committee may attend a Cabinet meeting and report the Committee's views in person.

Any Councillor wishing to attend a meeting and speak under paragraph a) or b) above is requested to give notice to Democratic Services before noon on the day of the meeting although the Chair has a discretion to waive this notice requirement.

## 2.6 Public Participation at Meetings

Members of the public may speak at meetings of the Cabinet in accordance with the guidance set out in 'Public Participation at Cabinet and Committee Meetings.'

## 2.7 Consultation

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

## 2.8 Who can put Items on the Cabinet agenda?

The Leader will decide upon the schedule for meetings of the Cabinet. S/he may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a Committee of it or any member or Officer in respect of that matter.

Any member of the Cabinet may require the Proper Officer to place an item on the agenda of the next available meeting of the Cabinet for consideration.

The Head of Paid Service, 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 that such a meeting be convened in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting 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.

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**RULES OF PROCEDURE**

**PUBLIC PARTICIPATION AT MEETINGS**

**PART 1 – CABINET AND COMMITTEES**

**1.** The Council's public participation scheme gives the public an opportunity to speak at meetings of:

- Cabinet
- Resident Services Overview and Scrutiny Committee
- Environment and Infrastructure Overview and Scrutiny Committee
- Resources Overview and Scrutiny Committee
- Licensing Committee
- Audit and Accounts Committee
- Human Resources Committee
- Standards Committee
- Basing View Executive Committee
- Manydown Executive Committee
- Crime and Disorder Joint Scrutiny Committee
- South Ham and Buckskin Regeneration Overview and Scrutiny Committee

**2.** Separate arrangements apply to meetings of the Full Council and the Planning Committee and Licensing Sub-Committees.

**3.** At meetings referred to in paragraph 1 comments can be made by:

a) anyone who lives or works in the Borough;

b) the owner of a business or a property located in the Borough; and

c) a representative of any local group or organisation which is associated with and operates within the Borough.

**4.** Comments can be made on any item on the Agenda for the meeting. However, comments relating to personal circumstances (such as specific applications for grants, licenses etc.) will not be allowed.

**5.** Comments and questions should be addressed directly to the Chair. As a general rule comments and questions should not normally take more than two minutes to read out although the Chair shall have discretion to vary this as appropriate. A reply will be made by the Chair or relevant Cabinet Member as appropriate.

**6.** Advance notice must be given to Democratic Services at least thirty minutes before the meeting, although the Chair may still accept comments and questions without prior notice

**7.** On some occasions there may not be time to take all of the comments and questions received. In these circumstances the Chair of the meeting will reply in writing to the questioner and a copy of his/her reply will be circulated to all Members of the Cabinet or Committee.

## PART 2 - PLANNING COMMITTEE

**1.** As far as is practicable, these arrangements shall also apply to Councillors who are not members of the Planning Committee but who attend a meeting of the Committee in order to speak on an application. If the Chair rules against participation by such a Councillor the reasons for such a refusal should be stated at the meeting and recorded in the minutes.

**2.** The Chair of the Committee may change these arrangements from time to time for particular planning applications, in discussion with the Planning and Development Manager.

**3.** A request to speak by:

a) Either a Councillor who is not a member of the committee or a member of the public should be made in writing to the Head of Planning and Infrastructure no later than 12 noon two working days before the date of the committee meeting.

b) The Chair shall have discretion to extend deadline for notification of public speaking if the planning application is major and has borough wide implications.

### Public Participation in Respect of Planning Applications

**1.** The Council's public participation scheme allows for public speaking about a planning application if the application is to be decided by the Planning Committee. The following arrangements apply:

a) Those in support of an application may speak if they are the applicant or where a written comment has been made on the application and where they have registered to speak prior to the meeting.

b) Objectors to the application may speak if they have made a written objection and have registered to speak prior to the meeting.

c) Parish and Town Councils affected by the application also have the right to speak on applications where they have registered to speak prior to the meeting.

**2.** For each site/application the following time will be allocated to hear the views of:

a) Objectors– four minutes to be shared between all objectors or their

representative.

b) Applicant/Supporter– four minutes to be shared between all in support or their representative.

c) An affected Parish or Town Council – four minutes for each.

d) Any visiting Borough Councillor – four minutes each.

**3.** A maximum of 4 minutes will be given to speakers where a linked application is being considered (such as full planning application and listed building consent).

**4.** There will be no opportunity for any public speaker to display maps, photographs etc. or to ask questions of others at the meeting.

**5.** The order of speaking will normally be as follows:

a) Parish and Town Councils

b) Those objecting to the application

c) Those in support of the application

d) Any visiting Borough Councillor

**6.** Committee members may ask speakers questions of fact to seek clarification arising out of the speaker's participation but only if officers are unable to clarify the particular point.

**7.** Those speaking against the application, those in support of the application and Parish or Town Councils will be given only one opportunity to speak on an application, regardless of whether the planning application is determined or deferred to a subsequent meeting. Comments relating to personal circumstances will not be allowed.

**Public Participation in Respect of Planning Matters that are not Planning Applications**

**1.** Public speaking is permitted on all items presented to the Committee including those items which are not planning applications. [The right to address the committee through public speaking in relation to reports relating to the confirmation of Tree Preservation Orders will only be extended to those who made representations within the given time limit in response to the statutory consultation undertaken on the Tree Preservation Order.] Public speaking on these items will take place at the same time that the item is considered. A maximum of 4 minutes will be allowed for those speaking against the recommendation, for those speaking in support of the recommendation, the Parish or Town Council, and finally any visiting Borough Councillor.

**2.** Public speaking is available to:

a) anyone who lives or works in the Borough or their nominated representative;

b) the owner of a business or a property which is located in the Borough or their nominated representative;

c) a representative of any local group or organisation which is associated with and operates within the Borough; and

d) an owner or developer of land in the Borough.

## RULES OF PROCEDURE

These rules are supplemented by the Overview and Scrutiny and Cabinet Protocol in Part 5 of the constitution to reflect best practice.

## OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEES

The Council will appoint one or more Overview and Scrutiny Committees as set out in Article 6 to discharge the functions conferred by statute. The number, size and composition of these Committees will be determined by the Council from time to time. The Committees may appoint smaller groups (normally 'task and finish' groups) to carry out detailed examination of particular topics for report back to them. These groups may be appointed for a fixed period, after which they shall cease to exist.

### 2. TERMS OF REFERENCE

With the exception of the Crime and Disorder Joint Scrutiny Committee, whose terms of reference are set out at paragraph 22 of these rules, the Overview and Scrutiny Committees will carry out the functions set out in Article 6 within the following terms of reference:

| Name of Committee | Scope |
|---|---|
| Resources Overview and Scrutiny Committee | Budget<br>Council Plan<br>Performance Monitoring<br>Civic Campus<br>Customer Services<br>Digital Agenda<br>Service transformation and service improvement<br>Equalities, Diversity and Inclusion (service delivery)<br>Armed Services<br>Corporate Capacity<br>Communications<br>Legal Services<br>Democratic Services<br>Human Resources<br>Information Technology<br>Internal Audit<br>Business Engagement, Enterprise M3, inward investment, marketing<br>Promotion of Borough, regional economic issues, tourism<br>Economic Development and Strategy<br>Emergency Planning<br>Property Investment Strategy<br>Property Management and Strategy |

| | |
|---|---|
| | Financial and Treasury Management<br>Pensions<br>Rating and Council Tax |
| Environment and Infrastructure Overview and Scrutiny Committee | Climate emergency<br>Biodiversity, habitat and ecological emergency<br>Rewilding and nature recovery<br>Clean air<br>New open spaces and parks strategy<br>Sustainable travel<br>Parking<br>Public and community transport<br>Local Plan, planning policy and planning services<br>Building Control<br>Listed buildings<br>Basingstoke Town Centre<br>Basing View<br>Leisure Park<br>Manydown<br>Regeneration and improvement schemes |
| Resident Services Overview and Scrutiny Committee | Allotments<br>Cemeteries<br>Environmental Health and Protection<br>Food safety<br>Graffiti and flytipping<br>Grass cutting<br>Housing and homelessness<br>Licensing<br>Pest Control<br>Waste Collection<br>Recycling<br>Street Cleansing<br>Trees<br>Abandoned Vehicles<br>Community Facilities<br>Community health strategy<br>Community engagement and development<br>Community safety and enforcement<br>Community Cohesion<br>Education and learning<br>Funding to community groups and the voluntary sector<br>Grants to sports facilities and village halls<br>Health and wellbeing<br>Leisure facilities<br>Older people's strategy<br>Parish Councils |

| | |
|---|---|
| | Play areas<br>Public conveniences<br>Public Health<br>Sports strategy and development<br>Volunteering and the voluntary sector<br>Youth strategy<br>Arts, heritage, performing arts and cultural activities<br>Grants to community organisations<br>Reports of Crime and Disorder Joint Committee |
| South Ham and Buckskin Regeneration Overview and Scrutiny Committee | (i) To review and scrutinise the development, implementation impact of regeneration proposals in South Ham and Buckskin<br><br>(ii) To scrutinise the consultation and engagement processes conducted by SNG, the Council, or other partners, with particular focus on their transparency, reach, and inclusivity<br><br>(iii) To scrutinise the processes in place for residents' voices to be heard and reflected in all discussions<br><br>(iv) To promote transparency and build public confidence by scrutinising the project and encouraging public engagement<br><br>(v) To hold to account key stakeholders involved in the regeneration process<br><br>(vi) Scrutinise how land and property owned by Basingstoke and Deane Borough Council and Hampshire County Council may be used for any proposed regeneration of Buckskin and South Ham and how this use may potentially impact residents and the wider community. |

## 3. MEMBERSHIP OF OVERVIEW AND SCRUTINY COMMITTEES

All Councillors except members of the Cabinet may serve as members of the Overview and Scrutiny Committees. However, no Councillor may be involved in scrutinising a decision in which s/he has been directly involved.

## 4. CO-OPTEES

Each Committee may recommend to the Council the appointment of people as non-voting co-optees, either as standing members of the Committee, or on a

time-limited basis. The selection and nomination of co-opted members shall be in accordance with any protocol agreed by the Committee.

## 5. CHAIRS AND VICE-CHAIRS OF OVERVIEW AND SCRUTINY COMMITTEES

The Chairs and Vice-Chairs of the Overview and Scrutiny Committees shall be elected as set out in paragraph 4 of the Committee Procedure Rules.

## 6. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES

The Council will determine a cycle of meetings for the Committees. Additional meetings may be called by the Chair, by any five Members of the Committee where necessary to deal with the Committee's work programme, or by the Proper Officer if s/he considers it necessary or appropriate. The Chair may also change dates or cancel meetings on the Committee's behalf.

## 7. QUORUM

a) Business shall not be transacted at a meeting of any Committee unless a quorum is present. The quorum for the Committees shall be as set out in the Committee Procedure Rules in Part 4 of this Constitution which shall be one third of the voting members.

b) If after 30 minutes from the scheduled start time of any meeting, or if during a meeting, there is no quorum present, the meeting shall adjourn.

## 8. WORK PROGRAMMES

It is essential that the policy and scrutiny process is Councillor led. Each Committee will set its own work programme and agree its own agenda, taking into account the wishes of members of the Committee**,** including those who are not members of the largest political group on the Council.

## 9. AGENDA ITEMS

a) Any member of an Overview and Scrutiny Committee shall be entitled to give notice to the Chair of the Committee and Democratic Services that s/he wishes to include an item for consideration under the Work Programme section of the agenda at the next available meeting. At that meeting the Committee will decide whether it wishes to review the matter and if it does, how the work will be taken forward, for example by way of an officer's report or in a Task and Finish Group.

b) The Committees shall also respond, as soon as their work programmes permit, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the Committees shall report their findings and any recommendations to the Cabinet and/or Council. The Cabinet and/or Council shall consider any report of the Committees within two months of its receipt.

## 10. POLICY REVIEW AND DEVELOPMENT

a) The role of the Committees in relation to the development of the Council's Budgetary and Policy Framework is set out in detail in the Budgetary and Policy Framework Procedure Rules.

b) In relation to the development of the Council's approach to other matters not forming part of its Budgetary and Policy Framework, Committees may make proposals to the Cabinet on the development of any other policy matters falling within their terms of reference.

c) The Committees may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process provided that a budget has been made available for this purpose. They may go on site visits, conduct public surveys, hold public meetings, commission research and do such other things that they reasonably consider necessary to inform their work. They may also ask witnesses to attend meetings 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.

## 11. REPORTS FROM THE OVERVIEW AND SCRUTINY COMMITTEES

a) Once a Committee has formed recommendations on proposals for policy/service development, it will prepare and submit a formal report to the Cabinet for consideration (if the proposals are consistent with the existing Budgetary and Policy Framework), and/or to the Council (if the recommendations would require a departure from or a change to the agreed Budgetary and Policy Framework.)

b) It may sometimes be necessary for the Committee to reflect different points of view in its report even though some of these may not be shared by the majority. The Committee should always seek to agree a single final report to the Council or Cabinet representing the agreed views of the meeting. However, where necessary, a minority report may be prepared and submitted for consideration alongside the majority report.

## 12. CONSIDERATION OF OVERVIEW AND SCRUTINY REPORTS BY THE CABINET

a) The reports of the Overview and Scrutiny Committees referred to the Cabinet shall be considered within two months of their receipt. Where it has not been possible for this to be done, the Cabinet will give an explanation of the reasons to the Chair of the Committee as soon as practicable.

b) The Chair of the Committee may attend the Cabinet meeting and report the Committee's views in person.

c) The Committees will have access to the Leader's Forward Plan and

timetable for decisions and intentions for consultation and may respond to the Cabinet's consultation on any key decision.

d) Where the Cabinet has delegated decision-making power to an individual Member of the Cabinet, the Committee will submit a copy of its report to him/her for consideration. The Cabinet Member must consider the report and respond in writing to the Committee within two months of its receipt. A copy of his/her written response shall be sent to the Proper Officer and the Leader.

## 13. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

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

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

## 14. HOLDING COUNCILLORS AND OFFICERS TO ACCOUNT

a) The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council or Executive Functions. In doing so they may require the Leader or any other Member of the Cabinet, the Chief Executive and/or any Senior Officer to attend before them and answer questions on:

i. any particular decision or series of decisions;

ii. the extent to which the actions taken implement Council policy; and/or

iii. the performance of the services within their areas of responsibility.

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

b) For this purpose, 'Senior Officer' includes the Chief Executive, Directors, and Heads of Service. Where there are concerns about the appropriateness of the Officer who should attend, the relevant Director shall discuss and resolve this with the Chair of the Committee, and Member of the Cabinet shall include the Leader, Deputy Leader and Portfolio Holders.

c) Where any Member of the Cabinet or Officer is required to attend a meeting of a Committee under this provision, the Chair will inform the Head of Law and Governance. The Proper Officer shall inform the Member of the Cabinet or Officer, if necessary in writing, giving at least 10 working days' notice of the meeting at which s/he is required to attend (unless agreed otherwise). The notice will state the nature of the item on

which s/he is required to attend to give account and whether any papers are required to be produced for the Committee.

d) When Officers appear to answer questions, their evidence will be confined, as far as possible, to questions of fact and explanation relating to policies and decisions. Officers may assist Members of the Committee by explaining what the policies are and how administrative factors may have influenced the consideration of policy options and the manner of their implementation. Officers may also be asked to explain advice that they have given in relation to the exercise of Executive Functions prior to decisions being taken, and to explain decisions they themselves may have taken under delegated powers, where they fall within the terms of the matter under scrutiny. As far as possible, Officers should avoid being drawn into discussion of the merits of alternative policies and where an opinion is offered it will be limited to professional advice.

e) Where a Committee requires a report, the Officer concerned will be given sufficient notice to allow for its preparation.

f) Where, in exceptional circumstances, the Member of the Cabinet or Officer is unable to attend on the required date, the Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance.

## 15. ATTENDANCE BY OTHERS

The Committees may invite people other than those referred to in paragraph 13 above to address them, discuss issues of local concern and/or answer questions. They may for example wish to hear from residents, stakeholders, Councillors and Officers in other parts of the public sector and shall invite such people to attend. Attendance is at their discretion.

## 16. THE PARTY WHIP

If a Member of an Overview and Scrutiny Committee is subject to a party whip in respect of an issue to be considered by it, s/he must declare the existence of the whip and the nature of it before the commencement of the Committee's consideration of the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## 17. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

a) The Committees shall consider the following business:

i. minutes of the previous meeting;

ii. declarations of interest (including the declaration of any party whip);

iii. consideration of any matter referred to the Committee for a

decision in relation to call-in of a decision;

iv. responses of the Cabinet to reports of the Committee;

v. the business otherwise set out in the agenda for the meeting including any overview and scrutiny items;

vi. review the tracker of committee recommendations to decision makers; and

vii. the work programme for future meetings.

b) The Committees may ask people to attend to give evidence or answer questions about any items on the agenda. Meetings should be conducted in accordance with the following principles, that:

i. the business is conducted fairly and that all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

ii. those assisting the Committee by giving evidence be treated with respect and courtesy; and

iii. the business be conducted as efficiently as possible.

c) Following any investigation or review, the Committees shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make their reports and findings public.

## 18. MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY COMMITTEE

Where a matter for consideration by one of the Overview and Scrutiny Committees also falls within the remit of the other Committees, the decision as to which Committee will consider it will be resolved by the respective Chairs. As far as possible the matter will be considered by one Committee only, with the Chair, or other member, of any other interested Committee attending the meeting by invitation. Exceptionally a joint meeting of the interested Committees may be arranged.

## 19. CALL-IN

### 19.1 Introduction

a) All Overview and Scrutiny Committees have the power to call in decisions made by the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet, Key Decisions taken by Officers under delegated powers, or under joint arrangements within their terms of reference as set out in paragraph 2 above. The purpose is to

consider whether to recommend that a decision made but not yet implemented should be reviewed by the Cabinet or other decision-maker as appropriate.

b) An executive decision which is the subject of a valid call-in request shall not be implemented until the decision-maker has reconsidered the matter in the light of any report made to it by the Overview and Scrutiny Committee and decided whether to affirm, amend or rescind its decision.

c) This is a power which should only be used in exceptional circumstances and where Councillors have evidence which suggests that a decision has not been taken properly, and for proper purposes. It will not normally be possible to call in a decision simply because a Councillor(s) does not agree with it. Day-to-day management and operational decisions will not be subject to call-in. A decision-maker may only be asked to reconsider a decision once.

d) Call-in allows an issue to be discussed in a public forum and should be carried out in a way that adds value to the decision-making process.

19.2 **Publication of notice of decisions**

a) When a decision is made by the Cabinet or other decision-maker, notice of the decision shall be published and made available at the main offices of the Council normally within 2 working days of the decision being taken. All Councillors will receive notice of any such decision within the same timescale.

b) 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 5 working days after publication of the decision, unless the decision is called-in under the provisions set out below.

19.3 **Notice of Call-in**

a) A valid notice of call-in is one which:

i. is signed by any five Councillors. This should either be a signed paper copy or an electronic copy sent from a Councillor's own email account with the signatories confirmed by email from their own email accounts;

ii. sets out the reasons for the call-in together, where appropriate, with a suggested alternative course of action; and

iii. is submitted to the Monitoring Officer within 5 working days of the date of publication of the decision.

b) In addition, a minimum of one-third of the Members of the Council may call-in an Executive Decision direct to Full Council if they consider it to be a matter of such importance that it warrants debate at a Council meeting, subject to compliance with paragraph a) ii. and iii. above. Paragraph 19.5 (d) will apply to any executive decision referred to full Council.

19.4 **Grounds for Call-in**

a) The reasons for call-in must be legitimate and not designed to impede the proper transaction of business for vexatious, frivolous, repetitive or other improper purposes. As a guide, the Council would expect the case for calling-in an executive decision to be based on one or more of the following grounds:

i. the decision is outside the terms of reference of the Cabinet, or delegated powers of the decision-maker; or

ii. the decision appears to be contrary to, or not wholly consistent with, the Council's Budgetary and Policy Framework or other Council Policy; or

iii. the information contained within the report, and/or considered by the Cabinet (or other decision-maker) was incomplete or inaccurate; or

iv. new information has come to light which might cause the decision to be changed; or

v. the decision was not made in accordance with the 'Principles of Decision- making' set out in Article 11 of the constitution or in some other way appears to give rise to significant legal, financial or propriety issues.

b) On receipt of a valid notice of call-in the Monitoring Officer will convene a meeting of the relevant Overview and Scrutiny Committee within 15 working days in consultation with the Chair of the Committee. Any signatories to the call-in notice who are not members of the Overview and Scrutiny Committee shall have the right to attend and speak (but not vote) at the Committee meeting. The Committee will then proceed as set out in paragraph 19.5 below.

c) If the Monitoring Officer does not consider a call-in notice to be valid, having regard to paragraph 19.4 a), the Monitoring Officer will consult the Chair of the relevant Overview and Scrutiny Committee before informing the signatories of the decision. Where a call-in request is not accepted, the Monitoring Officer will submit a report to the next available meeting of the Overview and Scrutiny Committee giving details of the request and the reasons for not accepting it.

19.5 **Format of Meeting**

a) Where the Overview and Scrutiny Committee considers a call-in request, the format of the meeting will be as follows:-

i. after the Chair opens the meeting the Councillors who asked for the decision to be called-in (including any who are not members of the Committee) will be asked to explain the reasons for their request and what they feel should be reviewed. Up to 25 minutes will be available for the signatories of the call-in for this purpose, to be used as they choose between them;

ii. members of the public will be invited to speak generally, in line with the guidance set out in "Public Participation in Meetings" in Part 4 of the Constitution although the Chair may decide to exercise his/her discretion in relation to time limits;

iii. visiting Councillors (other than signatories to the call-in) may speak in line with Paragraph 7.5 of the Committee Procedure Rules;

iv. the relevant Cabinet Member(s) will then be invited to make any comments;

v. the relevant Director, or his/her representative, will advise the Committee on the background and context of the decision and its importance to achieving service priorities;

vi. Members of the Committee will ask questions of Cabinet Members and Officers in attendance;

vii. Debate by committee;

viii. The Chair will sum up;

ix. The signatories or one of their number, will be invited to indicate whether they are satisfied that their concerns have been adequately considered at the meeting; and

x. the Cabinet Member(s) will be invited to make any final comments on the matter.

b) The Committee, after considering the evidence presented to the meeting, will make one of the following decisions:

i. take no further action, in which case the decision will take effect immediately; or

ii. refer the decision back to the decision-maker for reconsideration, setting out the nature of the Committee's concerns. The

decision-maker must then re-consider the matter within a further 10 working days, taking into account the concerns of the Committee before making a final decision;

c) If, following a request for call-in, the Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-maker, the decision will take effect on the date of the relevant Committee meeting, or the expiry of that further 10 working day period, whichever is the earlier.

d) If the matter is referred to Full Council under paragraph 19.3(b) and the Council does not object to the decision which has been made, then no further action is necessary, and the decision will be effective in accordance with the provision below. However, if the Council does object, it cannot by law make decisions in respect of an Executive Function unless they are contrary to, or inconsistent with, the Budgetary or Policy Framework. Unless that is the case, the Council will refer any decision to which it objects back to the decision-maker, together with its views on the decision. The decision-maker will choose whether to amend the decision**,** or not**,** before reaching a final decision and implementing it. The decision-maker will reconsider the matter within 10 working days of receipt of the Council's views.

e) If the Council does not meet, or if it does but does not refer the decision back to the decision-maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

### 19.6 Call-in and Urgency

The call-in procedure set out above shall not apply where an Executive Decision is being taken in accordance with the urgency procedure. In these circumstances the decision-maker shall follow the process set out in the Urgency Procedure Rules in Part 4 of this Constitution.

## 20. COUNCILLOR CALL FOR ACTION

a) Any Councillor may request that an item is placed on the agenda of an Overview and Scrutiny Committee for consideration. The Councillor making the request does not have to be a member of the Committee.

b) The Call for Action should be an option of "last resort". In considering whether to refer a matter in accordance with these provisions, the Committee must have regard to relevant guidance issued by the Secretary of State. A Call for Action will only be included on a Committee agenda if the Chair, in consultation with the Head of Law and Governance, is satisfied that:

i. the Councillor has made all reasonable efforts to resolve the matter via direct liaison with Officers and/or relevant partners; and

ii. the issue of concern is a matter in respect of which the Council has a statutory power or duty and is not precluded by adopted Council policy or legislation; and

iii. the issue of concern has a demonstrable impact on a part or the whole of the Councillor's ward;

and accordingly information to support the above matters should accompany the Call for Action request.

c) A Call Action cannot, relate to:

i. a planning decision;

ii. a licensing decision;

iii. any matter in respect of which an individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;

iv. any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview or Scrutiny Committee; or

v. any matter which is a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006.

d) If the Chair rejects the Call for Action the Councillor who made the request shall be provided with reasons for the decision.

e) A valid Call for Action will be considered at the next ordinary meeting of the Overview and Scrutiny Committee or at a special meeting of the Committee within 14 working days of validation whichever is the earlier.

f) The Officers will prepare a report for the Committee with such supporting information and evidence as is reasonably available. If the matter involves consideration of information held by another public body or partner, an appropriate representative shall be invited to the Committee meeting to provide that information, make representations and answer questions.

g) The Call for Action will be considered in public session unless consideration of the issues involves the disclosure of exempt or confidential information.

h) The Councillor who referred the matter may address the Committee in respect of the Call for Action for up to 10 minutes.

i) The Committee may also consider representations from any residents of the ward affected by the Call for Action, subject to the discretion of the Chair.

j) If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Cabinet Member shall also attend the Committee to answer questions and make any representations.

## 21. REPORTS AND RECOMMENDATIONS ON CALLS FOR ACTION

Where the Committee makes a report or recommendations, the Council or Cabinet as appropriate will:

a) consider the report or recommendations and respond to the Committee indicating what, if any, action it proposes to take;

b) if the Committee has published the report or recommendations, the Council or Cabinet will publish its response, and send a copy to the Councillor who initiated the Call for Action, unless confidential or exempt information is involved; and do so within two months of the date when the Council or Cabinet received the report or recommendations or (if later) the date when the Proper Officer received the notice.

## 22. SCRUTINY OF CRIME AND DISORDER MATTERS

### BASINGSTOKE AND DEANE, HART AND RUSHMOOR COUNCILS CRIME AND DISORDER JOINT SCRUTINY COMMITTEE

### 1. Purpose of the Committee

**1.1** This committee is the Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006.

### 2. Terms of Reference

**2.1** To scrutinise decisions made or other action taken, in connection with the discharge of the crime and disorder functions by the Joint Community Safety Partnership.

**2.2** To act as a consultative body for the joint Community Safety Partnership and Police and Crime Commissioner responding to requests in relation to new and changed policies and services in relation to any matter within their purview.

**2.3** To monitor and review the performance of the joint Community Safety Partnership.

**2.4** To make reports or recommendations to the Local authorities, Joint Community Safety Partnership and Police and Crime Commissioner with respect to the discharge of the crime and disorder functions.

**2.5** The committee shall prepare an annual report for the Councils.

**3. Composition of the Committee**

**3.1** The committee shall consist of nine Councillors to be made up of three Councillors nominated from Basingstoke and Deane Borough Council, Hart District Council and Rushmoor Borough Council respectively.

**3.2** With the exception of Cabinet members and members of the Community Safety Partnership, any Councillor of the respective Council may act as a substitute for the nominated member.

**3.3** Each Council may change their nominated Councillor at any time.

**3.4** The Committee may co-opt external representatives or appoint advisors as it sees fit.

## RULES FOR OPERATION OF THE PLANNING SCHEME OF DELEGATION

### 1. Introduction

1.1 This document sets out the process to be followed in respect of determining Planning Applications in accordance with the 2026 Regulations and the discharge of functions and responsibilities in respect of such Planning Applications set out in Part 3 of the Constitution.

### 2. Interpretation

2.1 For the purposes of this Part of the Constitution and the Part 3 (Responsibility for Functions) the following definitions shall apply:

"Assessment of Significance" an assessment of an application against the requirements of the 2026 Regulations and the criteria in the Gateway Test under rule 6.3.

"Gateway Decision" is a decision made by the Nominated Member and the Nominated Officer or their authorised substitute(s) following consideration of an application against the Gateway Test at the Gateway Test Meeting;

"Gateway Test" is the test set out in Regulation 5(3) of the 2026 Regulations where the Nominated Member and the Nominated Officer or their authorised substitute(s) agree that a Schedule 2 Application raises:
(a) one or more issues of economic, social or environmental significance to the local area, or
(b) one or more significant planning matters having regard to the development plan and any other material considerations;

"Gateway Test Meeting" the meeting between the Nominated Member and the Nominated Officer or their authorised substitute(s) held in accordance with Part 4 of this Constitution where a Schedule 2 Application is considered against the Gateway Test or an Own Interest Application is considered;

"Own Interest Application" shall be interpreted as defined in Regulation 6 of the 2026 Regulations save that regulation 6(1)(a)(iii) shall only include applications of officers who are Heads of Service or above or officers who work within the Planning and Infrastructure service of the Council;

"Planning Application" means a Schedule 1 Application or a Schedule 2 Application;

"the 2026 Regulations" means the Town and Country Planning (Discharge of

Local Planning Authority Functions) (England) Regulations 2026 (for the time being in force and as may be amended);

"Schedule 1 Application" means an application prescribed in Schedule 1 of the 2026 Regulations as defined in the appendix to these rules

"Schedule 2 Application" means an application of a kind prescribed in Schedule 2 to the 2026 Regulations as defined in the appendix to these rules.

"Statutory Guidance" means the guidance published by the Secretary of State which local planning authorities must have regard to under sections 319ZZE(4) and 319ZZE (5) of the Town and Country Planning Act 1990 in operating or making arrangements required under the 2026 Regulations (for the time being in force and as may be amended).

"Triaged Applications" means the triage of a Schedule 2 application in accordance with paragraphs 6.1 and 6.2 of these Rules.

3. **Nominated Member**

3.1 Pursuant to Regulation 3(1)(a) and 3(2)(a) of the 2026 Regulations, the Nominated Member for the purposes of Regulations 5 and 6 of the 2026 Regulations is the Chair of Planning Committee.

**Substitutes**

3.2 Pursuant to Regulation 3(2)(b) of the 2026 Regulations, where the Nominated Member is unavailable for whatever reason or is conflicted in relation to an Own-Interest Application or the Gateway Test on a particular application, the substitute Nominated Member is the Vice Chair of Planning Committee. If both the Nominated Member and the Vice Chair of the Committee are unavailable or conflicted the councils Monitoring Officer shall appoint a substitute Nominated Member from the membership of the Committee having regard to conflicts of interest and probity.

4. **Nominated Officer**

4.1 Pursuant to Regulation 3(1)(b) and 3(2)(a) of the 2026 Regulations, the Nominated Officer for the purposes of Regulations 5 and 6 of the 2026 Regulations is the Head of Planning and Infrastructure.

**Substitutes**

4.2 Pursuant to Regulation 3(2)(b), where the Nominated Officer is unavailable for whatever reason or is conflicted in relation to an Own-Interest Application or the Gateway Test on a particular application, the substitute Nominated Officer is the Planning and Development Manager or the Assistant Planning Managers or the Principal Tree Officer.

5. **Exercise of delegations**

5.1 When using delegated powers, the Head of Planning and Infrastructure or the Planning and Development Manager must make sure that the delegated report relating to the relevant application provides the reason(s) for determining the application under delegated powers.

5.2 When considering whether to refer an application to Planning Committee for a determination at the Gateway Test Meeting, the Nominated Officer and the Nominated Member, must make sure that they record their decision along with the reasons for it. This should be captured in the associated Planning Committee report relating to the relevant application which shall provide:

- Reason for the referral to Planning Committee; and
- how the application meets the Gateway Test.

6. **Schedule 2 Applications**

**<u>Triaged Applications</u>**

6.1 Schedule 2 Applications shall be triaged following receipt of the relevant application against the requirements of the 2026 Regulations and in accordance with 6.2 below.

6.2 Where the Planning and Development Manager considers that in the context of the particular application:

(a) none of the criteria in the Gateway Test are clearly engaged by the particular Schedule 2 Application; and
(b) the Schedule 2 Application is not an Own Interest Application; and
(c) the application:

- is an application is a Listed Building Application which is not in respect of a Grade 1 or 2* building or does not have an outstanding objection from Historic England; or
- an application for advertisement consent
- is an application for a variation, or discharge of a planning obligation which does not affect the principal planning obligations; or

- is an application for consent under a TPO

and the application does not raise any exceptional circumstances that would require the application to be considered for referral to Planning Committee.

the application shall be considered a Triaged Application and shall be determined by the Head of Planning and Infrastructure in accordance with (11.3.2) of Part 3 of the Constitution.

**Assessment of Significance**

6.3 Where a Schedule 2 Application is not a Triaged Application or an Own-Interest Application that has been referred to Planning Committee under 7.8 the Planning and Development Manager shall refer the application to the Gateway Test Meeting with an Assessment of Significance of the relevant application against the requirements of the 2026 Regulations and the criteria in the Gateway Test.

6.4 When preparing an Assessment of Significance of a Schedule 2 Application in accordance with paragraph 6.2, the Planning and Development Manager shall have regard to:

(a) the Statutory Guidance;
(b) the Development Plan;
(c) Any outstanding objections from a statutory consultee;
(d) Any other material considerations.

6.5 Where there is a substantive change to a Schedule 2 Application before it is determined, the Assessment of Significance of that application shall be reviewed by the Planning and Development Manager in accordance with the criteria set out in paragraph 6.3 above and, where necessary, re-refer the application to the Gateway Test Meeting. .

**Gateway Test**

6.6 Schedule 2 Applications which fall within paragraph 6.2 shall be considered by the Nominated Officer and the Nominated Member at a Gateway Test Meeting.

6.7 Gateway Test Meetings shall be attended by the Nominated Officer and the Nominated Member or their substitute(s). Meetings shall be bi-weekly if required, with additional meetings scheduled if necessary.

6.8 A record shall be kept of the applications considered at the Gateway Meetings and the decisions taken in respect of each of these cases. This record shall be made available on the Council's website and shall be reported to Planning Committee on a quarterly basis or the next available meeting thereafter.

6.9 In the Gateway Test Meeting, the Nominated Officer and the Nominated Member or their substitute(s), having had regard to the Assessment of Significance for that application, shall consider whether the Schedule 2 Applications referred to them under paragraph 6.2 above:

(a) Meets one or more of the criteria in the Gateway Test; and
(b) Whether the Schedule 2 Application should be determined by Planning Committee.

6.10 Where the Nominated Officer and the Nominated Member, or their substitute(s), agree that a Schedule 2 Application:

(a) meets one or more of the criteria in the Gateway Test; and
(b) that the application should be determined by Planning Committee

that application shall be referred to Planning Committee for determination in accordance with 2.6.1 of Part 3 of the Constitution.

6.11 Where Nominated Officer and the Nominated Member, or their substitute(s), agree that a Schedule 2 Application should not be determined by Planning Committee, that Schedule 2 Application shall be determined by the Head of Planning and Infrastructure under paragraph (11.3.2) of Part 3 of the Constitution.

6.12 The Nominated Officer and the Nominated Member, or their substitute(s), shall make every effort to reach agreement on whether a Schedule 2 Application should be determined by Planning Committee Where the Nominated Officer and the Nominated Member, or their substitute(s), are unable to agree whether the Schedule 2 Application should be determined by Planning Committee, then the application shall be determined by the Head of Planning and Infrastructure in accordance with (11.3.2) of Part 3 of the Constitution.

## 7. Own-Interest Applications

### Assessment of Significance

7.1 Where an application is an Own-Interest Application, the Planning and Development Manager shall carry out an Assessment of Significance of the relevant application having regard to the criteria in paragraph 6.3 and the following criteria:

(a) Whether the Application is also a Schedule 2 Application;

(b) Whether the application meets one or more of the criteria in the Gateway Test;

(c) whether in the interests of openness and transparency the application should be considered at the Gateway Test Meeting

7.2 Where an Own-Interest Application is also a Schedule 2 Application, that application shall be considered as a Schedule 2 Application in accordance with paragraph 6 above.

7.3 The Planning and Development Manager, having completed the Assessment of Significance, shall refer the Own-Interest Application to the Gateway Test Meeting for consideration.

7.4 Where there is a substantive change to an Own-Interest Application before it is determined, the Assessment of Significance of that application shall be reviewed by the Planning and Development Manager in accordance with the criteria set out in paragraph 7.1 above and, where necessary, re-refer the application to the Gateway Test Meeting.

### Gateway Test

7.5 Own-Interest Applications which fall within paragraph 7.3 shall be considered by the Nominated Officer and the Nominated Member at a Gateway Test Meeting.

7.6 The procedure for the Gateway Test Meetings set out in paragraphs 6.5 to 6.11 above shall apply to Own-Interest Applications.

7.7 In the Gateway Test Meeting, the Nominated Officer and the Nominated Member or their substitute(s) shall consider whether the Own-Interest Applications referred to them under paragraph 7.3 above should be determined by Planning Committee having regard to the Assessment of Significance for that application.

7.8 Where the Nominated Officer and the Nominated Member, or their substitute(s), agree that an Own-Interest Application should be determined by Planning Committee that application shall be referred to Planning Committee for determination by Planning Committee in accordance with 2.6.1 of Part 3 of the Constitution.

7.9 Where Nominated Officer and the Nominated Member, or their substitute(s), agree that an Own-Interest Application should not be determined by Planning Committee, that Own-Interest Application shall be determined by the Head of Planning and Infrastructure under paragraph (11.4.2) of Part 3 of the Constitution.

7.10 The Nominated Officer and the Nominated Member, or their substitute(s), shall make every effort to reach agreement on whether an Own Interest Application should be determined by Planning Committee. Where the Nominated Officer and the Nominated Member, or their substitute(s), are unable to agree whether the Own Interest Application should be determined by Planning Committee, then the application shall be determined by the Head of Planning and Infrastructure in accordance with (11.4.2) of Part 3 of the Constitution.

## 8. Lobbying

8.1 The Nominated Member or the Nominated Officer or any other officer of the authority, when exercising their powers under paragraphs 1 – 7 of these rules for Operating the Planning Scheme of Delegation shall not (in accordance with the Planning Code of Conduct in part 5 of the constitution) be lobbied or otherwise contacted by any person or organisation, including by members or officers of the relevant authority, to exercise their powers or delegations in a particular way.

8.2 Any such lobbying that is received should be reported to the Monitoring Officer.

**Appendix**

## Schedule 1 Applications

- An application made under section 17(1) of the Land Compensation Act 1961 (certificates of appropriate alternative development)

- An application made under section 26H(1) of the Listed Buildings Act (certificate of lawfulness of proposed works).

- householder development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)

- minor commercial development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)

- minor residential development (consisting only dwellings and development for purposes incidental to the enjoyment of dwellings, comprises of at least 1 but not more than 9 new dwellings (flats or houses) on a site smaller than 0.5 hectares, other minor development in relation to flats or an application for any consent, agreement or approval required by or under a planning permission, development order or local development order for such development)

- An application for permission in principle (as referred to in section 58A of the Town and Country Planning Act 1990)

- An application made under section 73(1) of TCPA 1990 (application to develop land without compliance with conditions previously attached) in respect of which the original planning permission was a Schedule 1 planning permission

- An application made under section 96A(4) of TCPA 1990 (non-material changes to planning permission or permission in principle)

- where a local planning authority considers a planning obligation is connected to a Schedule 1 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)

- where local planning authority considers a planning obligation is connected to a Schedule 1 application, modification or discharge of a planning obligation (applications under section 106A(3) of the Town and Country Planning Act 1990)

- certificates of lawfulness of existing use or development (under section 191(1) of the Town and Country Planning Act 1990)

- certificates of lawfulness of proposed used or development (under section 192(2) of the Town and Country Planning Act 1990)

- biodiversity gain plan (duty to approve under paragraph 14 of Schedule 7A to the Town and Country Planning Act 1990)

- reserved matters approvals (applications under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015) in respect of an outline planning permission other than a large outline permission (less than 500 dwellings or less than 50,000 sq meters of floorspace)

- discharge of conditions (applications under Article 27(1) of Town and Country Planning (Development Management Procedure) (England) Order 2015)

- prior approval for permitted development rights (applications under Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015)

**Schedule 2 Applications**

- applications for listed building consent (under section 10 of the Planning (Listed Buildings and Conservation Areas) Act 1990)

- applications for the variation or discharge of conditions of listed building consent (under section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990)

- a local authority considers that a Schedule 1 application for planning permission is connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent

- An application for planning permission that is not a householder application, a minor commercial application or a minor residential application.

- applications to develop land without compliance with conditions previously attached (under section 73(1) of the Town and Country Planning Act 1990) in respect of which the original planning permission was a Schedule 2 planning permission.

- applications for development which has already been carried out (under section 73A(1) of the Town and Country Planning Act 1990)

- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)

- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, application for modification or

discharge of a planning obligation (under section 106A(3) of the Town and Country Planning Act 1990)

- Reserved matters approval application in respect of a large outline permission (500 or more dwellings or 50,000 sq metres or more of floorspace)

- applications for advertisement consent (under regulation 9 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007)

- applications for consent under tree preservation orders (under regulation 16 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012)

## RULES OF PROCEDURE

## ACCESS TO INFORMATION PROCEDURE RULES

### 1. SCOPE

a) These paragraphs apply to all meetings of the Council, the Cabinet and its Committees, the Overview and Scrutiny Committees, and any other Committees appointed by the Council (together called meetings).

b) Paragraphs 13 to 22 only apply when the Cabinet, one of its Committees or an individual member of the Cabinet is taking key decisions, or when an Officer is taking recordable executive decisions.

c) Where a Standards Sub-Committee is convened to consider or review an allegation that a Councillor has contravened the Council's Code of Conduct for Councillors, the provisions set out in the Council's arrangements for dealing with complaints shall apply and the meeting and papers will not be open to the public.

d) Meetings of working parties, member advisory panels and single issues panels fall outside the scope of these rules. Although these meetings will mostly be held in private, the date, time and place of all such meetings will be published in the calendar of meetings and their conclusions and actions will be recorded and made available to all Councillors.

### 2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. The Access to Information paragraphs set out below are in addition to any rights which members of the public may enjoy under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the Data Protection Act 1998, the Data Protection Act 2018 and the General Data Protection Regulation.

### 3. RIGHTS TO ATTEND MEETINGS

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

### 4. NOTICES OF MEETING

The Council will give at least five clear working days' notice of any meeting by publishing details of the meeting at the Civic Offices and on its website at http://www.basingstoke.gov.uk/

## 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

a) Subject to paragraph d) below, no decision shall be taken at a meeting unless it is included on the agenda for that meeting and is accompanied by a report.

b) All agenda and reports will be published at least five clear working days before the meeting unless the report relates to a confidential matter or is exempt under these paragraphs.

c) 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 Proper Officer shall make each such report available to the public as soon as the report is completed and sent to Members.

d) If a report is not published five clear working days before a meeting, the item to which it relates may not be considered at that meeting unless the Chair of the meeting agrees that, by reason of special circumstances, the item should be considered as a matter of urgency. Where this is the case, the special circumstances requiring the item to be considered urgently shall be specified in the minutes.

## 6. SUPPLY OF COPIES

The Council will supply copies of:

a) any agenda and reports which are open to public inspection;

b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

c) if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person, and reserves the right to charge for postage, copying and transmission.

## 7. ACCESS TO MINUTES ETC. AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting:

a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings covered by these paragraphs, 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

The report will set out a list of those documents (called background papers) relating to the subject matter of the report which:

a) disclose any facts or matters on which the report or an important part of the report is based; and

b) have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information (as defined in paragraph 10).

### 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.

Background papers listed in reports for a meeting of the Cabinet or a committee of the Cabinet shall be made available on the Council's website at the same time as the report is published under paragraph 5.

## 9. SUMMARY OF PUBLIC'S RIGHTS

These paragraphs are a summary of the public's rights to attend meetings and to inspect and copy documents. They are available to the public at the Civic Offices and on the Council's website.

## 10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

### 10.1 Extent of Exclusion

The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be disclosed.

### 10.2 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.

## 10.3 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed. Such a decision to exclude the public is to be made by resolution of the meeting.

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.

## 10.4 Meaning of confidential information

Confidential information means information given to the Council by a Government Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

## 10.5 Meaning of exempt information

Exempt information means information falling within schedule 12A of the Local Government Act 1972 and which is set out below.

Part 1 Descriptions of Exempt Information

1. Information relating to an individual;

2. Information which is likely to reveal the identity of an individual;

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information);

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority;

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;

6. Information which reveals that the authority proposes -

    a) to give under any enactment, a notice under or by virtue of which, requirements are imposed on a person; or

    b) to make an order or direction under any enactment;

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Part 2 Qualifications

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

    a) the Companies Acts (as defined in section 2 of the Companies Act 2006);
    b) the Friendly Societies Act 1974;
    c) the Friendly Societies Act 1992;
    d) the Co-operative and Community Benefit Societies Act 2014;
    e) the Building Societies Act 1986 or
    f) the Charities Act 2011

9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

10. Information which—

    a) falls within any of paragraphs 1 to 7 above; and

    b) is not prevented from being exempt by virtue of paragraph 8 or 9 above is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

NOTE - The Public Interest Test

The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined.

The Authority must release the information unless "*in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information*".

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.

- There is a distinction between something which is in the public interest and what is of interest to the public.

- Does it further the understanding of and participation in the public debate of issues of the day?

- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?

- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?

- Does it bring to light information affecting public health and public safety?

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

a) If the Proper Officer 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 paragraph 10, part of the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed. If the information is exempt information, the category of the exempt information must also be marked on the report.

b) Where paragraph a) applies, the meeting will pass a resolution excluding the public from the meeting for the confidential or exempt items of business. If the matter is considered in public, any related report will also become available to the public.

## 12. APPLICATION OF PARAGRAPHS TO THE CABINET

Paragraphs 1 – 11 apply to the Council, the Cabinet and Committees (both Council and Cabinet committees) whilst paragraphs 14 – 22 apply only to the Cabinet, its Committees, individual Cabinet members taking key decisions and officers taking recordable Executive Decisions. A Key Decision is defined in Article 11 of the Constitution.

## 13. MEETINGS OF THE CABINET TO BE HELD IN PUBLIC

Meetings of the Cabinet and its Committees will be held in public, unless it is likely that exempt or confidential information would be disclosed under paragraph 10, or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct, or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

## 14. PROCEDURE BEFORE TAKING KEY DECISIONS

### 14.1 Notice of Key Decision (Forward Plan)

Subject to paragraph 15 (general exception) and paragraph 16 (special urgency), a Key Decision may not be taken unless:

a) notice of the decision has been published in the Forward Plan;

b) at least 28 clear days have elapsed since the publication of notice of the decision in accordance with paragraph a); and

c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with paragraph 4 (notice of meetings).

### 14.2 Contents of Notice of Key Decision (Forward Plan)

The Forward Plan will state that a Key Decision is 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. It will describe the following particulars:

a) the matter in respect of which the decision is to be made;

b) where the decision-maker is an individual, his/her name and title, and where the decision-maker is a body, its name and a list of its membership;

c) the date on which, or the period within which, the decision is to be made;

d) a list of the documents submitted to the decision-maker for consideration in relation to the matter;

e) the address from which copies of, or extracts from, any document listed is available, provided that they are not confidential or exempt;

f) that other documents relevant to those matters may be submitted to the decision maker; and

g) the procedure for requesting details of those documents (if any) as they become available.

### 14.3 Publication of the Forward Plan of Key Decisions

The Forward Plan must be made available for inspection by the public at the Civic Offices and on the Council's website.

## 15. GENERAL EXCEPTION

If notice of a Key Decision has not been published in the Forward Plan, then subject to paragraph 16 (special urgency), the decision may still be taken if:

a) the decision must be taken by such a date that it is impracticable to publish notice of it in the Forward Plan;

b) the Head of Law and Governance has informed the Chair of the Resources Overview and Scrutiny Committee, or in his/her absence the Vice-Chair, in writing, or if there is no such person, each member of that Committee of the matter about which the decision is to be made;

c) the Head of Law and Governance has made copies of that notice available to the public at the Civic Offices and on the Council's website; and

d) at least 5 clear days have elapsed since the Head of Law and Governance complied with paragraphs b) and c) above.

As soon as reasonably practicable after the Head of Law and Governance has complied with this paragraph, s/he must make available at the Civic Offices and publish on the Council's website a notice setting out the reasons why compliance with paragraph 14 is impracticable.

## 16. SPECIAL URGENCY

If there is not time to follow paragraph 15 (general exception), then the Key Decision can only be taken if the decision-maker obtains the agreement of the Chair of the Resources Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If there is no Chair of the Resources Overview and Scrutiny Committee, or if the Chair of the Committee is unable to act, then the agreement of the Mayor, or in his/her absence, the Deputy Mayor will suffice.

As soon as reasonably practicable after the decision-maker has obtained agreement under this paragraph the Proper Officer must make available at the Civic Offices and publish on the Council's website a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.

## 17. REPORT TO COUNCIL

If the Resources Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:

a) the subject of a notice in the Forward Plan; or

b) the subject of the general exception procedure; or

c) the subject of an agreement with the Chair of the Resources Overview and Scrutiny Committee, or the Mayor or Deputy Mayor under paragraph 16;

the Committee may require the Cabinet to report to the Council within such reasonable time as it specifies.

### 17.1 Cabinet's report to Council

Where required, the Cabinet will prepare a report to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the resolution of the Committee, then the report may be submitted to the meeting after that.

The report to Council will set out:

a) particulars of the decision (including the reasons for it);

b) the identity of the decision-maker; and

c) if the Cabinet is of the opinion that it was not a Key Decision, the reasons for that opinion.

### 17.2 Quarterly reports on special urgency decisions

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

## 18. RECORD OF DECISIONS

After any meeting of the Cabinet or any of its Committees, whether held in public or in private, the Proper Officer will produce a written record of every decision taken at that meeting as soon as practicable. The record will include:

a) the decision including the date it was made;

b) the reason for the decision;

c) details of any alternative options considered and rejected at the meeting at which the decision was made;

d) details of any conflict of interest relating to the matter decided which is declared by any member of the body which made the decision; and

e) in respect of any declared conflict of interest, a note of any

dispensation granted.

## 19. MEETINGS OF THE CABINET TO BE HELD IN PRIVATE (WHERE THE PUBLIC HAVE BEEN EXCLUDED FOR CONFIDENTIAL OR EXEMPT BUSINESS)

**19.1** Where in the opinion of the Proper Officer it is likely that the public will be excluded under paragraph 10 for all or part of a meeting of the Cabinet or a Committee of the Cabinet, at least 28 clear days before the meeting:

a) notice shall be given of the meeting and the reasons why it is intended that the public be excluded from part or all of it; and

b) made available at the Civic Offices and published on the Council's website (normally in the Forward Plan).

**19.2** At least five clear days before the meeting, a further notice will be made available at the Civic Offices and published on the Council's website giving details:

a) of the meeting and reasons why it is intended that the public be excluded from part or all of it;

b) of any representations received about why the meeting, or that part of the meeting, should be open to the public; and

c) a statement of the Cabinet's response to any such representations.

**19.3** Where the date by which a meeting must be held makes compliance with this requirement impracticable, all or part of the meeting may only be held in private where the decision-making body has obtained agreement from:-

a) the Chair of the Resources Overview and Scrutiny Committee; or

b) if there is no such person, or if the Chair of the Resources Overview and Scrutiny Committee is unable to act, the Mayor; or

c) where there is no Chair of the Resources Overview and Scrutiny Committee or Mayor, or they are unable to act, the Deputy Mayor,

that the meeting is urgent and cannot reasonably be deferred.

**19.4** As soon as reasonably practicable after the Cabinet, or a Committee of the Cabinet, has obtained agreement under paragraph 19 to hold all or part of a meeting in private, it must:

a) make available at the Civic Offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be

deferred; and

b) publish that notice on the Council's website (normally in the Forward Plan).

## 20. KEY DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET AND EXECUTIVE DECISIONS BY OFFICERS

### 20.1 Reports intended to be taken into account

Where an individual member of the Cabinet receives a report which s/he intends to take into account in making any Key Decision, then s/he will not make the decision until at least 5 clear working days after receipt of that report.

### 20.2 Provision of copies of reports to Overview and Scrutiny Committees

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

### 20.3 Record of individual decisions by Cabinet Members

As soon as reasonably practicable after a Key Decision has been taken by an individual member of the Cabinet, s/he will instruct the Proper Officer to prepare a record which will include:

a) the decision including the date it was made;

b) the reasons for the decision;

c) details of any alternative options considered and rejected by the Cabinet member when making the decision;

d) details of any conflict of interest declared by any Cabinet member who is consulted by the Cabinet member which relates to the decision; and

e) in respect of any declared conflict of interest involving a Cabinet member, a note of any dispensation granted.

The provisions of paragraphs 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet.

### 20.4 Recordable Executive decisions by officers

As soon as reasonably practicable after an executive decision has been taken by an officer on one of the categories of decision defined

below, s/he will prepare a record which will include the decision and the date it was taken together with the reasons for the decision, using the form for this purpose available from Democratic Services:

a) Any decision defined as a 'Key Decision'.

b) Decisions that would result in the setting up of a company or entering into a partnership arrangement with any other body.

c) Major individual service reorganisation decisions likely to involve 20 or more redundancies.

d) Decisions to waive the procurement paragraphs in respect of contracts over the value of £75,000.

e) Any decision specifically delegated to an officer at a Cabinet or Cabinet committee meeting, or by an individual member of the Cabinet.

f) Urgent decisions on matters that are otherwise reserved to the Cabinet.

All such decisions will be published on the Council's website.

Where any such recordable Executive Decision is a 'Key Decision' the record of that decision shall comply with the requirements for recording decisions set out in paragraph 20.3.

**20.5 Inspection of documents following Executive Decisions**

Subject to paragraph 22, after a meeting of a decision-making body at which an Executive Decision has been made, or after an individual Cabinet member has taken an Executive Decision, or an Officer has taken a Key Decision, the Proper Officer must ensure that a copy of-

a) any records prepared in accordance with paragraph 20; and

b) any report considered at the meeting or, as the case may be, considered by the individual Cabinet Member or Officer and relevant to a decision recorded in accordance with paragraph 20 or, where only part of the report is relevant to such a decision, that part,

must be available for inspection by members of the public, as soon as is reasonably practicable, at the Civic Offices, and on the Council's website.

Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under paragraph 6, those documents must be supplied for the benefit of the newspaper by the Council, which may require payment by the newspaper to the Council for

postage, copying and transmission.

### 20.6 Inspection of background papers

Subject to paragraph 22, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with paragraphs 5 or 20.3, at the same time-

a) a copy of a list compiled by the Proper Officer of the background papers to the report or part of the report, must be included in the report or, as the case may be, part of the report; and

b) at least one copy of each of the documents included in that list,

must be available for inspection by the public at the Civic Offices and on the Council's website.

## 21. JOINT COMMITTEES

These paragraphs apply to the Council's Joint Committees as follows:

a) If all the members of a Joint Committee are members of the Cabinet in each of the participating authorities, then the Cabinet rules on access to information will apply.

b) If the Joint Committee contains Councillors who are not in the Cabinet of any of the participating authorities then the access to information rules relating to meetings of the Full Council and its Committees will apply.

## 22. CONFIDENTIAL AND EXEMPT INFORMATION

Nothing in these rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

Nothing in these rules:

a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Proper Officer, that document or part of a document contains or may contain confidential information; or

b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Proper Officer, that document or part of a document contains or is likely to contain exempt information.

Where a Member of the Cabinet or an Officer makes an Executive Decision in accordance with executive arrangements, nothing in these rules:

a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or

b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the Member or Officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

**RULES OF PROCEDURE**

**MEMBERS' RIGHTS OF ACCESS TO INFORMATION PROCEDURE RULES**

## 1. OVERVIEW AND SCRUTINY COMMITTEES - ACCESS TO DOCUMENTS

### 1.1 Rights to copies

Subject to paragraph 1.2 below, members of the Overview and Scrutiny Committees will be entitled to copies of any document which is in the possession or control of the Cabinet or any of its Committees and which contains material relating to:

a) any business transacted at a meeting of the Cabinet or its Committees;

b) any decision taken by an individual Cabinet Member; or

c) any decision taken by an Officer in accordance with Executive Arrangements.

The document shall be provided as soon as reasonably practicable and in any event no later than 10 clear days after the Head of Law and Governance receives the request from the Councillor concerned.

### 1.2 Limit on rights

Members of the Overview and Scrutiny Committees will not be entitled to:

a) any document that is in draft form;

b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision that the Committee is reviewing or scrutinising or intends to scrutinise; or

## 2. ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS

### 2.1 Material relating to business to be transacted at a public meeting

All Councillors will be entitled to inspect any document in the possession or under the control of the Cabinet or its Committees which contains material relating to any business to be transacted at a public meeting unless a), b), c) or d) applies:

a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or

b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any

terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or

c) it is in draft form.

Any document falling within this paragraph must be available for inspection by any Councillor for at least five clear days before the meeting except that-

a) where the meeting is convened at shorter notice, the document must be available for inspection when the meeting is convened; and

b) where an item is added to the agenda at shorter notice, the document must be available for inspection when the item is added to the agenda.

**2.2 Material relating to previous business**

All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to:

a) any business previously transacted in the private part of a meeting; or

b) any decision made by a Cabinet member; or

c) any recordable Executive Decision made by an Officer, unless rule 2.1 a), b, c) or d) applies.

Any such document must be made available when the relevant meeting concludes or, where an Executive Decision is made by an individual Councillor or a recordable Executive Decision is made by an Officer, immediately after the decision has been made and in any event within 24 hours.

## 3. MEMBERS' OTHER RIGHTS TO INFORMATION

A Councillor, for the purposes of his or her duty as a Councillor and no other, may inspect any document that has been considered by a Committee or the Council including background papers. Applications should be made to the Proper Officer and copies will be supplied upon request.

A Councillor shall not knowingly inspect or request a copy of any document relating to a matter in which s/he:

a) is professionally interested; or

b) has a disclosable pecuniary interest within the meaning of the Code of Conduct for Councillors as set out in this Constitution.

This shall not preclude the Head of Law and Governance from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the Data Protection Act.

All reports, background papers to reports and minutes kept by any Committee shall be open for the inspection of any Councillor, as soon as the Committee has concluded action on the matter to which such reports or minutes relate.

## 4. COMMON LAW ('NEED TO KNOW')

Under common law Councillors have additional rights to see other papers including confidential or exempt information if they can establish their "need to know" in order to properly perform their duties as Councillors.

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**RULES OF PROCEDURE**

**BUDGETARY AND POLICY FRAMEWORK PROCEDURE RULES**

## 1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

### 1.1 General

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

In these rules, "Budget" includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, and the control of its capital expenditure and the setting of virement limits.

### 1.2 Role and duties of the Cabinet

The Cabinet will be responsible for initiating, preparing, amending and making recommendations to the Council on all matters relating to the Policy Framework and Budgets of the Council. In relation to the preparation of the Policy Framework, the Budget and Council Tax, the Council shall retain the absolute right, subject to any provisions of its constitution, to approve, amend or reject any proposals put to it by the Leader and Cabinet.

## 2. PROCESS FOR DEVELOPING THE FRAMEWORK

The process by which the Budgetary and Policy Framework, or any parts thereof, shall be developed is:

a) The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budgetary and Policy Framework, and any arrangements for consultation. Normally at least two months before a plan or budget strategy needs to be adopted, the Cabinet will publish initial proposals for consultation.

b) Representations shall be considered in formulating the initial proposals, and shall be reflected in any report dealing with them.

c) If the matter is one where an Overview and Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of the plan or initial budget strategy proposals.

d) The Cabinet shall consult the Overview and Scrutiny Committees on proposals which comply with the financial strategy referred to above and submit detailed proposals on the overall budgets and the level of the Council Tax to the Council by the February immediately preceding the commencement of the next financial year.

e) Having considered any comments or recommendations of the Overview and Scrutiny Committees, the Cabinet may, if it so wishes, amend its proposals before submitting them to the Council for consideration. It will also report to the Council on how it has considered any recommendations from the Overview and Scrutiny Committees.

## 3. PROCESS FOR RESOLVING DISPUTES BETWEEN THE COUNCIL AND THE CABINET

### 3.1 Plans and Strategies

Before amending any draft plan or strategy forming part of the Policy Framework, or approving any such plan or strategy for submission to the Secretary of State or relevant Minister, the Council shall:

a) inform the Leader of any objections which it has to the draft plan or strategy or any proposals to modify, reject, defer or make no decision on the plan or strategy and if such objections or proposals are not accepted by the Leader**,** shall give him/her instructions requiring reconsideration by the Cabinet of its proposals;

b) have regard to any comments made by the Overview and Scrutiny Committee and ordinary Committees of the Council, other local authorities, partners and interested parties;

c) take no action on any decision which is contrary to proposals submitted by the Cabinet until at least five working days, or longer period specified by the Council in its instructions, after the instructions referred to in paragraph a) above have been notified to the Leader; and

d) in amending, approving or adopting any draft plan or strategy, take into account any proposals for amendment made by the Cabinet, and any disagreement which the Cabinet has with the Council's objections, which have been notified to the Council within the period specified by the Council.

### 3.2 Budget

In making any budget decisions or calculations, the Council must take into account any revision of estimates or calculations made by the Cabinet and any disagreement which the Cabinet has with the Council's objections, which have been notified to the Council within the period specified.

Where the Cabinet submits to the Council its proposals for budget estimates and Council Tax calculation and the Council proposes to modify, reject, defer or make no decision on a Cabinet recommendation, it shall:

a) inform the Leader of any objections and give him/her instructions requiring reconsideration by the Cabinet of its estimates and calculations;

b) take no action on proposals submitted by the Cabinet until at least five working days after instructions referred to in paragraph a) above have been notified to the Leader; and

c) in reaching a decision, 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.

If it accepts the recommendations 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.

The Proper Officer shall provide the Leader with copy of the minute of the Council's decision.

An in-principle decision will automatically become effective within five working days from the date of the Council's decision, unless the Leader informs the Proper Officer in writing within that period that s/he objects to the decision becoming effective and provides reasons why.

In that case, the Proper Officer will call a Council meeting within a further 5 working days. The Council will be required to reconsider its decision and the Leader's written submission. The Council may, by a simple majority of votes cast at the meeting:

- approve the Cabinet's recommendations; or
- approve a different decision which does not accord with the recommendations of the Cabinet decision that does not accord with the recommendations of the Cabinet.

The decision shall then be made public and shall be implemented immediately.

### 3.3 Variation of procedure

Where permitted by law, this procedure may be varied by resolution of the Full Council on a recommendation from the Cabinet. No such recommendation will be made until the Cabinet has consulted the Overview and Scrutiny Committee.

## 4. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

Subject to the provisions of paragraph 5 the Cabinet, Committees of the Cabinet, individual members of the Cabinet or any Officers or joint arrangements discharging Executive Functions, may only take decisions which are in line with the Budgetary and Policy Framework. If any of these bodies or persons wish 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, unless it is a matter of urgency.

If the Cabinet, or other decision-maker, wishes to make such a decision it shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision it wishes 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 Budgetary 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 the Urgency Procedure Rules in Part 4 of this Constitution shall apply.

## 5. VIREMENT

Virement across and within budget heads will be allowed in accordance with the Council's Financial Regulations in Part 4 of this Constitution.

## 6. IN-YEAR CHANGES TO POLICY FRAMEWORK

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, any Committees appointed by Cabinet, an individual member of the Cabinet or Officer or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals, except those changes which are necessary to ensure compliance with the law, Ministerial direction or Government guidance.

## 7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

Where the Overview and Scrutiny Committee is of the opinion that an Executive Decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Executive Director of Corporate Services (Section 151 Officer).

In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Executive Director of Corporate Services (Section 151 Officer) report shall be to the Cabinet with a copy to every Councillor. 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 or Executive Director of Corporate Services (Section 151 Officer) report and to prepare a report:

a) to Full Council in the event that the Monitoring Officer or the Executive Director of Corporate Services (Section 151 Officer) conclude that the decision was a departure; and

b) to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer (Section 151 Officer) conclude that the decision was not a departure.

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 (Section 151 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 Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 20 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer (Section 151 Officer). The Council may either:

a) endorse a decision or proposal of the Executive Decision-Maker as falling within the existing Budgetary and Policy Framework and no further action is required. The decision of the Council be minuted and circulated to all Councillors in the normal way; or

b) amend the Council's Financial Regulations in Part 4 of this Constitution or the policy concerned to encompass the decision or proposal of the Executive Decision Maker 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, or not wholly in accordance with, the Budgetary or Policy Framework does not amend the existing framework or policy to accommodate it, it may require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer (Section 151 Officer).

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**RULES OF PROCEDURE**

**URGENCY PROCEDURE RULES**

## 1. URGENT DECISIONS OUTSIDE THE BUDGETARY OR POLICY FRAMEWORK

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 Budgetary and Policy Framework approved by Full Council, if the decision is a matter of urgency.

### 1.1 Consultation

In the first instance the person or body wishing to take the decision shall:

a) seek advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the proposed decision would be contrary to the Council's Budgetary and Policy Framework;

b) obtain confirmation from the Chief Executive and the Monitoring Officer that a decision is required urgently and that it would not be practicable to convene a quorate meeting of the Full Council;

c) carry out consultations with interested parties including:

i. the Leader;
ii. the appropriate Cabinet member (if relevant);
iii. the Chair of the appropriate regulatory Committee (if relevant);and
iv. the leaders of other political groups.

In the absence of any of those Councillors listed above, their nominated deputies may be consulted instead;

d) obtain the consent of the Chair of the Resources Overview and Scrutiny Committee that the decision is a matter of urgency.

In the absence of the Chair of the Resources Overview and Scrutiny Committee, the Vice-Chair shall act on his/her behalf and, in the absence of both, the Mayor or in his/her absence the Deputy Mayor shall act in this matter.

Where the Chair of the Resources Overview and Scrutiny Committee (or other Councillor acting in his/her absence) agrees that the proposed decision is urgent, the Cabinet, or other decision-maker may take the decision.

### 1.2 Reporting

The reasons why it is not practicable to convene a quorate meeting of

Full Council and the Chair of the Resources Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency, must be noted on the record of the decision. Following the decision, the decision maker will provide a full report to all Councillors within 7 working days of the decision being taken and to the next available Full Council meeting explaining the decision, the reasons for it, details of those consulted prior to the decision being taken, a summary of the views expressed, and the reasons why the decision was treated as a matter of urgency.

## 2. URGENCY AND THE FORWARD PLAN

The Leader has delegated authority to determine (within the Budgetary and Policy Framework set by Full Council) all matters relating to Executive Functions delegated to the Cabinet, Cabinet Committees, Cabinet Members or Officers, where there is no convenient meeting of the Cabinet, Committee, or no individual available (or willing) to exercise their delegated power. (Paragraph 2.10 Section 2 Responsibility for Functions, Part 3 of this Constitution).

The procedure to be followed where a Key Decision has not been included in the Forward Plan is set out in paragraphs 15 and 16 of the Access to Information Procedure Rules in Part 4 of this Constitution.

## 3. CALL-IN AND URGENCY

The call-in procedure set out in paragraph 18 of the Overview and Scrutiny Procedure Rules shall not apply where an Executive Decision being taken by the Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or Officers or joint arrangements discharging Executive Functions, is urgent.

A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's, or the public's, interests. The Chief Executive and the Monitoring Officer shall be asked to advise on whether a decision is required urgently.

The record of the decision shall state the decision is an urgent one, and therefore not subject to call-in and the reasons for it.

The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency, after consultation with the Chair of the Resources Overview and Scrutiny Committee. In the absence of the Mayor, the Deputy Mayor's consent shall be required (again in consultation with the Chair of the Committee). In the absence of both the Mayor and Deputy Mayor, the Chief Executive's consent shall be required after consultation with the Chair of the Committee. In the absence of the Chair of the Resources Overview and Scrutiny Committee the Vice Chair shall be consulted.

Decisions taken as a matter of urgency must be reported to the next available meeting of the Full Council, together with the reasons for urgency.

The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to Full Council with proposals for review if necessary.

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**RULES OF PROCEDURE**

**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 relation of an existing Councillor or any Officer of the council who may be in a position to influence the appointment; or of the partner of such persons.

b) No candidate so related to a Councillor or an Officer will be appointed without independent authority of a Head of Service or relevant Executive Director.

### 1.2 Seeking support for appointment

a) The Council will disqualify any applicant who does not disclose a relationship specified in 1.1 (a) or who directly or indirectly seeks to gain an advantage and/or support from any person who may influence appointment to posts within the Council. The content of this paragraph will be included in any recruitment information.

b) No Councillor will canvas support for any person who is seeking appointment to a post with the Council.

c) Nothing in paragraphs (a) and (b) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

The Council will publish and follow an Equality and Diversity in Employment Policy in relation to the recruitment of all staff.

## 2. RECRUITMENT OF HEAD OF PAID SERVICE, EXECUTIVE DIRECTORS AND HEADS OF SERVICE

Where the Council proposes to appoint to the post of Head of Paid Service, Executive Director or Head of Service and it is not proposed that the appointment be made exclusively from among their existing staff, the Council will:

a) draw up a statement specifying:

i. the duties of the officer concerned; and
ii. any qualifications or qualities to be sought in the person to be appointed;

b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

c) make arrangements for a copy of the statement mentioned in paragraph 1.1 a) to be sent to any prospective candidates together with any recruitment information including details within paragraph 1.2 a).

## 3. APPOINTMENT OF HEAD OF PAID SERVICE AND EXECUTIVE DIRECTORS

a) The Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer, Chief Finance Officer, Returning Officer and Executive Directors following the recommendation of such an appointment by a Sub-Committee of Human Resources Committee which will be established for this purpose and will include between four and six Councillors on the Human Resources Committee. The Sub-Committee will be proportionate and must also include at least one member of the Cabinet.

b) The Council may only make or approve the appointment of the Head of Paid Service or Executive Directors where no well-founded objection has been made by any member of the Cabinet.

c) The Chief Executive will collate a final shortlist of candidates for Executive Director appointments to invite to final interviews with the Human Resources Sub-Committee following the assessment day enabling him/her to select only those candidates who s/he considers to be appointable and after taking account of all the feedback from the various stakeholders involved in the assessment day.

## 4. APPOINTMENT OF HEADS OF SERVICE

The appointment of Heads of Service is the responsibility of the Head of Paid Service or his/her nominee. However, Councillors will be given the opportunity to participate in the selection process.

## 5. OTHER APPOINTMENTS

Appointment of all other officers is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

## 6. DISCIPLINARY ACTION

**Head of Paid Service, Monitoring Officer and Chief finance Officer ("the statutory governance officers")**

a) Any disciplinary action taken against the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer ("the statutory

governance officers") will be in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended, the terms and conditions of employment for statutory officers as set out in the Joint Negotiating Committee for Local Authority Chief Executives conditions of Service Handbook as may be amended from time to time, and the authority's disciplinary procedure for the statutory governance officers

b) The dismissal of a statutory governance officer may only be confirmed where no well-founded objection has been made by any member of the Cabinet.

c) The dismissal of a statutory governance officer requires the approval of Full Council before a notice of dismissal can be given.

**Other Chief Officers and Deputy Chief Officers**

d) Any disciplinary action taken against the other chief officers and deputy chief officers shall be in accordance with the authority's disciplinary procedure for these officers. This includes the right of appeal for Executive Directors to the Human Resources Committee (Appeals Panel).

**Officers below Deputy Chief Officer level**

e) Disciplinary action in relation to officers below deputy chief officer is the responsibility of the Head of Paid Service or his/her nominee and may not be made by Councillors. Such disciplinary action will be carried out in accordance with the Council's human resources policies and procedures.

f) Generally, Councillors will not be involved in the disciplinary action against any officer other than as set in these Rules, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the council's disciplinary, capability and related procedures, as adopted from time to time, which may in some cases allow a right of appeal to Councillors in respect of disciplinary action.

## 7. DISMISSOR/PROPER OFFICER

a) In paragraph 10 below "dismissor" means, in relation to the dismissal of a person as an officer of the authority, the authority, or where a committee, sub-committee is discharging the function of dismissal on behalf of the authority, that committee, or sub-committee as the case may be.

b) In paragraph 10 below "proper officer" means the Head of Human Resources and Organisational Development.

## 8. SUSPENSION OF A STATUTORY GOVERNANCE OFFICER

The Head of Paid Service, Monitoring Officer and Chief finance Officer may be suspended by the Investigating and Disciplinary Committee (IDC) (or in an exceptionally urgent case by the Head of Human Resources and Organisational Development in consultation with the Chair of the Investigating and Disciplinary and Standards Appeals Committee and the Leader of the Council) whilst an investigation takes place into alleged misconduct. That suspension will be on normal pay and last no longer than two months. Any suspension will only be after taking legal advice and be in accordance with ACAS Guidance and the JNC Terms and Conditions of Service.

## 9. DISMISSAL

a) Councillors will not be involved in the dismissal of any Officer, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time, which may in some cases allow a right of appeal to Councilors in respect of disciplinary action.

b) The Head of Paid Service, Monitoring Officer and/or Chief Financial Officer

i. The Chief Executive/head of Paid Service, Monitoring Officer and Chief Financial Officer (a "relevant officer") may not be dismissed by the Council unless the procedure set out in Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders)(England) (Amendment) Regulations 2015, as reflected in the model disciplinary procedure rules incorporated in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework & Conditions of Service Handbook (updated 13 October 2016) and the JNC for Local Authority Chief Officers conditions of Service Handbook updated 8 August 2017 as may be updated from time to time have been complied with.

ii. The Council must invite any Independent Person appointed under the provisions of the Localism Act 2011 section 28(7) who has been appointed by the Council (or, where there are fewer than two such persons, such Independent Persons as have been appointed by another authority or authorities as the Council considers appropriate), to be considered for appointment to an independent Panel with a view to appointing at least two such persons to the Panel.

iii. The Council must appoint to the Panel such relevant Independent Persons who have accepted an invitation issued in accordance with paragraph (ii) in accordance with the following priority order:

a) An Independent Person who has been appointed by the Council and who is a local government elector within the authority's area;

b) Any other Independent Person who has been appointed by the Council; and

c) An independent person who has been appointed by another council or councils.

iv. The Council is not required to appoint more than two relevant Independent Persons but may do so.

v. The Council must appoint any Panel at least 20 working days before the meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer.

vi. Before the taking of a vote at the meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer the authority must take into account in particular:

a) Any advice, views or recommendations of the Panel;

b) The conclusions of any investigation into the proposed dismissal; and

c) Any representations from the relevant officer.

## 10. DISMISSAL NOTICES

a) A notice of dismissal of the statutory governance officer or the other chief officers or deputy chief officers must not be given by the dismissor until:

i. The dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particular which the dismissor considers are relevant to the dismissal.

ii. The proper officer has notified every member of the Cabinet of:

a) the name of the person who the dismissor wishes to dismiss;

b) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and

c) the period of 3 working days within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Cabinet to the proper officer; and

iii. Either:

a) the Leader of the Council has, within the period specified in 10.1(b) above notified the dismissor that neither s/he nor any other member of the Cabinet has any objections to the dismissal;

b) the proper officer has notified the dismissor that no objection was received by him within that period from the Leader;

iv. Or:

a) the dismissor is satisfied that any objection received from the Leader within the specified period is not material or is not well founded.

**RULES OF PROCEDURE**

**PETITIONS SCHEME**

## 1. INTRODUCTION

A document will be treated as a petition if it is identified as such, or if it seems that it is intended to be a petition, subject only to the qualification in the following paragraph.

A petition is a document submitted to the Council spontaneously by the public i.e. without any request from the Council. If the Council carries out a public consultation exercise, and receives a mass response to it, that response will be dealt with as part of the consultation, rather than as a petition.

Petitions can be sent to the Council and may be presented to:

(a) a meeting of the Council,
(b) a meeting of Cabinet,
(c) one of the Council' Committees, or
(d) the Chief Executive.

A petition may be presented by the petitioner organiser or by a Councillor on the petitioners' behalf.

## 2. GUIDELINES FOR SUBMITTING A PETITION

All petitions must include:

a) A clear and concise statement covering the subject of the petition including what action the petitioners wish the Council to take; and

b) The name, address, and signature, of any person supporting the petition.

Petitions must also be accompanied by contact details for the petition organiser including an address.

Petitions may only be organised and signed by people who live, work or study in the borough area, including those under 18 years of age.

Petitions which are considered by the Chief Executive to be vexatious, abusive or otherwise inappropriate will not be accepted. If, as determined by the Chief Executive, a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, the Chief Executive will write to the petition organiser explaining the reasons for that decision.

## 3. THE COUNCIL'S RESPONSE TO A PETITION

An acknowledgement will be sent to the petition organiser within 10 working days of receipt explaining what the Council intends to do in response to the petition. If the Council can do what the petition asks for, the acknowledgement may confirm that it has taken the action requested and the petition will be closed.

The Council will consider what specific actions are available to address the issues highlighted in a petition and respond appropriately to the petition organiser. In the period commencing six weeks before an election the Council may need to deal with a petition differently. If this is the case Officers will explain the reasons for this and discuss the revised timescale with the petition organiser.

If a petition applies to a planning or licensing application, or a matter where there is already as existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. This petition process does not therefore apply in these cases. However, all petitions relating to planning applications will be reported to Councillors and referred to in the Officer's report to the Council's Planning Committee.

If a petition concerns a matter over which the Council has no direct control it will consider making representations on behalf of the community to the relevant body. If it is not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then the Council will explain the reasons for this to the petition organiser.

## 4. FULL COUNCIL DEBATES

If a petition contains more than 4,000 signatures the petitioners have the right to require it to be debated by Full Council. At the Council meeting, the petition organiser may present the petition (for up to five minutes) and it will then be discussed by councillors for a maximum of 20 minutes.

The Council will decide how to respond to the petition. It may decide to take the action the petition requests, or not to do so for reasons put forward in the debate, or to commission further investigation into the matter. Where the issue is one on which the Cabinet is required to make the final decision, the Council may make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision and this will also be published on the Council's website.

## 5. REVIEW OF PETITIONS

If a petition organiser feels that the Council has not dealt with the petition properly, s/he has the right to request that the relevant Overview and Scrutiny Committee reviews the steps that the Council has taken in response to the petition. The petition organiser may be invited to address the meeting.

If the Committee decides that a petition has not been dealt with adequately, it may use any of its powers to deal with the matter, including instigating an

investigation, making recommendations to the Cabinet, or arranging for the matter to be considered at a meeting of Full Council.

Once the appeal has been considered the petition organiser will be informed of the results within five working days. The results of the review will also be published on the Council's website.

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**RULES OF PROCEDURE**

**DISPOSAL PROCEDURE FOR LAND AND PROPERTY**

## 1. PURPOSE

a) This procedure sets out the guidelines by which the Council shall consider the disposal of assets by way of lease or freehold sale to deliver Council priorities and maximise the use of resources to meet Council and/or Asset Management Plan objectives and the Medium Term Financial Plan.

b) This procedure is linked to the Council's Asset Management Plan and its Capital Strategy and the Land Disposal Contract Standing Orders in the Constitution.

## 2. PRINCIPLES

a) Land will not normally be disposed of at less than the best consideration that can reasonably be obtained. The Council will however consider the contribution of a disposal to the furtherance of Council priorities or the promotion or improvement of the economic, social or environmental wellbeing of the area. Therefore land may be disposed of at less than best consideration when the transaction is covered by one of the exceptions in the General Disposal Consent or has approval of the Secretary of State. Gaining Secretary of State approval will involve a time delay.

b) No disposal shall take place unless approved in accordance with the adopted Scheme of Delegation or by Cabinet. This Procedure must be read in conjunction with the Standing Orders – Disposal of Land in Part 4 of the Constitution and the Property Investment Strategy.

c) The Council's Procedure on the Disposal of Land will be followed to ensure fairness and transparency in dealing with potential buyers and tenants and to minimise opportunities for, and suspicions of, corruption or favouritism.

## 3. POLICY CONTEXT

a) The Property Manager is responsible for reviewing the Council's land and property holdings in accordance with the Council Policies.

b) The Council's Asset Management Plan sets out the acquisition, retention and disposal guidelines as follows:

The Council will endeavour to acquire an appropriate interest in property in one or more of the following circumstances:

(i) where it is required for the functional needs of the Council;

(ii) where Council ownership is needed to achieve an identifiable proper planning or economic development purpose;

(iii) where Council ownership will safeguard property from the risk of inappropriate development or loss of potential economic development;

(iv) where it will contribute towards the promotion or improvement of the social, economic, or environmental well-being of the area;

(v) for the protection of strategic property holdings; or

(vi) the Property Investment Strategy and Alternative Investment Strategy identifies the benefits of acquisition.

c) The Council may retain an interest in property where:

(i) the property acquisition Guidelines continue to be met, or

(ii) disposal would not achieve the best consideration reasonably obtainable, or

(iii) the property asset continues to generate an acceptable social or economic return, thereby enhancing the Council's position.

(iv) the Property Investment Strategy and Alternative Investment Strategy identifies the benefits of retention.

d) The Council will continually review the portfolio to ensure that the use of property assets is maximised and that disposal or other opportunities are taken where consistent with the Council's community, social, planning and economic policies. The Council will acquire, hold and manage property assets on a commercial basis, seeking to maintain and enhance the income, return and capital value of the property asset wherever possible, taking into account any social economic and environmental considerations.

e) The Council will be prepared to dispose of an interest in property where:

(i) the Property Retention Guidelines do not apply, or

(ii) disposal will achieve an identifiable proper social, planning or economic development purpose which could not be achieved by the Council as owner, subject to the Council receiving the best consideration reasonably obtainable or obtaining an appropriate disposal consent.

f) The Council will consider the disposal of freeholds where there is an appropriate financial benefit compared to retention and/or a benefit in terms of the social, economic, or environmental well-being of the area.

## 4. SITE IDENTIFICATION

a) Sites for disposal may be identified in the following ways through:

(i) periodic reviews by the Property Manager;

(ii) tenants vacating and disposal being an appropriate option;

(iii) estate management changes;

(iv) service use changes;

(v) Local Plan considerations;

(vi) direct property enquiries to the Council; or

(vii) the Property Investment Strategy and Alternative Investment Strategy

b) Having identified a disposal site the Property Manager should identify the nature of the disposal and proceed accordingly.

## 5. DISPOSAL BY WAY OF LEASE OF LESS THAN 25 YEARS

a) Property Services will undertake the following:

(i) consult with the Executive Director of Corporate Services (s151 Officer) to clarify budget expectations and implications, in relation to the subject property;

(ii) confirm the planning status;

(iii) confirm the legal title;

(iv) investigate whether any works are required to the premises prior to letting them;

(v) consider options to maximise the way forward; and

(vi) proceed to disposal in accordance with Standing Orders.

## 6. DISPOSAL OF PROPERTY OTHER THAN FOR DEVELOPMENT PURPOSES (FREEHOLD OR LONG LEASE)

a) Property Services will undertake the following in respect of property over £250,000:

(i) consult with the Executive Director of Corporate Services (s151 Officer) on budget expectations and implications;

(ii) establish the planning status and if, in principle, there is any development potential;

(iii) investigate legal title and the legal powers the land is held under and whether appropriation is necessary or beneficial;

(iv) consult with all Heads of Services to identify any operational need;

(v) consult with the Strategic Property Board, Housing Manager and Housing Delivery Board regarding housing matters;

(vi) consider options to maximise the potential of the land;

(vii) set objectives for disposal, liaising where appropriate with Ward Councillors Portfolio Holder and Strategic Property Board where the value exceeds £250,000;

(viii) Notify where appropriate all Councillors that disposal investigations have commenced where the value is likely to exceed £250,000; and

(ix) proceed to dispose in accordance with Standing Orders.

## 7. DISPOSAL OF PROPERTY FOR DEVELOPMENT PURPOSES (FREEHOLD OR LONG LEASE)

a) Property Services will undertake the following initial review:

(i) consult with the Planning and Development Manager to establish, in principle, acceptable alternative uses;

(ii) consult with Legal Services on legal title powers the land is held under and whether appropriation is necessary or beneficial;

(iii) consult with the Executive Director of Corporate Services (s151 Officer) as to any general financial implications;

(iv) consult with the Housing Manager and Housing Delivery Board to consider any housing matters;

(v) consult with all other Heads of Services regarding opportunities and constraints; and

(vi) consult with the appropriate Officers concerned with the Council's sustainability and climate change agenda.

NOTE: The Design and Sustainability SPD, adopted by the Council requires that non-residential buildings achieve a BREEAM "very good" level of sustainability. Council policy in relation to the disposal of residential development land recommends the achievement of a minimum

of “good” rating on the EcoHomes scale. The climate change strategy includes an action to update this policy.

b) The results of the initial review will be considered by the Strategic Property Board who will establish the Officer’s recommended key objectives for disposing of the site. Property Services will then consult with Local Ward Councillors and the Portfolio Holder for Property and Development and notify all Councillors that disposal investigations have commenced.

c) Where the sites value or strategic importance dictates or the disposal requires Cabinet approval, a further detailed development appraisal will be carried out. This will explore in detail the development potential for the site in terms of uses and the impact of different options and whether the Property Investment Strategy would be appropriate.

d) In relation to sites outside the scope of the Property Investment Strategy a detailed site specific options appraisal will be carried out covering:

(i) title (ownership);

(ii) site conditions (ground investigation works etc);

(iii) principal planning issues (confirm land use, development; framework policies, planning obligations);

(iv) known site constraints / opportunities;

(v) potential site usage (assessment of market for options);

(vi) timing of the disposal

(vii) the required level of prescription regarding development (e.g. planning and urban design notes/ disposal brief/ design code/ planning consent/ Local Plan);

(viii) financial feasibility;

(ix) marketing strategy/disposal process options;

(x) tender evaluation criteria;

(xi) further Ward Councillor and Portfolio Holder consultation;

(xii) Sustainability and Climate Change considerations; and

(xiii) Consideration of social housing as appropriate.

e) The outcome of the detailed option appraisal will be considered by the Strategic Property Board and if appropriate a report will be prepared for the appropriate Overview and Scrutiny Committee to input into the appraisal process, prior to any report to Cabinet for decision making purposes. Where appropriate consideration will be given to establishing a Councillors panel to inform the disposal process.

## 8. METHOD OF DISPOSAL

The Property Manager will recommend the method of disposal in accordance with the Disposal Procedure for Land and Property contained within Part 4 of the Constitution.

## 9. TIMING

a) The timing of any marketing/disposal will need to be considered against the background of the Council's Medium Term Financial Strategy and the state of the market.

b) Before recommending a disposal to proceed the following factors will be taken into account:

(i) the requirements of the Council's Medium Term Financial Strategy;

(ii) current market conditions;

(iii) potential for the site value to increase in the future;

(iv) the Development Plan consisting of the Local Plan together with Structure Plan;

(v) responding to an opportunity disposal; and

(vi) Asset Management Plan

## 10. MARKETING

The Property Manager will recommend a marketing strategy, either in-house or through the use of appointed agents and identify the advertising avenues. The proposed marketing strategy will also form part of any appropriate report to Cabinet requesting approval to dispose of a site.

## 11. OVERVIEW AND SCRUTINY COMMITTEE CONSULTATION

a) If the Scheme of Delegation requires Cabinet approval to a disposal for development purposes or a change of use, then the Overview and Scrutiny Committee will be consulted on the principles of disposal prior to formal consideration by Cabinet.

b) The report to the Overview and Scrutiny Committee, which may be presented at more than one phase in the process, should include overall:

(i) details of the land to be disposed of;

(ii) confirmation the land has been declared surplus;

(iii) identification of the Council's objectives for disposal of the site;

(iv) details, where appropriate, of any proposed disposal or development brief;

(v) details of any proposed sale basis; and

(vi) details of proposed evaluation framework including criteria and their weighting, covering inter alia, financial standing and achievability.

## 12. CABINET APPROVAL FOR DISPOSAL

a) Any Cabinet report required under the Scheme of Delegation within the Constitution to seek formal approval to progress with a disposal should include:

(i) details of the land to be disposed of;

(ii) confirmation the land has been declared surplus;

(iii) identification of the Council's objectives for disposal of the site;

(iv) details, where appropriate, of any proposed disposal or development brief;

(v) details of any sale basis;

(vi) details of the evaluation framework including criteria and their weighting, covering inter alia, financial standing and achievability;

(vii) recommendation on the method of disposal, and details of the reasons for selecting that method;

(viii) details of the consultation responses;

(ix) the proposed Marketing Plan;

(x) where the Council must achieve best consideration, confirmation that the proposed method of disposal is likely to achieve it and, where other than open competition is recommended, describe how this duty will be satisfied;

(xi) where it is proposed that the disposal should be for less than best consideration, reasons for and against seeking best consideration and specifying the relevant legal powers of the Council to accept less than best consideration;

(xii) details of any proposals to amend Standing Orders for this disposal;

(xiii) consideration of Councillor involvement in the evaluation process; and

(xiv) Any effect on the Property Investment Strategy and Alternative Investment Strategy.

b) Where Cabinet approval is required under the scheme of delegation, following marketing of the site a further Cabinet report must be prepared to seek formal approval to the terms of a disposal including the identity of the purchaser, any selected reserve bidder, and the basis of the proposed transaction.

## 13. INSTRUCTIONS

Once the principle of a disposal has been agreed, the Head of Law and Governance will prepare draft sale, or lease, documentation in readiness for submission to a potential tenant or purchaser on completion of the selection process.

## 14. COMPLETION

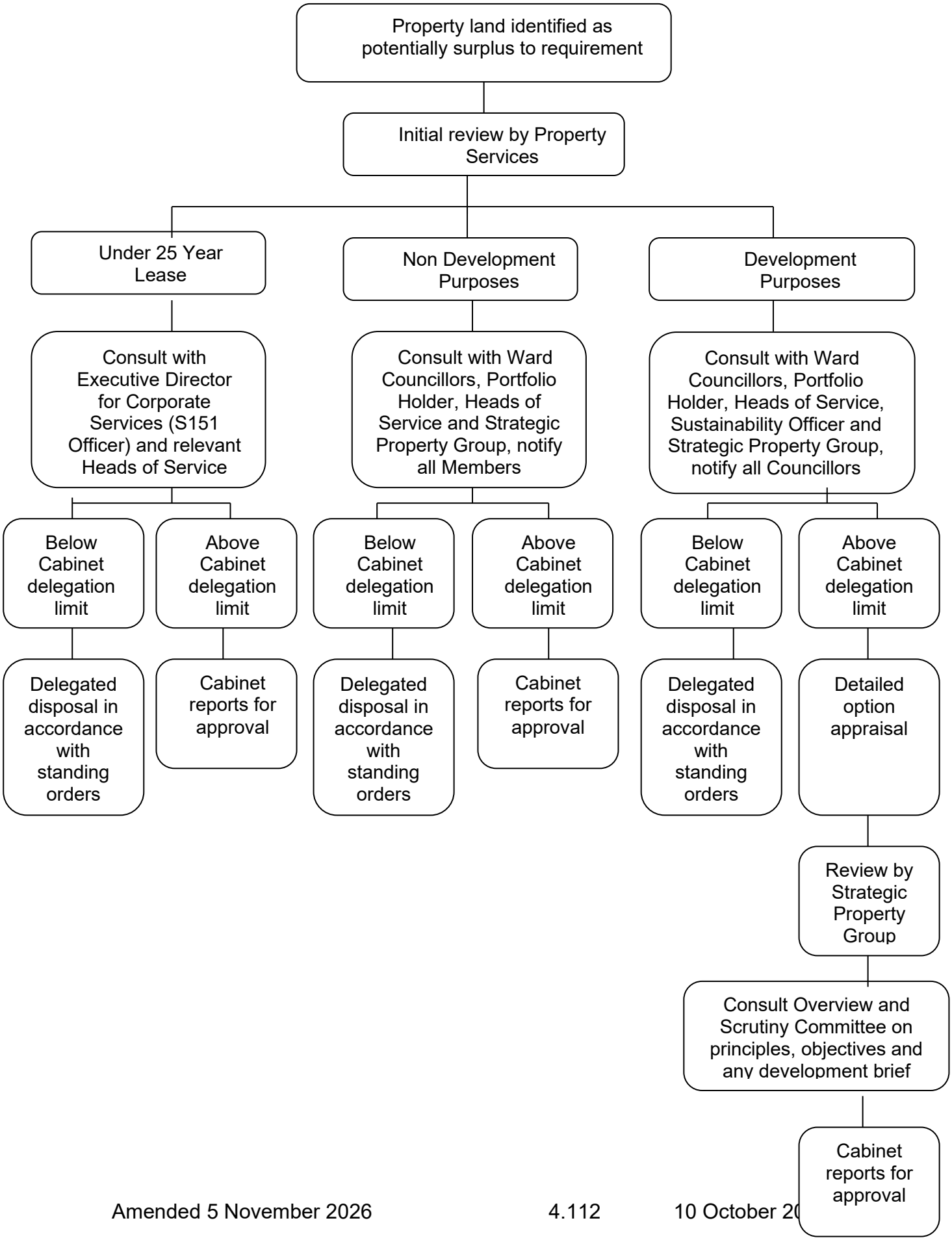
Once a disposal has been completed the property management system will be updated and the Property Manager will inform the relevant Heads of Service. Councillors will be informed as appropriate.

## 15. MONITORING

All disposal projects for development purposes will be monitored by the Strategic Property Board.

**SEE LAND AND PROPERTY DISPOSAL PROCEDURE OVERLEAF**

## Land & Property Disposal Procedure



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**RULES OF PROCEDURE**

**STANDING ORDERS – DISPOSAL OF LAND**

## 1. INTRODUCTION

a) The Council's actions in disposing of land are subject to statutory provisions; in particular, to the overriding duty on the Council, under section 123 Local Government Act 1972, to obtain the best consideration that can be reasonably obtained for the disposal of land. This duty is subject to certain exceptions that are set out in the "General Disposal Consent (England) 2003".

b) If the Council wishes to dispose of land for less than best consideration, and it is not covered by the General Disposal Consent (England) 2003, the Council can resolve to do so, but will require the formal consent of the Secretary of State. The General Disposal consent allows the Council to dispose of sites at an under value of up to £2m in the interests of social, economic and environmental well-being of the community.

## 2. DEFINITION

a) For the purposes of these Standing Orders a disposal of land means any freehold disposal, by sale or exchange, of Council owned land or buildings and any disposal by the granting of a lease.

b) For the sake of clarity these standing orders do not apply to:

(i) Assets covered by the Property Investment Strategy

(ii) granting of licences, easements, rights of way, wayleaves,

(iii) tenancies-at-will or periodic hiring arrangements,

(iv) the renewal of leases under the Landlord and Tenant Act 1954 for best consideration, or

(v) Lettings completed under the Council's Policy for Rental Subsidy Arrangements for community/leisure uses of Council owned property, approved under Decision Notice 181/2002 which states – "the revised subsidised lettings policy for community/leisure use of Council owned property, suitable only for community/leisure use to be grant leases to voluntary organisations where appropriate on a peppercorn rent, following individual consideration by the relevant Portfolio Holder" (NB: The Council is permitted to charge nil rent to leisure/community organisations which occupy Council owned land and premises by virtue of the Local Government (Miscellaneous Provisions) Act 1976 and under the terms of the General Disposal Consent).

## 3. WHO WILL TAKE THE DISPOSAL DECISION?

a) A decision to dispose of land or property and the terms for that disposal will be determined by Full Council, Cabinet, the relevant Portfolio Holder or the Executive Director of Corporate Services (S151 Officer), depending upon the Delegation Scheme set out in the Constitution.

b) Reports concerning disposals of land/buildings, to Cabinet or the relevant Portfolio Holder, will be in the name of the Property Manager and will include any comments of the Executive Director of Corporate Services (S151 Officer) and the Head of Law and Governance.

## 4. HOW WILL THE DISPOSAL BE VALUED?

a) This will be undertaken by the Property Manager who may, if necessary, consult with the District Valuer, and/or a specialist Valuer.

b) Where there is likely to be a delay in completing a sale/lease, such that the Council may be in danger of not obtaining the best consideration, the Property Manager will ensure that prior to finalisation, a current valuation is undertaken.

c) All valuations, where appropriate, are to be completed in accordance with the Royal Institute of Chartered Surveyors'' guidelines where appropriate.

## 5. WHAT METHODS OF DISPOSAL WILL BE UTILISED?

a) The Property Manager is authorised to manage all disposals and where appropriate appoint agents to act on the Council's behalf.

b) The Head of Law and Governance is authorised to draft, agree and complete all legal documentation associated with disposals.

c) Disposals shall be by formal tender, informal tender, public auction or private treaty.

## 6. DISPOSALS BY FORMAL TENDER

**In accordance with the Council's general principles of the contract standing orders**

a) With a formal tender, potential purchasers have to make binding offers in a specified form, by a specified date and with a specified deposit.

b) Sale of land by formal tender is likely to be appropriate in the case of freehold land disposals and where the ownership and corporate sale objectives are not complex.

c) The Council will, where appropriate, publish a public advertisement in an appropriate Journal seeking expressions of interest and publicise the selection criteria by which it will assess any tenders.

## 7. DISPOSAL BY INFORMAL TENDER WITH POST TENDER NEGOTIATIONS

a) With an informal tender, non-binding offers are secured by a specified date and a preferred bidder is selected with whom to negotiate actual terms which may include the nature of development proposals. This method also allows for the use of conditional contracts, including clauses linked to planning permission.

b) This method is likely to be particularly useful for freehold land disposals for large or complex developments or regeneration sites, where the proposals need to be developed in co-operation with the preferred bidder to meet the Council's corporate objectives and to achieve the best consideration that can be reasonably obtained.

c) The Council will ensure a competitive process is followed and participants will be informed in advance of the procedures and criteria for assessing proposals. Tender bids will be invited in accordance with the Council's Contract Standing Orders adapted and recorded as necessary.

## 8. DISPOSAL BY INFORMAL TENDER – WITHOUT POST TENDER NEGOTIATIONS

a) With an informal tender, non-binding offers are secured by a specified date and a preferred bidder is selected. This can be on a conditional basis, including obtaining planning consent as well as being subject to contract.

b) This method is likely to be particularly useful for freehold land disposals which are less complex transactions.

c) The Council will ensure a competitive process is followed to seek expressions of interest and participants will be informed in advance of the procedures and criteria for assessing proposals. Tender bids will be invited in accordance with the Council's Contract Standing Orders adapted and recorded as necessary.

## 9. DISPOSAL BY PUBLIC AUCTION

a) Sale by public auction may be appropriate in certain cases to

achieve best consideration and where speed and certainty is required.

b) In the event of a disposal by auction, a reserve price, based on the Property Managers valuation, will be imposed, which must first be approved within the Scheme of Delegation.

c) The contract for sale has to be ready for exchange at the auction where a binding contract will be made on acceptance of the highest bid providing it has reached any reserve price.

## 10. DISPOSAL BY PRIVATE TREATY – THROUGH OPEN MARKETING

a) With such a private treaty sale the property is first marketed, including advertising to generate interest, normally with an asking or guide price, with the aim of achieving a bid (without there being a need to have a specified time limit for obtaining bids) representing the best consideration that can be reasonably obtained. The Council may, as part of this process and after the commencement of marketing, request best and final offers be made by a specified date.

b) This method is applicable to the letting of commercial and industrial premises on an occupational lease, and for freehold disposals of lower value, or non-development property.

c) Negotiations will take place between the Council and the prospective purchasers (or their agents). A letting/sale by this method will only take place once the terms have been approved within the Council's Scheme of Delegation.

## 11. DISPOSAL BY PRIVATE TREATY – OFF MARKET

a) With such a private treaty sale the land is not offered on the open market as a first stage, but negotiations will take place between the Council and one party. This may be justified where:

   i. the land is small in size/value

   ii. the purchaser is an adjoining or closely located landowner, and the only potential or likely purchaser

   iii. the nature of the Council's land ownership is such that the land must be sold to adjoining or surrounding land owners if best consideration is to be obtained

   iv. where there is a special purchaser for whom the land has a higher value than anyone else e.g. ransom strips, or where there is marriage value

   v. where Council objectives would be best met by undertaking private treaty negotiations with a single party who would bring

social environmental or economic benefit

vi. where the proposed transaction involves a party who already had a property interest in the land in question

b) The reasons justifying private treaty sale must be recorded in writing and approved by the authorising party under the Scheme of Delegation. In some circumstances the Property Manager may seek an independent valuation to verify that best consideration is being obtained.

## 12. NEGOTIATIONS WITH PROSPECTIVE DEVELOPERS/PURCHASERS /TENANTS

a) Generally these will take place either at the Council's offices, on site, at an agent's office, or at the purchasers/tenants office, within normal office hours. Where possible, in relation to higher value disposals, two officers should be present. However, it is accepted that this will not always be possible / a sensible use of resource. The Property Manager (through the allocated Case Officer from Property or Legal) will ensure file notes are kept of all negotiations with prospective developers / purchasers or tenants. The progress of negotiations will, where appropriate, be reported to relevant Members.

b) Councillors will not be involved in negotiating the disposal of land.

c) Prior to completion of legal documentation all proposed transaction details and negotiation details will remain confidential.

## 13. DEALING WITH LATE BIDS

a) The Council discourages the submission of late bids in all cases when it is disposing of land. It will attempt to minimise problems by aiming for early exchange of contracts.

b) Each "late bid" must be considered in the context of the individual circumstances at the time. The Council's approach to "late bids" will vary depending upon the method of land disposal used. In each case the overriding duty will be to obtain the best consideration that can reasonably be obtained (subject to any exceptions in the General Disposal Consent).

c) The Council's approach to late bids is as follows:

i. Where land is disposed of by way of formal tender, bids received after the deadline for tenders, will not be considered.

ii. Late bids cannot be considered where land is being disposed of by public auction after a successful bid has been accepted.

iii. Except as provided in 13 (a) & (b) above, until the Council has entered a legally binding contract or agreement with another party, it will consider late bids unless there are good commercial or legal reasons for not doing so. This must be explained to any purchaser when disposal by private treaty or informal tender is agreed.

d) The Council may, in appropriate circumstances, ask both the late bidder, the person to whom the land was previously to have been sold, and any other relevant interested parties (eg previous bidders) to submit their last and final bids in a sealed envelope by a set deadline.

e) A decision on whether to accept a late bid for a private treaty sale or informal tender will be made within the Scheme of Delegation by Cabinet, the Portfolio Holder or the Executive Director of Corporate Services (S151 Officer).

## 14. PUBLIC OPEN SPACE

Land which is designated as public open space will not be sold/leased by the Council until the applicant has first obtained the necessary planning consent, the proposal has been advertised under the Local Government Act 1972 and Ward Councillors have been consulted, and observations/objections received have been considered.

## 15. THE CRICHEL DOWN RULES

When disposing of land which has been acquired by the Council by use of Compulsory Purchase powers, the Cabinet will consider the Crichel Down Rules as set out by the Department for Communities and Local Government. These state that former owners or their successors should be given the first opportunity to repurchase the land, provided that it has not been materially changed in character since acquisition.

## 16. WORKS IN LIEU OF PAYMENT

a) In some cases it may be appropriate for the purchaser to be required to provide replacement facilities or other works such as highways or landscaping as part consideration for the land/property.

b) Any proposed works in lieu of payment should be thoroughly examined at the option appraisal stage to ensure value for money and the Executive Director of Finance and Resources (s151 Officer) should be consulted to determine the accounting treatment. The works required should be clearly specified in any marketing package in order that there is competition between bidders in relation to procurement of the works.

## 17. DISPOSALS FOR LESS THAN BEST CONSIDERATION

a) In certain circumstances, the Council may dispose of land for less than the best consideration. Those circumstances are clearly defined by law

and in any other cases specific consent is needed from the Secretary of State. General Disposal Consents have been given by the Secretary of State for certain transactions.

b) The General Disposal Consent makes provision for the Council to dispose of land at less than full market value, known as “under-value”. Specified circumstances must apply as follows:

   i. The Council considers that the purpose for which the land is to be disposed of is likely to contribute to the promotion or improvement of the economic, social or environmental wellbeing of the whole or part of its area, or any person resident or present in its area.

   ii. The difference between the unrestricted or market value of the land to be disposed of and the consideration for the disposal does not exceed £2million.

c) The Council must still comply with its duty to obtain best consideration for the restricted value and must also comply with normal and prudent commercial practices including obtaining professional valuer advice on the likely amount of any under-value.

d) All disposals covered by these Standing Orders at less than best consideration must be referred to Cabinet for approval. The Cabinet report will set out:

   i. the policy background which supports the proposal;

   ii. the potential consequences if the proposals are not approved;

   iii. whether the proposal will need the specific consent of the Secretary of State or if it is the subject of a General Consent under the 2003 Order;

   iv. an assessment as to whether the proposal is likely to confer a commercial advantage on the prospective purchaser;

   v. the land involved and the proposed sale price; and

   vi. an assessment of best consideration prepared by the Property Manager or, if appropriate, a third party valuer.

e) The General Consent does not override restrictions on Subsidy Control arising under European Legislation.

## 18. RECORDS & REPORTS

a) The Property Manager will maintain a register of all disposal decisions taken under these Standing Orders and the Delegation Scheme set out in the Constitution, which will be open to inspection (excluding any

confidential elements).

b) This register will also record lettings under the Council's Policy for Rental Subsidy Arrangements but it will not include other disposals which are excluded from this Policy.

## FINANCIAL REGULATIONS

### 1. What is the Coverage of Financial Regulations?

(1) The Regulations apply to all activities of the Council. In practice, this means all assets, budgets, money and funds administered by members and officers in carrying out their duties across all of the Council's services and activities. This also includes partnership arrangements where the Council is the accountable body.

(2) External providers (outsourced services, contractors and consultants for example) are managed through the contract process. The contract document will set out the financial requirements.

(3) The detailed financial requirements underpinning these regulations are set out in Financial Procedures

**Definitions**

**Heads of Service**

Within these Regulations, Heads of Service are defined as managers reporting directly to a Director.

**Directors**

Within these regulations includes the Head of Paid Service and Deputy Chief Executive.

**Chief Officers**

Reference to a Chief Officer can be a Director, Head of Service or, in the case of major projects and capital budgets, a Project Director or Project Manager.

**Budget Holder**

A Budget Holder can be a Chief Officer or another officer under the Scheme of Delegation as detailed in the Constitution or within the Scheme of Management.

**Budget Item**

Virement limits apply to the Council approved total net expenditure budget for each service reporting area, holding account of capital scheme – this is referred to as the "budget item".

### 2. Awareness and Access

It is the responsibility of Chief Officers to ensure that all employees with financial responsibilities are made aware of and have access to these regulations and

Financial Procedures (which set out in more detail how these Regulations should be implemented and complied with).

### 3. Non-compliance with Financial Regulation

Failure to comply with these Regulations and the accompanying financial procedures may have the following consequences:

(1) For employees, these Regulations supplement the Code of Conduct for employees, so a breach will be considered a disciplinary offence which will invoke those procedures (and can lead to dismissal).

(2) For Members, these Regulations supplement the Code of Conduct for members.

### 4. Review of Financial Regulations

The Chief Financial Officer is responsible for maintaining a continuous review of these Regulations and submitting any additions or changes necessary to the Full Council for approval.

### 5. Other Rules

Apart from these regulations, there are other rules which all members and officers must comply with. These include:

(1) the law:

  (a) general local government law

  (b) specific local government law

  (c) general civil and criminal law

(2) rules elsewhere in the Constitution

(3) financial procedures and guidance notes

(4) Contract standing orders

## FINANCIAL MANAGEMENT

### 6. Chief Financial Officer

(1) The Chief Financial Officer has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. The statutory duties arise from:

  (a) Section 151 of the Local Government Act 1972

  (b) The Local Government Finance Act 1988

(c) The Local Government and Housing Act 1989

(d) The Accounts and Audit Regulations 2003 and subsequent amendments

(e) Local Government Act 2003

(2) The Chief Financial Officer is responsible for:-

(a) the proper administration of the authority's financial affairs including the adequacy and robustness of financial management arrangements

(b) providing strategic financial planning and professional corporate advice

(c) setting and monitoring compliance with financial management standards

(d) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management

(e) providing financial information and reporting on the overall budget position

(f) preparing the Medium Term Financial Strategy, revenue budget, capital programme and Capital Strategy

(g) treasury management and banking arrangement procedures

(h) maintaining an effective and adequate internal audit and audit arrangements

(i) financial and related ICT systems

(j) procedures and controls for ordering services, supplies and works

(k) payment of accounts and collection of income

(l) control of the payment of salaries and wages

(m) all forms of taxation

(n) approving all accounting procedures and financial records of the Council

(o) advising on corporate risk management

(p) having a formal input into all reports to Council, the Cabinet, committee meetings and/or Senior Leadership Teams which have finance implications

(q) financial scheme of delegation.

## 7. Chief Officers

(1) Chief Officers are responsible for:

(a) ensuring compliance with Financial Regulations, Financial Procedures and Contract Standing Orders

(b) ensuring that Portfolio Holders are advised of the financial (and other) implications of all proposals and that the financial implications have been agreed by the Chief Financial Officer

(c) ensuring the operation of financial processes within their services and ensuring that adequate controls are in place.

(d) ensuring the control of expenditure and income, monitoring of performance and that the necessary action is taken to remain within budgets

(e) alerting the Chief Finance Officer to any financial issue(s) that may become of concern to the council

(f) signing of contracts on behalf of the authority (approval limits as set out in the Contract Standing Orders)

(g) identifying opportunities to improve efficiency, effectiveness and economy

(h) ensuring the Chief Finance Officer has advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings at which a binding decision of the council may be made (including a failure to take a decision where one should have been taken) at or before the Council, the Cabinet, committee meetings, Senior Leadership Teams (or equivalent) meetings

(2) It is the responsibility of Chief Officers to consult with the Chief Financial Officer and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

## 8. Expenditure Virement

The following limits apply to revenue and capital budget items.

(1) Full Council is responsible for agreeing the procedures for virement of expenditure budgets between budget headings set out in these Financial Regulations and supported by the Financial Procedures. Cabinet, Portfolio Holders and Directors are responsible for agreeing in year virements within delegated limits, in agreement with the Chief Financial Officer.

(2) Full Council approval is required for virements with a cumulative total

of £500,000 or over on any single budget item.

(3) Cabinet approval is required for virements with a cumulative total between £250,000 and up to £500,000 on any single budget item.

(4) Portfolio Holder approval is required for virements with a cumulative total between £100,000 and up to £250,000 on any single budget item.

(5) Directors approval is required for virements up to a cumulative total of £100,000 on any single budget item.

## 9. Treatment of additional revenue grants and contributions

Where additional revenue funding is received as a grant, contribution or sponsorship. An offsetting income and expenditure virement will be required subject to the agreement of the Chief Financial Officer, upon clarification of the use of this funding. The Chief Financial Officer will determine the appropriate mechanism for this.

## 10. Treatment of Additional Income

Where additional revenue income is identified that is not covered under the above section, an offsetting income and expenditure virement will be required subject to the same approval levels as set out under expenditure virements in section 8.

For all other types of income, such as an increase in the income from fees and charges in year, where it is demonstrable that this income in needed to support the service it relates to, an offsetting income and expenditure budget virement will be required which is subject to the agreement of the Chief Financial Officer and is subject to the approval levels set out in section 8.

## 11. Release of Earmarked Revenue Reserves

Any release of funding from earmarked revenue and risk reserves is subject to the approval of the Chief Financial Officer, provided that the use of the funds is in accordance with the purpose for which the reserve was established. The Chief Financial Officer can approve a cumulative release from reserves of up to £500,000 and a release of £500,000 or more must be approved by Cabinet, provided use of the funds is in accordance with the purpose for which the reserve was established. If funds are not to be used in accordance with the purpose for which reserve was established, Full Council approval is required.

## 12. Transfer of Revenue Budgets Between Years

Cabinet approval is required to carry forward revenue budgets up to a cumulative total of £500,000 over the Council approved budget. Council approval is required to carry forward cumulative revenue budgets of £500,000 or more.

### 13. Capital Scheme Budgets

Full Council approval must be obtained to add a new scheme to the capital programme.

An existing capital scheme budget can be moved between financial years, subject to the approval of the Chief Financial Officer where it does not exceed the approved overall value of the scheme.

Where additional capital funding is received as grant, contribution or sponsorship, an increase in capital scheme budgets will be required subject to the agreement of the Chief Financial Officer and the expenditure virement limits in section 8.

### 14. Accounting Policies

The Chief Financial Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

### 15. Accounting Records and Returns

The Chief Financial Officer is responsible for determining the accounting procedures and records for the authority.

### 16. The Annual Statement of Accounts

The Chief Financial Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC). The Council, or a nominated committee of the Council is responsible for approving the annual statement of accounts.

## BUDGETING

### 17. Budget Format

The format of the budget determines the level of detail to which financial control and management will be exercised. The general format of the budget will be approved by Full Council and proposed by the Leader and the Cabinet on the advice of the Chief Financial Officer. The proposed draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

### 18. Budget Preparation, Monitoring and Control

(1) The Chief Financial Officer is responsible for ensuring that a revenue budget and a general revenue plan (Medium Term Financial Strategy) are prepared on a four yearly basis for consideration by the Cabinet, before submission to Full Council. Full Council may amend the budget or ask the Cabinet to reconsider it before approving it.

(2) It is the responsibility of Chief Officers to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with the Cabinet's proposed budget strategy.

(3) The Chief Financial Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet and Council on the overall position on a regular basis.

(4) The Director is accountable for the control of income and expenditure for services. It is the responsibility of Heads of Service to control income and expenditure within their area. They should report on budget variances and identify necessary actions to remain within budget in consultation with the Director. Expenditure against budgets should be for the approved purpose.

## 19. Preparation of the Capital Programme

The Chief Financial Officer is responsible for ensuring that a capital programme is prepared on a four-year basis for consideration by the Cabinet before submission to Full Council.

## 20. Guidelines

(1) Guidelines on budget preparation are issued to members and Chief Officers by the Chief Financial Officer. The guidelines will take account of:

(a) legal requirements
(b) medium-term planning prospects
(c) the Council Plan
(d) available resources
(e) spending pressures
(f) best value and other relevant plans
(g) other internal policy documents
(h) maintenance of balances and reserves

(2) It is the responsibility of the Chief Financial Officer to advise the Cabinet and/or the Council on –

(a) prudent levels of balances and reserves

(b) the robustness of the budget; and

(c) the relevant maters to be taken into account when setting or

revising Prudential Indicators; and

(d) an evaluation of all associated risks

## RISK MANAGEMENT AND CONTROL OF RESOURCES

### 21. Introduction

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

### 22. Risk Management

(1) The Audit and Accounts Committee is responsible for approving the authority's risk management policy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.

(2) The Executive Director of Corporate Services & Assets (S151 Officer) is nominated as the Council's Risk Management Champion and spearheads risk management in the organisation including the preparation of the authority's risk management policy.

(3) The Strategic Leadership Team has responsibility for ensuring regular corporate assessments of risk and Heads of Services for reviewing operational risks quarterly.

### 23. Internal Control

Internal control refers to the systems of control to ensure the authority's objectives are achieved in a manner that promotes economical efficient and effective use of resources and that the authority's assets and interests are safeguarded.

(1) The Chief Financial Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

(2) It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### 24. Preventing Fraud and Corruption

The Chief Financial Officer is responsible for developing and maintaining procedures to prevent fraud and corruption.

### 25. Assets

The Director of Regeneration is responsible for reviewing the Council's land and property holdings in accordance with Council policies. The Council's Asset Management Plan sets out acquisition, retention and disposal guidelines. Linked to this, any disposals must follow the Council's Land Disposal Standing Orders and the Disposal Procedure for Land and Property which are contained within the Constitution.

Chief Officers should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

## SYSTEMS AND PROCEDURES

### 26. Introduction

Sound systems and procedures are essential to an effective framework of accountability and control.

### 27. General

(1) The Chief Financial Officer is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Requests for changes to the existing financial systems or for the establishment of new systems must be approved by the Chief Financial Officer. However, Heads of Service are responsible for the proper operation of financial processes in their own Business Units.

(2) Any proposed changes to agreed procedures by Heads of Service to meet their own specific service needs must be agreed with the Chief Financial Officer.

(3) Chief Officers should ensure that their staff receive relevant financial training that has been approved by the Chief Financial Officer.

(4) Chief Officers must ensure that, where appropriate and in consultation with the IT Services Manager, computer and other systems are registered in accordance with data protection legislation. Heads of Service must ensure that staff are aware of their responsibilities under freedom of information legislation and data protection.

## 28. Income and Expenditure

(1) It is the responsibility of Chief Officers to ensure that a proper scheme of delegation has been established within their area and is operating effectively.

(2) The scheme of management should identify staff authorised to act on the Chief Officers behalf, on or behalf of the Portfolio Holders, in respect of payments, income collection and placing orders, together with the limits of their authority.

(3) For administrative and operational efficiency, all staff that are authorised by the financial scheme of delegation to place orders, can self authorise purchase orders in accordance with the ordering process specified by the Chief Financial Officer. With the authorisation of the Chief Financial Officer a higher self authorisation value may be awarded to specific officers where this is justified for operational reasons e.g. emergency purchases.

(4) The Chief Financial Officer is responsible for specifying the procedure to be followed in ordering, making payments, collecting income and approving procedures for writing off debts as part of the overall control framework of accountability and control.

## 29. Payments to Employees and Members

The Chief Financial Officer is responsible for arranging and controlling secure and reliable payment of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members.

## 30. Taxation

(1) The Chief Financial Officer is responsible for advising Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.

(2) The Chief Financial Officer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## 31. Trading Accounts / Business Units

It is the responsibility of the Chief Financial Officer to advise on the establishment and operation of trading accounts and business units.

## 32. Stocks, Stores and Inventories

Heads of Service must ensure that proper security is maintained at all times for all stocks and stores and that inventories are maintained for all items of

moveable furniture, equipment, vehicles and plant above a limit agreed with the Chief Financial Officer.

## EXTERNAL ARRANGEMENTS

### 33. Partnerships

(1) The Cabinet and Portfolio Holders are responsible for approving partnership arrangements with other local public, private, voluntary and community sector organisations to address local needs.

(2) The Chief Executive is responsible for ensuring the due diligence and legality of all partnership arrangements.

(3) The Chief Financial Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.

(4) The Chief Financial Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before arrangements are entered into with external bodies.

(5) Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

(6) External providers (outsourced services, contractors and consultants for example) are managed through the contract process. The contract document will set out the financial requirements.

### 34. External Funding

The Chief Financial Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

The Chief Financial Officer is responsible for authorising all grant applications for external funding.

### 35. Work for Third Parties

Chief Officers should ensure that legal powers exist to carry out such work.

The Chief Financial Officer and the Head of Law and Governance and Monitoring Officer are responsible for approving the contractual arrangements for any work for third parties or external bodies.

**RULES OF PROCEDURE**

**CONTRACT STANDING ORDERS**

## 1. Introduction

1.1 Under Section 135 of the Local Government Act 1972 the Council must make standing orders with respect to the making of contracts for the supply of goods or materials or for the execution of works which provide for:

securing competition; and

regulating the manner in which quotations/tenders are invited;

but may exempt contracts that are below a price specified in these Contract Standing Orders (CSOs) and may authorise the Council to exempt any contract from these CSOs when the Council are satisfied that the exemption is justified in special circumstances (as set out at CSO 47).

1.2 These CSOs form part of the Council's Constitution. Compliance by all staff is, therefore, mandatory and contravention is a serious matter which could breach the requirements of the Staff Code of Conduct and may lead to disciplinary action.

1.3 The Head of Law and Governance is responsible for keeping these CSOs under review, and they will be reviewed annually as a minimum. If the Regulations (defined at CSO 3) or any other law is changed in a way that affects these CSOs then that change must be observed until the CSOs can be revised. If the CSOs appear to conflict with the Regulations or any other law then the Regulations and/or the law takes precedence.

## 2. Objectives

2.1 These CSOs have the following objectives:

(a) delivering value for money;

(b) maximising public benefit;

(c) sharing information for the purpose of allowing Suppliers and others to understand the Council's procurement policies and decisions;

(d) acting, and being seen to act, with integrity; and

(e) removing or reducing the barriers faced by SMEs.

## 3. Governance

3.1 These CSOs must comply with the requirements of:

(a) the Procurement Act 2023 (PA2023);

(b) the Procurement Regulations 2024 (PR2024);

(c) any regulations that make a supplementary, incidental, or consequential provision in connection with any provision of the PA2023 and/or PR2024;

(d) the Public Contracts Regulations 2015 (PCRs); and

(e) any subsequent procurement legislation regulating the manner in which contracts are made and managed;

collectively referred to in these CSOs as 'the Regulations'.

3.2 The PCRs will continue to govern the procurement and management of any contract where the process for its award was formally commenced prior to the PA2023 coming into force (on 24 February 2025).

3.3 Guidance concerning the application of these CSOs should be sought from the Procurement and Contracts Manager, and any subsequent or confirmatory instruction issued by the Head of Law and Governance regarding such guidance shall be adhered to.

3.4 Except as provided for in CSOs 4 and 47, these CSOs apply to all contracts made by the Council for the supply of services, goods and works, regardless of the source of funding for the contract, and to the award of concession contracts and those relating to income generation.

3.5 Any contract made by the Council must also comply with the Financial Regulations.

3.6 When carrying out a procurement process, the following shall be taken into account:

(a) the Council's Procurement and Contract Management Framework;

(b) the National Procurement Policy Statement;

(c) public sector equality duty;

(d) safeguarding;

(e) duty of Best Value;

(f) health and safety;

(g) data protection impact and processing;

(h) potential social value or environmental benefits; and

(i) other relevant Council policies.

## 4. Exempted Contracts

Procurements or contracts for the areas listed in Appendix 1 are exempt from the application of these CSOs.

## 5. Reserved Contracts

5.1 The PA2023 permits competition for certain contracts, mainly in the social and health sectors, to be 'reserved' to such organisations as mutual and social enterprises meeting certain limited criteria. The 'Light Touch' procedure (CSO 24) would be used and tenders would only be allowed from organisations meeting the mutual and social enterprise criteria. Any contract awarded under this procedure would be limited to a term of five (5) years and could not be awarded to an organisation who had been awarded a previous contract for the services concerned by the Council within the previous three (3) years.

5.2 Use of this procedure would require the prior approval of the Head of Law and Governance.

## 6. Sharing or Delegation of Services

6.1 Where there is an opportunity to deliver services via a shared working or delegation of service arrangement with another public sector organisation, the requirement to seek quotations/tenders in accordance with these CSOs may not apply.

6.2 The advice of the Head of Law and Governance shall be obtained on any proposal to ensure that its implementation will be in accordance with appropriate legislative powers.

6.3 All proposals for the sharing or delegation of services shall be subject to appropriate approval, which would normally be the relevant Director.

## 7. In-House versus Outsourcing Service Provision

7.1 Where there is an opportunity to deliver services through an in-house function or team, this should be considered in the first instance, in preference to external consultants or providers.

7.2 Outsourced services should be utilised where specialist skills or expertise are not available in-house; or, where these skills are available in-house, when it is agreed by the relevant Director responsible for the in-house team that capacity does not allow this to be supported.

## 8. Contract Planning and Procurement Pipelines

8.1 Contract planning is critical in order to enable the Council to procure contracts which secure the 'most advantageous' outcome at the required time.

8.2 In advance of their expiry, existing contracts must (as a minimum) be reviewed in accordance with the following requirements:

| Total Contract Value (incl VAT) | Review Date |
|---|---|
| £1 - 29,999 | At least three (3) months before a break clause, the end of the initial contract term or the final contract end date. |
| £30,000 – up to UK Procurement Threshold for Goods & Services | At least six (6) months before a break clause, the end of the initial contract term or the final contract end date. |
| Above UK Procurement Threshold for Goods & Services and above | At least 18 months before a break clause, the end of the initial contract term and the final contract end date. |

8.3 In addition to reviewing contracts under CSO 8.2, annual contract pipelines shall be prepared and approved by Heads of Service recording all contracts with an aggregate total contract value of £100,000 which will require re-procurement in the next 12 - 24 months. These plans shall be sent to the Head of Law and Governance and Chief Finance Officer (S151) for review by no later than 30 June each year to ensure that legally required timeframes and contractual requirements can be met, together with appropriate authority to proceed.

8.4 Once approved the annual Procurement Pipeline shall be published on the Council website by 30 September in an effort to maximize transparency and in line with best practice with the aim to improve access to public contracts for SMEs and local Suppliers.

## 9. Conflicts of Interest

9.1 All reasonable steps must be taken to ensure that a conflict of interest does not put a Supplier at an unfair advantage or disadvantage in relation to the making and/or management of a contract. To satisfy this obligation every Officer involved in the procurement of a contract of £100,000 or above shall:

(a) be required to prepare and complete a Conflict of Interest Declaration Form and submit to the Procurement and Contracts Manager prior to the commencement of a procurement process. Any agents or consultants acting on behalf of the Council shall also complete a Conflict of Interest Declaration Form; and

(b) keep such conflicts assessment under review, and revised as necessary, during the procurement process and until expiry of the contract term.

9.2 Officers and Members involved in a procurement will, at all times, act in a way that is consistent with their Code of Conduct and in compliance with CSO 37.

9.3 Any Officer or Member who fails to declare a conflict of interest may be subject to disciplinary proceedings (Officer) or for breach of the Code of Conduct (Member) and risks being prosecuted under the Bribery Act 2010.

## 10. Confidentiality

10.1 All Officers, Members, staff within external organisations, agents or consultants acting on behalf of the Council and any other individuals, such as service users who are involved at any stage of the procurement process, must:

(a) treat all information provided to them in the strictest confidence;

(b) ensure all information or documents provided are not disclosed to any third party;

(c) return to the Procurement and Contracts Team all copies of any information provided, in whatever format they may exist, within 21 calendar days of a request to do so; and

(d) when requested, complete a Confidentiality Agreement to confirm this.

10.2 Except where required in response to a request made pursuant to the provisions of the Freedom of Information Act 2002, the Council must not disclose information which has been provided by a bidding Supplier and designated as being confidential by that Supplier; this includes but is not limited to technical or trade secrets and the confidential aspects of quotations/tenders.

10.3 The submission of Confidentiality Agreements and the issue of any confidential information must be undertaken electronically via the Councils e-tendering system.

## 11. Collaboration

There may be demonstrable benefits of collaborative procurement with the wider public sector, as well as (where permitted) the private and voluntary sectors, and the Council should consider taking advantage of these arrangements where appropriate, and including the opportunity for others to join in contracts that it is procuring.

## 12. Risk Management

12.1 A robust risk assessment must be created as part of the procurement planning process for all contracts valued over £100,000 (incl VAT) in conjunction with the Procurement and Contracts Manager.

12.2 This risk assessment must be reviewed and updated regularly during the procurement process and through the contract term.

12.3 Where key risks are identified which may lead to a contract modification, those risks must be stated clearly in the Tender Notice and appropriate

provisions for the assignment and management of such risks included in relevant procurement/tender documentation.

## 13. Business Continuity

13.1 Critical contracts i.e., those linked to the critical activities identified in each Business Units impact assessment, and any contract that could have a major impact on delivery if the Supplier awarded the contract was unable to operate/provide their service for a period of time, should be identified at the beginning of the procurement process and details included in the risk assessment. This should also include instances where there is only one Supplier that is able to supply a service to the Council.

13.2 For further advice, Officers should contact the Procurement and Contracts Manager.

13.3 To minimise the risk of disruption in the delivery of such contracts, business continuity plans should be requested from Suppliers and this should form part of the tender evaluation.

## 14. Preliminary Market Engagement

14.1 Before commencing a procurement process, it may be beneficial to conduct preliminary market engagement in order to:

(a) develop the Council's requirements and approach to the procurement;

(b) design a procedure, conditions of participation or contract award criteria;

(c) prepare a Tender Notice and associated tender documents;

(d) identifying Suppliers that may be able to supply the goods, services or works required;

(e) identifying likely contractual terms; and

(f) build capacity among Suppliers in relation to the proposed contract.

14.2 If the contract is valued above-Threshold, a Preliminary Market Engagement Notice should be published on the Central Digital Platform or, where not published, reasons given in any subsequent Tender Notice. There is no requirement to publish a Preliminary Market Engagement notice for below-Threshold contracts.

14.3 Steps must be taken to ensure that participating Suppliers are not unfairly advantaged and that competition is not otherwise distorted.

14.4 A record should be kept of the information shared and received as part of the preliminary market engagement. It can also be shared with other parties to ensure that all participating Suppliers are not unfairly advantaged. Subject to any considerations regarding confidentiality and/or intellectual property, any

such information should be included in any subsequent Tender Notice and/or tender documentation.

## 15. TUPE (service contracts only)

15.1 Where it has been established that the requirements of the Transfer of Undertaking (Protection of Employment) Regulations 2006 (and any amendments thereof) apply to any service contract, there is a requirement for the Council to share anonymous information relating to the staff who may be eligible to transfer.

15.2 In such cases, the incumbent Supplier has a legal obligation to provide relevant information but must be given sufficient notice of the requirement to provide the information prior to the issue of the tender documents.

15.3 The Head of Service shall only provide such information to bidding Suppliers who have signed and returned a Confidentiality Agreement and all information supplied must be anonymous.

15.4 Further advice, as required, should be sought from the Procurement and Contracts Manager.

## 16. Social Value

16.1 The Public Services (Social Value) Act 2012 requires contracting authorities to consider at the pre-procurement stage of any service contract and service Framework Agreement (including goods and works contracts procured in combination with services) which is above-Threshold:

(a) how the proposed procurement may improve the economic, social, and environmental wellbeing of an area;

(b) how the contracting authority may act with a view to securing that improvement in conducting the process of procurement; and

(c) whether to undertake any community consultation on the above.

16.2 Appropriate records should be kept of these considerations, including the reason for any decision regarding the matter of community consultation.

16.3 The Council is dedicated to supporting the social, economic, and environmental benefits to its communities when letting contracts and consideration for the above should therefore be made on all procurement exercises; not just those above-Threshold.

## 17. Rules for all Council Contracts

17.1 <u>Aggregation</u>

(a) Purchases for similar and regular contracts must be aggregated. Subject to CSO 17.2 below, on no account should any requirement be split or

sub-divided in an attempt to avoid using the proper procedure under these CSOs or the Regulations.

(b) Supply or service contracts which are regular in nature, or which are intended to be renewed within a given period, must be aggregated and the relevant procurement procedure utilized on this aggregated total basis. Detailed guidance on aggregation can be provided by the Procurement and Contracts Manager.

17.2 Lots

Consideration must be given as to whether goods, services or works could reasonably be supplied under more than one contract, and whether such contracts could appropriately be awarded under lots. Where this is deemed to be appropriate, such contracts should be awarded by reference to lots, or reasons recorded for not doing so.

17.3 Low-value and Medium-value Contracts - SMEs

When inviting quotations/tenders in relation to Small-value and Medium-value contracts, the Council must have regard to the fact that SMEs may face particular barriers to participation and consider whether such barriers can be removed or reduced.

## 18. Budget Approval

18.1 Before starting a procurement process the relevant delegated authority or approval must be in place, according to whether the cost of the contract is being met from a revenue or capital budget.

18.2 The Budget Holder may approve the procurement of any contract for the supply of services, goods or works that will incur any revenue or capital expenditure contained within an approved budget in accordance with these CSOs and their authorisation limits as detailed in the Financial Procedure Rules.

18.3 For the purpose of seeking approval to incur expenditure, the following should be considered:

(a) identify the need for continuation, change or improvement in service delivery or provision of the proposed services, goods or works;

(b) ensure that a sufficient budget is available for provision of the services or supply of the goods or works;

(c) what procurement method is legally required and most likely to achieve the purchasing objectives and select the most appropriate method;

(d) identify required and legally permitted duration of contract;

(e) use a formal evidence-based analysis to consider the options for delivery, including any social value and environmental considerations; and

(f) evaluate those options and identify a preferred option.

18.4 Officers must ensure that the appropriate Budget Holder has the funds in place for any proposed contracts and that the necessary budget approval from the Finance Business Partner has been obtained prior to the commencement of the procurement process. This budget must be validated with the Finance Business Partner before a decision is made to award a contract. New capital scheme requests outside of the budget setting process will be considered by the Chief Finance Officer (S151) in consultation with the Portfolio Holder for Finance and Property, with recommendations for consideration by Cabinet and approval by full Council.

18.5 In addition, where the procurement is a 'Key Decision', all appropriate steps must be taken in accordance with the Constitution (Part 4: Rules of Procedure) prior to commencement of the procurement process.

**19. Alterations to Project Content**

19.1 Prior to the commencement of a contract, but after receiving project approval, the Head of Service concerned shall have authority to make any alterations to the project content required by unforeseen circumstances or as a result of receiving information not known at the time of approval, which the Head of Service considers necessary to ensure a successful outcome to the contract, providing that:

(a) when work is undertaken to the brief of another Head of Service, that Head of Service shall be consulted;

(b) any alterations that fundamentally alter the scope or content of the project shall be reported to the relevant Portfolio Holder before implementation;

(c) the budget approval will not be exceeded; and

(d) the financial planning and management of the project is carried out in accordance with relevant paragraphs of Section B Financial Planning of Financial Procedures.

19.2 Any changes to the content of the project that may, pursuant to CSO 46, represent a significant variation to the nature of the contract advertised for quotation/tender, or prior to award of contract under a Framework, and will not be permitted without first having obtained advice from the Procurement and Contracts Manager and/or Head of Law and Governance.

## 20. Thresholds

20.1 The table below sets out the procedures that must be followed according to the value of the contract:

*Table 1*

| Threshold (all values are incl of VAT) | Tender Requirement |
|---|---|
| **Low-value contracts** – (Band 1)<br><br>below £5,000 | Obtain a minimum single written quotation, or use a suitable framework agreement |
| **Medium-value contracts** – (Band 2)<br>£5,000 - £29,999 | Obtain a minimum of three (3) written quotations or use a suitable framework agreement. |
| **Medium-value contracts** – (Band 3)<br>£30,000 - £99,999 | Obtain a minimum of three (3) written quotations or use a suitable framework agreement as agreed in advance with the Procurement and Contracts Manager. |
| **High-value contracts for the supply of goods and services**–<br>(Band 4)<br>£100,000 or above but below relevant UK Procurement Threshold | Use a suitable framework or open procedure. (consider using in that order). |

| | |
|---|---|
| **High-value contracts for the supply of works** – (Band 5)<br><br>£100,000 or above but below relevant UK Procurement Threshold | Use a suitable framework agreement, or invite tenders from not less than 4 Suppliers (for contracts with an estimated value of up to £1,000,000) and from not less than 5 Suppliers (for contracts with an estimated value of above £1,000,000) or invite tenders under the open procedure (consider using in that order).<br><br>Except for contracts valued above £214,904, the submission of tenders cannot be restricted by reference to an assessment of a Supplier's suitability to perform the contract. |
| **Above relevant UK Procurement Threshold**<br><br>(thresholds effective from 1st January 2024):<br><br>Works Contracts - £5,372,609<br><br>Supplies Contracts - £214,904<br><br>Services Contracts - £214,904<br><br>Light Touch Contract *that is* a concession contract - £5,372,609<br><br>Light Touch Contract *that is not* a concession contract - £663,540<br><br>Concession Contract – £5,37,609 | Compliance with the Regulations.<br><br>Guidance on the latest statutory thresholds can be obtained from the Procurement and Contracts Manager. |

20.2 Notwithstanding the contract value or procedure used, all procurements must adhere to the public procurement principles of equality of treatment,

non-discrimination, transparency, mutual recognition and proportionality, such adherence being demonstrable if challenged.

20.3 Quotation/tender documentation appropriate to the procedure being undertaken must be developed to reflect the size, scope, and type of specification (i.e., input for specific standards versus output or outcome specification) and any other specific subject-matter terms and conditions which are relevant.

20.4 Where a competition has been undertaken in accordance with the correct procedure set out in Table 1 and only a single quotation/tender has been received, the contract may be awarded, subject to all elements of the criteria being met satisfactorily and an assessment that the response offers genuine value for money, with an audit trail demonstrating compliance with the procedure being available for inspection.

20.5 The estimated value of a contract shall be the total sum estimated to be payable over the full term of the contract (including any option to extend the contract beyond the initial term) by the Council to the Supplier. Where the contract period is uncertain, the estimated value shall be calculated on the basis that the contract period will be for four (4) years.

## 21. Framework Agreements

21.1 Frameworks are normally used where it would be useful to have a list of pre-selected Suppliers to draw from, as an assessment of the Supplier's suitability has already taken place.

21.2 A Framework Agreement is an agreement with one or more Suppliers that sets out the terms and conditions under which specific purchases can be made (or 'called off') throughout the term of the agreement. Call offs are typically made through a direct award or further competition.

21.3 Framework Agreements may be established by the Council, or by other public bodies or public sector buying consortia, as arrangements through which the Council, along with other public bodies, may make specific purchases.

21.4 The use of a Framework Agreement should be considered prior to using any other procurement process.

21.5 Where available, the Head of Service should use a Framework Agreement for High-value contracts (see CSOs 27 and 28) in preference to carrying out a tender process, as such agreements can provide cost and time saving benefits. A Framework Agreement may also be used for Low-value and Medium-value contracts if considered that it will produce Best Value.

21.6 Advice should be sought from the Procurement and Contracts Manager on whether it is appropriate and permissible for the Council to use a Framework Agreement and, if so, how it should be accessed or put in place. This requirement applies to the use of a Framework Agreement on any value contract.

21.7 Where a suitable Framework Agreement is available, the Head of Service shall use it in accordance with these CSOs and the rules and procedures of the framework, as supported by the Procurement and Contracts Manager.

21.8 Where a Framework Agreement is concluded with more than one Supplier a further competition is usually the preferred route to demonstrate 'Best Value'. Where the rules of a multi-provider Framework Agreement do not specify the requirements for direct award a suitable business case shall be prepared outlining the reasons for a direct award.

21.9 Direct awards valued at £100,000 or above should only be used in exceptional circumstances and should be approved by the Procurement and Contracts Manager and/or Head of Law and Governance and the relevant Director prior to the award being made. Where a multi-supplier framework is used, direct awards for above-Threshold contracts should not be made, unless in exceptional circumstances and as approved by the Head of Law and Governance and Chief Finance Officer (S151).

21.10 Where a contract awarded under a Framework Agreement is valued above £30,000, a Contract Award Notice must be published on Contracts Finder for Frameworks let under PCRs and on the Central Digital Platform for Frameworks let under the PA2023 and PR2024.

21.11 If the contract is above-Threshold, assessment summaries must be produced and issued to all Suppliers who bid and a standstill period of eight (8) working days must be observed. A Contract Details Notice must be published within 30 days of the contract being entered into.

21.12 The use of an existing Framework Agreement does not remove the requirement to comply with all other elements of these CSOs and/or the Regulations.

## 22. Approved Lists

22.1 Approved Lists may be used where there is no suitable Framework Agreement and the value of the contract to be entered into will be below-Threshold. The Approved List may have a single Supplier or multiple Suppliers.

22.2 An Approved List shall contain the names and addresses of all Suppliers who meet the Approved List criteria and shall indicate the nature and value of contracts for which the Suppliers may be used.

22.3 An Approved List shall be established following a procurement process in accordance with these CSOs.

22.4 Call-offs from an Approved List must be in accordance with the terms set out in the Approved List.

## 23. Concession and Sponsorship Contracts

23.1 Where the Council seeks an economic operator who wants to pay the Council for the right to provide services on or from the Council's premises, a procurement process is required to be undertaken in accordance with these CSOs and, where applicable, in compliance with the requirements laid out in the Regulations.

23.2 Advice must be sought from the Procurement and Contracts Manager and/or Head of Law and Governance before commencing a procurement process for a Concession or Sponsorship contract.

## 24. Light Touch Contracts

24.1 Light Touch contracts cover certain social, health, education or other public services provided directly to individuals or groups of individuals and therefore warrant special treatment and greater flexibility.

24.2 Officers should obtain advice from the Procurement and Contracts Manager if they consider that a contract may be a Light Touch contract.

## 25. Tender Procedures

A competitive tendering procedure may take one of the following two forms:

(a) an **open procedure**, which is a single stage procedure whereby any Supplier can submit a tender and the Council will decide whom to award the contract to on the basis of that tender; or

(b) a **competitive flexible procedure**, which is any other competitive tendering procedure the Council considers appropriate for the purpose of awarding a contract. This procedure must be used where the Council wishes to limit the number of Suppliers before inviting tenders.

## 26. Low-value and Medium-value Contracts – up to £100,000 (incl VAT)

26.1 Verbal quotations are not acceptable at any level of spend. For contracts valued £0 to £5,000 (Band 1), whilst it is practical that Officers may make initial queries verbally, all communication and agreement (including scope of service/goods/ works and the cost) must be followed up, confirmed, and accepted in writing.

26.2 For Low-value contracts below £5,000 where lowest price is not the most appropriate Award Criteria the procedure for Medium-value contracts between £5,000 up to £100,000 should be followed.

26.3 For contracts valued at £5,000 – up to £100,000 (Band 2 and 3) a minimum of three (3) written quotations must be requested, using the Council's standard Request for Quote template, and must include the following as a minimum:

(a) details of the goods, services or works to be supplied;

(b) where and when delivery will take place;

(c) the total value of the contract; and

(d) the terms and conditions to apply, including the price and payment terms.

26.4 Alternatively, a suitable Framework Agreement may be used following the rules of the Framework Agreement with the procedure verified by the Procurement and Contracts Manager and evidence of compliance provided (see CSO 21.6).

26.5 Purchase Orders must be raised for all Low-value and Medium-value Contracts in accordance with CSO 42.

26.6 In respect of procedures where at least three (3) quotations are being requested, Officers should attempt to seek at least one (1) quotation from a local Supplier or SME. The intention of this being to support the Council's desire to improve economic sustainability and development for these organisations. "Local" shall mean within the borough of Basingstoke and Deane and if the requirement cannot be sourced within the borough, within the wider county of Hampshire.

26.7 The Council has a duty to have regard to the fact that SMEs may face particular barriers in competing for a contract and consider whether such barriers can be removed or reduced, before commencing the procurement.

26.8 Any contracts over £30,000 (Band 3) must be notified to the Procurement and Contracts Team in advance of the procurement being undertaken, preferably via the Procurement Start-Up Document or Work Request Form so as to:

(a) determine the risk and therefore level of support required from the Procurement and Contracts Team;

(b) determine if the contract would benefit from pre-market engagement with potential Suppliers and, if so, to enable a Pre-Market Engagement Notice to be published on the Central Digital Platform (in accordance with CSO 14.2);

(c) enable, where required (and following the publication of any Pre-market Engagement Notice and subsequent pre-market engagement process), a below-Threshold Tender Notice to be published on the Central Digital Platform; and

(d) enable a Contract Details Notice to be published on the Central Digital Platform as soon as practical following contract award.

26.9 Where the quotation is deemed to be strategic or high risk in nature the Procurement and Contracts Manager shall support the procedure by reviewing documentation and, where agreed, managing the quotation via the Council's e-procurement system.

26.10 Details of any contracts awarded over £5,000 (Band 2) must be notified to the Procurements and Contracts Team via the Procurement Notification Form for addition to the published Contracts Register to fulfil the requirements of the Transparency Code 2015 (as updated 29 January 2025).

## 27. High-value Contracts for the supply of goods and services – £100,000 (incl VAT) and above, up to UK Procurement Thresholds

27.1 The Procurement and Contracts Manager must be notified of the commencement of all new tender exercises and actively involved with the procurement process.

27.2 To ensure a successful procurement and proper on-going management of the contract, a Procurement Start-Up Document and associated risk assessment matrix should be completed, including evidence of authority to proceed with the procurement.

27.3 Where a suitable Framework Agreement is available, it should be used in preference to inviting tenders.

27.4 Where no suitable Framework Agreement is available, tenders shall be invited, using the **open** procedure. The only exceptions shall be:

(a) those contracts that have been deemed as being 'reserved to public service mutuals' or 'supported employment providers'. This exclusion shall only apply in limited circumstances and where it is deemed appropriate by the Head of Law and Governance and Chief Finance Officer (S151); or

(b) a contract that is to be awarded as an exception under CSO 47.

27.5 For the avoidance of doubt, for below-Threshold contracts, it is not possible to restrict the submission of tenders by reference to an assessment of a Supplier's suitability to perform the contract.

27.6 All relevant procurement documentation, including evaluation criteria, must be developed in consultation with the Procurement and Contracts Manager.

27.7 A below-Threshold Tender Notice must be published on the Central Digital Platform prior to inviting tenders.

27.8 Tenders must be evaluated according to the advertised evaluation criteria. Clarification questions may be asked of Suppliers providing the response would not have the effect of materially changing the tender received.

27.9 The Supplier with the highest evaluation score will normally be awarded the contract. If this is not the case, further advice must be sought from the Head of Law and Governance.

27.10 All Suppliers must be notified of the award decision simultaneously via the Council's e-tendering system whether or not their tender was successful.

27.11 Officers should endeavour to ensure that the contract is signed by both parties before contract delivery starts. A copy of the signed contract must be provided to the Procurement and Contracts Manager upon its receipt.

27.12 As soon as reasonably practicable after entering into the contract, a Contract Details Notice must be published on the Central Digital Platform.

27.13 Relevant documentation from the procurement process, particularly the tenders received and the evaluation process, must be retained in compliance with the Council's retention Policy.

**28. High-value Contracts for the supply of works – £100,000 (incl VAT) and above, up to UK Procurement Thresholds**

28.1 The Procurement and Contracts Manager must be notified of the commencement of all new tender exercises and actively involved with the procurement process.

28.2 To ensure a successful procurement and proper on-going management of the contract, a Procurement Start-Up Document and associated risk assessment matrix should be completed, including evidence of authority to proceed with the procurement.

28.3 Where a suitable Framework Agreement is available, it should be used in preference to inviting tenders.

28.4 Where no suitable Framework Agreement is available, tenders should be invited from not less than 4 Suppliers (for contracts with an estimated value of up to £1,000,000) and from not less than 5 Suppliers (for contracts with an estimated value of above £1,000,000) or tenders invited under the open procedure (consider using in that order). The only exception shall be a contract that is to be awarded as an exception under CSO 47.

28.5 For the avoidance of doubt, where the value of the works is above £214,904, it is not possible to restrict the submission of tenders by reference to an assessment of a Supplier's suitability to perform the contract.

28.6 All relevant procurement documentation, including evaluation criteria, must be developed in consultation with the Procurement and Contracts Manager.

28.7 Where a tender opportunity is to be advertised (pursuant to CSO 28.4), a below-Threshold Tender Notice must be published on the Central Digital Platform prior to inviting tenders.

28.8 Tenders must be evaluated according to the advertised evaluation criteria. Clarification questions may be asked of Suppliers providing the response would not have the effect of materially changing the tender received.

28.9 The Supplier with the highest evaluation score will normally be awarded the contract. If this is not the case, further advice must be sought from the Head of Law and Governance.

28.10 All Suppliers must be notified of the award decision simultaneously via the Council's e-tendering system whether or not their tender was successful.

28.11 Officers should endeavour to ensure that the contract is signed by both parties before contract delivery starts. A copy of the signed contract must be provided to the Procurement and Contracts Manager upon its receipt.

28.12 As soon as reasonably practicable after entering into the contract, a Contract Details Notice must be published on the Central Digital Platform.

28.13 Relevant documentation from the procurement process, particularly the tenders received and the evaluation process, must be retained in compliance with the Council's retention Policy.

**29. Above-Threshold Contracts**

29.1 Officers must consult with the Procurement and Contracts Manager before commencing any procurement, who will provide advice as to the most appropriate procurement process to use.

29.2 To ensure a successful procurement and proper on-going management of the contract, a Procurement Start-Up Document and associated risk assessment matrix should be completed, including evidence of authority to proceed with the procurement.

29.3 Where a suitable Framework Agreement is available, it should be used in preference to inviting tenders.

29.4 All relevant procurement documentation, including evaluation criteria, must be developed in consultation with the Procurement and Contracts Team.

29.5 A Tender Notice must be published on the Central Digital Platform prior to inviting tenders.

29.6 Tenders must be evaluated according to the advertised evaluation criteria. Clarification questions may be asked of Suppliers providing the response would not have the effect of materially changing the tender received.

29.7 The Supplier with the highest evaluation score will normally be awarded the contract. If this is not the case, further advice must be sought from the Head of Law and Governance.

29.8 All Suppliers must be notified of the award decision simultaneously via the Council's e-tendering system whether or not their tender was successful. The Procurement and Contracts Team will prepare the relevant assessment summaries. Once the assessment summaries have been sent to Suppliers a Contract Award Notice must be published on the Central Digital Platform.

29.9 The publication of the Contract Award Notice starts the mandatory eight (8) working days standstill period. In an unsuccessful Supplier challenges the award decision, or requests feedback, the standstill period must be paused until the matter is successfully resolved.

29.10 Following expiry of the Standstill Period, Officers should endeavour to ensure that the contract is signed by both parties before contract delivery starts. A copy of the signed contract must be provided to the Procurement and Contracts Manager upon its receipt.

29.11 As soon as reasonably practicable after entering in the contract, a Contract Details Notice must be published on the Central Digital Platform.

29.12 Relevant documentation from the procurement process, particularly the tenders received and the evaluation process, must be retained in compliance with the Council's retention Policy.

## 30. Guidance

The Council has published detailed Procurement Guidance on the use of all quotation/tender procedures on its internal SharePoint system, and Staff are required to adhere to this guidance when conducting a procurement procedure. The Head of Law and Governance and/or the Procurement and Contracts Manager may update the guidance from time to time to reflect any changes in legislation, government guidance and best practice.

## 31. Appointment of Consultants

31.1 Consultants are subject to the same competition requirements as any other type of contract and must be selected and awarded a contract in accordance with these CSOs.

31.2 The engagement of a Consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided, the deliverables expected, the total cost to be paid and any stage payment arrangements. The engagement shall also be subject to completion of a contract of appointment.

31.3 Records of consultancy contracts shall be maintained in accordance with these CSOs.

31.4 Consultants shall be required to provide evidence of, and maintain, professional indemnity insurance policies to the satisfaction of the Council for the periods specified in the respective agreement and, where appropriate, shall also provide collateral warranties in accordance with CSO 44.4.

## 32. Electronic procurement

32.1 All High-value procurements of (above £100,000) must be conducted through the Council's e-procurement system to make sure the procurement process is as efficient as possible. Any exceptions to this position must be approved in advance by the Procurement and Contracts Manager. Use of the e-tendering system should be carried out with the support of the Procurement and Contracts Team.

32.2 Use of E-procurement is also recommended for Band 2 and Band 3 contracts for an efficient and transparent process but is not mandatory.

32.3 In the event of a fault or failure with the e-tendering procurement system, paper tenders may be received in accordance with guidelines given by the Procurement and Contracts Manager. Alternatively electronic versions may be accepted by other means (such as email or drop box) in the event of a failure with the e-tendering system, though responses will only be accepted to an independent contact not involved with the project and as agreed by the Procurement and Contracts Manager. If appropriate, the time and date for receipt of tenders may, with the approval of the Procurement and Contracts Manager, be extended to allow sufficient time for paper tenders to be received.

## 33. Electronic Tenders (E-Tendering)

33.1 For all quotations/tenders received via the e-tendering system the 'locked box' must be opened in the presence of two Officers from the Financial Transactions Team who are not involved in managing the project. Details of the opened tenders, including title/reference number of tenders, name of tenderers and prices, must be recorded against a list of tenders invited.

33.2 A quotation/tender submission can be rejected for the following reasons, which must be set out in the tender documents:

(a) it is incomplete or vague;

(b) it has been submitted later than the prescribed date and time;

(c) it is not in accordance with the approved format; or

(d) it is in breach of any conditions for the submission of quotations/tenders set out in the request for quotation/invitation to tender.

33.3 Where there are errors or discrepancies in the quotation/tender submission and the submission has not been rejected in accordance with CSO 33.2, the relevant Supplier shall be given details, via post tender clarification, in order to confirm whether they wish to confirm or withdraw the submission. A correction of an error or omission can be accepted if it is determined that the Supplier has gained no unfair advantage.

33.4 Quotations/tenders received after the latest time and date must not be accepted unless the prior approval has been obtained from the Head of Law and Governance and/or Procurement and Contracts Manger. Such approval will normally only be provided for procurement processes that are below-Threshold and where it can be determined that an unfair advantage has not been obtained from it being late.

## 34. Procurement Notices

34.1 For above-Threshold Contracts, the table below sets out details of the notices relating to the advertisement and award of a contract that need to be published on the Central Digital Platform:

| Notice | Overview | Compulsory |
|---|---|---|
| Tender Notice | A notice which sets out the Council's intention to commence a procurement process. | Yes |
| Contract Award Notice | A notice which sets out the Council's intention to enter into a contract with a Supplier. | Yes |
| Contract Details Notice | A notice which sets out that the Council has entered into a contract. | Yes – within 30 days of entering into a contract or 120 days for a Light Touch contract. |

34.2 For below-Threshold Contracts, the table below sets out details of the notices relating to the advertisement and award of a contract that need to be published on the Central Digital Platform:

| Notice | Overview | Compulsory |
|---|---|---|
| Below-Threshold Tender Notice | A notice which sets out the Council's intention to award a contract for a "notifiable Below-Threshold Contract". | Yes – unless the Council only advertises from preselected Suppliers. |
| Contract Details Notice | A notice which sets out that the Council has entered into a contract | Yes – as soon as reasonably practical after the contract has been completed. |

34.3 In addition to the notices published on the Central Digital Platform, the Council may also publish contract opportunity notices and Contract Award Notices on the South East Business Portal.

## 35. Tender Submissions

35.1 Suppliers should ordinarily be allowed not less than four (4) weeks for the return of quotations/tenders. This can be amended accordingly to reflect the complexity of the procurement or, where it is an above-Threshold procedure, the period is set by agreement with the bidding Suppliers.

35.2 Where using a Framework Agreement, this may provide for carrying out a mini-tender exercise. In such cases, the rules of the Framework Agreement will govern the process where there is any conflict with these CSOs.

## 36. Award Criteria

36.1 Award criteria appropriate to the procurement must be defined and included in the Tender Notice and/or invitation to submit a quotation/tender documentation. It must be designed to secure the most advantageous outcome for the Council. The basic criteria shall be:

(a) "Most advantageous tender" offer (where the Council needs to ensure that an appropriate and/or minimum level of price, quality and technical expertise, in addition to any relevant wider social, economic and environmental benefits, is provided.

This will usually (but not exclusively) apply to High-value Contracts (above £100,000), i.e., where use of a Framework Agreement or a tender exercise is required.

(b) "Lowest price" offer (where price is the key consideration).

This will usually (but not exclusively) apply to Low-value and Medium-value Contracts below £100,000, i.e., where a single or three (3) quotations are required.

(c) "Highest price" if payment is to be received by the Council.

(d) Where required (in the case of an above-Threshold contract) a tender does not fail any mandatory or discretionary exclusion grounds.

36.2 Where a contract is to be awarded in respect of the "most advantageous tender" offer, the criteria must be:

(a) predetermined to meet the objectives of the services, goods or works required in the order of importance;

(b) include all main criteria and sub-criteria;

(c) ranked/weighted by relative importance;

(d) capable of objective assessment;

(e) not biased towards a particular Supplier;

(f) strictly observed at all times during the quotation/tender process; and

(g) set out in the Contract Notice or invitation to tender documentation.

36.3 The main criteria and sub-criteria may include:

(a) price (including whole life cost);

(b) quality;

(c) technical merit;

(d) aesthetic and functional characteristics;

(e) environmental characteristics;

(f) social values;

(g) running costs;

(h) cost effectiveness;

(i) after sales service;

(j) technical assistance; and

(k) delivery date/delivery period/period of completion.

36.4 Non-commercial considerations must not be included in evaluation criterion.

36.5 As general guidance where 'most advantageous tender' criteria is used the split between cost and quality should be on a 60/40% respective split. Within the 40% qualitative assessment a minimum 5% social value weighting shall apply. Advice should be sought from the Procurement and Contracts Manager on this issue but any deviation from this split i.e., if the cost percentage is to be lower, must be approved by the appropriate Director or Chief Executive or the Chief Finance Officer (S151).

36.6 In the case of discretionary exclusion grounds, the Council may allow the Supplier to make representations in order to assess whether excluding their tender would be proportionate in the prevailing circumstances.

## 37. Tender evaluation

37.1 Quotations/tenders must be evaluated according to the published evaluation criteria. Clarification questions may be asked of Suppliers, in accordance with guidance provided by the Procurement and Contracts Manager and/or Head of Law and Governance, provided the response would not have the effect of materially changing the quotation/tender received.

37.2 For contracts which are to be evaluated using the "most advantageous tender" criteria, the evaluation is to be carried out by a minimum of two appropriate Officers nominated by the relevant Head of Service. A moderation meeting will

be facilitated by a member of the Procurement and Contracts Team who will support the process to agree the scores in each area.

37.3 Where this evaluation methodology is used, any resulting contract must be awarded to the Supplier who submits the most advantageous tender, i.e., the quotation/tender that achieves the highest score in the objective assessment. If this is not the case, further advice must be sought from the Procurement and Contracts Manager and/or the Head of Law and Governance.

37.4 All Suppliers must be notified of the contract award decision simultaneously via the Council's e-tendering system whether or not their quotation/tender was successful. The Procurement and Contract Team will prepare the relevant letters/notifications.

37.5 Councillors shall not participate in the evaluation of tenders, but may in appropriate cases be invited to attend any presentations given by Suppliers. All information pertaining to a Supplier's tender submission shall be treated as commercially sensitive and confidential and must not be divulged to any other parties.

## 38. Supplier Details

38.1 Regardless of value, a contract must only be awarded to a Supplier who:

(a) can confirm a business contact address and telephone number;

(b) can provide an acceptable level of Public Liability insurance and Employers' liability insurance (and, where appropriate, other necessary insurances); and

(c) is registered for tax and holds a valid certificate (where appropriate).

38.2 Minimum insurance requirements are set out at CSO 39.

38.3 Guidance on the information that Suppliers need to provide regarding tax certificates is available from the Financial Transactions Team.

## 39. Insurance

39.1 The following are recommended requirements for insurance levels for each and every claim:

(a) Employers' Liability Insurance: £10,000,000

(b) Public Liability Insurance: £10,000,000

(c) Professional Indemnity Insurance: £2,000,000

(d) Product Liability Insurance: should be proportionate to the product being purchased.

39.2 Before commencing any procurement procedure, Officers must consider whether the recommended insurance cover in CSO 39.1 is proportionate to the contract. In doing so, Officers must have regard to whether the insurance levels requested may present an obstacle or barrier for SMEs. Advice should be sought from the Council's Insurance Officer if it is considered that the insurance levels should be increased or decreased, and any variation must be agreed by the Procurement and Contracts Manager and/or Head of Law and Governance.

39.3 In setting liability limits consideration needs to be given to the financial, reputational, and operational loss which might be incurred by the Council as a result of the Supplier failing to deliver in accordance with the contract. Liability may be appropriately limited by reference to the insurance levels, the contract value, or a percentage of the contract value.

39.4 The Procurement and Contracts Manager will request copies of any relevant insurance documents on contract award. The Contract Manager (see CSO 45.1) should ensure that updated copies are requested as required.

## 40. Awarding contracts

40.1 The results of the quotation/tender evaluation process must be recorded.

40.2 Acceptance of quotations/tenders shall be undertaken in accordance with the following approvals:

| Role | Approver Levels (all values excl. VAT) |
|---|---|
| Operational Manager~~s~~ | Up to £10,000 |
| Budget Manager~~s~~ | £10,000 to £24,999 |
| Head of Service | £25,000 to £74,999 |
| Director | £75,000 to £250,000 |
| Chief Executive, Deputy Chief Executive and Chief Finance Officer (S151) | £250,000 plus |

40.3 Above-Threshold Contracts must be awarded in accordance with the procedure set out in the Regulations.

40.4 Director (as a minimum) approval shall be obtained, in addition to sign-off by the Chief Finance Officer (S151), prior to provisionally awarding an above-Threshold contract so as to authorise the commencement of the required Standstill Period.

40.5 Once a contract has been awarded the Procurement and Contracts Manager must be notified by electronic form (either e-mail of via the Notification Form) of the following so that the Corporate Contract Register can be updated:

(a) Contract Title;

(b) Supplier Name;

(c) Contract term including details of any provisions for extension;

(d) Contract Start Date;

(e) Total Contract Value; and

(f) Name of Contract Manager.

40.6 A contract may only be signed by an Officer authorised to do so under the scheme of delegation in the Constitution, or by the Head of Law and Governance subject to them having produced and/or approved a suitable set of contract conditions (see CSO 43).

40.7 Within one (1) month of the Contract being signed, a copy of the signed Contract (with all appendices, plans, schedules etc) must be deposited with the Procurement and Contracts Team for electronic storage.

40.8 If an existing Framework Agreement is being utilised, once an appointment has been made through the framework, the Procurement and Contracts Manager must be notified of the following so that a record can be held:

(a) Framework title and Reference Number (if applicable);

(b) Lead buying organisations name;

(c) Supplier name;

(d) Details of services/supplies purchased; and

(e) Value of services/supplies purchased.

**41. Contents of Orders and Contracts**

41.1 Every order and Contract must be signed by both parties before the commencement of the contract, and clearly and carefully specify:

(a) the services, goods or works to be supplied;

(b) the agreed programme for delivery, including certain duration of the contract;

(c) the price and terms for payment; and

(d) all other terms and conditions that are agreed.

41.2 Records relating to contracts must be kept in line with the Council's retention and disposal procedures: typically, this being six (6) years after the end of the contract.

## 42. Purchase Order

42.1 For the purchase of services, goods or works that are Low-value or Medium-value contracts (below £100,000), the Head of Service should normally consider using a Purchase Order (which incorporate the Council's 'general terms and conditions for the purchase of goods and services') only without the need for a formal contract agreement, though Officers should ensure that appropriate records of the specified agreed goods, services or works and the costs of these (as per CSO 41) are held to support the Purchase Order conditions.

42.2 For Low-value and Medium-value Contracts (below £100,000) which have some level of complexity, it may be appropriate to use a formal contract agreement in addition to a Purchase Order in order to safeguard the Council's legal position. In such cases, the Head of Service should consult the Head of Law and Governance in accordance with CSO 43.

42.3 Notwithstanding the provisions of CSOs 42.1 and 42.2, irrespective of value, a Purchase Order must be issued for all contracts so that contractual payments can be made in accordance with Financial Procedures.

## 43. Conditions of Contract

43.1 For High-value Contracts (above £100,000) or for any contract of an unusual or complex nature or for the appointment of consultancy services, the Head of Law and Governance should be consulted to produce and/or approve a suitable contract agreement.

43.2 Every contract must be made in writing (either physical or by such authorised electronic means), under English Law and, unless under seal, must be signed by a person authorised to do so under the scheme of delegation. The Common Seal of the Council may be affixed either by physical means or by such electronic means as the Head of Law and Governance may from time to time authorise. References within these CSOs and elsewhere in the Constitution to the Common Seal (or Seal) of the Council and to the sealing of documents shall be taken to refer to the official seal and any accompanying signatures as being affixed by physical means, or by electronic means provided for in these CSOs.

43.3 Every contract must also include certain clauses to protect the Council's legal position, e.g., prevention from fraud, freedom of information, data protection, equalities, indemnities and insurance, compliance with statutory obligations and to ensure that Suppliers are fully aware of the Council's responsibilities when acting on its behalf.

43.4 The contract shall be in addition to, not in place of, Purchase Orders (or payment certificates for capital works) as the Purchase Order must be raised for all payments (in line with Financial Procedures).

## 44. Supplier Financial Risk Measures

44.1 Liquidated Damages

(a) Where considered appropriate, and for all High-value works contracts, the Supplier shall be required to pay liquidated damages to the Council if the contract is not completed within the specified period. The amount to be included for liquidated damages in a contract must represent the anticipated loss or expense likely to be incurred by the Council as a result of any delay in completion of the contract. An unrealistically high figure could well be construed as a penalty rather than the recovery of anticipated losses and the Council may not be able to recover any damages in this particular situation.

(b) Examples of expenses likely to be incurred by the Council are:

(i) cost of capital employed;

(ii) loss of income (rents, booking fees etc);

(iii) hire of alternative accommodation or equipment;

(iv) effect of delay on related contracts;

(v) additional consultant fees; and

(vi) additional staff costs.

(c) Any deduction of liquidated damages or waiver of an entitlement to recover liquidated damages and/or any claims by the Supplier for an extension of time for completion of the services or works must be administered in accordance with the terms and conditions of the contract and the subsequent decisions recorded by the relevant Head of Service.

44.2 Performance Guarantee Bonds

(a) For contracts estimated to be above £1,000,000 the Supplier shall be required to provide a bond for 10% of the contract sum. In the case of term-contracts the bond value will be based on the total value of the contract but reduced pro-rata on each anniversary date of the contract term. To amend or waive this requirement, a Head of Service should seek authority from the relevant Portfolio Holder and Chief Finance Officer (S151).

(b) The bond must be in force before the contract commences and remain in place up to the issue of the certificate of practical completion or end of the contract term, as appropriate.

(c) A bond shall only be acceptable from a Bank (with a high credit rating) or an approved Insurance Company authorised and regulated by the Financial Services Authority (FSA) (or equivalent for non-UK companies), as determined by the Chief Financial Officer (S151).

44.3 Parent Company Guarantees

A parent company guarantee may be sought when an economic operator is a subsidiary of a parent company (where accounts are only available from the parent company).

44.4 Collateral Warranties

Where the performance of the contract will rely upon the performance of sub-contractors or Suppliers who will not be in a direct contractual relationship with the Council, Heads of Service should consider whether those sub-contractors or Suppliers should be required to offer a warranty as to their performance directly with the Council. Equally, where the Council is procuring a facility or service which is intended to be operated by a person or organisation separate from the Council then Heads of Service should consider whether Suppliers should be required to offer a warranty to the eventual user direct.

## 45. Contract Management

45.1 For each High-value contract, i.e., £100,000 and above, the Head of Service must designate an appropriate lead Officer as primary contact and Contract Manager.

45.2 The Contract Manage shall ensure there is a robust contract management plan in place that is proportionate to the scale and scope of the contract. This should include, but is not limited to:

(a) accountability, roles, and responsibilities;

(b) strong governance procedures;

(c) measure and report on performance and use KPIs and data efficiently to incentivise good performance;

(d) drive continuous improvement (including Social Value, if applicable), value for money and capture innovation; and;

(e) adopt and encourage mature commercial behaviours.

45.3 To achieve the outcomes set out CSO 45.2, the Contract Manager should:

(a) meet with the Supplier at regular and pre-agreed intervals to discuss contract performance against the contract specification, including KPI achievement and varying KPIs where appropriate;

(b) set up a change control register (where appropriate);

(c) monitor risk and mitigate or escalate early sign of failure;

(d) set up and maintain a lesson learnt log; and

(e) manage the contract exit plan, including documenting any decisions regarding contract termination.

45.4 If the value of the contract is over £5m (per annum), at least once every 12 months during the term of the contract and on termination of the contract, the Contract Manager must assess performance of the Supplier using the standard rating system set out in the Regulations against published KPIs and request the Procurement and Contracts Manager to publish a Contract Performance Notice on the Central Digital Platform.

45.5 If the Supplier has breached the contract and the breach results in:

(a) termination (or partial termination of the contract);

(b) the award of damages; or

(c) a settlement agreement between the Supplier and the Council;

a Contract Performance Notice must be published on the Central Digital Platform within 30 days of the relevant breach.

45.6 Whether an above-Threshold contract expires or is terminated, a Contract Termination Notice must be published on the Central Digital Platform within 30 days of that expiry/termination date.

**46. Contract Modifications**

46.1 Legal advice from the Head of Law and Governance must be sought before assignments or novation's of contracts are entered into.

46.2 Contracts may (subject to any approval that is required under CSO 47) be extended where:

(a) there is provision in the original contract for an extension;

(b) there is budgetary provision; and

(c) Best Value can be demonstrated.

46.3 Where a contract extension would take the value of a contract to above-Threshold, advice must be sought from the Head of Law and Governance and/or Procurement and Contracts Manager before any action is taken.

46.4 If the contract value is above-Threshold, advice must be sought from the Head of Law and Governance and/or Procurement and Contracts Manager should be sought before a substantial modification is made. A substantial modification is one which would:

(a) increase or decrease the term of the contract by more than 10% of the maximum term provided for;

(b) materially change the scope of the contract; or

(c) materially change the economic value of the contract in favour of the Supplier.

46.5 Before modifying a contract that is above-Threshold or when a modification takes its value above-Threshold, a Contract Change Notice must be published on the Central Digital Platform, except where:

(a) the modification increases or decreases the estimated value of the contract in the case of goods/services by less than 10% or in the case of works by less than 15%; or

(b) the modification increases or decreases the term of the contract by less than 10%.

46.6 If the value of the contract is over £5m a redacted copy of the modified contract must be published via an updated Contract Details Notice on the Central Digital Platform.

46.7 Where a modification is being made to a contract that was awarded pursuant to the PCRs, Officers shall ensure that, in addition to obtaining any approval required under these CSOs, the modification is made in compliance with Section 72 of the PCRs.

## 47. Exceptions to CSOs

47.1 The requirements of these CSOs may be waived in exceptional circumstances where it can be demonstrated that:

(a) there is an urgent requirement to secure the provision of goods, services or works and it is not practical to seek competitive quotations or tenders;

(b) by applying the CSOs, it would not be possible to obtain genuine competition;

(c) the goods, services or works required are of a specialist nature, such that competitive prices cannot be obtained;

(d) professional services, such as Counsel, are required urgently;

(e) by extending the term (either by exercising an option within the contract or otherwise), or varying and/or extending the scope of an existing contract, it is in the best interests of the Council;

(f) by appointing a Supplier to carry out further work in connection with a main project following provision by such contractor of feasibility or initial work, it would be advantageous to the successful delivery of the main project;

(g) by applying the CSOs, it would not be possible to satisfy the best interests of the Council in terms of delivering social, economic or well-being benefits;

(h) the goods, services or works are legally required to be provided by a specific Supplier; or

(i) the direct award of a contract is permitted and justified in accordance with Sections 41 - 43 and Schedule 5 of the PA2023.

47.2 Approval for the exception value shall only be given by the following persons:

| **Contract value (incl VAT) (or additional contract value where approval is being sought pursuant to paragraphs 28.1 (e) and (f)** | **Authorised person** |
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| < £100,000 | Head of Service within whose area of responsibility the contract falls |
| =/ > £100,000 - £250,000 | Director within whose service the contract falls |
| =/ > £250,000 - £1,000,000 | Chief Executive, Deputy Chief Executive or Chief Finance Officer (S151), |
| > £1,000,000 | Cabinet |

47.3 CSOs cannot be waived where the contract value is above-Threshold.

47.4 A waiver of CSOs may not be sought retrospectively unless it can be demonstrated to be essential for reasons of business continuity or recovery.

47.5 A request to waive CSOs must be made in writing (using the Exception Form) to the Procurement and Contracts Manager in the first instance, who will then seek approval from the person authorised under CSO 47.2. The request must be accompanied by full reasons as to why the waiver is required, together with evidence and supporting information to demonstrate that the issue of the waiver will not prevent Best Value being obtained.

47.6 Any decision to waive CSOs must be made in writing by the person authorised under CSO 47.2 and no action shall be taken to enter into or (where applicable) extend the contract until such time as a request has been submitted and properly approved.

47.7 If any approval to waive these CSOs falls within the Key Decision criteria then that procedure must also be followed.

47.8 The Procurement and Contracts Manager shall maintain a record of all approvals to waive these CSOs.

47.9 The Council is subject to legal requirements to ensure fair competition for above-Threshold Contracts and subject to obligations under the UK-EU Trade and Co-Operation Agreement to ensure that all contracts are awarded having regard to the need to avoid any action that is discriminatory, improper or which distorts competition. It is therefore expected that the waiver of CSOs will be limited.

47.10 Rules for Recordable Executive decision by Officers shall apply for any decision to waiver the procurement rules for contract values above £100,000. All such decisions should be published on the Council's website.

**48. Disclosure**

48.1 As part of the Council's commitment to be open and transparent with its residents, a list of all payments over £500 made to Suppliers will be published on the Council website at:

https://www.basingstoke.gov.uk/righttoknow.

48.2 In addition, disclosure of expenditure details may be required under the Freedom of Information Act 2000.

## APPENDIX 1 – Exempt Contracts

The following contracts are exempt from the provisions of these CSOs:

(a) The acquisition of land or buildings.

(b) The acquisition, development, production, or co-production of material intended for broadcast and a contract for the broadcast to the public of such material.

(c) A contract to facilitate the provision of an electronic communications service or network.

(d) A contract for the provision of arbitration, mediation, or conciliation services.

(e) A contract for any of the following exempt legal services:

(i) legal representation by a lawyer in judicial proceedings or other dispute resolution proceedings;

(ii) giving of advice by a lawyer in connection with any such proceedings;

(iii) document certification or authorisation services provided by a notary in circumstances where the certification or authorisation is required under an enactment or other law to be performed by a notary; and

(iv) legal services provided by a person required to provide them under an enactment or an order of court or tribunal.

(f) A contract for the lending of money or for carrying out of investment services by an investment firm or a qualifying credit institution.

(g) A contract of employment.

(h) A contract required in accordance with the public service obligations regulations for public passenger transport services.

(i) A contract for the provision of research and development services where the services are intended to be for the benefit of the public and the contract does not also provide for the provision of goods or works.

(j) Expenditure incurred directly as a result of an insurer led arrangement.

(k) When procuring as part of a joint procurement where another Contracting Authority is acting as the procurement lead, provided always that the procurement complies with all applicable laws. The Lead Authority's rules will take precedence.

(l) Membership/Subscriptions (not applicable to software licensing) where the Council arranges to receive goods or services regularly by paying in advance and competition is absent for technical reasons.

(m) Any contract between the Council and an entity controlled by the Council where more than 80% of the activities are carried out on behalf of the Council.

(n) Any contract between the Council and another Contracting Authority where the contract has the aim of achieving public function related objectives and is solely in the public interest.

**APPENDIX 2 - Glossary of Terms**

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| Agent | Any person or organisation acting on behalf of the Council or on behalf of another organisation. |
| Above-Threshold | Where the estimated value of the contract is above the relevant UK Procurement Threshold set out in Schedule 1 of the Procurement Act 2023, amended from time to time as more particularly referenced in Appendix 3 below. |
| Award Criteria | The criteria stated in the Quotation/Tender by which the successful Supplier is to be selected. |
| Below-Threshold | Where the estimated value of the contract is below the relevant UK Procurement Threshold set out in Schedule 1 of the Procurement Act 2023, amended from time to time as more particularly referenced in Appendix 3 below. |
| Best Value | The duty of a local authority to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". |
| Budget Holder | Chief Officer or another Officer under the Council's Scheme of Delegation as detailed in its Constitution or within the Scheme of Management. |
| Central Digital Platform | Government provided public sector procurement portal www.gov.uk/find-tender |
| Concession | Contracts for a pecuniary interest where the consideration for payment is either: the right to exploit the works/ services that are the subject of the contract, or a right together with some payment, as defined by the PA2023. |
| Constitution | The Basingstoke and Deane Borough Council Constitution which sets out how the Council operate, how decisions are made and the procedures that are followed to ensure these are efficient, transparent, and accessible to local people. |
| Contract | A contract let by the Council. |
| Contract Award Notice | A notice published on the Central Digital Platform by a contracting authority pursuant to Section 50 of |

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| | the PA2023 and Section 27 of the PR2024 setting out that it intends to enter into a Contract. |
| Contract Details Notice | A notice published on the Central Digital Platform by a contracting authority pursuant to Section 53 of the PA2023 and Section 32 of the PR2024 setting out that it has entered into a Contract. |
| Contract Manager | An Officer appointed by the Head of Service to be the primary contact between the Suppler and the Council and responsible for the proper management of a contract. |
| Contracts Finder | Government provided public sector procurement portal www.gov.uk/contracts-finder |
| Council | Basingstoke and Deane Borough Council. |
| CSOs | Contract Standing Orders. |
| Director | The Council Officer primarily responsible for the Directorates which make up Basingstoke and Deane Borough Council. Includes Deputy Chief Executive, Executive Directors, and Directors. |
| Exception | Approval given by an authorised person for CSOs to be waived in exceptional circumstances. |
| Exception Form | The form that must be used when seeking approval of an Exception (or extension) to CSOs. |
| Finance Business Partner | The Officer appointed by the Chief Finance Officer (S151) to provide relevant financial information pertaining to the procurement and management of a contract. |
| Financial Regulations | The Financial Regulations outlining the Officer's responsibilities for financial matters as detailed in the Constitution. |
| Framework Agreement | A formal tendered arrangement which sets out terms and conditions under which specific purchases can be made from the successful Bidder in unpredicted quantities at different times during the term of the Framework Agreement. |
| Head of Service | The Council Officer primarily responsible for the Service Areas which made up the Directorates of the Council. |

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| Key Decision | A Key Decision is an Executive decision of the Council, as defined in Article 11 of the Constitution. |
| Light Touch | Refers to those social, health, education and other public specific services covered by Section 9 of the PA2023 and Schedule 1 to the Procurement Regulations 2024. |
| Most Advantageous Tender | The most advantageous tender (MAT) takes account of criteria that reflects qualitative, technical, and sustainable aspects of the tender submission as well as price when reaching an award decision. |
| Non-Commercial Considerations | The following matters are non-commercial considerations:<br>a) The terms and conditions of employment by Suppliers of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').<br>b) Where the terms on which Suppliers contract with their subcontractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.<br>c) Any involvement of the business activities or interests of Suppliers with irrelevant fields of Government Policy.<br>d) The conduct of Suppliers or workers in industrial disputes between them or any involvement of the business activities of Suppliers in industrial disputes between other persons ("industrial disputes").<br>e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, Suppliers.<br>f) Any political, industrial, or sectarian affiliations or interests of Suppliers or their directors, partners, or employees.<br>g) Financial support or lack of financial support by Suppliers for any institution to or from which the Council gives or withholds support. |

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| | h) The use or non-use by Suppliers of technical or professional services provided by the Council under the Building Act 1984.<br><br>i) Workforce matters and industrial disputes, as defined above cease to be non-commercial considerations to the extent necessary or expedient to demonstrate value for money or where there is a transfer of staff to which TUPE applies. |
| Procurement Guidance | Guidance provided by the Procurement and Contracts Manager relating to the conduct and management of all procurement procedures, as published on the Council's internal Share Drive. |
| Procurement Start-up Document | The Procurement Start-up Document that must be completed for all procurements valued at £100,000 or above. |
| Quotation | A quotation of price and any other relevant matter. |
| Regulations | Regulations which are given force in law in the UK through:<br><br>(a) the Public Contracts Regulations 2015;<br><br>(b) the Procurement Act 2023, together with regulations that make a supplementary, incidental, or consequential provision in connection with any provision of the PA2023;<br><br>(c) the Procurement Regulations 2024; and<br><br>(d) any amended and any successor legislation or regulations which specify in detail the procedures by which public authorities shall undertake their procurement. |
| Service Contracts | Contracts let by public authorities for services as defined in the Treaty of Rome which is for anything other than civil engineering and building works and works concession contracts. |
| Standstill Period | The period of eight (8) working days that must be allowed by the contracting authority after publication of a Contract Award Notice before entering into a Contact. |
| Supplier | Any person/organisation who asks to be or is invited to submit a Quotation/Tender. |

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| Tender | A Supplier's proposal submitted in response to an invitation. |
| UK Procurement Threshold | The tender thresholds set out in Schedule 1 of the PA2023, amended from time to time as more particularly referenced in the Appendix 3 below. |

**APPENDIX 3 - Variable Information**

The following information is subject to change during the currency of these CSOs and shall be updated as changes occur.

UK Procurement Thresholds

From 1st January 2024 the relevant Thresholds are:

- Works - £5,372,609 (including VAT)
- Concession - £5,372,609 (including VAT)
- Light Touch that is a concession - £5,372,609 (including VAT)
- Light Touch that is not a concession - £663,540 (including VAT)
- Supplies and Services - £214,904 (including VAT)

The thresholds are usually revised every two years (on 1 January).

**Audit Recommendations**

Consider and include, as appropriate, any recommendations made by internal or external Audit, unless these are substantial, at which time any recommendations will be brought to Committee for approval.

**Officer Job Titles**

Any and all details pertaining to Officer's job titles can be changed to reflect the current structure of the Council, as necessary.