

# Public Document Pack

## Council

Wednesday, 17th May, 2023  
at 2.00 pm

### MEMBERS' ROOM DOCUMENTS

This meeting is open to the public

#### Members

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## MEMBERS' ROOM DOCUMENTS

Agendas and papers are now available via the Council's website

### 7 **ANNUAL REVIEW OF THE CONSTITUTION** (Pages 1 - 404)

Report of the Director of Governance, Legal & HR outlining proposed changes to the Constitution.

Tuesday, 9 May 2023

Director of Governance, Legal & HR

## CONSTITUTION OF THE COUNCIL

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## **PART 1: SUMMARY AND EXPLANATION**

### **THE COUNCIL'S CONSTITUTION**

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

The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business.

More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

The Constitution may be accessed on the internet at:

<http://www.southampton.gov.uk/council-democracy/meetings/council-constitution.aspx>

### **WHAT'S IN THE CONSTITUTION?**

Article 1 of the Constitution commits the Council to:

- Leadership;
- Responsibility;
- Integrity
- Transparency;
- Efficient and effective services; and
- Participation

Articles 2 – 15 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of decisions (Article 6).
- The Executive (Article 7).
- Regulatory and other committees (Article 8).
- The Governance Committee (Article 9).
- Joint arrangements (Article 10).
- Officers (Article 11).

- Decision making (Article 12).
- Finance, contracts and legal matters (Article 13).
- Review and revision of the Constitution (Article 14).
- Suspension, interpretation and publication of the Constitution (Article 15).

## **HOW THE COUNCIL OPERATES**

The Council is composed of [4851](#) Councillors with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Governance Committee monitors the training and development of Members in this respect and advises Members on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the Budget each year. The Council will elect a Leader who will appoint his/her Cabinet and hold the Executive to account both through its own processes, and through Overview and Scrutiny. Citizens may make deputations to and ask questions of Members at Council meetings. For details of these particular matters, please contact the Democratic Services team (contact details at the end of this Part of the Constitution).

## **HOW DECISIONS ARE MADE**

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of an Elected Leader, who is elected from amongst the Councillors by all the Councillors and a cabinet of Councillors whom s/he appoints. When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with Council Officers at a meeting of the Executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and Budget. If it wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to the Council as a whole to decide.

## **OVERVIEW AND SCRUTINY**

There is an Overview and Scrutiny Management Committee (parent committee) which manages the process. This then appoints ad hoc Panels (as needed), Scrutiny Commissions and Standing Overview and Scrutiny Panels which support the work of the Executive and the Council as a whole. These arrangements allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, Budget and service delivery. Overview and Scrutiny Committees also monitor the decisions of the Executive. They can 'call-in' a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate.

They may recommend that the Executive reconsider the decision. They will also be consulted by the Executive or the Council on forthcoming decisions and the development of the Policy Framework and Budget.

## **INVOLVEMENT OF CITIZENS AND COMMUNITIES**

In order to give local citizens a greater say in Council affairs, the Council has supported the development of many structures, groups and organisations. In addition, the Council is committed to encouraging community involvement in every activity and in the establishment of partnerships such as Regeneration and Neighbourhood Partnerships. The Council has a Community Involvement Policy which outlines its commitment to involving citizens in all aspects of city life and in democratic processes. In addition, the Council is committed to taking specific steps to involve socially excluded citizens and communities.

## **THE COUNCIL'S STAFF**

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

## **CITIZENS' RIGHTS**

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

Where members of the public use specific Council services, for example as a parent of a school pupil or as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- ask the Executive questions, make deputations to the Council, submit petitions and contribute to investigations by the overview and scrutiny committees;
- find out, from the Executive's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or Officers, and when;
- attend meetings of the Executive where Key Decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Executive;

- complain to the Council in accordance with the Council's Corporate Complaints Process;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Head of ~~Business Operations~~[Service Support](#) from whom the public may also obtain information as to the rights of citizens to inspect agendas and reports and attend meetings.



## **PART 2: ARTICLES OF CONSTITUTION**

### **Article 1 The Constitution**

#### **1.01 Powers of the Council**

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

#### **1.02 The Constitution**

This Constitution, all its contents (Parts 1–11) and any schedules and/or appendices is the Constitution of Southampton City Council.

#### **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement and participation of citizens in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. demonstrate that the Council will operate and approach all issues with responsibility and integrity;
6. create a powerful and effective means of holding decision-makers to public account;
7. ensure that no one will review or scrutinise a decision in which they were directly involved;
8. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
9. provide a means of improving the delivery of services to the community; and
10. enable the Council to design and operate an organisational and management structure that ensures that Citizens receive Best Value services

with the overall aim that the purpose of the Council is to improve the quality of life of our Citizens.

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

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## **Article 2 Members of the Council**

### **2.01 Composition and eligibility**

- a. **Composition.** The Council will comprise 4851 Members, otherwise called Councillors. Three Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.
- b. **Eligibility.** Only registered voters of the City or those living or working there will be eligible to hold the office of Councillor.

### **2.02 Election and terms of Councillors**

**Election and terms.** The ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year except that in 2025 and every fourth year after there will be no regular election. The terms of office of Councillors will normally be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### **2.03 Roles and functions of all Councillors**

#### **a. Key roles**

All Councillors will:

- i. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- ii. contribute to the good governance of the areas and actively encourage community participation and citizen involvement in decision-making;
- iii. effectively represent the interests of their Ward and of individual constituents;
- iv. respond to constituents' enquiries and representations fairly and impartially;
- v. maintain the highest standards of conduct and ethics;
- vi. be available to represent the Council on other bodies; and
- vii. be available to serve on other bodies.

#### **b. Rights and duties**

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

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

## **2.04 Conduct**

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

## **2.05 Allowances**

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

# **Article 3 Citizens and the Council**

## **3.01 Citizens’ rights**

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the [Access to Information Rules](#) in Part 4 of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Cabinet when Key Decisions are being considered;
  - (iii) find out from the [Forward Plan](#) what Key Decisions will be taken by the Executive and when;
  - (iv) see reports and background papers, and any records of decisions made by the Council and the Executive; and
  - (v) inspect the Council’s accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council meetings by making deputations and asking Councillors questions in accordance with the appropriate procedures and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its [complaints scheme](#);
  - (ii) the [Ombudsman](#) after using the Council’s own complaints scheme; or
  - (iii) the Council about a breach of the [Councillors’ Code of Conduct](#).

### 3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to Councillors or Officers and must not willfully harm things owned by the Council, Councillors or Officers.

## Article 4 The Full Council

### 4.01 Meanings

(a) **Policy Framework.** The Policy Framework means the following plans and strategies<sup>1</sup>:

- [Sustainable Community Strategy](#) (S.4 Local Government Act 2000)
- [Local Transport Plan](#) (S.108(3) Transport Act 2000)
- [Local Development Framework and Local Area Action Plans](#) (S.15 Planning and Compulsory Purchase Act 2004)
- [Crime & Disorder Reduction Strategy](#) (S.5 and 6 Crime and Disorder Act 1998)
- [Youth Justice Plan](#) (S.40 Crime and Disorder Act 1998)
- [Statement of Pay Policy](#) (Localism Act 2011);
- [Statement of Gambling Policy](#) (Gambling Act 2005)
- [Statement of Licensing Policy](#) (Licensing Act 2013)
- [Health and Well Being Strategy](#) (S.116A Local Government and Public Involvement in Health Act 2007)

(b) **Budget.** For the purposes of the Constitution, the Budget shall be defined as meaning the process whereby the Executive submits to the Full Council for its consideration in relation to the following financial year -

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

Note: In connection with the discharge of the function of formulating a plan or strategy for the control of the authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision,

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<sup>1</sup> The Local Authorities (Functions & Responsibilities) (England) Regulations 2000 specify that the Council's Annual Library Plan needs to be part of this framework. The Council is not, however, currently required to produce a Library Plan.

these functions shall not be the sole responsibility of the authority's Executive.

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

#### 4.02 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- (d) the election of the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of **h**Honorary **a**Alderman or **f**Freedom of the City;
- (i) confirming the appointment of the Head of Paid Service, Monitoring Officer, Chief Financial Officer and Returning Officer unless delegated to another committee (currently Chief Officer Employment Panel);
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than a Committee or Sub-Committee of the Council or the Executive; and
- (l) all other matters which, by law, must be reserved to Council.

#### 4.03 Council meetings

There are four types of Council meeting:

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

and they will be conducted in accordance with the [Council Procedure Rules](#) in Part 4 of this Constitution.

#### **4.04 Responsibility for functions**

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

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

#### **5.01 Role and function of the Lord Mayor and Sheriff (Chair and Vice-Chair of the Council)**

The Lord Mayor (Chair of Council) and in his/her absence, the Sheriff (Vice-Chair) will have the following roles and functions:

- (a) Ceremonial role
- (b) Chairing the Council meeting

#### **5.02 The Lord Mayor**

The position of Lord Mayor was conferred on the city by HM ~~The~~ Queen [Elizabeth II](#) in May 2022 by Letters Patent and will be elected by the Council annually. The Council wholeheartedly supports the office of Lord Mayor. The Lord Mayor will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution, having taken advice from the Director of [Governance, Legal & HR & Business Services](#) when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive and committee chairs to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and s/he determines appropriate.

#### **5.03 The Sheriff**

The position of Sheriff will be elected by the Council annually. The Council wholeheartedly supports the office of Sheriff. The Sheriff will have the following responsibilities:

1. to preside at Council Meetings in the absence of the Lord Mayor;
2. to preside at Court Leet; and

3. to deputise generally for the Lord Mayor in such circumstances the Lord Mayor may propose.

#### **5.04 Civic and Ceremonial Protocol**

The [Civic and Ceremonial Protocol](#) contained in Part 5 of this Constitution, sets out in more detail the roles and responsibilities of the Lord Mayor and Sheriff.

- 5.05 The [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ shall convene a meeting of the Group Leaders immediately following the elections to discuss the election of Lord Mayor and Sheriff for the next municipal year.

### **Article 6 Overview and Scrutiny Committees**

#### **6.01 Terms of reference**

The Council will appoint an Overview and Scrutiny Management Committee the functions of which are set out in Section 3 of Part 3 of this Constitution. This Committee will have the power to appoint Standing Overview and Scrutiny Panels (Sub-Committees) and other Panels as may be necessary from time to time to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000. In the event of any matter falling within the scope of more than one Panel or where it appears to fall outside of the Terms of Reference of any of the Panels, the determination as to the appropriate Panel for dealing with such matters rests with the Overview and Scrutiny Management Committee.

#### **6.02 General role**

The terms of reference for the Overview and Scrutiny Panels are:

- i. To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive, including the power to recommend that a relevant decision be reconsidered by the person who made it [s 21(2)(a) of the 2000 Act]; or
- ii. For a Standing Scrutiny Panel to arrange for full Council to decide whether to recommend that the relevant decision be reconsidered by the person who made it; [s 21(3)] or
- iii. To make reports or recommendations to the Council or the Executive with respect to the discharge of any functions which are the responsibility of the Executive [section 21(2)(b)]; or
- iv. To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive; [section 21(2)(c)] or
- v. To make reports or recommendations to the Council or the Executive with respect to the discharge of any functions which are not the responsibility of the Executive; [section 21(2)(d)] or
- vi. To make reports or recommendations to the Council or the Executive on matters which affect the City of Southampton or its inhabitants; [section 21(2)(e)] or

- vii. To conduct or contribute to the undertaking of Best Value Reviews under Section 5 of the Local Government Act 1999 [section 21(5) of the 2000 Act].

The Overview and Scrutiny Panels will not scrutinise decisions made by specialist committees i.e decisions made in respect of development control, licensing, consents and other decisions where an appeals procedure already exists.

### **6.03 Proceedings of Overview and Scrutiny Management Committee and its Panels**

Overview and Scrutiny Committees will conduct their proceedings in accordance with the [Overview and Scrutiny Procedure Rules](#) set out in Part 4 of this Constitution.

## **Article 7 The Executive**

### **LEADER WITH CABINET**

#### **7.01 Role**

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

#### **7.02 Form and composition**

The Executive will consist of the Leader together with at least two, but not more than nine Councillors (known as "Cabinet Members") appointed to the Executive by the Leader.

#### **7.03 Leader**

The Leader will be a Councillor elected to the position of Leader by the Council annually at the Annual Meeting (or any other meeting in the event of a vacancy). The Leader will hold office until:

- (a) s/he resigns from the office; or
- (b) s/he is no longer a Councillor; or
- (c) until the next Annual Meeting of the Council; or
- (d) s/he is removed from office by resolution of the Council

#### **7.04 Election of the Leader**

[Council Procedure Rule 17.1](#) will govern the procedure for the election of the Leader.

#### **7.05 Cabinet Members**

Cabinet Members shall hold office until:

- (a) they resign from office; or
- (b) they are no longer Councillors; or
- (c) until the next Annual Meeting of the Council; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the Director of Legal & Business Services. The removal will



take effect two working days after receipt of the notice by the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~.

#### **7.06 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the [Executive Procedure Rules](#) set out in Part 4 of this Constitution.

#### **7.07 Responsibility for functions**

The Leader will maintain a list in [Part 3](#) of this Constitution setting out who is responsible for the exercise of particular Executive functions.

### **Article 8 Regulatory and other committees**

#### **8.01 Regulatory and other committees**

The Council will appoint the committees set out in Section 3 of [Part 3 of this Constitution](#) to discharge the functions described in that table.

### **Article 9 Governance Committee**

#### **9.01 Governance Committee**

The Council will establish a Governance Committee to carry out functions delegated to it by Council in accordance with the Local Government Acts 1972, 2000 and Localism Act 2011.

#### **9.02 Composition**

##### Political Balance

The Governance Committee has to comply with the political balance rules in section 15 of the 1989 Act.

### **Article 10 Joint Arrangements**

#### **10.01 Arrangements to promote well being**

The Council or the Executive, in order to promote the economic, social or environmental well-being of its area, may:

- a. enter into arrangements or agreements with any person or body;
- b. co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- c. exercise on behalf of that person or body any functions of that person or body.

#### **10.02 Joint arrangements**

- a. The Council may establish joint arrangements with one or more local authorities or other public bodies and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee or board with these other local authorities or bodies.
- b. The Executive may establish joint arrangements with one or more local authorities or public bodies to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees or boards with these other local authorities or bodies.
- c. Except as set out below, the Executive may only appoint Cabinet Members to a joint committee or board and those Members need not reflect the political composition of the local authority as a whole.
- d. The Executive may appoint Members to a joint committee or board from outside the Executive where the joint committee or board has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee or board any Councillor who is a Member for a ward which is wholly or partly contained within the area.
- e. Details of any joint arrangements including any delegations to joint committees or boards will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **10.03 Access to information**

- a. The [Access to Information Rules](#) in Part 4 of this Constitution apply.
- b. If all the Members of a joint committee are Cabinet Members in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- c. If the joint committee contains Members who are not on the Executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **10.04 Delegation to and from other local authorities**

- a. The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- b. The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.
- c. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **10.05 Contracting out**

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

## 10.06 Role of Members

In performing their roles as part of the joint arrangements, Members of the Council will take into account not only the Members' Code, but also all other protocols and guidance notes, including ~~(but not limited to)~~ the Code for Dealing with Joint Arrangements with Third Parties set out in Part 5 of this Constitution and any guidance issued to Members who sit as representatives on outside bodies by the Monitoring Officer and/or Governance Committee.

## Article 11 Officers

### 11.01 Senior management structure, Functions and Areas of Responsibility

- a. **General.** The full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.
- b. **Chief Officer.** The full Council will engage persons for the following posts, who will be designated Chief Officers and who will have delegated to them the following areas of responsibility in addition to those set out in the Council's Scheme of Delegation:

POST	Functions and Area of Responsibility
Chief Executive and Head of Paid Service	<p>Overall corporate management and operational responsibility including overall management responsibility for all Officers and all services</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to Financial Procedure Rules;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>Overall: participate in the corporate management of the authority as a member of the Executive Management Board (EMB)</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to <a href="#">Financial Procedure Rules</a>;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul>
<del>Director of Legal &amp; Business Services</del>	<del>Overall: participate in the corporate management of their authority as a member of Executive Management Board (EMB)</del>

POST	Functions and Area of Responsibility
	<p><del>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</del></p> <ul style="list-style-type: none"> <li><del>▪ committing resources within approved budgets and subject to <u>Financial Procedure Rules</u>;</del></li> <li><del>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</del></li> <li><del>▪ provision of professional advice to all parties in the decision-making process</del></li> </ul> <p><del>Overall: participate in the corporate management of the authority as a member of the Executive Management Board (EMB)</del></p> <p><del>Departmental:</del></p> <p><del>Legal Services &amp; Business Operations (Legal Services, Information Governance, Records Management, Corporate Complaints, Democratic Services, Meeting Support, Executive PA Service, Lord Mayor's Office, Business Support, Electoral Services &amp; Local Land Charges); HR&amp;OD (Emergency Planning &amp; Business Resilience, Health &amp; Safety); Customer &amp; Communications, Facility Services, IT,);</del></p>
<p>Executive Director: <a href="#">Finance &amp; Commercialisation</a><a href="#">Corporate Services</a></p>	<p>Overall: participate in the corporate management of the authority as a member of the Executive Management Board (EMB)</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees &amp; the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to <a href="#">Financial Procedure Rules</a>;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision;</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>Departmental:</p> <p>Financial Planning &amp; Management; Procurement &amp; Supplier Management; Audit Service &amp; Partnership; Commercialisation</p>
<p>Executive Director: <a href="#">Wellbeing (Children &amp; Learning)</a></p>	<p>Overall: participate in the corporate management of their authority as a member of Executive Management Board (EMB)</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to <a href="#">Financial Procedure Rules</a>;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</li> <li>▪ provision of professional advice to all parties in the</li> </ul>

POST	Functions and Area of Responsibility
	<p>decision-making process</p> <p>Reporting to the Chief Executive, the Executive Director makes an active contribution to the strategic development of the City, provides a focus for community and other external contacts and provides overall leadership and management for a range of services.</p> <p>Departmental</p> <p>The current service groups in this Directorate are:</p> <p>Children’s Services within the Council, Children’s Trust arrangements; the engagement and encouragement of local communities to improve children’s services and ensure that services both within the City and across partner organisations improve outcomes for all and are organised around children and young people’s needs; leading on safeguarding and promoting the welfare of children across all agencies; leading on learning for all, including adults.</p>
<p>Executive Director: Wellbeing &amp; <a href="#">Housing(Health &amp; Adults)</a></p>	<p>Overall: participate in the corporate management of their authority as a member of Executive Management Board (EMB)</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to <a href="#">Financial Procedure Rules</a>;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>The current service groups in this Directorate are:</p> <p>personal social care services for adults and older people, including services provided jointly with other agencies relating to adult services and health, community and supported housing; management of the Integrated Commissioning Unit; Public Health; <a href="#">Business Development (Projects, Policy &amp; Performance, Projects &amp; Change, Policy &amp; Strategic Planning; Data &amp; Intelligence)</a><a href="#">Stronger Communities &amp; Housing (including Housing Management, Housing Allocations, Welfare &amp; Homelessness Prevention)</a></p>
<p><del>Executive Director: Communities, Culture &amp; Homes</del></p>	<p><del>Overall: participate in the corporate management of their authority as a member of Executive Management Board (EMB)</del></p> <p><del>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</del></p> <ul style="list-style-type: none"> <li><del>▪ committing resources within approved budgets and subject to <a href="#">Financial Procedure Rules</a>;</del></li> <li><del>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</del></li> </ul>

POST	Functions and Area of Responsibility
	<p><del>*—provision of professional advice to all parties in the decision-making process</del></p> <p><del>The current service groups in this Directorate are:</del></p> <p><del>Environmental Services &amp; Consumer Protection including Registration &amp; Bereavement Services); Stronger Communities &amp; Housing (including Housing Management, Housing Allocations, Welfare &amp; Homelessness Prevention) and Stronger Communities; Culture &amp; Tourism (including Libraries &amp; Events) and the City of Culture bid; City Services</del></p>
<p>Executive Director: <a href="#">GrowthPlace</a></p>	<p>Overall: participate in the corporate management of their authority as a member of Executive Management Board (EMB)</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to <a href="#">Financial Procedure Rules</a>;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>The current service groups in this Directorate are:</p> <p>Green City &amp; Infrastructure (including Transport, Highways, Flood Management &amp; Green City Project); Planning &amp; Economic Development (including Building Control, Skills &amp; Work (Economic Development, Global Partnerships &amp; Inward Investment)); Property (including Capital Programme Project Delivery, Asset Management &amp; Maintenance &amp; Regeneration), <a href="#">Environmental Services &amp; Consumer Protection including Registration &amp; Bereavement Services</a>); <a href="#">Culture &amp; Tourism (including Libraries &amp; Events) and the City of Culture bid; City Services</a></p>
<p><a href="#">Director of Strategy &amp; Performance</a></p>	<p><u>Overall: participate in the corporate management of their authority as a member of Executive Management Board (EMB)</u></p> <p><u>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</u></p> <ul style="list-style-type: none"> <li>▪ <u>committing resources within approved budgets and subject to Financial Procedure Rules;</u></li> <li>▪ <u>power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</u></li> <li>▪ <u>provision of professional advice to all parties in the decision-making process</u></li> </ul> <p><u>The current service groups in this Directorate are:</u></p> <p><u>Business Development (Projects, Policy &amp; Performance, Projects &amp; Change, Policy &amp; Strategic Planning; Data &amp;</u></p>

POST	Functions and Area of Responsibility
	<a href="#">Intelligence</a>
Director of Public Health	<p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to <a href="#">Financial Procedure Rules</a>;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>Reporting to the Executive Director (Wellbeing (Health &amp; Adults)), the Director makes an active contribution to the strategic development of the City, provides a focus for community and other external contacts and provides overall leadership and management for a range of services.</p>

- c. **Chief Officers: Financial Responsibilities:**
- d. **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts to undertake the statutory Chief Officer roles as shown:

POST	DESIGNATION
Chief Executive	Head of Paid Service
<del>Director of Governance, Legal &amp; HR</del> <del>Director of Legal &amp; Business Services</del>	Monitoring Officer
Executive Director: <del>Corporate Services</del> <del>Finance &amp; Commercialisation</del>	Chief Financial Officer

Such posts will have the functions described in Article below.

- e. **Executive Management Board** (the composition of which is a matter for the Chief Executive) consists of all Chief Officers as follows:-

Chief Executive

~~Executive Director: Communities, Culture & Homes~~

Executive Director: ~~Finance & Commercialisation~~  
~~Corporate Services~~

Executive Director: ~~Place~~  
~~Growth~~

Executive Director: Wellbeing ~~& Housing~~  
~~(Adults & Health)~~

Executive Director: ~~Wellbeing~~ (Children & Families)

~~Director of Strategy & Performance~~

Director of ~~Governance, Legal & HR~~  
~~Business Services~~

In particular, EMB assists the Chief Executive to:

- ◆ pro-actively and reactively formulate advice to Councillors on strategic and key policy issues, budget and developments for the City and the Council;
  - ◆ co-ordinate the contributions of the appropriate Directorate to the achievement of the Council's policy priorities;
  - ◆ provide an interface with all Councillors including (but not limited to) the Executive;
  - ◆ set standards for and monitor the development of key corporate requirements;
  - ◆ carry out key aspects of corporate governance, including the monitoring of work of external and internal auditors and inspectorates;
  - ◆ ensure that there is a performance management framework and system and that it is delivered / implemented; and
  - ◆ promote the organisational development and culture of the City Council and its workforce to deliver the Council's objectives.
- f. **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at [Part 7](#) of this Constitution.



## **Article 12 Decision Making**

### **12.01 Responsibility for decision making**

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

### **12.02 Principles of decision making**

All decisions of the Council will be made in accordance with the following principles:

- ◆ proportionality (i.e. the action must be proportionate to the desired outcome);
- ◆ due consultation and the taking of professional advice from officers;
- ◆ respect for human rights;
- ◆ a presumption in favour of openness, accountability and transparency;
- ◆ setting out what options have been considered
- ◆ setting out reasons for the decision; and
- ◆ clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- ◆ understand the law that regulates the decision-making power and gives effect to it. The decision-maker must direct itself properly in law;
- ◆ take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- ◆ leave out of account irrelevant considerations;
- ◆ act for a proper purpose, exercising its powers for the public good;
- ◆ not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- ◆ comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- ◆ act with procedural propriety in accordance with the rules of fairness.

To be lawful, a decision:

- ◆ if taken in full Council, Cabinet, Committee or sub-committee must comply with the principle of being reached by a majority of Councillors present and voting at a properly constituted meeting;
- ◆ be one which the decision-maker is empowered or obliged to take, otherwise it is ultra vires;
- ◆ not offend against *Wednesbury* reasonableness;
- ◆ if intended to secure action (as opposed, for example, to a resolution merely expressing the Council's collective view on an issue), be capable of execution

or will be of no effect; and

- ◆ not purport to undo what has already been done irrevocably (but it can rescind an earlier decision where this is feasible).

There can be no substitute for appropriate advice on a matter by matter basis. This Guidance cannot and does not purport to be comprehensive or replace that professional advice.

Note: “*Wednesbury* reasonableness”. This relates to the actions of a local authority or other public body in exercising its discretion, and relates to whether the body has acted irrationally (rather than *ultra vires*). The definition was given by Lord Greene in the *Wednesbury Case* (1948):

*‘When an executive discretion is entrusted by Parliament to a body such as the local authority in this case, what appears to be an exercise of that discretion can only be challenged in the courts in a limited class of case ... When discretion of this kind is granted, the law recognises certain principles upon which that discretion must be exercised, but within the four corners of those principles the discretion, in my opinion, is an absolute one and cannot be questioned in any court of law ... If, in the statute conferring the discretion, there is to be found expressly or by implication matters which the authority exercising the discretion ought to have regard to, then in exercising the discretion it must have regard to those matters. Conversely, if the nature of the subject matter and the general interpretation of the Act makes it clear that certain matters would not be germane to the matter in question, the authority must disregard those irrelevant collateral matters. There have been in the cases expressions used relating to the sort of thing that authorities must not do ... bad faith, dishonesty - those of course stand by themselves ... Discretion must be exercised reasonably. He must call his own attention to the matters which he is bound to consider, and exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he must truly be said, and often is said, to be acting unreasonably.’*

### 12.03 Types of decision

a. Decisions reserved to full Council

Decisions relating to the functions listed in [Article 4.02](#) will be made by the Full Council and not delegated.

b. Key decisions

In this Constitution, a “Key Decision” shall mean an Executive decision which is likely:

- i. to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the City Council’s budget for the service or function to which the decision relates;
- ii. to be significant in policy or strategic terms as regards its effects on communities living or working in an area comprising two or more wards or electoral divisions in the City; or
- iii. to have a particularly significant impact on any community as experiencing social exclusion or discrimination, whether that community is defined by geography or interest and even if that community is only located in one ward or electoral division in the area of the local authority.

## Notes

1. In relation to paragraph (i) above, the term “significant” shall be construed as meaning £500,000 (except that this does not apply to (i) care packages where the value of the care package exceeds £500,000. For the purposes of this paragraph, the term “care package” is defined as a package of personal care, support or education purchased as a consequence of an assessment of a child’s needs within the Children Act 1989, Children (Leaving Care) Act 2000 and the Education Act 1981 and the relevant guidance is contained in the Special Education Needs Revised Code of Practice. The decision to provide the care package is for the duration of the individual’s childhood, up to the age of 18 years, 19 years or 21 years according to the relevant legislation or guidance (ii) proposals and decisions under the Property Acquisition Strategy of whatever value) (iii) proposals and decisions of Council appointed representatives (officer and elected member) acting in their capacity as Board Members or Shareholder Representatives as individual decision makers or as part of decision making Boards or meetings of a Local Authority Trading Company owned or operated by Southampton City Council (iv) decisions of Council appointed representatives (officer and elected member) acting under delegated powers and in accordance with Financial Procedure Rules at meetings of the Joint Commissioning Board.
  - ~~2. **Covid 19 delegation** – To avoid the necessity of special council meetings having to be called each time new external funding streams are announced (often with short notice to implement spend) on 24<sup>th</sup> June 2020 Council resolved that the acceptance of and approval to spend all future COVID funding is delegated to the S151 Officer following consultation with the relevant Cabinet Member, Leader, and relevant Executive Director in whose areas the funding implementation impacts. This will be reported to Cabinet quarterly for transparency.~~
  - ~~3. The operation of the delegation granted in this report can be formally reviewed as part of the annual budget setting meeting, the next one being February 2021.~~
  - 4.2. In relation to paragraph (ii) above, the Council will, unless it is impracticable to do so, treat as if they were Key any decisions which are likely to have a significant impact on communities in one ward or electoral division. Where a decision is only likely to have a significant impact on a very small number of people in one ward or electoral division, the decision-maker should ensure that those people are nevertheless informed of the forthcoming decision in sufficient time for them to exercise their right to see the relevant papers and make an input into the decision-making process.
  - ~~5.3.~~ In considering whether a decision is likely to be significant, a decision-maker will also need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number or people living or working the locality affected. Regard should again be given to the underlying principles of open, transparent and accountable decision-making of this Constitution to ensure that there is a presumption towards openness.
  - 6.4. In interpreting after the event whether or not a decision should or should not have been classified as a Key Decision, the following will be taken into account:
    - a. the issue must be assessed on the basis of the information which could reasonably have been available to the decision-maker at the time;
    - b. the “de minimus” rule will be applied;
    - c. the level and nature of advice sought by the decision-maker. The Monitoring Officer and Chief Financial Officer will have significant roles to play in this.
- c. A decision-taker may only make a Key Decision in accordance with the

requirement of the [Executive Procedure Rules](#) set out in Part 4 of this Constitution.

- d. No treasury management decisions, as defined by the Executive Director: Finance & Commercialisation, shall be deemed to be Key Decisions.

Note: “De minimus” means that (in this context) this rule does not apply to trifling, minor or insignificant variations, departures or breaches.

#### **12.04 Decision making by the full Council**

Subject to Article 12.08, the Council meeting will follow the [Council Procedure Rules](#) set out in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision making by the Executive**

Subject to Article 12.08, the Executive will follow the [Executive Procedure Rules](#) set out in Part 4 of this Constitution when considering any matter.

#### **12.06 Decision making by overview and scrutiny committees**

Overview and Scrutiny Committees will follow the [Overview and Scrutiny Procedure Rules](#) set out in Part 4 of this Constitution when considering any matter.

#### **12.07 Decision making by other committees and sub-committees established by the Council**

Subject to Article 12.08, other Council committees and sub-committees will follow those parts of the [Council Procedure Rules](#) set out in Part 4 of this Constitution as apply to them.

#### **12.08 Decision making by Council bodies acting as tribunals**

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

### **Article 13 Finance, Contracts and Legal Matters**

#### **13.01 Financial Management**

The management of the Council’s financial affairs will be conducted in accordance with the [Financial Procedure Rules](#) set out in Part 4 of this Constitution.

#### **13.02 Contracts**

Every contract made by the Council will comply with the [Contract Procedure Rules](#) set out in Part 4 of this Constitution.

### 13.03 Legal proceedings

The Director of [Director of Governance, Legal & HR](#)~~Legal & Business Services~~ is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council (including the Executive) or in any case where the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ considers that such action is necessary to protect the Council or City's interests.

### 13.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

All contracts ~~—whether entered into on behalf of the local authority in the course of the discharge of an Executive or non-Executive function—~~ shall be made in writing. The [Contract Procedure Rules](#), set out in Part 4 of this Constitution, prescribe the circumstances when a contract shall be made under the Common Seal of the Council.

### 13.05 Common Seal of the Council

The Common Seal of the Council may be affixed by physical means and the necessary device for doing so will be kept in a safe place in the custody of the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ or by electronic means authorised by the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ who will be responsible for its secure administration. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ should be sealed. The affixing of the Common Seal will be attested by the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ or some other person authorised by him/her. References in the Constitution to the Common Seal (or seal) and to the sealing of documents shall be taken to refer to the Common Seal and any accompanying attesting signatures as being affixed either by physical means or by electronic means.

## Article 14 Review and Revision of the Constitution

### 14.01 Duty to monitor and review the Constitution

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

The Monitoring Officer shall monitor the strengths and weaknesses of the Constitution adopted by the Council, and make recommendations to the Governance Committee as to ways in which it could be amended in order better to achieve the purposes set out in [Article 1](#) of this Constitution.

In undertaking this task, the Monitoring Officer may

- a. observe meetings of different parts of the Member and Officer structure;
- b. undertake an audit trail of a sample of decisions;
- c. record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders;
- d. compare practices in this authority with those in other comparable authorities, or national examples of best practice; and
- e. report such findings to the Governance Committee.

## 14.02 Changes to the Constitution

- a. **Approval.** Changes to the Constitution arising either from a review, a motion from Council or from the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ will only be approved by the full Council after consideration of the proposal by the Governance Committee.
- b. **Minor, operational or inconsequential changes.** The [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ has delegated authority to update the Constitution arising from decisions of the Council or Executive or where legislation requires a change in wording or terminology, such changes to be reported to members of the Governance Committee.
- c. **Changes in the form of Executive.** Special Procedures apply to changes in the form of Executive including (but not limited to) binding referendums when the law requires.
- d. **Delegations.** To reflect delegations lasting six months or more where a delegation is made to an Officer by the Council, a Committee, a Sub-Committee or the Executive, that delegation may need to be reflected within the Constitution (normally Part 3 or one of the Appendices) in which case the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ has authority to update the Constitution to reflect that change.
- e. **Changes that are predominantly managerial in their nature:** the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ has the authority to amend the Constitution in relation to matters that are predominantly managerial in their nature where there is agreement from the other two statutory officers, namely the Chief Executive (Head of Paid Service) and Executive Director: [Corporate Services Finance & Commercialisation](#)~~Finance & Commercialisation~~ and where the matter has been subject to consultation with the appropriate Members (normally the relevant Cabinet Member and opposition spokespersons). Any such changes will be reported subsequently to Governance Committee.

## Article 15

### Suspension, Interpretation and Publication of the Constitution

#### 15.01 Suspension of the Constitution

- a. **Limit to suspension.** The Articles of this Constitution may not be suspended. The [Council Procedure Rules](#) may be suspended by the full Council to the extent permitted within those Rules and the law.
- b. **Procedure to suspend.** A motion to suspend any Council Procedure Rule in accordance with Article 15.01 must be moved in accordance with the Council Procedure Rules. The extent and duration of suspension will be

proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1 of this Constitution.

- c. **Rules capable of suspension.** Only those Council Procedure Rules specified within the Council Procedure Rules as being capable of suspension, may be suspended.

## 15.02 Interpretation

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

## 15.03 Publication

- a. The ~~Director of Governance, Legal & HR~~[Director of Legal & Business Services](#) will ~~make the Constitution available in Members' Rooms and will~~ maintain the Constitution on the [intranet and](#) internet ~~for public access~~.
- b. The ~~Director of Governance, Legal & HR~~[Director of Legal & Business Services](#) will ensure that copies are available for inspection at the Council's principal office (the Civic Centre), and can be purchased by members of the local press and the public on payment of a reasonable fee.

## Schedule 1

### Description of Executive Arrangements

The following parts of the Constitution shall constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny Committee) and the [Overview and Scrutiny Procedure Rules](#);
2. Article 7 (The Executive) and the [Executive Procedure Rules](#);
3. Article 11 (Joint Arrangements);
4. Article 12 (Decision-making) and the [Access to Information Procedure Rules](#);
5. Part 3 ([Responsibility for Functions](#))

## PART 3: RESPONSIBILITY FOR FUNCTIONS

### 1. The Principles of Delegation

- 1.1 One of the primary purposes of the Constitution is to make it clear where responsibility for a particular function lies, and which person or body (Full Council, Committee, Sub-Committee, Executive (whether acting individually or collectively) or Officer) makes the decision that will result in an action being taken or not taken.

### 1.2 The Hierarchy of Decision-Making

#### *The Full Council*

The Full Council will exercise the functions reserved by law to Full Council in Article 4 of this Constitution and those determined locally to be functions for Full Council as set out in Section 3 of this Part of the Constitution.

#### *The Executive*

The Executive will exercise the functions set out in Section 4 of this Part of the Constitution.

#### *The responsibility for local choice functions*

The responsibility for local choice functions will be exercised in accordance with Section 2 of this Part of the Constitution.

#### *Cabinet Members*

Cabinet Members will exercise the functions set out in Section 4 of this Part of the Constitution.

#### *Committees*

Committees will exercise the functions set out in Section 3 of this Part of the Constitution. Committees are able to appoint sub-committees and particularly the Overview and Scrutiny Management Committee may appoint standing panels mirroring the Cabinet Portfolios. Further details of the membership of these panels may be obtained from the Scrutiny Manager.

#### *Officers*

Officers will exercise delegated functions set out:

- a. in column 4 of the table in Section 2 of this Part of the Constitution (Responsibility for Local Choice Functions);
  - b. in column 4 of the table in Section 3 of this Part of the Constitution (Committees and Sub-Committees – Regulatory Panels, etc);
  - c. as specified in Section 4 of this Part of the Constitution (Executive Functions);
  - d. under Section 1 of this Part of the Constitution (Principles);
  - e. in the [Scheme of Officer Delegation](#); and
  - f. as provided for elsewhere in the Constitution.
- 1.3 If a function is delegated to the appropriate Chief Officer, the Chief Executive may nominate a substitute Chief Officer where this would, in the Chief Executive's opinion, be appropriate.



- 1.4 If a decision falls within the remit of a Cabinet Member described in Section 4 of this Part of the Constitution that Member may take the decision. If responsibility overlaps Cabinet Member remits, the decision must be referred to the Cabinet.
- 1.5 All references to “Chief Officer” means the Chief or Statutory Officer having primary responsibility for that function and area described in Article 11 of this Constitution. Such Officer will have all necessary power and authority to implement any such decision in relation to the functions on behalf of the decision-making body.
- 1.6 Limitations on and Parameters of Delegations
- a. The exercise of a delegated power, duty or function shall be subject to:
    - i. the City Council’s Policy Framework and Budget; and
    - ii. the City Council’s Constitution (including, but not limited to any Special Procedure and/or Protocol, the Council Procedure Rules, Financial Regulations, etc) and any Corporate Standards;
  - b. All delegated functions shall be deemed to be exercised on behalf of and/or in the name of the Council.
  - c. An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow. Such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power etc. has control. Such authorisations should only be given where there is significant administrative convenience in doing so. The officer authorised by the other should act in the name of the officer who received the original delegation. No authorisation may be given if the statute or law prohibits it. Authorisations of this kind should not be considered to be norm but used only in appropriate circumstances and after careful thought. There can be no additional such delegation.
  - d. References to any enactment, regulation, order or byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
  - e. Any reference to any Act of Parliament includes reference to regulations, from which powers, duties and functions of the Council are derived.
  - f. Where the exercise of powers is subject to prior consultation with another Cabinet Member or officer, that Cabinet Member or officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
  - g. Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
  - h. All delegations are subject to:
    - i. the right of the delegating body to decide any matter in a particular case;
    - ii. the delegatee may in any case in lieu of exercising his/her delegated power refer to the delegating body for a decision; and
    - iii. any restrictions, conditions or directions of the delegating body.
  - i. In exercising delegated powers, the delegatee shall:

- i. take account of the requirements of the Constitution, Corporate Standards and Special Procedures and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
  - ii. shall exercise the delegation so as to promote the efficient, effective and economic running of the Council, and in furtherance of the Council's visions and values; and
  - iii. shall, where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.
- j. Except where otherwise expressly provided either within this part of the Constitution or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
- k. Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.
- l. Any reference to a Committee, Panel or Sub-Committee shall be deemed to include reference to a successor Committee or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
- m. Where a power or duty is delegated, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the delegatee in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
- n. If a matter is delegated, but that delegation cannot be implemented, that should be reported to the delegating body.
- o. Functions, matters, powers, authorisations, delegations, duties and responsibilities, etc within this Scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
- p. Non-executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000 (as amended). Any function that is not therefore specified must be assumed to be executive. Any mis-categorisation of a delegation as being Executive, non-Executive or other shall not invalidate a delegation.
- q. Advice on procedures and matters to be taken into account in exercising delegated powers is provided set out in the Guidance for Officers issued by the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~.

## 2. Responsibility for Local Choice Functions

2.1 These are functions that could be the responsibility of an Authority's Executive (under Regulations 3(1) and Schedule 2 of the Functions Regulations 2000).

Function	Local Choice	Decision-Maker	Delegation of Functions <sup>1</sup>
1. Any function under a local Act, other than a function specified or referred to in Regulation 2 or Schedule 1	See Schedule 1 of this part of the Constitution	For non-Executive functions, see Article 4 and Section 3 of this Part of the Constitution For Executive functions, see Section 4 of this Part of the Constitution	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors
2. Determining an appeal against any decision by, or on behalf of the authority (save for highways and related orders)	Non-Executive (save for highways and related orders) Non-Executive to the extent that appeals are made under the Council's disciplinary, grievance, dismissal and other employee relations procedures	Governance Committee	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors
3. Appointing review boards under regulations under subsection(4), Section 34 (determination of claims and reviews) of the Social Security Act 1998.	N/A	N/A	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors
4. Making arrangements under subsection (1), Section 67, and Schedule 18 to School Standards and Framework Act 1998 (appeals against exclusions of pupils)	Executive	Cabinet Member	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors
5. Making arrangements under section 94(1) and (4) of, and Schedule 24 to the School Standards and Framework Act 1998 (admission appeals)	Executive	Cabinet Member	<a href="#">Director of Governance, Legal &amp; HR</a> <del>Director of Legal &amp; Business Services</del>

<sup>1</sup> Reference should also be made to the Officers' Scheme of Delegation (available from the Senior Democratic Services Officer) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

Function	Local Choice	Decision-Maker	Delegation of Functions <sup>1</sup>
6. Making arrangements under Section 95(2) of and Schedule 25 to School Standards and Framework Act 1998 (children to whom section 87 applies; appeals by governing bodies)	Executive	Cabinet Member	<a href="#">Director of Governance, Legal &amp; HR</a> <del>Director of Legal &amp; Business Services</del>
7. Any function relating to contaminated land: a. To the extent that the function involves the formulation of a strategic policy b. to the extent that the function does not involve the formulation of strategic policy	Executive Non-Executive	Cabinet Member Licensing Committee	Executive Director: <del>Growth</del> <a href="#">Place</a>  Executive Director: <del>Growth</del> <a href="#">Place</a>
8. Performing any function relating to controlling pollution or managing air quality: a. To the extent that the function involves the formulation of a strategic policy or the adoption of a City Clean Air Zone b. To the extent that the function does not involve the formulation of strategic policy	Executive Non-Executive	Cabinet Member Licensing Committee	Executive Director: <del>Growth</del> <a href="#">Place</a>  Executive Director: <del>Growth</del> <a href="#">Place</a> or other appropriate officer
9. The service of an Abatement Notice in respect of statutory nuisance under Section 80(1) Environmental Protection Act 1990	Non-Executive	Licensing Committee	Executive Director: <del>Communities, Culture &amp; Homes</del> <a href="#">Place</a> or other specified appropriate officers
10. The passing of a resolution that Schedule 2 Noise and Statutory Nuisance Act 1993 should apply under Section 8 of the Noise and Statutory Nuisance Act 1993 a. To the extent that the function involves the formulation of a strategic policy b. To the extent that the function does not involve the formulation of strategic policy	Executive Non-Executive	Cabinet Member  Licensing Committee to the extent that it is non-Executive, subject to delegation	Executive Director: <del>Communities, Culture &amp; Homes</del> <a href="#">Place</a>  Executive Director: <del>Communities, Culture &amp; Homes</del> <a href="#">Place</a>

Function	Local Choice	Decision-Maker	Delegation of Functions <sup>1</sup>
11. The inspection of the authority's area to detect any statutory nuisance under Section 79 Environmental Protection Act 1990 a. To the extent that the function involves the formulation of a strategic policy  b. To the extent that the function does not involve the formulation of strategic policy	Executive   Non-Executive	Cabinet Member   Licensing Committee	Executive Director: <del>Communities, Culture &amp; Homes</del> Place or other specified or appropriate officers  Executive Director: <del>Communities, Culture &amp; Homes</del> Place or other specified or appropriate officers
12. The investigation of any complaints as to the existence of a statutory nuisance under Section 79 Environmental Protection Act 1990	Non-Executive	Licensing Committee	Executive Director: <del>Communities, Culture &amp; Homes</del> Place or other specified or appropriate officers
13. Obtaining information under Section 330 of the Town and Country Planning Act 1990 about interests in land: a. To the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders  b. To the extent that it is necessary to exercise these powers in respect of actions which are not preliminary to the exercise of powers to make compulsory purchase orders	Executive   Non-Executive	Cabinet Member   Planning & Rights of Way Panel	Executive Director: <del>Growth</del> Place or other specified or appropriate officers  Executive Director: <del>Growth</del> Place or other specified or appropriate officers
14. Obtaining information about people interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976: a. To the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders	Executive	Cabinet Member	Executive Director: <del>Growth</del> Place or other specified or appropriate officers



Function	Local Choice	Decision-Maker	Delegation of Functions <sup>1</sup>
b. To the extent that the staff are placed being placed at the disposal of the other authority in relation to the discharge of functions which are not the responsibility of the authority placing the staff	Executive	Cabinet	
18. Any function of a local authority in their capacity as Harbour Authority	Non-Executive	Council	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors

### 3. Responsibility for Functions

Body	Membership	Functions (in additional to those in Article 4)	Delegation of Functions <sup>2</sup>
Full Council Page 37	All Members of the Authority	Functions relating to Electoral Registration and the holding of Elections	Returning Officer Electoral Registration Officer
		Power to make, amend, revoke or re-enact byelaws	<a href="#">Director of Governance, Legal &amp; HR</a> <del>Director of Legal &amp; Business Services</del>
		Power to promote or oppose local or personal Bills	<a href="#">Director of Governance, Legal &amp; HR</a> <del>Director of Legal &amp; Business Services</del>
		Miscellaneous functions, including power to: <ul style="list-style-type: none"> <li>Confer title of Honorary Alderman</li> <li>Admit to be an Honorary Freeman</li> <li>Make Rules of Procedure</li> <li>Appoint Proper Officers</li> <li>Approve the Authority's Statement of Accounts</li> </ul>	<a href="#">Director of Governance, Legal &amp; HR</a> <del>Director of Legal &amp; Business Services</del>

<sup>2</sup> Reference should also be made to the Officers' Scheme of Delegation (available from the Senior Democratic Services Officer) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

Body	Membership	Functions (in additional to those in Article 4)	Delegation of Functions <sup>2</sup>
		<ul style="list-style-type: none"> <li>Operate Members' Allowance Scheme</li> <li>Make arrangements for the appointment of Committees and discharge of Council's functions</li> </ul>	<a href="#">Director of Customer Experience</a>
		<ul style="list-style-type: none"> <li>Adoption and revision of the Statement of Licensing Policy (Licensing Act 2003)</li> <li>Adoption and revision of the Statement of Licensing Policy (Licensing Act 2003)</li> </ul>	Executive Director: <del>Communities, Culture &amp; Homes</del> <a href="#">Place</a>
		Making a request for single-Member electoral areas	Electoral Registration Officer / Returning Officer
		Resolving to change a Scheme for Elections	Electoral Registration Officer / Returning Officer
Full Council	All Members of the Authority	Deciding whether to make proposals for a change in governance arrangements or complying with a duty to make a change in governance arrangements, approving the proposals, deciding whether the change should be subject to approval and a referendum and passing a resolution to make the change, including provision in Executive arrangements for the Executive Leader to be removed b resolution and passing a resolution for the removal of the Executive Leader.	<a href="#">Director of Governance, Legal &amp; HR</a> <del>Director of Legal &amp; Business Services</del>
		Making a reorganisation order implementing recommendations of a community governance review	<a href="#">Director of Governance, Legal &amp; HR</a> <del>Director of Legal &amp; Business Services</del>
Planning & Rights of Way Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors



<b>Body</b>	<b>Membership</b>	<b>Functions (in additional to those in Article 4)</b>	<b>Delegation of Functions<sup>2</sup></b>
Licensing Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors
Licensing (Licensing & Gambling) Sub-Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors
Chief Officer Employment Panel	See Schedule 3	Appointment of Chief Officers in accordance with the Council's Employment Procedure Rules	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors
Governance Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors
Overview & Scrutiny Management Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Executive Directors, Deputy Directors and <a href="#">Service</a> Directors

## **THE EXECUTIVE**

The Executive shall comprise: [\[to be updated post AGM\]](#)

Leader	Councillor Satvir Kaur
Deputy Leader & Children & Learning Communities & Customer Engagement	Councillor Darren Paffey
Economic Development	Councillor Toqeer Kataria
Finance & Change	Councillor Sarah Bogle
Health, Adults & Leisure	Councillor Steve Leggett
Housing & the Green Environment	Councillor Lorna Fielker
Safer City	Councillor Lisa Mitchell
Transport & District Regeneration	Councillor Matthew Renyard
	Councillor Eammon Keogh

## CABINET

The Cabinet collectively and Cabinet Members individually will be responsible for the following functions:

- ◆ The community planning process and the search for best value, with input and advice from overview and scrutiny committees and any other persons as appropriate;
- ◆ The preparation of the local authority's Policy Framework and Budget;
- ◆ The preparation of the authority's financial strategy;
- ◆ Setting a clear and realistic direction, reflected in the Council Strategy and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of social cohesion, and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ Achieving efficiencies through taking in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, delivering and implementing the budget and policies decided by Full Council;
- ◆ Being the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs;
- ◆ Determining proposals for and variations to the Policy Framework and Budget that are to be proposed to Full Council;
- ◆ Considering reports of Overview and Scrutiny Management Committee, and its Panels (sub-committees) and formulating responses to those;
- ◆ Making any decision in respect of an Executive function which has been delegated where the delegate has decided not to exercise his/her delegation;
- ◆ In the absence of any Cabinet Member (including the Leader) or where any Cabinet Member (including the Leader) is not available or able to make a decision, Cabinet may, subject to the Leader's agreement, discharge that Executive function in respect of that decision;
- ◆ Subject to the budget, determining the grants to be paid by the Council;
- ◆ The Council's pursuit of efficiencies and Value for Money in its use of resources for the provision of services to citizens of the City and its business community by pursuing a holistic approach through the effective integration of programmes and plans including the Sustainable Community Strategy and Southampton Connect and the Council's customer focus through programmes of continuing improvement;
- ◆ The appointment of any individual:
  - to any office other than an office in which s/he is employed by the authority;
  - to any other body other than (i) the authority (ii) a joint committee of two or more authorities; or to any committee or sub-committee of such a body.and the revoking of any such appointment, to the extent that appointments are usually but not exclusively to outside bodies in connection with functions which are the responsibility of the Executive;
- ◆ The appointment of any panel, body or other grouping of elected Members, officers or other persons, together or in combination, whether or not jointly with any other authority or organisation other than a committee, a sub-committee of the Council or a joint committee of two or more authorities, as defined in Section 101 of the Local Government Act 1972;
- ◆ Matters relating to the Portfolio involving Member contacts with the Government and any Regional or National organisations;
- ◆ The application of national policies locally and any consequent forward planning necessary;
- ◆ Liaison and joint working with other Cabinet Members to ensure the objectives of the Council

- are met and that Business and Service Plans link with commitments agreed by the Cabinet;
- ◆ Reporting to Full Council and its decision-making and scrutiny functions where appropriate;
  - ◆ Seeking comments on Policy development through Cabinet and Scrutiny and issuing statements and bulletins related to matters within the Portfolio;
  - ◆ Representing the Council on and exercising any functions in relation to any Partnership Boards or Committees to which they are appointed.

### Delegation of Functions

The Chief Executive and Executive Directors.\*

**LEADER** [\[To be updated along with all Cabinet Member positions and functions post AGM\]](#)

The Leader shall be responsible for:

- ◆ Appointing a Cabinet of not fewer than three and not more than ten councillors (including the Leader);
- ◆ Determining a scheme of delegation for Executive functions.

The Cabinet Member shall be responsible for and lead on the following functions:

- Leader of the Council;
- Primary spokesperson for the Council;
- Major Projects
- Culture
- Member of the City of Culture Trust
- Communications
- HR
- Legal

Delegation of Functions

The Chief Executive and Executive Directors.\*

\* Reference should also be made to the [Officers' Scheme of Delegation](#) (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

## **CABINET MEMBER FOR CHILDREN & LEARNING**

**This Cabinet Member is the Lead Member with responsibilities for children's services under Section 19 of the Children Act 2004**

The Cabinet Member shall be responsible for and lead on the following functions:

- Children's Social Care & Safeguarding
- Education
- Child Friendly City
- Skills & Apprenticeships

### Delegation of Functions

The Chief Executive and Executive Directors.\*

\* Reference should also be made to the [Officers' Scheme of Delegation](#) (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

## CABINET MEMBER FOR COMMUNITIES & CUSTOMER ENGAGEMENT

The Cabinet Member shall be responsible for and lead on the following functions:

- Stronger Communities
- Libraries, Registration & Bereavement Services
- Customer Services
- Fly tipping Strategy
- Voluntary Organisations

### Delegation of Functions

The Chief Executive and Executive Directors.\*

\* Reference should also be made to the [Officers' Scheme of Delegation](#) (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

## **CABINET MEMBER FOR ECONOMIC DEVELOPMENT**

The Cabinet Member shall be responsible for and lead on the following functions:

- Freeport
- Planning Policy
- Economic Development (supporting the Leader of the Council)
- Levelling Up
- Property

### Delegation of Functions

The Chief Executive and Executive Directors.\*

\* Reference should also be made to the [Officers' Scheme of Delegation](#) (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.



## **CABINET MEMBER FOR FINANCE & CHANGE**

The Cabinet Member shall be responsible for and lead on the following functions:

- Strategic Financial Planning and Management
- Capital Programme
- Commissioning, Procurement & Supplier Management
- Transformation & Change
- Waste
- IT

### Delegation of Functions

The Chief Executive and Executive Directors.\*

\* Reference should also be made to the [Officers' Scheme of Delegation](#) (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

## **CABINET MEMBER FOR HEALTH, ADULTS & LEISURE**

The Cabinet Member shall be responsible for and lead on the following functions:

- Public Health
- Health Integration
- Adult Social Care & Safeguarding
- Leisure

### Delegation of Functions

The Chief Executive and Executive Directors.\*

\* Reference should also be made to the [Officers' Scheme of Delegation](#) (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

## CABINET MEMBER FOR HOUSING AND THE GREEN ENVIRONMENT

The Cabinet Member shall be responsible for and lead on the following functions:

- Council & Private Sector Housing
- Flood Management
- Green City
- City Services – Parks & Open Spaces, Fleet

### Delegation of Functions

The Chief Executive and Executive Directors.\*

\* Reference should also be made to the [Officers' Scheme of Delegation](#) (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

## CABINET MEMBER FOR SAFER CITY

The Cabinet Member shall be responsible for and lead on the following functions:

- Community Safety
- Licensing
- Youth Offending
- Domestic Violence
- Environment & Port Health
- Trading Standards
- Enforcement
- Emergency Planning & Business Continuity

### Delegation of Functions

The Chief Executive and Executive Directors.\*

\* Reference should also be made to the [Officers' Scheme of Delegation](#) (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

## CABINET MEMBER FOR TRANSPORT & DISTRICT REGENERATION

The Cabinet Member shall be responsible for and lead on the following functions:

- Transport & Infrastructure
- Highways
- District Centre Regeneration
- Car Parks
- Itchen Bridge

### Delegation of Functions

The Chief Executive and Executive Directors.\*

\* Reference should also be made to the [Officers' Scheme of Delegation](#) (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

**Schedule 1**  
**FUNCTIONS UNDER THE HAMPSHIRE ACT 1983**

*Executive Functions*

- Sections 18, 19, 20 and 21 – Itchen Bridge – Council has power to make order re demanding, taking and recovery of tolls and may make byelaws re the bridge. Also power to prosecute.
- Sections 22 – 31 – Itchen Bridge – determination of level, type and recovery of toll
- Section 32 – Itchen Bridge – Finance
- Section 35 – Itchen Bridge – Closure of
- Section 36 – 46 – Itchen Bridge – tidal and other works affecting bridge
- Section 70 – Council has power to provide facilities for hovercraft, hydrojuniorvessels etc

*Non – Executive Functions*

- Section 4 – Hairdressers and Barbers – Application for registration to carry on business on premises. Council to issue certificate of registration. Council can prosecute for non – registration or for failure to display certificate.
- Section 7 – Touting, hawking, photographing etc – Council may designate places and grant consent. Council can prosecute and [the](#) aggrieved in respect of [C](#)consent can appeal to Magistrates Court.
- Section 8 – Control of stray dogs
- Section 9 – Seizure of horses
- Section 10 – Byelaws as to Leisure Centres – Council may make byelaws for specified purposes.
- Sections 11, 12 and 13 – Fire Precautions – Council may reject plans or impose conditions. Any person aggrieved may appeal. Council has power to prosecute.
- Section 34 – Itchen Bridge – Power to make byelaws
- Sections 58 and 59 – Unlawfully parked vehicles re the Common, parks and recreation grounds – Council may prosecute
- Section 60 – Mayflower Park – Council may close the park for 10 consecutive days etc
- Section 61 – Pedestrian ways – Council may by resolution etc declare a pedestrian way and may make byelaws
- Section 68 – Prevention of obstruction of streets

## Schedule 2

### TERMS OF REFERENCE FOR LICENSING COMMITTEE

#### GENERAL

- a. This is a committee of the Council appointed by the Council under Section 6 of the Licensing Act 2003.
- b. The Council has arranged under Section 7 of the 2003 Act and Section 101(1) of the 1972 Act for the discharge by the Committee of such of the Council's functions as are within the Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Committee to Officers. Full details may be found in the Officers' Scheme of Delegation which may be obtained from the Head of Business Operations.
- d. Where a function or matter within the Panel's competence has been delegated to an officer, the Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Director of Legal & Business Services in pursuance of Council Procedure Rule 26.2 or which may be prescribed by law.

#### TERMS OF REFERENCE

1. To undertake all licensing functions, powers and duties conferred by the Licensing Act 2003 and as set out in schedule 1B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2853 of 2000) as amended and the Local Government Act, 1972 including but not limited to the matters set out below.
2. Approve a framework for the effective discharge by the Council of the statutory licensing function by itself and its sub-committees.
3. Keep under review and publish a Statement of Licensing Policy.
4. Appoint sub-committee(s) to discharge the Council's licensing functions under the Licensing Act 2003.
5. Appoint sub-committee(s) to discharge the Council's licensing functions as set out in schedule 1B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2853 of 2000) as amended and the Local Government Act 1972.
6. To set licence fees as appropriate under the Gambling Act 2005.

## TERMS OF REFERENCE FOR LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE

### GENERAL

- a. This is a sub-committee of the Licensing Committee appointed by that Committee under the Licensing Act 2003.
- b. The Committee has arranged under Section 9 of that Act for the discharge by the Sub-Committee of such of the Council's functions as are within the Sub-Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Sub-Committee to Officers. Full details may be found in the Officers' Scheme of Delegation which may be obtained from the Head of ~~Business Operations~~. [Service Support](#).
- d. Where a function or matter within the Panel's competence has been delegated to an officer, the Sub-Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Sub-Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ in pursuance of Council Procedure Rule 26.2 or which may be prescribed by law.

### TERMS OF REFERENCE

#### Licensing Act 2003

Except for matters of Policy to undertake all functions, powers and duties conferred by the Licensing Act 2003 including but not limited to the matters set out below:

1. Power to determine applications for personal licences.
2. Power to determine applications for premises licences and club premises certificate.
3. Power to determine applications for variation of premises licence and club premises certificates.
4. Power to determine applications for transfer of premises licences.
5. Power to review premises licence and club premises certificates.
6. Power to determine police or environmental health objections to temporary event notices.

#### Gambling Act 2005

7.
  - a. Where representations on the following applications have been received and not withdrawn to determine applications:
    - i. for premise licences;
    - ii. for variation of premises licences;
    - iii. for transfer of premises licences;
    - iv. for provisional statements;
    - v. for club gaming or machine permits;
  - b. The cancellation of club gaming or club machine permits;
  - c. Decision to give a counter notice to a temporary use notice;
  - d. Take "action" under Section 202 where the review is heard by the sub committee
8. Power to register societies wishing to promote lotteries.



9. Power to issue premises licences and to receive temporary use notices.

## TERMS OF REFERENCE FOR LICENSING (GENERAL) SUB-COMMITTEE

### GENERAL

- a. This Sub-Committee is a Sub-Committee of the Licensing Committee appointed by the Committee under the Local Government Act 1972.
- b. The Committee has arranged under Section 101(1) of that Act for the discharge by the Sub-Committee of such of the Council's functions as are within the Sub-Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Panel to Officers. Full details may be found in the Officers' Scheme of Delegation which may be obtained from the Head of ~~Business Operations~~. [Service Support](#).
- d. Where a function or matter within the Sub-Committee's competence has been delegated to an officer, the Sub-Committees may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Sub-Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ in pursuance of Council Procedure Rule 26.2.

### TERMS OF REFERENCE

Except for matters of Policy to undertake all licensing functions, powers and duties conferred by the Local Government Act 1972 including but not limited to the matters set out below:

1. Power to license hackney carriages and private hire vehicles
  - (a) as to the hackney carriages, the Town Police Clauses Act, 1847 (10 & 11 Vict.c.89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict.c.55), and section 15 of the Transport Act 1985 (c.67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976(c.57);
  - (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
2. Power to license drivers of hackney carriages and private hire vehicles  
Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
3. Power to license operators of hackney carriages and private hire vehicles  
Sections 51, 53, 54, 59, 61 and 69 of the Local Government (Miscellaneous Provisions) Act 1976
4. Power to license sex shops and sex cinema and sex entertainment venues  
Section 2 and Schedule 3 Local Government (Miscellaneous Provisions) Act 1976
5. Power to license performances of hypnotism  
The Hypnotism Act 1952

6. Power to license markets and street trading	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982,
7. Power to license persons to collect for charitable and other causes	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c.31) and section 2 of the House to House Collections Act 1939 (c44)
8. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982
9. Power to license pleasure boats and pleasure vessels	Section 94 of the Public Health Acts Amendment Act 1907 (c.53)
10. Duty to keep list of persons entitled to sell non-medicinal poisons	Sections 3(1)(b)(ii), 5,6 and 11 of the Poisons Act 1972 (c.66)
11. Power to register and license premises for the preparation of food	Section 19 of the Food Safety Act 1990 (c.16)
12. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds	The Safety of Sports Grounds Act 1975 (c.52)
13. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27)
<u>Note:</u> The above function is exercised by the Fire Officer.	
14. Power to issue fire certificates	Section 5 of the Fire Precautions Act 1971 (c.40)
15. Power to license premises for the breeding of dogs	Section 1 of the Breeding of Dogs Act 1973 (c.60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c.11)
16. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business	Section 1 of the Pet Animals Act 1951 (c.35); section 1 of the Animal Boarding Establishments Act 1963 (c.43); the Riding Establishments Acts 1964 and 1970 (1964c.70 and 1970c.70); section 1 of the Breeding of Dogs Act 1973 (c.60), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999
17. Power to register animal trainers and exhibitors	Section 1 of the Performing Animals (Regulations) Act 1925 (c.38)
18. Power to license zoos	Section 1 of the Zoo Licensing Act 1981 (c.37)
19. Power to license dangerous wild animals	Section 1 of the Dangerous Wild Animals Act 1976 (c.38)
20. Power to license knackers' yards	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646)
21. Animal Welfare powers	Animal Welfare Act 2006 (all functions insofar as they are non-Executive functions)

22. Power to license the employment of children	Part II of the Children and Young Persons Act 1933 (c33), byelaws made under that part, and part II of the Children and Young Persons Act 1963 (c37)
23. Power to approve premises for the solemnisation of marriages	Section 46A of the Marriage Act 1949 (c.76) and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510)
24. Power to grant consent for the operation of a loudspeaker	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c.40)
25. Power to license agencies for the supply of nurses	Section 2 of the Nurses Agencies Act 1957 (c.16)
26. Power to issue licences for the movement of pigs	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11)
27. Power to license the sale of pigs	Article 13 of the Pigs (Records, Identification and Movement) Order 1995
28. Power to license collecting centres for the movement of pigs	Article 14 of the Pigs (Records, Identification and Movement) Order 1995
29. Power to issue a license to move cattle from a market	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871)
30. Power to sanction use of parts of buildings for storage of celluloid	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c.35)
31. Power to approve meat product premises	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)
32. Power to approve premises for production of minced meat or meat preparations	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205)
33. Power to approve dairy establishments	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)
34. Power to approve egg product establishments	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520)
35. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763)
36. Power to approve fish products premises	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994)
37. Power to approve dispatch or purification centres	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
38. Power to register fishing vessels on board which shrimps or molluscs are cooked	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
39. Power to approve factory vessels and fishery product establishments	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998

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| 40. Power to register auction and wholesale markets   | Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998  |
| 41. Duty to keep register of food business premises   | Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828)   |
| 42. Power to register food business premises  | Regulation 9 of the Food Premises (Registration) Regulations 1991  |
| 43. Functions under any of the “relevant statutory provisions” within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer | Part 1 of the Health and Safety at Work etc. Act 1974 (c.37)   |
| 44. Functions relating to sea fisheries   | Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c.38)   |
| 45. Registration of hairdressers and barbers  | Section 4 Hampshire Act 1983   |
| 46. Touting, hawking, photography etc   | Section 7 Hampshire Act 1983   |
| 47. Control of stray dogs   | Section 8 Hampshire Act 1983   |
| 48. Seizure of horses   | Section 9 Hampshire Act 1983   |
| 49. Any function relating to contaminated land.<br>(Except to the extent that the function involves the formulation of a strategic policy, in which case it is an executive function on which the panel should be consulted.)   | Part IIA of the Environmental Protection Act 1990 (c43) and subordinate legislation under that part  |
| 50. The discharge of any function relating to the control of pollution or the management of air quality.<br>(Except to the extent that the function involves the formulation of a strategic policy, in which case it is an executive function on which the panel should be consulted.)  | Pollution Prevention and Control Act 1999 (c 24);<br>Pt IV of the Environment Act 1995 (c 25);<br>Part 1 of the Environmental Protection Act, 1990 (c 43) and the Clean Air Act, 1993 (c 11) |
| 51. The service of an abatement notice in respect of a statutory nuisance.  | Section 80(1) of the Environment Protection Act, 1990  |
| 52. The inspection of the Authority's area to detect any statutory nuisance.<br>(Except to the extent that the function involves the formulation of a strategic policy, in which case it is an executive function on which the panel should be consulted.)  | Section 79 of the Environmental Protection Act, 1990.  |

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| 53. The investigation of any complaint as to the existence of a statutory nuisance.  | Section 79 of the Environmental Protection Act, 1990.                    |
| 54. The obtaining of particulars of persons interested in land.<br>(Except to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders) | Section 16 of the Local Government (Miscellaneous Provisions) Act, 1976. |
| 55. Determine all matters in relation to scrap metal licences, including the grant and revocation of any licences  | Scrap Metal Dealers Act 2013   |

## TERMS OF REFERENCE FOR PLANNING AND RIGHTS OF WAY COMMITTEE (known as Planning and Rights of Way Panel)

### GENERAL

- a. This Panel is a Committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972.
- b. The Council has arranged under Section 101(1) of that Act for the discharge by the Panel of such of the council's functions as are within the Panel's terms of reference (set out below).
- c. Certain functions are delegated by this Panel to Officers. Full details may be found in the Officer's Scheme of Delegation which may be obtained from the Head of ~~Business Service~~ [Support Operations](#).
- d. Where a function or matter within the Panel's competence has been delegated to an officer, the Panel may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Panel's competence is always subject to any relevant requirement of Contract Standing Orders, Financial Regulations and Council Procedure Rules as amended from time to time including any Special Procedures drawn up and approved by the ~~Director of Governance, Legal & HR~~ [Director of Legal & Business Services](#) in pursuance of Procedure Rule 26.2.

### TERMS OF REFERENCE

1. To be consulted on the draft development plan.
2. Power to determine application for planning permission                      Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8)
3. Power to determine applications to develop land without compliance with conditions previously attached.                      Section 73 of the Town and Country Planning Act 1990
4. Power to grant planning permission for development already carried out                      Section 73A of the Town and Country Planning Act 1990
5. Power to decline to determine application for planning permission                      Section 70A of the Town and Country Planning Act 1990
6. Duties relating to the making of determinations of planning applications                      Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder
7. Power to determine application for planning permission made by a local authority, alone or jointly with another person                      Section 316 of the Town and Country Planning Act 1990 and the Town and country Planning General Regulations 1992 (S.I. 1992/1492)

8.	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Parts 6, 7 ,11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418)
9.	Power to enter into agreement regulating development or use of land	Section 106 of the Town and Country Planning Act 1990
10.	Power to issue a certificate of existing or proposed lawful use or development	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990
11.	Power to serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990
12.	Power to grant consent for the display of advertisements	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992
13.	Power to authorise entry onto land	Section 196A of the Town and Country Planning Act 1990
14.	Power to require the discontinuance of a use of land	Section 102 of the Town and Country Planning Act 1990
15.	Power to serve a planning contravention notice, breach of condition notice or stop notice	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990
16.	Power to issue an enforcement notice	Section 172 of the Town and Country Planning Act 1990
17.	Power to apply for an injunction restraining a breach of planning control	Section 187B of the Town and Country Planning Act 1990
18.	Power to determine applications for hazardous substances consent, and related powers	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c.10)
19.	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of Schedule 14 to that Act
20.	Power to require proper maintenance of land	Section 215(1) of the Town and Country Planning Act 1990
21.	Power to determine application for listed building consent, and related powers	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas ) Act 1990 (c.9)
22.	Power to determine applications for conservation area consent	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas ) Act 1990, as applied by section 74(3) of that Act



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| 23. Duties relating to applications for listed building consent and conservation area consent  | Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of the Department of the Environment Circular 14/97 |
| 24. Power to serve a building preservation notice, and related powers  | Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990  |
| 25. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area  | Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990  |
| 26. Power to acquire a listed building in need of repair and to serve a repairs notice   | Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990  |
| 27. Power to apply for an injunction in relation to a listed building  | Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990   |
| 28. Power to execute urgent works  | Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990  |
| 29. Power to issue licences authorising the use of land as a caravan site ("site licences")  | Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c.62)  |
| 30. Power to license the use of moveable dwellings and camping sites   | Section 269(1) of the Public Health Act 1936(c.49)  |
| 31. Power to register common land or town or village greens, except where the powers is exercisable solely for the purpose of giving effect to:  |   |
| (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to , the Acquisition of Land Act 1981 (c.67) or  | Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843)   |
| (b) an order under section 147 of the Inclosure Act 1845 (c.8 & 9 Vict.c.118)  |   |
| 32. Power to register variation of rights of common  | Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)   |
| 33. The obtaining of information as to interests in land.<br>(Except to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders. | Section 330 of the Town and Country Planning Act, 1990.   |

34.	The making of agreements for the execution of highways works	Section 278 of the Highways Act, 1980 (c.66) substituted by the New Roads and Street Works Act, 1991 (c.22), Section 23
35.	Power to grant a street works licence	Section 50 of the New roads and Street Works Act 1991 (c.22)
36.	Power to permit deposit of builder's skip on highway	Section 139 of the Highways Act 1980 (c.66)
37.	Power to license planting, retention and maintenance of trees etc. in part of highway	Section 142 of the Highways Act 1980
38.	Power to authorise erection of stiles etc. on footpaths or bridleways	Section 147 of the highways Act 1980
39.	Power to license works in relation to buildings etc. which obstruct the highway	Section 169 of the highways Act 1980
40.	Power to consent to temporary deposits or excavations in streets	Section 171 of the Highways Act 1980
41.	Power to dispense with obligation to erect hoarding or fence	Section 172 of the Highways Act 1980
42.	Power to restrict the placing of rails, beams, etc. over highways	Section 178 of the Highways Act 1980
43.	Power to consent to construction of cellars etc. under street	Section 179 of the Highways Act 1980 as amended by Section 22 of the Local Government (Miscellaneous Provisions) Act, 1982 (c.30)
44.	Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators	Section 180 of the Highways Act 1980
45.	Power to create footpath or bridleway by agreement	Section 25 of the Highways Act 1980 (c.66)
46.	Power to create footpaths and bridleways	Section 26 of the Highways Act 1980
47.	Duty to keep register of information with respect to maps, statements and declarations	Section 31A of the Highways Act 1980
48.	Power to stop up footpaths and bridleways	Section 118 of the Highways Act 1980
49.	Power to determine application for public path extinguishment order	Sections 118ZA and 118C(2) of the Highways Act 1980
50.	Power to make a rail crossing extinguishment order	Section 118A of the Highways Act 1980
51.	Power to make a special extinguishment order	Section 118B of the Highways Act 1980
52.	Power to divert footpaths and bridleways	Section 119 of the Highways Act 1980
53.	Power to make a public path diversion order	Sections 119ZA and 119C(4) of the Highways Act 1980
54.	Power to make a rail crossing diversion order	Section 119A of the Highways Act 1980

55.	Power to make a special diversion order	Section 119B of the Highways Act 1980
56.	Power to require applicant for order to enter into agreement	Section 119C(3) of the Highways Act 1980
57.	Power to make an SSSI diversion order	Section 119D of the Highways Act 1980
58.	Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980	Section 121B of the Highways Act 1980
59.	Power to decline to determine certain applications	Section 121C of the Highways Act 1980
60.	Duty to assert and protect the rights of the public to use and enjoyment of highways	Section 130 of the Highways Act 1980
61.	Duty to serve notice of proposed action in relation to obstruction	Section 130A of the Highways Act 1980
62.	Power to apply for variation of order under section 130B of the Highways Act 1980	Section 130B(7) of the Highways Act 1980
63.	Power to authorise temporary disturbance of surface of footpath or bridleway	Section 135 of the Highways Act 1980
64.	Power temporarily to divert footpath or bridleway.	Section 135A of the Highways Act 1980
65.	Functions relating to the making good of damage and the removal of obstructions	Section 135B of the Highways Act 1980
66.	Powers relating to the removal of things so deposited on highways as to be a nuisance	Section 149 of the Highways Act 1980
67.	Power to extinguish certain public rights of way	Section 32 of the Acquisition of Land Act 1981 (c.67)
68.	Duty to keep definitive map and statement under review	Section 53 of the Wildlife and Countryside Act 1981 (c.69)
69.	Power to include modifications in other orders	Section 53A of the Wildlife and Countryside Act 1981
70.	Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981	Section 53B of the Wildlife and Countryside Act 1981
71.	Duty to reclassify roads used as public paths	Section 54 of the Wildlife and Countryside Act 1981
72.	Power to prepare map and statement by way of consolidation of definitive map and statement	Section 57A of the Wildlife and Countryside Act 1981
73.	Power to designate footpath as cycle track	Section 3 of the Cycle Tracks Act 1984 (c.38)
74.	Power to extinguish public right of way over land acquired for clearance	Section 294 of the Housing Act 1981 (c.68)

75. Power to authorise stopping-up or diversion of footpath or bridleway	Section 257 of the Town and Country Planning Act 1990
76. Power to extinguish public rights of way over land held for planning purposes	Section 258 of the Town and Country Planning Act 1990
77. Power to enter into agreements with respect to means of access	Section 35 of the Countryside and Rights of Way Act 2000 (c.37)
78. Power to provide access in absence of agreement	Section 37 of the Countryside and Rights of Way Act 2000
79. Power to make limestone pavement order	Section 34(2) of the Wildlife and Countryside Act 1981 (c.69)
80. Powers relating to the protection of important hedgerows	The Hedgerows Regulations 1997 (S.I. 1997/1160)
81. Powers relating to the preservation of trees	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892)
82. Unlawfully parked vehicles re the Common, Parks and Recreation Grounds	Section 58 & 59, Hampshire Act, 1983
83. Pedestrian Ways	Section 61, Hampshire Act 1983
84. Fire Precautions- Parking Places: safety requirements	Section 11, Hampshire Act 1983
85. Access for Fire Brigade	Section 12, Hampshire Act 1983
86. Fire precautions in certain large buildings.	Section 13, Hampshire Act 1983
87. Use of Mayflower Park for boat shows etc.	Section 60, Hampshire Act 1983
88. Prevention of obstruction of streets.	Section 68, Hampshire Act 1983
89. High hedges	Part 8, Anti-Social Behaviour Act 2003
90. Determination of Applications for Certificates of Alternative Development	Land Compensation Act 1961

## TERMS OF REFERENCE FOR GOVERNANCE COMMITTEE

### GENERAL

- a. This Committee is a committee of the Council appointed by the Council under the Local Government Act 1972
- b. Certain functions are delegated by this Committee to Officers. Full details may be found in Part 3 of the Council's Constitution
- c. Where a function or matter within the Committee's competence has been delegated to an officer, the Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- d. The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the [Director of Governance, Legal & HR Service](#) ~~Director: Legal & Business Operations~~ in pursuance of Council Procedure Rule 26.2.

### TERMS OF REFERENCE

#### Standards, ethics and probity

1. To lead on the Council's duties under Chapter 7 Localism Act 2011 and to design, implement, monitor, approve and review the standards of ethics and probity of the Council, both for Councillors and employees. The Committee's powers shall include responding to consultation documents and the promulgation of Codes of Conduct but the adoption and revisions to the local Members Code of Conduct shall be reserved to the Council.
2. To promote a culture of openness, ready accountability and probity in order to ensure the highest standards of conduct of Councillors and employees.
3. To lead on all aspects of Corporate Governance by promoting the values of putting people first, valuing public service and creating a norm of the highest standards of personal conduct.
4. To oversee and manage programmes of guidance, advice and training on ethics, standards and probity for Councillors and employees and on the Members Code of Conduct.
5. To be responsible for the Council's register of Members' interests and to receive reports from the Monitoring Officer on the operation of the register from time to time.
6. To be responsible for written guidance and advice on the operation of the system of declarations of Members' Interests and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time.
7. To establish, monitor, approve and issue advice and guidance to Councillors on a system of dispensations to speak on, or participate in, matters in which they have interests and give dispensation in appropriate cases.
8. To exercise the functions of the Council in relation to the ethical framework, corporate governance and standards of conduct of Joint Committees and other bodies.
9. To establish a Standards Sub-Committee to investigate and determine appropriate action in respect of alleged breaches of the Members Code of Conduct.
10. To support the Monitoring Officer and Executive Director: ~~Finance & Commercialisation & Commercialisation~~ [Corporate Services](#) in their statutory roles and the issuing of guidance on

them from time to time.

11. To receive regular reports on the performance of the Corporate Complaints process, Local Government & Social Care Ombudsman referrals, Annual Governance Statement and Code of Corporate Governance and to recommend revisions to related policies and procedures as appropriate.

### **Audit role**

12. To provide independent assurance on the adequacy of the risk management framework and the internal control and reporting environment, including (but not limited to) the reliability of the financial reporting process and the annual governance statement.
13. To be satisfied and provide assurance that appropriate action is being taken on risk and internal control related issues identified by the internal and external auditors and other review and inspection bodies.
14. To receive, and make recommendations on, such reports as are required in relation to all audit matters including the Annual Audit Plan.
15. The Committee shall specifically have responsibility for oversight of and provision of assurance on the following functions:
  - ensuring that Council assets are safeguarded;
  - maintaining proper accounting records;
  - ensuring the independence, objectivity and effectiveness of internal and external audit;
  - the arrangements made for cooperation between internal and external audit and other review bodies;
  - considering the reports of internal and external audit and other review and inspection bodies;
  - the scope and effectiveness of the internal control systems established by management to identify, assess, manage and monitor financial and non-financial risks (including measures to protect against, detect and respond to fraud).

## **Employment Matters**

### **General**

- a. Certain functions are delegated by this Panel to Officers. Full details may be found in the Officer's Scheme of Delegation which may be obtained [online](#).
- b. Where a function or matter within the Panel's competence has been delegated to an officer, the Panel may exercise that function/matter concurrently with the officer to whom it has been delegated.
- c. The exercise of any function or matter within the Panel's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ in pursuance of Council Procedure Rule 26.2.
  1. Power to appoint staff, excluding Chief Officers, and to determine the terms and conditions on which all staff hold office but excluding revisions to pay scales (including procedures for their dismissal). (Section 122 Local Government Act 1972).
  2. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities, to the extent that the staff are being placed at the disposal of the other authority in relation to the discharge of functions which are not the responsibility of the

Executive of the authority placing the staff. (Section 13(4) and (5) Local Government Act 1972).

3. Functions relating to local government pensions, etc. (Regulations under Section 7, 12 or 24 Superannuation Act 1972).
4. To agree redundancy and severance payments and early release of pension benefits, where added years, enhanced payments or any element of discretion is sought.
5. To determine any appeal against a decision where a right of appeal exists at law, but where there is no specific provision in the terms of reference of any other Committee or Panel for the hearing of such an appeal.
6. To determine school transport and associated appeals.
7. To have oversight and keep under review all the HR policies and procedures.
8. To determine any appeal where, in the opinion of the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~, a right of appeal should be conferred to give effect to the operation of the principles of natural justice or the principles contained in the Human Rights Act 1998.

## **TERMS OF REFERENCE FOR STANDARDS SUB-COMMITTEE**

1. To assess written allegations that a member or co-opted member (or former member or co-opted member) of the Council has failed, or may have failed, to comply with the Members Code of Conduct in accordance with Chapter 7 Localism Act 2011 or any amendment or re-enacted thereof and to administer sanctions where appropriate.
  2. To grant dispensations to members under Section 33 Localism Act 2011 or any amendment or re-enacted thereof.
- NB Reference to member, co-opted member or former member includes reference to former independent members of the Governance Committee and Church and Parent Governor representatives.

## **TERMS OF REFERENCE FOR STANDARDS APPEALS SUB-COMMITTEE**

1. To hear an appeal by any member where the Standards Sub Committee has found that the member has failed to comply with the Members Code of Conduct in accordance with Chapter 7 Localism Act 2011 or any amendment or re-enacted thereof and administer sanctions where appropriate.



## TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

### GENERAL

- a. This Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972.
- b. The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer's Scheme of Delegation which may be obtained from the Head of ~~Business Operations~~[Service Support](#).
- d. Where a function or matter within the Committee's competence has been delegated to an officer, the Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the [Director of Governance, Legal & HRHR](#)~~Director of Legal & Business Services~~ in pursuance of Council Procedure Rule 26.2.

### TERMS OF REFERENCE

1. Approve a framework for the effective discharge by the Council of the statutory overview and scrutiny function by itself and its Scrutiny Panels;
2. Prepare and monitor a Scrutiny Programme, to be developed in consultation with members of Scrutiny Panels.
3. Appoint such sub-committees as it considers appropriate to fulfil the overview and scrutiny functions on behalf of the Council;
4. Where matters fall within the remit of more than one overview and scrutiny subcommittee, determine which of those sub-committees will assume responsibility for any particular issue and to resolve any issues of dispute of sub-committees.
5. To be responsible for the scrutiny of all corporate and resource management issues.
6. To exercise the power of call-in.
7. To undertake scrutiny of the Forward Plan.
8. To undertake regular monitoring of the Council's performance and budgets and to assess progress made in delivering services in conjunction with partners.
9. In accordance with the Police and Justice Act 2006 to engage as appropriate with the designated Responsible Authorities in respect of crime and disorder matters.
10. Consider, at least once a year, and make reports or recommendations to the local authority with regards to actions undertaken by the responsible authorities on the Safe City Partnership.
11. To receive matters raised through the Councillor Call to Action, including crime and disorder matters.

## SCRUTINY PANEL TERMS OF REFERENCE

### GENERAL

The Health Overview & Scrutiny Panel and Children & Families Scrutiny Panel will have six scheduled meetings per year, with additional meetings organised as required.

### TERMS OF REFERENCE

#### **Health Overview and Scrutiny Panel**

1. To discharge all responsibilities of the Council for health overview and scrutiny, whether as a statutory duty or through the exercise of a power, including subject to formal guidance being issued from the Department of Health, the referral of issues to the Secretary of State.
2. To undertake the scrutiny of Adult Social Care issues in the City unless they are forward plan items. In such circumstances members of the Health Overview & Scrutiny Panel will be invited to the relevant Overview & Scrutiny Management Committee meeting where they are discussed.
3. To develop and agree the annual health and social care scrutiny work programme.
4. To scrutinise the development and implementation of the Joint Strategic Needs Assessment and Health & Wellbeing Strategy developed by the Health and Wellbeing Board.
5. To provide the membership of any joint committee established to respond to formal consultations by an NHS body on an issue which impacts the residents of more than one overview and scrutiny committee area.
6. To consider Councillor Calls for Action for health and social care matters.
7. To respond to proposals and consultations from NHS bodies in respect of substantial variations in service provision and any other major health consultation exercises.
8. Liaise with the Southampton Healthwatch and to respond to any matters brought to the attention of overview and scrutiny by Southampton Healthwatch.
9. Provide a vehicle for the City Council's Overview & Scrutiny Management Committee to refer recommendations arising from panel inquiries relating to the City's health, care and well-being to Southampton Healthwatch, for further monitoring.
10. Undertake inquiries relating to health and well-being issues in the city.

#### **Children and Families Scrutiny Panel**

1. To undertake the scrutiny of Children & Families Services in the City, including the Multi Agency Safeguarding Hub (MASH), Early Help, Specialist & Core Service, looked after children, education and early years and youth offending services, unless they are forward plan items. In such circumstances members of the Children & Families Scrutiny Panel will be invited to the relevant Overview & Scrutiny Management Committee meeting where they are discussed.

Scrutiny of Children & Families Services in the City to include:

2. Monitoring the implementation and challenging the progress of the Council's action plan to address the recommendations made by Ofsted following their inspection of Children's Services in Southampton and review of Southampton Local Safeguarding Children Board (LSCB) in July 2014.
3. Regular scrutiny of the performance of multi-agency arrangements for the provision of early help and services to children and their families.
4. Scrutiny of early years and education including the implementation of the Vision for Learning 2014 – 2024.
5. Scrutiny of the development and implementation of the Youth Justice Strategy developed by the Youth Offending Board.
6. Referring issues to the Chair of the LSCB and the Corporate Parenting Committee.

### **Scrutiny Inquiry Panel**

1. Undertake Inquiries as directed by the Overview & Scrutiny Management Committee.

## TERMS OF REFERENCE FOR CHIEF OFFICER EMPLOYMENT COMMITTEE (known as Chief Officer Employment Panel)

### GENERAL

- a. The Committee has arranged under Section 101(1) of that Act for the discharge by the Panel of such of the Council's functions as are within the Panel's terms of reference (set out below).
- b. The exercise of any function or matter within the Panel's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ in pursuance of Council Procedure Rule 26.2.

### TERMS OF REFERENCE

Power to appoint and dismiss on capability grounds as permitted under legislation, the Head of Paid Service, statutory and non-statutory Chief Officers and Deputy Chief Officers in accordance with the Council's Officer Employment Procedure Rules.

NB: COEP has delegated the appointment and dismissal of Deputy Chief Officers to the Chief Executive and Executive Directors as appropriate. The Chief Executive, Executive Directors, Statutory and Chief Officers will continue to be appointed (and where necessary dismissed) by COEP subject to statutory procedures.

Whilst named Members are appointed to the committee, it is agreed locally that the relevant Cabinet Member for the service area to which the officer is being appointed will ordinarily take the place of the Deputy Leader ~~and Cabinet Member for~~ [Customer and Organisation](#), if appropriate

## TERMS OF REFERENCE FOR HEALTH & WELLBEING BOARD

### GENERAL

- a) The Health & Wellbeing Board is a committee of the Council under S102 (1) of the Local Government Act 1972.
- b) The Council has arranged under S101 of that Act for the discharge by the Board of such functions as are set out in the terms of reference set out below.
- c) Certain functions under S196 (2) of the Health and Social Care Act 2012 may be delegated by the Board to officers. Full details may be found in the Officer's Scheme of Delegation which may be obtained from the Scrutiny Manager. Other matters falling within these Terms of Reference may be delegated to a Sub Committee of the Board.
- d) Where a function or matter within the Board's competence has been delegated to an officer or a sub-committee, the Board may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e) The exercise of any function or matter within the Council's competencies always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the [Director of Governance, Legal & HR](#) ~~Service Director: Legal & Business Operations~~ in pursuance of Council Procedure Rule 26.2. A Special Procedure giving effect to The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 has been approved in accordance with Council Procedure Rule 26.2. The Special Procedure disapplies the provisions of the Local Government and Housing Act 1989 relating to the political proportionality on committees and sub-committees and providing that a person who is a member of the Board shall not be treated as a non-voting member unless the full Council directs otherwise, together with other voting and ancillary matters has been approved in accordance with Council Procedure Rule 26.2.

### TERMS OF REFERENCE

1. Section 194 (2) (a) of the Health and Social Care Act 2012 requires that the minimum membership of the Health and Wellbeing Board shall be:
  - Elected member lead for Health & Social Care (Chair);
  - Clinical Director for Southampton (representative of Hampshire, Southampton and Isle of Wight Clinical Commissioning Group), or nominated deputy;
  - Opposition member lead for Health & Social care;Three additional Councillors appointed by Council under the rule of proportionality;
  - Executive Director ~~Wellbeing~~ (Children & Learning);
  - Executive Director Wellbeing [& Housing](#) ~~(Adults & Health)~~;
  - Director of Public Health;
  - Healthwatch representative, or nominated deputy;
  - Local mental health clinician;
  - Local Paediatrician with knowledge of the Community;
  - Chief Medical Officer at University Hospital Southampton NHS Foundation Trust;
  - SCC Clinical Director for Quality and Integration.

The actual membership and composition of the Board will be determined by Council and reviewed on an annual basis.

The Board shall:

2. Appoint such sub-committees, working groups or time limited groups as it considers appropriate to fulfil the Health and Wellbeing functions on behalf of the Council.
3. For the purpose of advancing the health and wellbeing of the people in its area; encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner.
4. Provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under S75 of the National Health Service Act 2006 in connection with the provision of such services.
5. Encourage persons who arrange for the provision of any health related services in its areas to work closely with the Health and Wellbeing Board.
6. Encourage persons who arrange for the provision of any health or social care services in its areas and persons who arrange for the provision of any health related services in its area to work closely together.
7. Exercise the functions of a Local Authority and its partner clinical commissioning groups under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007.
8. Exercise any functions that are exercisable by the Authority to promote or advance health and wellbeing not otherwise reserved to Council or the Executive.
9. Provide opinion on whether the Local Authority is discharging its duty under section 116B of the 2007 Act.
10. The functions referred to at 8 above do not apply to the functions of the Authority by virtue of Section 244 of the National Health Service Act 2006.

**SOUTHAMPTON COVID-19 LOCAL OUTBREAK ENGAGEMENT BOARD  
(NOW PART OF HEALTH & WELLBEING BOARD)**

**Terms of Reference**

**Purpose**

The Southampton Covid-19 Local Outbreak Engagement Board is responsible for strategic oversight of health protection regarding Covid-19 in Southampton, including prevention, surveillance, planning and response to ensure they meet the needs of the population.

The Board will support the local delivery of the primary objectives of the Government's strategy to control the Covid-19 reproduction number (R), reduce the spread of infection and save lives, in doing so help to return life to as normal as possible, for as many people as possible, in a way that is safe, protects our health and care systems and releases our economy.

The response will be delivered at various levels and by various partner organisations, but these will need to be brought together at local authority level through the Executive Director of Wellbeing (Health & Adults), supported by the Director of Public Health as lead officer, to ensure a community focus and appropriately tailored response. In addition to the place-based approach overseen by the Board the levels will include:

- National - a National Outbreak Control Plans Advisory Board will be established to draw on expertise from across local government and ensure the NHS Test and Trace programme builds on local capability, and to share best practice and inform future programme development;
- Regional - Co-ordination required on a regional level will be provided through the HIOW Local Resilience Forum and Integrated Care System arrangements;
- Local – Southampton COVID-19 Health Protection Board, working through Local Engagement Boards to define measures to contain outbreaks and protect health.

## Membership

Chair: Leader of the Council

Deputy Chair: ~~Cllr White~~ (Chair of HWB, Cabinet Member for Health, ~~Adults~~ & ~~Leisure~~ ~~Adult Social Care~~)

~~Cllr P Baillie~~, Cabinet Member for Children ~~& Social Care~~ Learning

Board supported by:

Director of Public Health, SCC

~~Executive~~ Director ~~for Wellbeing & Housing~~ ~~Adult Social Care~~, SCC

~~Executive~~ Director ~~for Children and Learning~~ ~~Children's Social Care~~, SCC

CCG Governing Body Chair

Healthwatch & SVS Deputy Chief Executive

Medical Director, University Hospitals Southampton

Director of Meachers Transport – representative of Southampton Chamber of Commerce

Southampton City Council Communications Lead Officer

The Board will invite representation from other organisations or roles specific to the agenda items under consideration.

## Objectives

The Southampton Covid-19 Local Outbreak Engagement Board will:

- Be the public face of Southampton City Council's response in the event of an outbreak of COVID-19
- Provide political oversight of ongoing development and delivery of the Southampton City Local Covid-19 Outbreak Control Plan, including:
- Approving recommendations from the Health Protection Board for allocation of resources to support the effective delivery of the Plan
- Lead engagement with local communities, advising on community engagement, including with vulnerable and/or higher risk communities of interest
- Approve the communications strategy for the Local Outbreak Control Plan
- Approve implementation measures (or make recommendations to other bodies where appropriate) that will prevent virus transmission.
- Monitor the response to local outbreaks and ensure learning informs future practice
- Make recommendations for the wider policy agenda including the recovery workstreams, NHS Recovery and Restoration programme and the Health and Wellbeing Strategy

## Accountability

The group will be accountable to Cabinet in its Statutory role, bringing together key partners in the local health and care system.

It will also have reporting relationships to

- HIOW level governance process for functions delivered at this level
- Southampton's Health and Wellbeing Board

### **Frequency of Meetings**

The Board will meet as and when considered necessary by the Chairman of the Board.

Meetings are open to the public. An agenda and papers will be published at least 5 working days before the meeting. Conflicts of interest must be declared by any member of the group.

### **Quoracy**

A quorum for meetings will be a minimum of 2 people, one of whom will be the Chair or nominated Co-Chair.

### **Review**

Terms of Reference will be reviewed on a bi-monthly basis.

September 2020



### **SCHEDULE 3**

## **MEMBERSHIP OF THE EXECUTIVE AND COMMITTEES OF THE COUNCIL**

### **MEMBER APPOINTMENTS MADE BY COUNCIL**

#### **CABINET (THE EXECUTIVE)**

The Executive shall comprise:

Leader	Councillor Satvir Kaur
Deputy Leader & Children & Learning	Councillor Darren Paffey
Communities & Customer Engagement	Councillor Toqeer Kataria
Economic Development	Councillor Sarah Bogle
Finance & Change	Councillor Steve Leggett
Health, Adults & Leisure	Councillor Lorna Fielker
Housing & the Green Environment	Councillor Lisa Mitchell
Safer City	Councillor Matthew Renyard
Transport & District Regeneration	Councillor Eammon Keogh

#### **COMMITTEES, SUB-COMMITTEES AND PANELS**

Chief Officer Employment Panel  
Governance Committee  
Licensing Committee  
    Licensing & Gambling Sub-Committee  
    Licensing (General) Sub-Committee  
Overview and Scrutiny Management Committee  
Planning and Rights of Way Panel  
Standards Sub-Committee  
    Standards (Appeals) Sub-Committee

#### **SCRUTINY PANELS**

Health Overview & Scrutiny Panel  
Children & Families Scrutiny Panel  
Scrutiny Inquiry Panel

Details of the political make-up and membership of the above Committees and Panels can be found on the Council's website at:

[Councillors \(southampton.gov.uk\)](http://southampton.gov.uk)

#### **PARTNERSHIPS**

[South East Employers](#)  
[South East Employers \(Local Democracy Network\)](#)  
[Joint Commissioning Board](#) (with the CCG)  
Domestic Abuse Partnership Board - TBC

## **JOINT COMMITTEES & PANELS WITH OTHER AUTHORITIES**

[Hampshire Fire and Rescue Authority](#)  
[Police & Crime Panel](#)  
[Hampshire Partnership](#)  
[Hampshire & Isle of Wight Joint Scrutiny Panel](#)  
[Health and Well-Being Board](#)  
[Partnership for South Hampshire](#)  
[Solent Transport Joint Committee](#)  
[Transport for the South East](#)  
[Hampshire County Council's Pension Fund Panel & Board](#)  
Major Cities Housing Group

Details of the political make-up and membership of the above Partnership and Joint Committees can be found on the Council's website at:

[Outside bodies | Southampton City Council](#)

## **MEMBER APPOINTMENTS MADE BY CABINET TO:**

### **REGISTERED CHARITIES, TRUSTS, CORPORATIONS & COMPANIES**

[Clinical Commissioning Group](#)  
[F W Smith Bequest Purchasing Committee](#)  
[Hampshire British Legion Poppy Appeal](#)  
[King Edward VI School Governing Board](#)  
[Solent Freeport Co Ltd](#)  
[Solent Skies – Board of Directors](#)  
[Southern Health NHS Foundation Trust](#)  
[Thorner's Homes](#)  
[University Hospital Southampton NHS Foundation Trust](#)  
[Wulfris Educational Foundation, Southampton](#)

### **STATUTORY COMMITTEES, PANELS & GROUPS**

Corporate Parenting  
Local Safeguarding Adults Board  
Local Safeguarding Children's Board  
Safe City Partnership  
Schools Forum  
Standing Advisory Committee of Religious Education (SACRE)

### **PARTNERSHIPS**

Business Improvement Board  
Business South  
City Eye  
Community Champion for Armed Forces  
Community Champion for Heritage  
Community Champion for Mental Health  
Community Champions for Older Persons  
Future of Work Advisory Board  
Learning Disabilities Partnership Board  
Local Government Association  
Local Government Information Unit  
Port Health Consultative Board  
Project Integra Strategic Board  
[Solent Local Enterprise Partnership](#)  
Solent LEP – Skills & Advisory Board  
Southampton 2025  
Southampton Energy Partnership  
Southampton International Airport Consultative Committee  
Southampton Record Series

Southampton Solent University Board of Governors  
Southampton Voluntary Services  
Southern Inshore Fisheries and Conservation Authority  
Southern Regional Flood & Coastal Committee  
Standing Conference on Problems Associated with the Coastline (SCOPAC)

**INTERNAL AD HOC**

Community Chest Advisory Panel

Details can be found on Cityweb at:

<http://www.southampton.gov.uk/modernGov/mgListOutsideBodies.aspx?bcr=1>

**PART 4: RULES OF PROCEDURE**  
**COUNCIL PROCEDURE RULES**  
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## 1. INTRODUCTION

### 1.1 Interpretation

- (a) Throughout these Council Procedure Rules the following words and expressions shall have the under-mentioned meanings respectively assigned to them:

**"Cabinet Member"** shall mean a member of the Executive appointed by the Leader in accordance with the Council's Constitution.

**"Chief Financial Officer"** shall mean the officer holding the post of Chief Financial Officer of the City Council who is also designated as the "Chief Financial Officer" responsible for the purposes of Section 151 Local Government Act 1972, Section 73 Local Government Act, 1985, and Section 112 Local Government Act 1988 for monitoring the Council's financial affairs.

**"Clear Day"** in relation to a meeting excludes the day on which the summons or agenda for a meeting was published, the day on which the meeting was or is to be held and in this context "Day" shall mean a day other than a Saturday or a Sunday, or a day which is a public or Bank Holiday.

**"Committee"** shall mean a Committee of the Council.

**"Constitution"** shall mean the Council's Constitution as approved by the Council in accordance with the 2000 Act.

**"Council"** shall mean Southampton City Council acting through the Full Council, save where applied to a Committee or Sub-Committee where it shall mean that Committee or Sub-Committee.

**"Executive"** shall mean the Executive of the Council as set out in the Constitution and defined by the 2000 Act.

**"Head of Paid Service"** shall mean the officer holding the post of Chief Executive in the City Council who is also designated as the Head of Paid Service by virtue of Section 4 Local Government and Housing Act 1989.

**"Leader"** shall mean the Leader of the Council, elected by the Council in accordance with the Constitution and the 2000 Act.

**"Lord Mayor"** shall mean the Lord Mayor of the Council or the Person Presiding.

**"Meeting"** shall mean a meeting of the Full Council or in relation to a Committee or Sub-Committee, a meeting of that body.

**"Member"** shall mean in relation to a meeting of the Council, a Councillor, and in relation to a Committee or Sub-Committee shall mean a member of that Committee or Sub-Committee, whether a Councillor or a person who is not a Councillor but who is appointed to be a member of the Committee or Sub-Committee under Section 102 of the 1972 Act.

**"Motion"** includes a recommendation contained in any report concerning an item of business for a meeting and a new motion.

**"Panel"** is the description and label applied to a regulatory Committee or Sub-Committee of the Council.

**"Person Presiding"** shall mean the person appointed or entitled to preside at any meeting including the Chair or Vice-Chair where either presides

**"Protocol"** means a protocol approved by the Director of Legal & Business Services under these Council Procedure Rules.

**"Proposition"** shall include "Motion".

**"Rule"** shall mean a Council Procedure Rule.

**"Special Procedure"** means a procedure approved by the Director of Legal & Business Services under these Council Procedure Rules.

**"Specialist Committee"** means a Committee or Sub-Committee to which a Special Procedure applies.

**"Summons"** shall mean the summons for a meeting, or in relation to a Council Procedure Rule applied to a Committee or Sub-Committee, shall mean the agenda for the meeting.

**"Sub-Committee"** shall mean a Sub-Committee of a Committee of the Council.

**"Terms of Reference"** shall mean the terms of reference of the Committees, and Sub-Committees as varied from time to time.

**"Urgent"** means that the matter giving rise to the urgency must be unforeseeable (in an objective sense) and is not attributable to a failing on the part of the Council (and similar expressions shall be construed accordingly).

**"Vice-Chair"** shall mean the Vice-Chair of a Committee or Sub-Committee and shall encompass the term "Person Presiding" where the Vice-Chair does not preside.

**"Voting Member"** means either a Councillor or other person appointed as a member of a Committee or Sub-Committee under Section 102 of the 1972 Act who is entitled by law to vote at a meeting of the Committee or Sub-Committee.

**"1972 Act"** shall mean the Local Government Act 1972.

**"1989 Act"** shall mean the Local Government and Housing Act 1989.

**"2000 Act"** shall mean the Local Government Act 2000.

- (b) Unless the context otherwise requires, the singular includes the plural and the plural the singular.
- (c) Any reference in a Council Procedure Rule to a numbered or lettered paragraph is, unless the context otherwise requires, a reference to the paragraph of that Council Procedure Rule.

## 1.2. Council Procedure Rules

- a. Subject to paragraphs (b), (c) and (h), only the Council may vary, revoke, add to or suspend these Council Procedure Rules.
- b. This Council Procedure Rule and Council Procedure Rule 2.1 (The Annual Meeting), 3 (Minutes), 6 (Notice and Summons to Meetings) and 17 (Voting), are not capable of being suspended.
- c. Any of the other Council Procedure Rules may be suspended by the Council provided that:
  - i. a motion is given with due notice; or
  - ii. notice of intention to move such suspension is embodied within a minute or report referred to in the Summons.
- d. No Council Procedure Rule shall be suspended, revoked or varied by the Council without the consent of the majority of Members present and voting, and there shall be no speeches other than by the mover of the motion whose speech shall be confined to the reasons for moving the suspension of the Council Procedure Rule(s) in question, and no discussion on a motion to suspend a Council Procedure Rule.
- e. Any proposal to permanently alter these Council Procedure Rules, other than a motion to implement a recommendation of the Governance Committee, shall be in the form of a motion instructing the Governance Committee to report upon

such proposals. Any such motion upon being seconded shall be put to the vote without discussion. The Governance Committee shall report to the next ordinary Council meeting upon any matter referred to it under this Council Procedure Rule.

- f. These Council Procedure Rules embody the requirements of the mandatory Standing Orders, as provided for by the Local Government Act 1972, Local Government and Housing Act 1989 and the Local Government Act 2000, together with secondary legislation, where appropriate. These Council Procedure Rules, therefore, constitute the Council's statutory procedural standing orders, and should be interpreted accordingly.
- g. Subject to Council Procedure Rule 26(2), a Special Procedure or Protocol may vary, revoke, add to or suspend these Council Procedure Rules.
- h. Where any step or action under these Council Procedure Rules is prescribed to be performed by a designated officer, that officer may nominate or authorise another officer in his/her place.

1.3 Save as in respect of any notice that has to be signed to be valid (Council Procedure Rule 13.1(a) and 13.1(d)) any other notice may be given by email to the address as prescribed by the Director of Legal & Business Services as designated for the receipt of such communications.

#### 1.4 **Lord Mayor's Decision Final**

The Lord Mayor's ruling on any point of order, interpretation of these Council Procedure Rules, matters arising during the debate or with regard to the admissibility of an explanation, or otherwise, including any logistical arrangements for any meetings, shall be final and not open to discussion. The Lord Mayor may, from time to time, issue guidance as to how s/he will discharge his/her responsibility in chairing Full Council.

## 2. **MEETINGS OF THE COUNCIL**

### 2.1 **The Annual Meeting**

#### a. Timing and business

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- i. elect a person to preside if the Lord Mayor is not present;
- ii. elect the Lord Mayor;
- iii. elect the Sheriff;
- iv. approve the minutes of the last meeting;
- v. receive any announcements or reports from the Head of the Paid Service, Monitoring Officer, Chief Financial Officer or Lord Mayor;
- vi. elect the Leader;
- vii. appoint the Overview and Scrutiny Management Committee, the Governance Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 3, Table 1 of this Constitution);

- viii. 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 Table 3 of this Constitution);
  - ix. approve a programme of ordinary meetings of the Council for the year; and
  - x. consider any business set out in the notice convening the meeting (including Motions and Questions).
- b. Selection of Councillors on Committees and Outside Bodies  
At the annual meeting, the council meeting will:
- i. decide which committees to establish for the municipal year;
  - ii. decide the size and terms of reference for those committees;
  - iii. decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
  - iv. receive nominations of Councillors to serve on each committee and outside body; and
  - v. appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.
- c. Sub-Committees may be appointed by a special meeting of Committees held immediately following their appointment during the proceedings of annual, Council, subject to the powers of Committees to appoint Sub-Committees, Members to those Sub-Committees and Chairs and Vice-Chairs.

## 2.2 Ordinary Meetings

- a. Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:
- i. elect a person to preside if the Lord Mayor and Sheriff are not present;
  - ii. approve the minutes of the last meeting;
  - iii. matters arising from the minutes of the last meeting;
  - iv. receive any declarations of interest from Members;
  - v. receive any announcements or reports from the Lord Mayor, Leader, the Head of Paid Service, Monitoring Officer or Chief Financial Officer;
  - vi. receive deputations, petitions and requests from and provide answer to the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the Council;
  - viii. receive reports from the Executive and receive questions and answers on any of those reports;
  - vii. deal with any business from the last Council meeting;
  - ix. consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's Budget and Policy Framework;
  - x. receive reports about and receive questions and answers on the business of joint arrangements and external organisations; and
  - xi. receive reports from Overview and Scrutiny and receive questions and answers on any of those reports.
  - xii. consider motions;
  - xiii. receive questions on notice to any chair or the Lord Mayor;
- b. The order of business in this Council Procedure Rule may only be varied by:



- i. direction of the Lord Mayor, made with the unanimous consent of the Members present; or
- ii. a resolution of the Council, moved, seconded and put without comment but not so as to preclude the consideration of any business required by law or to override the provisions of Council Procedure Rule 3.

However, the content of the Summons may be differentiated and subject to any legal requirements, the order and nature of business may vary from meeting to meeting.

c. Matters brought forward by the Lord Mayor

The Lord Mayor may bring forward without notice at any meeting any business judged by the Lord Mayor to be sufficiently urgent to warrant so doing and such business shall have precedence over any notice of motion on the summons. The special circumstances which warrant inclusion of an item without notice shall be specified in the minutes.

## 2.3 Extraordinary Meetings

### Calling extraordinary meetings

- a. Those listed below may request the Director of Legal & Business Services to call Council meetings in addition to ordinary meetings:
  - i. the Council by resolution;
  - ii. the Lord Mayor of the Council;
  - iii. The Leader;
  - iv. the Chief Executive;
  - v. the Monitoring Officer;
  - vi. the Executive Director: ~~Finance & Commercialisation~~ Corporate Services; and
  - vii. any five Members of the Council if they have signed a requisition presented to the Lord 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.

### Business

- b. The Director of Governance, Legal & HR ~~Director of Legal & Business Services~~ shall, in calling an Extraordinary Meeting of the Council, restrict the business on the summons to that required by law, any matter or matters that the Chief Executive, Monitoring Officer or Chief Financial Officer wish to raise and the business for which the Extraordinary Meeting has been called.

### Timing and Logistics of Extraordinary Meetings

- c. The Director of Governance, Legal & HR ~~Director of Legal & Business Services~~ shall determine the time and day of any Extraordinary Meeting in accordance with the Constitution and following consultation with the group leaders, but shall endeavour to arrange any such meeting to be held, where possible, at 6:00 pm on a Wednesday.
- d. The Lord Mayor shall, following consultation with the Group Leaders, subject to any legal obligations and provided that the Director of Governance, Legal & HR ~~Director of Legal & Business Services~~ is satisfied as to its legality, be entitled to vary any process or procedure at Full Council and/or introduce new procedures or processes for the purpose of experimenting or trialling new initiatives.
- e. If, following either annual elections or a by election, the political control of the authority changes, as a direct result no meetings of Council can be called, or

the Urgent Business Sub Committee convened to enable significant decisions to be taken until the next meeting of Council.

- f. Such changes will not affect the Council's ability to react to any time limited or emergency matters, in the rare event that they should they arise as there are existing powers under the Officer Scheme of Delegation to permit the Chief Executive or [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ to act.

## 2.4 Budget Meeting

The Budget Meeting, which shall commence at 2:00 pm, shall transact such business as:

- a. in the opinion of the Executive Director: ~~Finance & Commercialisation~~ [Corporate Services](#), is necessary to enable the Council to comply with its legal obligations in terms of setting a budget and other legal matters associated with the determination of the Council Tax, etc;
- b. is necessary to approve, review, refresh or otherwise consider in the opinion of the Chief Executive, the Medium Term Plan; and
- c. any other business which the Chief Executive, Executive Director: ~~Finance & Commercialisation~~ [Corporate Services](#) or Monitoring Officer consider should be placed before Members.

## 3. MINUTES

- 3.1 Minutes of every meeting of the Council, of any Committee or of any Sub-Committee shall be submitted to, and signed at that meeting or at the next following meeting of the body concerned.
- 3.2 The Lord Mayor shall put the question that the minutes submitted to the meeting be approved as a correct record of that meeting, or of a specified former meeting, as the case may be.
- 3.3 Any question on their accuracy shall be raised by motion, and shall be duly seconded. If no such question is raised, or if it is raised, then as soon as it has been dealt with, the Lord Mayor shall sign the minutes ("the Approved Minutes").
- 3.4 The Lord Mayor shall ask if there are any matters arising upon the Approved Minutes, pursuant to which any member may ask as to the current position or progress made on any item contained in the Approved Minutes. The Lord Mayor shall avoid any debate or discussion that could be construed as attempting to change or vary a previous decision and shall not allow any debate or discussion to transgress the statutory rule that only business specified in the Council Summons may be disposed of at a Council meeting. Information provided under this Rule shall not be minuted.
- 3.5 Where in relation to any meeting of the Council the next such meeting is a meeting called under Paragraph 3 (extraordinary meetings) of Schedule 12 to the 1972 Act, the next following meeting of the Council (being a meeting called otherwise than under that Paragraph of the 1972 Act) shall be treated as a suitable meeting for the purposes of Paragraphs 41(1) and (2) (signing of minutes) of that Schedule.

## 4. APPOINTMENT OF MEMBERS TO COMMITTEES AND SUB-COMMITTEES

### 4.1 Allocation

The Council will allocate seats on the Committees and Sub-Committees of the Council in accordance with the 1989 Act and secondary legislation.

#### 4.2 **Appointment of Members to Seats**

The [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ shall be the Proper Officer for the purposes of the 1989 Act and associated secondary legislation in respect of appointing members to seats on behalf of political groups in accordance with the wishes of political groups as prescribed by the law.

#### 4.3 **Replacement Members on Committees and Sub-Committees**

In the event that a member of a Committee or Sub-Committee resigns from that Committee or Sub-Committee, the Director of Legal & Business Services shall be the Proper Officer for the purposes of the 1989 Act and secondary legislation for the purposes of appointing a replacement member, in accordance with the wishes of the political group to whom that seat has been allocated.

#### 4.4 **Procedure**

The [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ shall, following consultation with the Group Leaders, issue such procedures, protocols and other guidance associated with this Council Procedure Rule as s/he deems necessary.

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

The time and place of meetings will be determined by the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ and notified in the summons.

### 6. **NOTICE OF AND SUMMONS TO MEETINGS**

The [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five Clear Days before a meeting, the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### 7. **CHAIR OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Lord Mayor. Where these rules apply to committee and sub-committee meetings, references to the Lord Mayor also include the Chair of committees and sub-committees.

### 8. **QUORUM**

The quorum of a meeting will be one third of the whole number of Members. During any meeting, the Lord Mayor shall conduct a count if any Member present so requests or if the Lord Mayor so determines of his/her own volition. If the Lord Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Lord Mayor. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

### 9. **DURATION OF MEETING**

#### 9.1 **Interruption of the meeting**

- a. At a time when a period of not less than four hours excluding adjournments has elapsed since the commencement of a meeting of the Council a Member of the Council may move, without comment, that the meeting shall end at a time to be specified in the motion;
- b. The Lord Mayor may refuse to accept the motion and must do so if a similar motion has been rejected earlier in the same meeting;
- c. If the motion is accepted, it shall be seconded and put without comment.

## 9.2 **Motions and recommendations not dealt with**

If the motion is passed, when the time specified arrives, if there are other motions or recommendations on the agenda that have not been dealt with, they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote(s) will be taken in the usual way.

## 9.3 **Recorded vote**

If a recorded vote is called for during this process it will be taken immediately.

## 9.4 **Motions which may be moved**

During the process set out in Rules 9.1 – 9.3, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

## 9.5 **Close of the meeting**

When all motions and recommendations have been dealt with, the Lord Mayor will declare the meeting closed.

## 9.6 **Presumption in favour of meetings ending by 6:30 pm**

There is a presumption in favour of all meetings of the Council, Committees and Sub-Committees that start at 2:00 pm will finish by 6:30 pm. When a meeting reaches that time, any member of the Council, Committee or Sub-Committee may move, without comment that the meeting shall end. If the motion is accepted and seconded, it shall be put without comment and if passed, if there are any other motions or recommendations on the agenda that have not been dealt with, the Lord Mayor or person presiding may determine either to deal with them in accordance with this Council Procedure Rule, or to defer remaining business to the next meeting, but in doing so shall take particular account of any advice from the Chief Executive, Executive Director: ~~Finance & Commercialisation~~ [Corporate Services](#) and/or Monitoring Officer as to any business that, in their view, the Council or the meeting of the Council should determine at that meeting. In the event of a motion being put to the meeting under this Council Procedure Rule, it will be necessary for two thirds of the members present and voting at the meeting to support a proposal that the meeting should carry on for the meeting to proceed beyond 6:30 pm.

# 10. **PETITIONS, DEPUTATIONS AND QUESTIONS BY THE PUBLIC**

## 10.1 **Petitions**

Petitions shall be managed in accordance with the Petition Scheme set out in Part 11 of this Constitution save as provided elsewhere within the Constitution or as provided by law. At a meeting of the Council any Member or member of the public may present a petition which is submitted in accordance with the Council's scheme for handling petitions as annexed to Part 11 of this Constitution.

## 10.2 Action

- a. Petitions containing 1500 signatures or more (a qualifying petition) will require a debate at a Council meeting;
- b. Petitions with less than 1500 signatories (non-qualifying) shall be presented to the Council meeting and be received without discussion and shall be included on the agenda for the next available meeting of the Cabinet. The Member of the Council or member of the public presenting the petition shall be invited to attend any meeting to which it is referred; and shall be informed subsequently of any action taken or proposed in accordance with the requirements of the Council's Petitions Scheme;
- c. Petitions containing a minimum of 750 signatures but less than 1500 signatures and requesting a senior officer to give evidence will be referred to a public meeting of the Overview and Scrutiny Committee in the first instance;
- d. Petitions with more than 50 signatories will be treated as a petition that requires a response in accordance with the Council's Scheme for Handling Petitions; and
- e. The Council will take a more flexible approach on a case by case basis in responding to Petitions with less than 50 signatories.

## 10.3 Presentation

The presentation of non-qualifying petitions shall be confined to reading out, or summarising the petition and indicating the number and description of the signatories. Petitions shall be presented in the order in which notice of them is received by the Lord Mayor.

## 10.4 Debate on Petitions

A qualifying petition will require a debate at Full Council, if timescales permit, except where the petition is asking for a senior officer to give evidence. Where timescales do not allow a debate at Full Council, the matter will be referred to the first available meeting of the appropriate decision-maker or relevant committee. The length of debate shall be at the discretion of the Lord Mayor and in accordance with the Council's procedure rules, after which a vote will be put.

## 10.5 Response to Petitions

The Council will decide how to respond to the petition and shall decide either:

- a. To take the action the petition requests;
- b. Not to take the action the petition requests for reasons stated in the debate;
- c. To commission further investigation into the matter prior to consideration at a future meeting of the Council, which may include holding an inquiry or public meeting, commissioning research or reference to a particular committee or body for their views;
- d. To refer the petition to Cabinet or the relevant Cabinet Member meeting where the matter relates to an Executive function, in which case the Council may make recommendations to the relevant Executive decision.

## 10.6 Officer Evidence

The senior officers to be called to give evidence at a public meeting under section 16 Local Democracy, Economic Development and Construction Act 2009 and pursuant to the Council's Scheme for Handling Petitions are:

- The Chief Executive

- Executive Directors
- Service Directors

## 10.7 Deputations

- a. Persons wishing to make a deputation to the Council shall give at least seven Clear Days' notice in writing to the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ explaining the subject of the deputation, unless in the opinion of the Lord Mayor the matter is one of significance and urgency, such that it would not have been possible for the above timetable to be complied with. In such circumstances the Lord Mayor may, at his or her sole discretion, either permit the deputation to be heard or alternatively ask Council by vote without discussion to determine whether it wishes the deputation to be heard. All requests shall be referred to the Lord Mayor for consideration. The Lord Mayor shall have the discretion to reject or refuse any request or may determine that such a request should be redirected to the Executive, a committee or sub-committee of the Council or, by agreement, a third party (eg a partner). Petitions presented as part of or with a deputation will be dealt with in accordance with the provisions of the Council's Constitution and Scheme for Handling Petitions.
- b. A deputation to be received by the Council shall be read by the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ or other officer, and immediately after having done so, any proposal to receive the person or persons or the deputation shall be formally moved and seconded without discussion and shall be put to the vote. If the motion is carried, the person or persons shall be conducted into the meeting and shall present their deputation.
- c. A deputation may comprise between one and three persons all of whom may address the Council. The deputation shall not exceed seven minutes in duration, such time to include any time taken by the deputation to read any petition or other document.  
If in the view of the Lord Mayor the deputation is duplicatory or overlaps with other deputation(s) to be considered at the same meeting, the Lord Mayor may move that the deputations be consolidated and the time limit for the deputation varied accordingly.
- d. Subject to this Council Procedure Rule, the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ shall deal with requests for deputations in accordance with the following:
  - i. **Where the issue is the subject of a recommendation or notice of motion to the next meeting of the Council**  
The request shall be placed on the agenda for that Council meeting and the Council shall be asked whether it is willing to receive the deputation. When a deputation has been received by the Council, there shall be no discussion on the points raised and the matter shall stand deferred until the relevant recommendation or notice of motion is presented to the Council.
  - ii. **Where the issue is the subject of a previous deputation or resolution of the Council within the previous six months and is not covered by (a) above**  
The deputation shall not be entertained by the Council, when the Council has considered a previous deputation within the previous six months.
  - iii. **Where the issue is not before the Council and has not been resolved upon in the previous six months**

The request shall be placed on the agenda for that Council meeting and the Council shall be asked if it is willing to receive the deputation.

When a deputation has been received by the Council, the Lord Mayor shall refer the matter to the Leader or appropriate Cabinet Member for a response. In the absolute discretion of the Lord Mayor, Members may thereafter be permitted to comment or ask questions in relation to the Leader or Cabinet Member's response. Where the Lord Mayor permits such questions or responses to be raised, the Lord Mayor shall allow the Leader or appropriate Cabinet Member a right of reply at the end of the debate on the deputation.

iv. **Where**

- a. the issue is within the terms of reference of a Specialist Committee; or
- b. the issue is or relates to matters of a quasi-judicial nature; or
- c. where the issue is defamatory, frivolous or offensive; or
- d. where the issue refers to legal proceedings being taken or being anticipated by or against the Council;
- e. where the issue relates to the provision of personal (eg a care package, housing) services; or
- f. where the deputee has a commercial or financial interest in the issue

the deputation shall not be entertained and the deputee shall be advised accordingly by the Director of Legal & Business Services.

## 10.8 Questions

a. General

Members of the public (who are not Councillors or Officers) may ask questions of the Lord Mayor, Chairs of Committees and Members of the Executive at ordinary meetings of the Council.

b. Order of questions

Questions will be asked in the order notice of them was received, except that the Lord Mayor may group together similar questions.

c. Notice of questions

A question may only be asked if notice has been given by delivering it in writing to the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ no later than midday seven Clear Days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Executive or Chair to whom it is to be put.

d. Number of questions

At any one meeting no person may submit more than three (3) questions and no more than three (3) such questions may be asked on behalf of one organisation.

e. Scope of questions

The [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ may reject a question if it:

- i. is within the terms of reference of a Specialist Committee; or
- ii. is or relates to matters of a quasi-judicial nature; or
- iii. is defamatory, frivolous or offensive; or
- iv. refers to legal proceedings being taken or being anticipated by or against the Council; or

- v. is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- vi. requires the disclosure of confidential or exempt information; or
- vii. relates to the provision of personal (e.g. a care package) services; or
- viii. where the questioner has a commercial or financial interest in the issue

If rejected, the questioner shall be advised accordingly by [Director of Governance, Legal & HR](#)~~the Director of Legal & Business Services~~.

f. Record of questions

The [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions to be asked will be circulated to all Members and will be made available to the public attending the meeting.

g. Asking the question at the meeting

The Lord Mayor will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Lord Mayor to put the question on their behalf. The Lord Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

h. Supplemental question

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Lord Mayor may reject a supplementary question on any of the grounds in Rule 10.4.

i. Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

j. Reference of question to the Executive or a committee

Unless the Lord Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

## 10.9 Representations on an Item of Business

At the sole discretion of the ~~Lord Mayor~~[Chair](#), members of the public may be invited to address the Council, a Committee or Sub-Committee on any report in which they have a genuine or relevant interest. This includes (but is not limited to) the presentation of petitions by the public.

## 10.10 Aldermen

At the discretion of the Lord Mayor Honorary Aldermen shall be entitled to speak on any item of business up to a maximum of 5 minutes per item (save this does not apply to any confidential business or exempt items).

## 10.11 Application and Variation of this Council Procedure Rule



The [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~, may, at his/her discretion, in exceptional circumstances, vary the procedure set out in this Council Procedure Rule and a Special Procedure or Protocol may regulate whether and the manner in which representations by Members, officers of the Council or other organisations and individuals may be made.

## 11. QUESTIONS BY MEMBERS [\[To be updated post AGM\]](#)

### 11.1 On reports of the business of the Executive

Subject to Rule 11.4, a Member of the Council may ask the Leader or Cabinet Member any question on notice during the Report of the Executive when that item of business is under consideration by the Council.

### 11.2 Questions to the Lord Mayor, Cabinet Members or Chairs

Subject to Rule 11.4, a Member of the Council may ask:

- i. the Lord Mayor;
- ii. Cabinet Members; or
- iii. the Chair of any committee or sub-committee

a question on any matter related to their role, responsibilities and/or office, subject to no minor issues being raised unless they have first been addressed to the appropriate officer, followed by the relevant Cabinet Member if the response was unsatisfactory and then only to Full Council if the Cabinet Member's response remains unsatisfactory. If a question relates to a major project or significant policy concern, that may be submitted direct to Council. The Lord Mayor will be the final arbiter on whether any Question is to be tabled after consultation with the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~. No Question will be struck out without consultation with the tabler and/or Group Leader.

### 11.3 Questions on notice at committees and sub-committees

Subject to Rule 11.4, a Member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that committee or sub-committee.

### 11.4 Notice of questions

A Member may only ask a question under Rule 11.1, 11.2 or 11.3 if:

- a. the question is given in writing to the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Operations~~ by noon five (5) Clear Days before the meeting. The Director of Legal & Business Operations will acknowledge receipt of such questions; or
- b. if the question relates to urgent matters, they have the consent of the Lord Mayor and the content of the question is given to the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ prior to the commencement of the meeting. The Lord Mayor must seek the advice of the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ before deciding whether to permit the Question to be asked.
- c. for the Annual General Meeting in May each year, the question is given in writing to the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ by noon six Clear Days before the meeting. Director of Legal & Business Services will acknowledge receipt of such questions;
- d. in the event that the decision on whether or not to allow a question, the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ will consult with the Lord Mayor.

### 11.5 Form of Response

An answer may take the form of:

- a. a written answer tabled at the meeting
- b. a direct oral answer;
- c. where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- d. where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

#### 11.6 **Transferring the Response**

Every question shall be put and answered without discussion, but the person to whom a question has been put may ask another Member to respond or may decline to answer.

#### 11.7 **Supplementary question**

Any Member, following a question asked under Rules 11.1, 11.2 or 11.3 may ask one or more supplementary questions without notice to the Member to whom the first question was asked at the discretion of the Lord Mayor and subject to Rule 12. The supplementary questions must arise directly out of the original question or the reply.

#### 11.8 **Written Answers**

On request from the Member asking a question, a brief summary of key points in an oral answer shall be provided within 10 working days.

#### 11.9 **Record of Questions and Answers on Notice at Full Council**

Questions asked on Notice at Full Council under Rule 11.1 or 11.2 will be recorded in the minutes, as will any answer. For the avoidance of doubt, neither supplementary questions nor answers shall be recorded. Where a verbal answer is given to a question asked under Rule 11.1 or 11.2, the precise wording of the answer to be included in the minutes shall be agreed with the Member giving the response.

### 12. **EXECUTIVE BUSINESS [\[To be updated post AGM\]](#)**

- 12.1 The Leader shall present a verbal report of the Business of the Executive for each ordinary meeting of the Council. In presenting the report, the Executive shall have ~~seven~~fifteen minutes to make any statements that they wish, either relating to the report before Council or in relation to any other item, topic or subject that they feel should be drawn to the attention of Council.
- 12.2 Following the presentation of the Report of the Business of the Executive, any member may ask a question of the Leader or a Cabinet Member arising from either the written report or a verbal statement made by a member of the Executive provided that the question is not one which is to be put under Council Procedure Rule 12.3. This item of business shall not last longer than ~~eight~~fifteen minutes unless in the view of the Lord Mayor, or on a motion moved by a Member, seconded and approved by Council, it is deemed appropriate to extend the time. In this event, the Lord Mayor shall specify the duration of any extension.”
- 12.3 Following the presentation of the report and questions arising on that, the Lord Mayor shall, subject to Rule 12.6, call Members to ask questions for which due notice has been given of the Leader or a Cabinet Member submitted pursuant to Rule 11.1.
- 12.4 Where possible, the answer to the question shall be made available in writing to Members and the public prior to the meeting and, in that case, the Executive Member shall not read the answer out in full.

- 12.5 Following any question asked pursuant to Rule 12.3, subject to Rule 12.6, any Member may ask one or more supplementary questions provided the supplementary question arises directly out of the original question or reply.
- 12.6 The Lord Mayor, in his/her absolute discretion, shall determine the order of speaking, the order in which questions are put, and shall endeavour to ensure the widest possible debate between the Executive and the Council on issues relating to the business of the Executive. The Lord Mayor may also determine that a question should not be put, or does not warrant or justify a supplementary.
- 12.7 The Lord Mayor, in his/her absolute discretion, may allow a Member to ask a question not on notice if in the opinion of the Lord Mayor the matter is one which should be raised, whether it has been referred to by the Executive in their report or not.
- 12.8 ~~At the end of the debate on Executive business, the Leader shall be afforded a further five minutes to reply, which time s/he may share with the other Members of the Executive in whole or in part at his/her absolute discretion.~~
- 12.89 This item of business shall not last longer than one hour unless, in the view of the Lord Mayor, or on a motion moved by a Member, seconded and approved by Council, it is deemed appropriate to extend the time. In this event, the Lord Mayor shall specify the duration of any extension.
- 12.940 Any question properly submitted under Rule 12.3 but which is not reached in the timeframe allotted for this item of business shall receive a written response from the Executive.
- 12.104 Members shall ensure that questions and answers are concise, relevant and to the point.

### 13. MOTIONS

#### 13.1. Motions on Notice

##### a. Notice

Except for motions which can be moved without notice under Rule 13.2, written notice of every motion, signed by at least one (1) Member, must be delivered to the ~~Director of Governance, Legal & HR~~Director of Legal & Business Services not later than 10:00 am on the Monday in the week preceding the next meeting of the Council (or if the Council meeting is held on a day other than a Wednesday, by 10:00 am six Clear Days before the meeting). These will be entered in a book open to public inspection.

##### b. Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

##### c. Scope

Motions must be about matters for which the Council has a responsibility or which affect the City of Southampton.

##### d. Notice of Motion to Amend

Members shall use their best endeavours to ensure that notices of motion to amend shall be in writing, signed by the Member giving the notice, and delivered not later than 12:00 pm (noon) on the day before the day of the meeting to the ~~Director of Governance, Legal & HR~~Director of Legal & Business Services.

- e. If notice is given of any Motion that the ~~Director of Governance, Legal & HR~~Director of Legal & Business Services considers proposes action which is ultra vires, unconstitutional or otherwise illegal, said motion shall not be printed in the Council Summons. If Director of Legal & Business Services considers that a motion is otherwise out of order, such Motion shall be submitted forthwith

to the Lord Mayor. The Lord 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 his/her opinion, it is one that ought properly to be considered by the Members of the Council with a view to determining its validity. In the event of a Motion being rejected, the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ shall so inform the Member giving notice as soon as reasonably practicable.

### 13.2 **Motions without Notice**

a. The following motions may be moved without notice:

- i. to appoint a Chair of the meeting at which the motion is moved;
- ii. in relation to the accuracy of the minutes;
- iii. to change the order of business in the agenda;
- iv. to refer something to an appropriate body or individual;
- v. to appoint a committee or Member arising from an item on the summons for the meeting;
- vi. to receive reports or adoption of recommendations of committees or Officer and any resolutions following from them;
- vii. to withdraw a motion;
- viii. subject to Rule 13.1(d), to amend a motion;
- ix. to proceed to the next business;
- x. that the question be now put;
- xi. to adjourn a debate;
- xii. to adjourn a meeting;
- xiii. any matter arising under Rule 9;
- xiv. to suspend a particular Rule;
- xv. to exclude the public and press in accordance with the Access to Information Rules;
- xvi. to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4;
- xvii. to give the consent of the Council where its consent is required by this Constitution; and
- xviii. in any other circumstances where the Lord Mayor considers it appropriate.

## 14. **RULES OF DEBATE**

### 14.1 **No speeches until motion seconded**

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

### 14.2 **Right to require motion in writing**

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

### 14.3 **Secunder's speech**

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

#### 14.4 **Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Without the consent of the Lord Mayor, save where otherwise specified, the maximum length of speeches shall be as follows:

Movers of motions	7 minutes
Movers of amendments	7 minutes
The Leader or appropriate Cabinet Member	7 minutes
All other speakers	4 minutes
All rights of reply	4 minutes

#### 14.5 **When a Member may speak again**

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

- a. to speak once on an amendment moved by another Member;
- b. to move a further amendment if the motion has been amended since s/he last spoke;
- c. if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which s/he spoke was carried);
- d. in exercise of a right of reply;
- e. on a point of order; and
- f. by way of personal explanation.

#### 14.6 **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. No further amendment may be moved until the amendment under discussion has been disposed of.
- c. If an amendment is not carried, other amendments to the original motion may be moved.
- d. 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.
- e. After an amendment has been carried, the Lord Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 14.7 **Alteration of motion**

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

#### 14.8 **Withdrawal of motion**

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

#### 14.9 **Right of Reply**

- a. The mover of a motion has a right to reply which shall be heard prior to any vote.
- b. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- c. The mover of the amendment has no right of reply to the debate on his or her amendment.

#### 14.10 **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 the next business;
- d. that the question be now put;
- e. to adjourn a debate;
- f. to adjourn a meeting;
- g. any matter arising under Rule 9;
- h. to exclude the public and press in accordance with the Access to Information Rules; and
- i. to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

#### 14.11 **Closure motions**

- a. A Member may move, without comment, the following motions at the end of a speech of another Member:
  - i. to proceed to the next business;
  - ii. that the question be now put;
  - ii. to adjourn a debate; or
  - iv. to adjourn a meeting.
- b. If a motion to proceed to next business is seconded and the Lord Mayor thinks the item has been sufficiently discussed, s/he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c. If a motion that the question be now put is seconded and the Lord Mayor thinks the item has been sufficiently discussed, s/he will put the procedural motion to the vote.
- d. 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.
- e. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Lord 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.

#### 14.12 **Point of order**

A Member may raise a point of order at any time. The Lord Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which s/he considers it has been broken. The ruling of the Lord Mayor on the matter will be final.

#### 14.13 **Point of Information**

A Member, whether or not he or she has spoken on the question under discussion, may rise whilst another Member is speaking, in order to provide information of assistance to the Council on the subject matter of that other Member's speech and shall, upon rising, say "Point of Information please, Mr/Madam Lord Mayor". It shall then be for the Member who is speaking to decide whether or not to give way to the Member wishing to provide information.

If it appears to the Lord Mayor that the Member who is addressing the Council does not intend to give way, the Lord Mayor shall have absolute discretion as to who speaks and in what order.

#### 14.14 **Personal explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood or which contained a reference to that Member in the course of a speech by another Member in the present debate. The ruling of the Lord Mayor on the admissibility and timing of a personal explanation will be final.

#### 14.15 **Inappropriate or Excessive Interventions**

Any use of Rules 14.12, 14.13, 14.14 which the Lord Mayor shall judge to be excessive shall be deemed to be a breach of order under Rule 21.

#### 14.16 **Disclosure of Interests and Participation**

Where a member has a disclosable pecuniary interest under the Localism Act 2011 or a personal and pecuniary interest under Part 4 of the Code of Conduct for Members in any matter being discussed, then the member must declare that interest and withdraw from the room where the meeting is being held immediately after making representations, answering questions or giving evidence unless a dispensation to remain has been obtained from the Council's Governance Committee.

### 15. **HONOURS**

- 15.1 Where there is any proposal, howsoever it arises, to grant the status of Honorary Alderman or Freeman of the City to any citizen or group of citizens, it is a requirement of the person proposing that such an honour is conferred that the proposal shall be referred, without any further consideration, in confidence, to the Director of Legal & Business Services. There shall be no public statement whatsoever by the proposer as to this matter at this stage. The [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ shall determine whether and if such a proposal is to be taken forward to Council, in consultation with the Group Leaders.

- 15.2 The ~~Director of Governance, Legal & HR~~~~Director of Legal & Business Services~~ shall, following consultation with the Group Leaders, operate a process and bring forward nominators for the Council to bestow recognition on citizens or groups of citizens for service and the City.

## **16. PREVIOUS DECISIONS AND MOTIONS**

### **16.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least one third of the Members of the Council.

### **16.2 Motion similar to one previously rejected**

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 the notice of motion or amendment is signed by at least one third Members of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **17. VOTING**

### **17.1 Majority**

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

### **17.2 Lord Mayor's casting vote**

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

### **17.3 Show of hands**

Unless a vote is demanded under Rule 17.4, the Lord Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **17.4 Recorded vote**

If 10 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

### **17.5 Right to require individual vote to be recorded**

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

### **17.6 Voting at Budget Meeting**

Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting”

## 18. COMMITTEE RECOMMENDATIONS

- 18.1 Upon a motion for the determination of minutes of a Committee containing recommendations of that Committee to Council, the Lord Mayor will ask the Chair and Vice-Chair or such other members as appropriate to move and second the minute. If the Chair wishes to move an amendment it should be moved at this time otherwise it is taken that the Chair has reserved his/her introductory speech. The Lord Mayor shall put that minute to the meeting following which it shall be open for general discussion.
- 18.2 If there is more than one minute of a Committee containing recommendations of that Committee to Council, it shall be dealt with once the first minute has been disposed of.

## 19. OVERVIEW AND SCRUTINY BUSINESS

- 19.1 The Chair of the Overview and Scrutiny Management Committee or another Member in his/her place, may move a motion relating to the business of Overview and Scrutiny and/or of the findings of a Panel, or a matter that Overview and Scrutiny consider should be debated by Full Council.
- 19.2 For the avoidance of doubt, the Council does not have the legal power to overrule, vary or change an Executive decision, save as provided in the Constitution.
- 19.3 The normal rules of debate for motions shall apply to this item of business.
- 19.4 This item of business shall not last longer than one hour unless in the view of the Lord Mayor, or on a motion moved by a Member, seconded and approved by Council, it is deemed appropriate to extend the time. In this event, the Lord Mayor shall specify the duration of any extension.

## 20. EXCLUSION OF PUBLIC

- 20.1 Members of the public and press may only be excluded either in accordance with the law, the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

## 21. MEMBERS' CONDUCT

### 21.1 Standing to speak

When a Member speaks at full Council they must stand (if they are able to) and address the meeting through the Lord Mayor. If more than one Member stands, the Lord Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order, information or personal explanation.

### 21.2 Lord Mayor standing

When the Lord Mayor stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

### 21.3 Member not to be heard further

If a Member persistently disregards the ruling of the Lord Mayor by behaving improperly or offensively or deliberately obstructs business, the Lord Mayor may move

that the Member be not heard further. If seconded, the motion will be voted on without discussion.

#### **21.4 Member to leave the meeting**

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

#### **21.5 General disturbance**

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

### **22. DISTURBANCE BY PUBLIC**

#### **22.1 Removal of Member of the public**

If a Member of the public interrupts proceedings, the Lord Mayor will warn the person concerned. If they continue to interrupt, the Lord Mayor will order their removal.

#### **22.2 Clearance of part of room**

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

### **23. ADJOURNED MEETINGS**

When a meeting is adjourned to a future day, notice of the adjourned meeting shall be sent to each Member specifying the business to be transacted thereat, but it shall not be necessary to send with any such notice a second print of any Committee minutes or reports referred to therein. Only new business of an urgent nature may be introduced at an adjourned meeting.

### **24. TERMS OF REFERENCE FOR THE COUNCIL**

The Council may discuss any matter relevant to it, including its Constitution, election, powers and duties, and the City of Southampton.

### **25. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

25.1 All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Executive. Only Rules 1, 5–9, 11–14 (but not 12), 16–18, 20–28 (but not Rule 21.1 in so far as it relates to standing) apply to meetings of committees and sub-committees subject to:

- a. in relation to Rules 5 and 6, the Director of Legal & Business Services shall determine the time and place and be responsible for issuing Committee and Sub-Committee summonses and agendas; and
- b. in relation to Rule 17.4, the number of Members present at a meeting requisite to call a recorded vote, shall be three (3) or one third of the full membership of the Committee or Sub-Committee, whichever is greater.

25.2 Whenever a casual vacancy arises in relation to a person appointed other than a Member to a Committee or Sub-Committee, the Director of Legal & Business Services shall make that appointment.

#### **25.3 Special Meetings of Committees and Sub-Committees**

- a. The Chair of a Committee or Sub-Committee may call a special meeting of that Committee or Sub-Committee at any time.

- b. If
  - i. a requisition for a special meeting of a Committee or Sub-Committee, signed by at least three, or one-third of the total number of the voting Members of a Committee or Sub-Committee, whichever is the greater, has been presented to the person appointed to preside at their meetings, and
  - ii. either s/he has refused to call a meeting or, without him/her so refusing, no special meeting has been called within five Clear Days of the presentation of the requisition.  
then any three, or one-third of the number of the members of the Committee or Sub-Committee, whichever is the greater, may forthwith call a special meeting of the Committee or Sub-Committee.
- c. If a meeting of a Committee or Sub-Committee is requisitioned under this Council Procedure Rule, the person doing so shall forthwith give notice in writing that they have done so to the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~, specifying the business proposed to be transacted. The [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ shall forthwith give notice to all Members of the Committee or Sub-Committee and all persons entitled to receive the papers.
- d. Any requisition under this Council Procedure Rule may be presented by being left with the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~.

## 26. CONDUCT OF BUSINESS & DEBATE AT COMMITTEES OR SUB-COMMITTEES

### 26.1 Terms of Reference

Subject to and in accordance with the provisions of these Council Procedure Rules, and to any directions of the Council, the terms of reference of the various Committees and Sub-Committees shall be as set out in Part 3 of this Constitution.

### 26.2 Special Procedures and Protocols

- a. Any Committee or Sub-Committee shall follow a Special Procedure or Protocol, where one exists, for the transaction of the whole or part their business which has been approved by the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~.
- b. The [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~ may direct that a Special Procedure or Protocol shall apply to the transaction of the whole or part of business at other Committees or Sub-Committees or in respect of other functions or activities of the Council in order to comply with the Human Rights Act 1998 or any rule of law or to avoid maladministration by the Council or for the efficient despatch of business.
- c. Subject always to any legal requirements, a Special Procedure or Protocol may:
  - i. vary, revoke or add to or suspend any of these Council Procedure Rules in respect of the rules and procedures to be followed by such Committees and Sub-Committees; and
  - ii. allow the Chair to waive or vary a Special Procedure or Protocol in exceptional circumstances where to do so would be in the interests of fairness or natural justice.

### 26.3 Committee Business Restricted to Agenda Items

Except by reason of urgent circumstances, of which the Chair of the Committee or Sub-Committee shall be judge, no business shall be transacted at any meeting of a Committee or Sub-Committee except such as is set out on the agenda which shall be available to the public five clear days before the meeting concerned ~~or at such time as the meeting is convened, if convened at shorter notice.~~

#### 26.4 **Reports to Contain Recommendations**

Subject to any Special Procedure or Protocol, all reports relating to items of business on the agenda shall contain a recommendation or recommendations that shall be the original motion for determination by the meeting, and which shall be open to amendment.

#### 26.5 **Matters on the agenda raised by Members**

Any Member requiring a report on a matter within the terms of reference of a Committee or Sub-Committee to be included on the agenda of that Committee or Sub-Committee must advise the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ in writing twelve Clear Days prior to the meeting of this request.

26.6 Any Member wishing to urgently raise a matter in the Committee or Sub-Committee after the agenda has been published may do so on giving to the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ reasonable notice in writing stating the reason for urgency. Such matter may only be discussed if the Chair of the Committee or Sub-Committee considers the nature of the business of sufficient urgency to warrant inclusion at the meeting.

### 27. **RIGHTS OF MEMBERS TO SPEAK AT MEETINGS OF COMMITTEES AND SUB-COMMITTEES**

27.1 Save where the law or this Constitution provides to the contrary:

- a. the Lord Mayor and Sheriff of the Council, the Leader or any Cabinet Member may speak (but may not vote) at a meeting of a Committee or Sub-Committee of which they are not Voting Members.
- b. the Chair and Vice-Chair of a Committee may speak at a meeting of any Sub-Committee appointed by that Committee, but may not vote unless appointed as a Voting Member.
- c. a Member of the Council who is not otherwise entitled to speak at a Committee or Sub-Committee shall be entitled to do so (but not to vote) at a meeting of the Committee or Sub-Committee:
  - i. during the consideration of any motion of which notice has been given which s/he has moved or seconded at a meeting of the Council and which has been referred to that Committee or Sub-Committee; or
  - ii. with the prior agreement of the Chair; or
  - iii. during the consideration of any matter which affects his/her ward differently from other wards.
- d. This Council Procedure Rule shall apply equally to meetings or parts of meetings of Committees and Sub-Committees to which the press and public are not admitted under the access to information provisions of the 1972 Act.
- e. A Special Procedure may exclude Rule 27.1(a) above and regulate the manner in which Rules 27.1(b) and (c) are exercised.

## 28. URGENT BUSINESS SUB COMMITTEE

- 28.1 The Chair and Vice-Chair of each Committee and Sub-Committee of the Council and a representative of the Opposition Party(s) for each Committee or Sub-Committee shall constitute a Sub-Committee with power to deal with any urgent business arising at any time which cannot await the next scheduled meeting of the Committee or Sub-Committee. The quorum for such a meeting shall be two. The reason for urgency shall be included on the agenda, in the report and in the Minutes of the meeting.
- 28.2 Where an Urgent Business Sub-Committee involves more than one Committee or Sub-Committee then the Chairs and Vice-Chairs of those Committees or Sub-Committees together with one representative from each of the Opposition Parties for each parent Committee or Sub-Committee shall constitute the Urgent Business Joint Meeting.
- 28.3 Any Chair or Vice-Chair may nominate a Member of the Committee or Sub-Committee of which they are the Chair and Vice-Chair to act for the purposes of (1) or (2) above whenever they are absent or otherwise unable to act.
- 28.4 Every Urgent Business Sub-Committee shall, when acting in pursuance of Rule 28.1 or 28.2 above, do so subject to the provisions of these Council Procedure Rules and the respective terms of reference of the Committee or Sub-Committee concerned, and in accordance with the appropriate Committee's general policies.
- 28.5 Every decision of an Urgent Business Sub-Committee acting in pursuance of Rule 28.1 or 28.2 above shall be reported to the next following meeting of the Committee or Sub-Committee if time permits or direct to Council.
- 28.6 An Agenda shall be published 5 clear days before the date set for the Urgent Business Sub-Committee's meeting or (if the meeting is called on less than 5 clear days' notice) at the time the meeting is convened. Copies of the agenda shall be made available to the Leaders of the Political Group(s) or their nominated representatives and to the public at the time the agenda is published.
- 28.7 The public shall have access to an Urgent Business Sub-Committee meeting but may be excluded by resolution if the urgent business relates to confidential or 'exempt' information as defined in Local Government Act 1972 as amended. The public will be automatically excluded if the business of the meeting is 'confidential' as defined by the Act.

**Note: Urgent Business Sub-Committees shall only be called where it is impracticable to either (1) add the report to the agenda of a scheduled Committee or Sub-Committee meeting as a "late urgent item" or (2) to call a Special Meeting of the Committee or Sub-Committee in question.**

- 28.8 In the case of any business which is included in the meeting of the Committee, Sub-Committee or Urgent Business Sub-Committee by reason of its urgency there shall be within the Minutes of such meeting a note specifying the special circumstances which warranted that the item be included.
- 28.9 For the avoidance of doubt, no business other than urgent business shall be conducted at an Urgent Business Sub-Committee.





## Access to Information Procedure Rules

### 1. SCOPE

These rules apply to all meetings of the Council, its Committees and Sub-Committees (including but not limited to the Overview and Scrutiny Committees, area committees (if any), the Governance Committee and regulatory committees and panels and public meetings of the Executive (together called "meetings").

### 2. PRINCIPLES

These rules will be interpreted, where possible, in accordance with the following guiding principles / presumptions:

- a. Openness: the right of the public to gain access to meetings and documents;
- b. Transparency: the provision of information so that the public know who is responsible for making a particular decision, when and where, and have an explanation or justification for a decision;
- c. Accountability: the public can measure the actions taken against policies and plans on which those responsible were elected to office.

### 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 days' notice of any meeting by posting details of the meeting at the designated office and publishing on its website.

### 5. RIGHTS TO PAPERS

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

### 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 ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage

and any other costs.

## **7. ACCESS TO PAPERS 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 of the Executive, 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 officer with responsibility for the report (usually the report author) will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- a. disclose any facts or matters on which the report or an important part of the report is based; and
- b. which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

### **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.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at the Civic Centre – from the ~~Director of Legal & Business~~ [Director of Governance, Legal & HR Services](#).

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

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

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

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

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. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human

Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

Exempt information means information falling within the following seven categories (subject to any condition):

CATEGORY		CONDITION
1.	Information relating to any individual.	This means any individual person and relates back to the Data Protection Act 1998 (DPA).
2.	Information which is likely to reveal the identity of an individual.	This again relates back to DPA.
3.	Information relating to the financial or business affairs of any particular person (including the Authority holding that information).	Includes information relating to the Authority's own financial or business affairs. It does not include information which is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965-1978, the Building Societies Act 1986 or the Charities Act 1993 as such information will be in the public domain in any event.  The "financial affairs or business affairs" include past, present and contemplated activities.
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.	"Employee" means a person employed under a contract of service with the Council and would not therefore include a consultant or a temporary member of staff employed through an agency or a company. Information about such a person, however, may well be covered under the exemptions in paragraphs 1, 2 and 3 but it will depend on the individual matter.  "Labour relations matter" means matters which may be the subject of a trade dispute within the meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute. This is therefore fairly narrow and does not appear to include normal staff negotiations which are not part of a dispute.

CATEGORY		CONDITION
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	
7(A)	Information which is subject to any obligation of confidentiality	
7(B)	Information which relates in any way to matters concerning national security	
7(C)	The deliberations of a Standards Committee or of a sub committee of the Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act	

Information is **not exempt** 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.

#### 10.5 Public Interest Test

Paragraphs 1-7 of the exceptions (Rule 10.4) are subject to the public interest test. In determining whether this information should remain exempt, the report writer and the decision-maker will have to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. All report writers will, therefore, give consideration to this and explain why they consider the public interest test is best served by the information remaining exempt. The final officer determination as to disclosure will be made by the Proper Officer for Freedom of Information decisions (the ~~Director of Legal & Business~~ [Director of Governance, Legal & HR Services](#)) who is also the Proper Officer for decision-making. This determination, together with reasons, will appear in the report and the agenda as well in relation to that item.

## 10.6 Governance Committee

All the exemptions may apply to the Governance Committee (and any sub-committees of that) although 7(A), (B) and (C) are specifically applicable to Governance sub-committees when determining complaints alleging breaches of the Members' Code of Conduct.

## 10.7 Executives

The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006 taken cumulatively with previous regulations and primary legislation provide that exempt information does not need to be made available for all Members unless it comes within paragraph 3 and 6 of the table set out in rule 10.4. However, in relation to information under paragraph 3 of the table in rule 10.4, this can remain exempt if the information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract.

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

If the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## 12. **APPLICATION OF RULES TO THE EXECUTIVE**

Rules 13 – 24 apply to the Executive and its committees. If the Executive or its committees meet to take a Key Decision, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A Key Decision is as defined in Article 13.03 of this Constitution. If the Executive or its committees meet to discuss a Key Decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include briefings, whose sole purpose is for Officers to brief Members.

## 13. **PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 10 (general exception) and Rule 11 (special urgency), a Key Decision may not be taken unless:

- a. a notice (called here a Forward Plan) has been published in connection with the matter in question;
- b. at least twenty-eight (28) Clear days have elapsed since the publication of the Forward Plan in which the decision was first included; and
- c. where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## 14. THE FORWARD PLAN

### 14.1 Period of Forward Plan

Forward Plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and published 28 clear days prior to any regularly scheduled meeting of the Executive.

### 14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, Officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- a. the matter in respect of which a decision is to be made;
- b. where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- c. the date on which, or the period within which, the decision will be taken;
- d. the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- e. the means by which any such consultation is proposed to be undertaken;
- f. the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- g. a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be produced and disseminated at least 28 days before the start of the period covered.

## 15. GENERAL EXCEPTION

If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 11 (special urgency), the decision may still be taken if:

- a. the decision must be taken by such a date that it is impracticable to defer the decision until 28 clear days notice has been given on the Forward Plan;
- b. the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services has informed the chair of the Overview and Scrutiny Management Committee, or if there is no such person, the Mayor or in his/her absence the Sherriff, by notice, of the matter to which the decision is to be made;
- c. the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services has made copies of that notice available to the public at the offices of the Council; and
- d. at least 5 (five) clear days have elapsed since the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public subject to the provisions of Rule 10 and Rule 19.

## 16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 10 (general exception) cannot be followed, then the decision can only be taken if the Director of Legal & Business Operations, on behalf of the decision taker, obtains the agreement of the Chair of the Overview and Scrutiny Management Committee that the taking of the decision cannot be reasonably deferred. If the Chair is unable to act, then the agreement of the Mayor, or in his/her absence, the Sheriff will suffice.

## 17. REPORT TO COUNCIL

### 17.1 Overview and Scrutiny Management Committee can require a report

- a. if the committee thinks that a Key Decision has been taken which was not:
  - i. included in the Forward Plan; or
  - ii. the subject of the general exception procedure; or
  - iii. the subject of an agreement under Rule 11;

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services, who shall require such a report on behalf of the committee when so requested by the Chair or any five Members; or

- b. the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Management Committee.

### 17.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

### 17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 11 (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 Executive or any of its committees, whether held in public or private, the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services, or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## 19. PROCEDURES PRIOR TO PRIVATE MEETINGS OF THE EXECUTIVE

- 19.1 A private meeting of the Executive shall include any meeting or part of a meeting at which members of the public are to be excluded in accordance with Rule 10.
- 19.2 At least 28 clear days prior to any private meeting of the Executive, the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services shall publish Notice of the Executive's intention to hold all or part of the meeting in private, together with a statement of reasons for the meeting to be held in private.
- 19.3 At least five clear days prior to any private meeting of the Executive, the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services shall publish a further Notice on the agenda for the meeting and the Council's website confirming the Executive's intention to hold all or part of the meeting in private, a statement of the reasons for privacy and details of any representations received by the Council as to why the meeting should be held in public and the Executive's response to those representations.
- 19.4 Where the date by which a meeting must be held makes compliance with Rules 19.2 and 19.3 impracticable, the meeting may still be held in private where:
- the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services has obtained the agreement of the Chairman of the relevant Overview and Scrutiny Committee; or
  - if there is no such person or such a person is unable to act, the agreement of the Mayor; or
  - if the Mayor is unable to act, the agreement of the Sheriff.

## 20. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE

Members of the Executive or its committees will be entitled to receive five clear days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## 21. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

- All Members of the Executive will be served notice of all private meetings of committees of the Executive, whether or not they are Members of that committee.
- All Members of the Executive are entitled to attend a private meeting of any committee of the Executive.
- Members other than Executive Members will not be entitled to attend private meetings of the Executive, and its committees.
- The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services has been given reasonable notice that a meeting is to take place.
- A private Executive meeting may only take place in the presence of the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services or his/her nominee with responsibility for recording and publicising the decisions



## 22. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

### 22.1 Reports intended to be taken into account

Where an individual Member of the Executive 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 five clear days after receipt of that report.

### 22.2 Provision of copies of reports to overview and scrutiny committees

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

### 22.3 Record of individual decision

As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Executive or a Key Decision has been taken by an officer, s/he will prepare, or instruct the ~~Director of Legal & Business~~ [Director of Governance, Legal & HR Services](#) to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## 23. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

### 23.1 Rights to copies

Subject to Rule 23.2 below, Overview and Scrutiny Management Committee (and its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive (or its committees) and which contains material relating to

- a. any business transacted at a public or private meeting of the Executive or its committees; or
- b. any decision taken by an individual Member of the Executive; or
- c. any decision taken by an officer of the authority exercising an Executive function.

### 23.2 Limit on rights

An overview and scrutiny committee will not be entitled to:

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

### 23.3 Copies of documents requested under Rule 23 must be supplied within 10 clear days of receipt of the request.

## 24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

### 24.1 Material relating to previous business

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting unless either (a), (b) or (c) below applies:

- a. it contains exempt information falling with paragraphs 1-2, 4-5 and 7 of the categories of exempt information; or
- b. Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended) to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- c. it contains the advice of a political adviser.

### 24.2 Material relating to Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any decision of the Executive made at a public meeting unless paragraph (a), (b) or (c) above applies.

### 24.3 Nature of rights

These rights of a Member are additional to any other right s/he may have.

## 25. CONFIDENTIALITY OF COUNCIL BUSINESS

25.1 Any item of business at Full Council, a Committee or Sub-Committee which falls to be dealt with as confidential and the relevant body's discussion in relation to the item shall be kept confidential and may only be disclosed to and discussed by the following:

- a. Councillors;
- b. other persons appointed under Section 102 of the 1972 Act as members of Committees or Sub-Committees;
- c. such officers of the Council as are concerned with the matter in the course of their duties;
- d. the Designated Independent Person (in respect of Members complaints under the Code of Conduct)
- e. such other persons to whom in the ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services opinion the item of business or report ought to be disclosed in order to comply with the Human Rights Act 1998 or any rule of law or to avoid maladministration by the Council;

and there shall be no further disclosure of such report, item of Council business or discussion thereof to any other person whatsoever.

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- 25.2 The business referred to in Council Procedure Rule 25.1 consists of any report marked "not for publication" in accordance with the requirements of the 1972 Act or an item of Council business which has been agreed as being confidential by the Committee or Sub-Committee concerned, or by the Council in accordance with the 1972 Act.
- 25.3 Subject to the Council Procedure Rules, a member of a working party or panel set up by the Council, a Committee or Sub-Committee (including any working party or panel established for the purpose of meeting and holding discussions with an individual, body of individuals or organisation distinct from the City Council) being a working party or panel comprised of Members or Members and co-opted members or Members and officers, or Members co-opted members and officers, shall not disclose a matter dealt with by or brought before the working party or panel, without its permission until the proceedings of that working party or panel have been reported to the Council or to the Committee or Sub-Committee which set up the working party or panel, or the working party or panel shall otherwise have concluded action on that matter.
- 25.4 An item of business or report shall remain confidential until its confidentiality is removed by decision of the Committee or Sub-Committee concerned, or by the Full Council or in exceptional circumstances, the ~~Director of Legal & Business~~ [Director of Governance, Legal & HR Services](#).

## 26. ADDITIONAL RIGHTS TO INFORMATION

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

## **Budget and Policy Framework Procedure Rules**

### **1. The framework for Executive decisions**

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

### **2. Process for developing the framework**

#### **A. The process by which the Policy Framework shall be developed is:**

- a. The Overview and Scrutiny Management Committee will receive reports from the Executive, and will conduct such research and consultation with stakeholders and investigations as it considers necessary to enable it to develop proposals for the relevant parts of the Policy Framework as fall within its Terms of Reference for the forthcoming year.
- b. The Executive will publicise when the decision is first included in the Forward Plan (which shall be available on the Council's web page) a timetable for making proposals to the Council for the adoption of any plan or strategy that forms part of the Budget and Policy Framework, and its arrangements for consultation. The Chair of Overview and Scrutiny Management Committee will also be notified.
- c. By a date designated by the Executive in accordance with paragraph 2A(b) of these Rules the Executive will meet and consider its budget strategy for the pending financial year. Details of the Executive's consultation process for its strategy and budget proposals shall be included in relation to each of these matters in the Forward Plan and made available on the Council's web page. Any representations made to the Executive shall be taken into account in formulating its approach to the Budget, and shall be reflected in any report dealing with them. If the matter is one where Overview and Scrutiny Management Committee has carried out a review of policy, then the outcome of that review will be reported to the Executive and considered in the preparation of the budget.
- d. The designated date referred to in paragraph 2A(c) of these Rules shall be three (3) months unless the Executive considers that there are special factors that make this timescale inappropriate. If it does, it shall state the reasons in publicising the Forward Plan in accordance with paragraph 2A(b) of these Rules and shall inform Overview and Scrutiny Management Committee of the time for response when the relevant budget papers are referred to it.
- e. The Executive's budget strategy and proposals shall be referred to Overview and Scrutiny Management Committee for further advice and consideration by sending a copy to the Scrutiny Manager who will convene a meeting of Overview and Scrutiny Management Committee. Overview and Scrutiny Management Committee shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the Executive. Overview and Scrutiny Management Committee shall report to the Executive on the outcome of its deliberations. Overview and Scrutiny Management Committee shall have six weeks to comment upon the strategy and budget proposals, unless the Executive considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Overview and Scrutiny Management Committee of the time available for responding.

- f. Having considered any findings and comments reported by the Overview and Scrutiny Management Committees, the Executive will finalise its proposals before submitting them to the Council for consideration. It will also report to Council on how it has taken into account any comments or recommendations from the Overview and Scrutiny Management Committee, as well as from the consultation process on budget proposals.
- g. The Council will consider the proposals of the Executive and may adopt them, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place. This includes any plan or strategy, submitted by the Executive, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval – whether in the form of a draft or otherwise – where any plan or strategy is required to be so submitted. In considering the matter, the Council shall have before it the Executive's proposals and any report from any Overview and Scrutiny Management Committee.
- h. The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The Notice of Decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive's proposals without amendment) or (if the Executive's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of five clear days after the publication of the notice of decision, unless the Leader objects to it in that period. The Leader may, in writing, waive that right thus giving immediate effect to the decision. If the Council resolves to refer the matter back to the Executive for the further consideration, that decision shall take effect immediately.
- i. If the Leader objects to the decision of the Council, s/he shall give written notice to the ~~Director of Legal & Business Services~~[Director of Governance, Legal & HR](#) to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the ~~Director of Legal & Business Services~~[Director of Governance, Legal & HR](#) shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting. Where the Council has referred the matter back to the Executive for further consideration, the ~~Director of Legal & Business Services~~[Director of Governance, Legal & HR](#) shall convene a further meeting of the Council to reconsider the matter following the Executive's further considerations.
- j. The Council meeting must take place within 10 clear days of either the receipt of the Leader's written objection or within 15 clear days of the date of the meeting where the Council has referred the matter back to the Executive for further consideration. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection or further considerations by the Executive, which shall be available in writing for the Council.
- k. The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
- l. In approving the Policy Framework, the Council will also specify the degree of in-year changes to the Policy Framework which may be undertaken by the Executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the Policy Framework are reserved to the Council.

## B. The process by which the Budget shall be developed:

For the purposes of the Constitution, the Budget shall be defined as meaning the process whereby in any financial year, the Executive submits to the Full Council for its consideration in relation to the following financial year -

- i. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31 through to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - ii. estimates of other amounts to be used for the purposes of such a calculation;
  - iii. estimates of such a calculation; or
  - iv. amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,
- a. Overview and Scrutiny Management Committees will receive regular updates on performance (including financial matters) for their Portfolio. Any Scrutiny Panel may conduct such research and consultation with stakeholders if they wish to enable them to develop opinions and form comments for the relevant parts of the Budget as fall within their Terms of Reference for the forthcoming year and to communicate these to the Executive.
  - b. The Executive will publish in advance a timetable for the Budget. The chair of Overview and Scrutiny Management Committee will also be notified.
  - c. The Executive's timetable will be subject to variation dependent upon the timing of the Local Government Finance Settlement and the information available. This will be advised upon by the ~~Executive Director: Finance & Commercialisation~~ [Executive Director: Corporate Services](#). Each Cabinet Member will, during the course of any meetings with Overview and Scrutiny Management Committee update on the progress and the possible changes and pressures within their areas of responsibility. The Executive shall publish the Executive's Major Budgetary Proposals in accordance with the timetable referred to in paragraph (b) above. The Executive's Major Budgetary Proposals shall form the basis of any consultation process or exercise, shall be disseminated to the Group Leaders and may be updated from time to time by the Executive as further information becomes available.
  - d. Papers on the budget strategy and detailed proposals shall be referred, in accordance with the timetable referred to above, to Overview and Scrutiny Management Committee for consideration and comment. The Committee shall have such time as the timescale provided for by the Executive to provide comments.
  - e. Having considered the comments of Overview and Scrutiny Management Committee on the budget strategy and any related papers which will support the aims contained in the Corporate Plan, the Executive will finalise its proposals before submitting them to the Council for consideration. It will also report to Council on how it has taken into account any comments or recommendations from Overview and Scrutiny Management Committee.
  - f. By convention, when the Executive's budgetary proposals are endorsed by the Cabinet prior to submission to the Council, the other Groups shall make their budgetary amendments publicly available, and the Council shall make them available on its website. Failure to comply with this convention will not in any way invalidate the budgetary process and this convention is not enforceable by the Council or any party in any manner.

- g. For the avoidance of doubt, at the budget meeting the only additional papers that may be placed on Members' desks at the outset of the meeting are any papers that, in the view of the Head of Paid Service, Executive Director: Finance and Commercialisation or Monitoring Officer, are either conducive to the conducting of the meeting, relevant to the discussion or they otherwise consider ought properly to be brought to Members' attention.
- h. The Council will consider the proposals of the Executive and may adopt them, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Executive's proposals and any comments or recommendations from Overview and Scrutiny.
- i. The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive's proposals without amendment) or (if the Executive's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of five clear days after the publication of the notice of decision, unless the Leader objects to it in that period. The Leader may, in writing, waive that right, thus giving immediate effect to the decision. If the Council resolves to refer the matter back to the Executive for the further consideration, that decision shall take effect immediately.
- j. If the Leader objects to the decision of the Council, s/he shall give written notice to the ~~Director of Legal & Business~~ [Director of Governance, Legal & HR Services](#) to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the ~~Director of Legal & Business~~ [Director of Governance, Legal & HR Services](#) shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting. Where the Council has referred the matter back to the Executive for further consideration, the ~~Director of Legal & Business~~ [Director of Governance, Legal & HR Services](#) shall convene a further meeting of the Council to reconsider the matter following the Executive's further considerations.
- k. The Council meeting must take place within either six clear days of the receipt of the Leader's written objection or within 11 clear days of the date of the meeting where the Council has referred the matter back to the Executive for further consideration (or such other timeframe in order to meet any statutory deadlines). At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection or further considerations by the Executive, which shall be available in writing for the Council.
- l. The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4 and shall be implemented immediately.
- m. In approving the Budget, the Council will also specify the degree of any in-year changes to the Budget which may be undertaken by the Executive, over and above the rules in paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the Budget are reserved to the Council.

### C. VARIATIONS TO THE PROCESS

Legislative requirements specific to an individual element or aspect of the Policy Framework and/or Budget may require that the process outlined in these Budget and Policy Framework Rules has to be varied (for example, the Early years Development Plan is, by virtue of the Schools Standards and Framework Act 1998 the responsibility of the Early Years Partnership who are responsible for the development of the plan prior to submission to Full Council for approval). Where this is the case, in publishing a timetable under paragraphs 2A(b) and 2B(b), the Executive shall outline any variation in the process.

**3. Decisions contrary to or not wholly in accordance with the Budget or Policy Framework**

- a. Subject to the provisions of paragraph 5 (virement) the Executive, committees of the Executive individual Members of the Executive and any Officer, area committees or joint arrangements discharging Executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Full Council, then that decision may only be taken by the Council, subject to 4 below.
- b. If the Executive, a committees of the Executive, individual Members of the Executive and any Officer, or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the ~~Executive Director: Finance & Commercialisation~~ [Executive Director: Corporate Services](#) as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those Officer is that the decision would not be in line with the Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the Budget and Policy Framework) shall apply.

**4. Urgent decisions contrary to or not wholly in accordance with the Budget or Policy Framework**

- a. The Executive, a committee of the Executive, an individual Member of the Executive, Officer, or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - if it is not practical to convene a quorate meeting of the full Council; and
  - if the chair of Overview and Scrutiny Management Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chair of Overview and Scrutiny Management Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of Overview and Scrutiny Management Committee, the consent of the [Lord Mayor](#), Sheriff or in all their absence, the Head of Paid Service will be sufficient.



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

## 5. Virement

### a. Budget “heads”

The Council shall have a number of service budget heads based upon the service and expenditure headings outlined in the CIPFA Service Reporting Code of Practice (SeRCOP) and grouped into portfolios as determined by Council in accordance with individual Cabinet Member responsibility. The ability to move budget allocations between these services or budget heads will be governed by the virement rules set out below.

### b. Virement Rules

Net expenditure by the Executive, a Cabinet Member, officers or joint arrangements discharging Executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However:

- i. Chief Officers (defined for these purposes as the Chief Executive, Directors, ~~Director of Legal & Business~~ Director of Governance, Legal & HR Services and the ~~Executive Director: Finance & Commercialisation~~ Executive Director: Corporate Services), in consultation with the Chief Financial Officer, shall be entitled to vire across budget heads where each individual virement does not exceed £200,000;
- ii. Chief Officers, in consultation with the Chief Financial Officer and Cabinet Member for the service, shall be entitled to vire across budget heads where each individual virement does not exceed £500,000;
- iii. the Cabinet shall be entitled to vire across budget heads where each individual virement does not exceed £2,000,000.

Beyond that limit, approval to any virement across budget heads shall require the approval of Full Council.

- c. In the event of a major incident, the Executive may draw up to £1 million from balances. “Major incident” shall be defined in the Council’s Major Incident Plan.

## 6. In-year changes to Policy Framework

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

- a. which will result in the closure or discontinuance of a service or part of service to comply with a decision of the Council in respect of the Budget or Policy Framework;

- b. necessary to ensure compliance with the law, ministerial direction or government guidance;
- c. in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
- d. which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change; and
- e. which the Monitoring Officer and/or ~~Executive Director: Finance & Commercialisation~~[Executive Director: Corporate Services](#) agree is, or if not made would not be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget.

**7. Call-in of decisions contrary to / not wholly in accordance with Policy Framework and / or Budget**

- a. Where an Overview and Scrutiny Committee or Panel is of the opinion that an Executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or ~~Executive Director: Finance & Commercialisation~~[Executive Director: Corporate Services](#).
- b. In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Executive Director: ~~Finance & Corporate Services~~[Executive Director: Corporate Services](#) conclude that the decision was a departure, and to the relevant Overview and Scrutiny Committee if the Monitoring Officer or the ~~Executive Director: Finance & Commercialisation~~[Executive Director: Corporate Services](#) conclude that the decision was not a departure.
- c. If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the ~~Executive Director: Finance & Commercialisation~~[Executive Director: Corporate Services](#) 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 ten clear days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals, a report from the relevant Overview and Scrutiny Committee and the advice of the Monitoring Officer and/or the ~~Executive Director: Finance & Commercialisation~~[Executive Director: Corporate Services](#). The Council may either:
  - i. endorse a decision or proposal of the Executive decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - ii. amend the Council's financial regulations, Budget or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with

immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

- iii. where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter and take account of the advice of either the Monitoring Officer or ~~Executive Director: Finance & Commercialisation~~Executive Director: Corporate Services. Such reconsideration shall take place in accordance with the procedure laid down in the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution.
- d. The Council must take one (or more) of the three decisions set out in paragraph 7(c) of these Rules before the end of its meeting. If the Council does not, then the Call-In Procedure in relation to that called-in decision will come to an end and the decision may then be implemented.
- e. The Monitoring Officer / ~~Executive Director: Finance & Commercialisation~~Executive Director: Corporate Services may issue guidance as to the principles by which an Executive decision may be judged contrary and/or not wholly in accordance with the Budget / Policy Framework, and this guidance shall be made available publicly and to all Members of the Council.

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## **Executive Procedure Rules**

### **1. HOW DOES THE EXECUTIVE OPERATE?**

#### **1.1 Who may make Executive decisions?**

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

- a. the Executive as a whole (the Cabinet);
- b. a committee of the Executive;
- c. an individual Member of the Executive;
- d. an officer;
- e. an area committee;
- f. joint arrangements; or
- g. another local authority.

#### **1.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written scheme of delegations made by him/her for inclusion in the Council's Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- a. the names of the people appointed to the Executive by the Leader;
- b. the extent of any authority delegated to Members individually, including details of the limitation on their authority;
- c. the terms of reference and constitution of such Executive committees as the Leader appoints and the names of Cabinet Members appointed to them;
- d. the nature and extent of any delegation of Executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and
- e. the nature and extent of any delegation to Officer with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

#### **1.3 Sub-delegation of Executive functions**

- a. Where the Executive, a committee of the Executive or an individual Cabinet Member is responsible for an Executive function, they may delegate further to an area committee, joint arrangements or an officer.
- b. Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a committee of the Executive or to an officer.

- c. Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- d. Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### 1.4 The Executive's Scheme of Delegation

- a. Subject to (b) below the Executive's Scheme of Delegation will be reported to Council and may only be amended in accordance with the Constitution. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- b. The Leader may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the ~~Director of Legal & Business Services~~ Director of Governance, Legal & HR and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. ~~Director of Legal & Business Services~~ Director of Governance, Legal & HR will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- c. Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when s/he has served it on its chair.

#### 1.5 Conflicts of Interest

- a. Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- b. If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- c. If the exercise of an Executive function has been delegated to a committee of the Executive, an individual Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- d. Where a member has a disclosable pecuniary interest under the Localism Act 2011 or a personal and pecuniary interest under Part 4 of the Code of Council's Conduct for Members in any matter being discussed, then the member must declare that interest and withdraw from the room where the meeting is being held immediately after making representations, answering questions or giving evidence unless a dispensation to remain has been obtained from the Council's Governance Committee.
- e. Where, as a member of the Executive, you may discharge a function alone, and you become aware of a disclosable pecuniary interest under the Localism Act 2011 or a personal and pecuniary interest under part 4 of the Council's Code of Conduct for Members in a matter being dealt with, or to be dealt with, by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

1.6 Cabinet meetings – when and where?

The Cabinet will meet every month or at such other occasions as determined by the Leader. The time of Cabinet Meetings shall be as advised by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

1.7 Public or private meetings of the Cabinet?

The Access to Information Rules in Part 4 of this Constitution set out the minimum legal requirements covering public and private meetings. Alternative additional arrangements may be put in place as determined by the Leader in the interests of openness, accountability and transparency.

1.8 Quorum

The quorum for a Cabinet meeting, or a committee of it, shall be one quarter of the total number of Members of the Cabinet (including the Leader) or three including the Leader, whichever is the larger.

1.9 How are decisions to be taken by the Cabinet?

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

**2. HOW ARE CABINET MEETINGS CONDUCTED?**

2.1 Who presides?

If the Leader is present, s/he will preside at any meeting of the Cabinet. If the Leader is not present, s/he will appoint another person to do so. If no appointment has been made, the meeting will elect a Chair for that meeting.

2.2 Who may attend?

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

2.3 What business?

At each meeting of the Cabinet the following business shall, subject to the remaining provisions of this Article, be conducted:

- a. consideration of the record of decision and record of the last meeting;
- b. declarations of interest, if any;
- c. a statement from the Leader, if any;
- d. matters referred to the Cabinet (whether by an overview and scrutiny committee or by the Council) for reconsideration 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;
- 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; and
- g. matters for public consultation.

## 2.4 Consultation

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

## 2.5 Who can put items on the Cabinet agenda?

The Leader will decide upon the schedule for the meetings of the Cabinet. S/he may put on the agenda of any Cabinet meeting any matter which s/he wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any Member or officer in respect of that matter. The ~~Director of Legal & Business Services~~ [Director of Governance, Legal & HR](#) will comply with the Leader's requests in this respect.

In addition:

- a. Any Member of the Cabinet may require the ~~Director of Legal & Business Services~~ [Director of Governance, Legal & HR](#) to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If s/he receives such a request the Monitoring Officer ~~Director of Legal & Business Services~~ [Director of Governance, Legal & HR](#) will comply.
- b. The ~~Director of Legal & Business Services~~ [Director of Governance, Legal & HR](#) will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant overview and scrutiny committee or the full Council have resolved that an item be considered by the Cabinet. However, there may only be up to three such items on any one agenda. In the event that there are more than three, any items not considered shall be rolled over to the next meeting.
- c. The Head of Paid Service, Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the ~~Director of Legal & Business Services~~ [Director of Governance, Legal & HR](#) to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda

may also require that a meeting be convened at which the matter will be considered.



## 2.6 Form of Agenda

Whilst the Leader shall decide the general form and content of the agenda for Cabinet Meetings, the Head of Paid Service, Chief Financial Officer and Monitoring Officer shall all have the right to have matters or items considered which they consider are necessary and/or appropriate for the Council and/or Executive and in addition the Monitoring Officer Services or his/her nominee may prescribe certain matters that, as a matter of procedure, must appear on the agenda.

Without prejudice to the Overview and Scrutiny Procedure Rules in so far as they relate to Call-In, no Executive decision (which is a Relevant Decision as defined in the Overview and Scrutiny Procedure Rules) shall be implemented until five clear days after the date of publication of the decision. This is without prejudice to the procedures for urgent decisions as set out in the Overview and Scrutiny Procedure Rules and Access to Information Procedure Rules.

The Executive Procedure Rules are the responsibility of the Leader and may be amended by the Leader following consultation with the ~~Director of Legal & Business Services~~ Director of Governance, Legal & HR in accordance with these Executive Procedure Rules.

## Overview and Scrutiny Procedure Rules

### 1. INTERPRETATION

For the purposes of the Overview and Scrutiny Procedure Rules:

**“Call-In”** means the review and scrutiny of a relevant decision in accordance with the procedure set out in paragraph 12 below;

**“Call-In Procedure”** means the review and scrutiny of a Relevant Decision in accordance with paragraph 10 by means of which a Requisitioner is able to require that an Overview and Scrutiny Management Committee or (where referred to full Council by Overview and Scrutiny Management Committee) the full Council is to consider whether to recommend that the decision in respect of which a Call-In Notice has been deposited is be reconsidered by the relevant Decision-Maker. The expressions “Call-In”, “Called-In and “Calling-In” shall be construed accordingly and shall refer to a Relevant Decision that has been or may be the subject of call-in.

**“Call-In Notice Form”** means a form to be completed to request Call-In of a Relevant Decision as may be approved by the Scrutiny Manager from time to time;

**“Call-In Report”** means the report considered by the Overview and Scrutiny Management Committee at its Call-In Meeting in the format the Scrutiny Manager directs from time to time.

**“Called-In Decision”** means a relevant decision in respect of which a Call-In Notice has been deposited with the Scrutiny Manager;

**“Church Scrutiny Member”** means one or both of the two persons who have been appointed as members of the Overview and Scrutiny Management Committee in accordance with Paragraph 7 of Schedule A1 to the 2000 Act;

**“Contrary Decision”** means a Key Decision in respect of Executive Functions that is–

- (a) contrary to any plan or strategy approved by the Full Council as part of the Policy Framework (or which is outside any limits of variation where this has been delegated as part of the approved plan); or
- (b) not wholly in accordance with the budget (or which is outside any limits of variation / virement where delegated as part of the Budget or where contained in Financial Procedure Rules).

**“Decision Maker”** means the Executive, committee of the Executive or individual Executive Member or Officer who took, or intends to take, a relevant decision;

**“Final Disposal”** of a Called-In Decision occurs in the following circumstances (and “finally disposed of” shall be construed accordingly) –

- (a) Where the Overview and Scrutiny Management Committee decides to act in accordance with paragraph 12.12.1 or 12.12.3 below; or
- (b) where it decides to act in accordance with paragraph 12.12.2, and thereby referring the question of reconsideration to full Council, a decision by full Council not to ask the Decision Maker to reconsider; or

- (c) where either the Overview and Scrutiny Management Committee or full Council decides to ask the Decision Maker to reconsider the called-in decision, a decision by the Decision Maker to either not do so, or to reconsider and take the same or another decision in relation to the subject matter of the called-in decision.

**“Relevant Decision”** means a decision made by the Executive, either individually or collectively, which has not yet been implemented OR a key decision made by officers under delegated powers, which has not yet been implemented;

**“Request for Attendance Notice”** means, following a resolution of a Scrutiny Body, a request made in writing for the attendance of an Executive Member and/or any Officer before it;

**“Parent Scrutiny Member”** means one or both of the two elected parent governor representatives appointed as members of the Overview and Scrutiny Management Committee in accordance with Paragraph 7 of Schedule 1 to the 2000 Act;

**“Scheduled Meeting”** means a meeting in a programme or calendar of meetings approved in advance by the body in question;

**“Scrutiny Body”** means, unless otherwise stated, Overview and Scrutiny Management Committee and the Scrutiny Panels;

**“Scrutiny Member”** means a person appointed as a member of a Scrutiny Body, whether a Councillor or a person who is not a Councillor, and (unless otherwise indicated) includes a Church or Parent Scrutiny Member;

**“Scrutiny Panel”** means a Standing Scrutiny Panel, Special Scrutiny Panel or Scrutiny Commission. These bodies shall be deemed to be “overview and scrutiny committees” for the purposes of Part 1A Section 9 of the 2000 Act;

**“Scrutiny Programme”** means the programme of individual inquiries/reviews to be undertaken by the Scrutiny Panels approved in advance by the Overview and Scrutiny Management Committee;

**“Scrutiny Request Form”** means a form approved by the from time to time for the purpose of an item to be placed on the agenda of the Scrutiny Body;

**“Statutory overview and scrutiny functions”** means the following –

- to review or scrutinise decisions made, or other action taken in connection with the discharge of any functions which are the responsibility of the executive;
- to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive;
- to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive;
- to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive;
- to make reports or recommendations to the authority or the executive on matters which affect the authority’s area or the inhabitants of that area;

- to review and scrutinise, in accordance with regulations under section 244 of the National Health Service Act 2006, matters relating to the health service (within the meaning given by that Act as extended by that section) in the authority's area;
- to make reports and recommendations on such matters in accordance with the regulations under section 244 of the National Health Service Act 2006;
- to, under section 19 of the Police and Justice Act 2006, review or scrutinise decisions made or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions;
- to review or scrutinise a decision made but not implemented includes power:
  - to recommend that the decision be reconsidered by the person who made it, or
  - to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.

## **2. OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE**

2.1 The Council will ensure that it establishes committees and sub-committees that between them will undertake the statutory overview and scrutiny functions, as consolidated in Part 1A Section 9 of the 2000 Act, the Police and Justice Act 2006 and the Health and Social Care Act 2012.

2.2 The Council will appoint a committee, called "the Overview and Scrutiny Management Committee" (OSM Committee), the purposes and terms of reference of which will be to arrange for the undertaking of the statutory overview and scrutiny functions in accordance with this Article. In particular OSM Committee will –

### **2.2.1 Set the framework:**

- Approve a framework for the effective discharge by the Council of the statutory overview and scrutiny function by itself and its Scrutiny Panels ;
- With the exception of matters within the remit of the Health Overview and Scrutiny Panel, prepare a Scrutiny Programme of individual inquiries or reviews to be undertaken by the Scrutiny Panels; including the areas, issues and subjects to be covered, over the forthcoming municipal year;
- Appoint such sub-committees as it considers appropriate to fulfill the overview and scrutiny functions on behalf of the Council;
- Where matters fall within the remit of more than 1 overview and scrutiny sub-committee, determine which of those sub-committees will assume responsibility for any particular issue and to resolve any issues of dispute of panels.

### **2.2.2 Responsibility for individual inquiries / reviews:**

- In accordance with the approved Scrutiny Programme, commission the Scrutiny Panels to undertake individual inquiries or reviews and to receive reports of Panels' findings and recommendations;
- Manage, monitor and review the work of Panels in undertaking individual reviews/investigations.

### **2.2.3 Call-in**

Overview and Scrutiny Management Committee shall exercise the call-in function as set out in paragraph 12.

#### **2.2.4 Manage the receipt of requests and reports:**

Receive requests from the Executive, full Council or other appropriate body for reports from overview and scrutiny committees and allocate them, if appropriate, to the appropriate overview and scrutiny panels.

#### **2.2.5 Scrutiny rules and procedures:**

Make and approve the detailed arrangements for the discharge of its own and the Panels' statutory functions having regard to statutory guidance issued by the Secretary of State, including the approval and promotion of rules, procedures, protocols, conventions, guidance and best practice, and all matters relating to the establishment and conduct of reviews / investigations by Scrutiny Panels;

#### **2.2.6 Finance:**

Have overall responsibility for the finances made available to discharge the Overview and Scrutiny function.

#### **2.2.7 Annual Report:**

Report annually to full Council on its Overview and Scrutiny function, operation and effectiveness and make recommendations for future work programmes and amended working methods if appropriate.

- 2.3 Full Council shall appoint the members of OSM Committee and may (but does not have to) appoint its Chair and Vice-Chair. If it does not do so, then OSM Committee may appoint its own. Full Council may also (but does not have to) appoint and fill any vacancy that occurs in OSM Committee's membership from time to time; if it does not do so, then OSM Committee may itself fill a vacancy. These powers apply irrespective of whether the person or vacancy involved is a Councillor, and whether the vacancy arises in relation to membership or the chair- or vice-chairship.

### **3. TYPES OF SCRUTINY PANELS, MEMBERSHIP ETC**

- 3.1 OSM Committee shall appoint the sub-committees called "Scrutiny Panels".

- 3.2 The Scrutiny Panels will undertake their reviews, investigations and hearings during the year in accordance with the approved Scrutiny Programme and statutory overview and scrutiny functions.

#### **3.3 Special Scrutiny Panels and Scrutiny Commissions:**

- 3.3.1 As and when required during the Municipal Year OSM Committee may appoint one or more sub-committees (called "Special Scrutiny Panels" or "Scrutiny Commissions") to undertake ad hoc reviews / investigations into particular issues or areas. These bodies will normally be wound-up when they have presented a report of their final recommendations and findings to OSM Committee.

- 3.3.2 OSM Committee shall approve, and may vary, the individual terms of reference and areas of responsibility of any Scrutiny Panel appointed by it from time to time.

## 3.4 Membership

- 3.4.1 No person who is a member of the Executive shall be appointed a member of a Scrutiny Body. In order to maintain public confidence and to increase the effectiveness of the scrutiny function, there will be a clear “firebreak” period between a person ceasing to be a member of the Executive and then becoming involved in the scrutiny function.
- 3.4.2 Generally speaking, a former Executive Councillor or any other Councillor appointed by them (formally or informally) to substantially support their role within their portfolio area may not be appointed as a member of OSM Committee or any of its Panels for a period of six months starting on the date they ceased to be a member of the Executive. This will not apply if –
- there is a change in political control on Full Council, and a former Executive Councillor to whom the bar would otherwise apply becomes a member of the Opposition because his/her group no longer forms the administration; or
  - he/she changes political group or resigns their group membership; or
  - Full Council resolves otherwise.

The firebreak period may only be waived by Full Council where those three limited circumstances do not apply. As a safeguard, Council Procedure Rule 13.1 (a) will apply to a motion before Full Council to do so.

For the avoidance of doubt “substantial support” shall be deemed to mean the provision of advice and assistance to the Executive or an Executive Member in relation to the whole range of portfolio functions. A Member who provides advice and assistance in relation to an Executive or single portfolio issue at any given time shall not be deemed to be providing substantial support for the purpose of this section but must have regard to paragraph 3.1.8 regarding “Conflicts of Interest”.

- 3.4.3 The Scrutiny Panels are sub-committees of OSM Committee, appointed under Section 102(1) of the 1972 Act and Section 21(6) of the 2000 Act. Section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) shall apply to all Scrutiny Bodies. OSM Committee shall appoint their membership (both Councillors and non-councillors) in accordance with the requirements of that Act, although full Council may unanimously dis-apply the proportionality rules.
- 3.4.4 OSM Committee may appoint the Chair(s) and Vice-Chair(s) of the Scrutiny Panels following consultation with the group leaders and to reflect (as far as possible) the political proportionality of the Council. If it does not do so, then each Scrutiny Panel may appoint its own chair. OSM Committee may also (but does not have to) appoint and fill any vacancy that occurs in a Panel’s membership from time to time; if it does not do so, then the Scrutiny Panels may themselves fill a vacancy. These powers apply irrespective of whether the person or vacancy involved is a Councillor, and whether the vacancy arises in relation to membership or the Chair- or Vice-Chairship.
- 3.4.5 Any Member who is appointed to a Scrutiny Committee or Panel who has provided support, advice or assistance to the Executive or member of the Executive in relation to a particular Executive or Portfolio issue, must declare a conflict of interest and withdraw from the Scrutiny of that particular issue.

### **3.5 Church and Parent Representatives**

- 3.5.1 OSM Committee and its Panels can include people who are not Councillors, although, with the exception of the Church and Parent Representatives sitting on Overview and Scrutiny Management Committee or Panels dealing wholly or partly with the Council's education functions, they are barred from voting by Section 21(10) of the 2000 Act.
- 3.5.2 Under Regulations and the 2000 Act, the Church and Parent Representatives should also normally be invited to sit on Panels involving educational matters. They are eligible to chair OSM Committee and its Panels. Where a Panel chaired by a Church or Parent Representative deals with other (non-LEA) functions, a Councillor must take over the Chair when non-education matters are being discussed so as to allow the Chair a casting vote if necessary.
- 3.5.3 the Church and Parent Representatives have the same rights of access to information, as well as duties to declare interests and so on. Such representatives also have special individual powers of Call-In as detailed at paragraph 12.5.3.

## **4. GENERAL ROLE OF SCRUTINY PANELS**

- 4.1 The Scrutiny Panels will undertake the reviews, inquiries and hearings necessary for the discharge of the statutory overview and scrutiny function –
- within each Panel's approved terms of reference;
  - in accordance with the approved Scrutiny Programme; and
  - in accordance with any rules or protocols approved by OSM Committee, any rules or protocols issued by the and any statutory guidance issued by the Secretary of State.

## **5. PARTICULAR ROLE OF SCRUTINY PANELS**

- 5.1 All Scrutiny Panels may, in undertaking inquiries, perform the following tasks:
- 5.1.1 **Policy development and review:**
- assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
  - conduct research, community and other consultation in the analysis of policy issues and possible options;
  - consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - question Members of the Executive and/or committees and senior officers about issues and proposals affecting the area;
  - liaise with partners and other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
  - engage in effective and regular consultation and communication with the Executive and other members of the local authority during the development of plans and strategies which need the agreement of partner organisations;
  - be involved in the consideration of any topic of wider concern;

- review and scrutinise decisions made by and performance of the Executive and/or committees and Chief Officer both in relation to individual decisions and over time;
- review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- question Members of the Executive and/or committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Body and local people about their activities and performance;
- question and gather evidence from any person who is not an Executive Member or Officer;
- receive reports from internal and external auditors where considered appropriate by the Monitoring Officer or Chief Financial Officer;
- make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the inquiry process.

## **6. RULES FOR THE OVERVIEW AND SCRUTINY FUNCTION AND INDIVIDUAL INQUIRIES ETC**

Scrutiny Panels will conduct their proceedings in accordance with “The Overview and Scrutiny Procedure Rules and Handbook” approved by OSM Committee from time to time.

## **7. EXECUTIVE’S RESPONSE TO REVIEWS AND INQUIRIES**

- 7.1 Within two months after the date that OSM Committee considers a Panel’s final report, the Executive shall consider that report and will submit its response to its findings as soon as possible thereafter (but not later than two months or such other time period indicated by Cabinet after consultation with the Chair and Vice-Chair of the Panel where it is unreasonable to comply with the two month requirement) to either that Committee or to full Council. This requirement may be waived by OSM Committee and shall not apply to the Call-In of a decision.

## **8. RIGHTS OF SCRUTINY MEMBERS TO HAVE MATTERS PUT ON THE AGENDA OF OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE**

- 8.1 In accordance with Part 1A Section 9FC of the 2000 Act, every Scrutiny Member has the right to ensure that any matter which is relevant to the functions of the Scrutiny Body of which he/she is a member is included in the agenda for a meeting of Overview and Scrutiny Management Committee if a request is made in accordance with the procedure set out in the Council Procedure Rules paragraphs 26.5 and 26.6 (urgent requests) subject to paragraph 12 below.
- 8.2 A Scrutiny Member may not make a request under this paragraph in relation to –
- 8.2.1 a Scrutiny Body of which he or she is not a member; or
- 8.2.2 the Call-In of a relevant decision made but not implemented, which shall be exclusively governed by the procedures set out in paragraph 12 below or any matter concerning or connected with the Call-In Procedure.



- 8.3 The Scrutiny Member shall deposit their request in writing with the by satisfactorily completing the Scrutiny Request Form and stating which Scrutiny Body the matter is to be considered at.
- 8.4 Where the Scrutiny Request Form is deposited at least twelve clear days before the date of the next scheduled meeting of Overview and Scrutiny Management Committee, an item and copy of the Form shall be included on the agenda dispatched for that meeting.
- 8.5 Where the Scrutiny Request Form is deposited less than twelve clear days before the date of the next scheduled meeting of Overview and Scrutiny Management Committee, an item and copy of the form shall be included on the agenda dispatched for the first meeting following the next scheduled meeting after the form was deposited.
- 8.6 Overview and Scrutiny Management Committee shall discuss the request at the meeting at which the matter is included on the agenda.

## **9. RIGHTS OF MEMBERS TO HAVE MATTERS PUT ON THE AGENDA**

- 9.1 All Members shall have all rights as given to them by the law in respect of enabling any Member of the authority to refer, where lawfully required, obliged or empowered, a matter to the Overview and Scrutiny function of the Council. In particular (but without prejudice to any other rights) these rights to refer such matters shall include those rights contained within Part 1A Section 9 Local Government Act 2000 (as amended).
- 9.2 Full Council (by resolution), the Executive, the Monitoring Officer, the Chief Financial Officer and the Head of Paid Service or any five ordinary members of the Council having signed a resolution to that effect, have the right to request that any matter is included on the agenda for consideration at a meeting of the relevant Scrutiny Body. Such request shall be passed to the OSM Committee for it to consider at its next meeting. If the OSM Committee decides that its inclusion on the agenda is not appropriate, then a report will be brought to the next Full Council Meeting for adjudication.

## **10. POWERS TO REQUEST AND REQUIRE ATTENDANCE AT MEETINGS**

- 10.1 It is expected that a preliminary request for the attendance of an Executive Member and/or any officer before a Scrutiny Body is to be treated with good faith by all parties and an appearance is to be made unless there exists good reason. However, in the event of non-attendance every Scrutiny Body may by resolution require the attendance of an Executive Member and/or any officer before it in order to answer questions. It shall be the duty of those persons to comply with a request made in accordance with this paragraph. The Request for Attendance Notice shall be in writing, signed by the Chair and shall state the date, time and venue of the meeting the person is to attend, and give general details of the matters about which they are to be questioned. The Notice shall be served on the person to whom it is addressed and copied to the . Until such as resolution is passed and a Notice is served there is no duty on the person concerned to attend. Failure to attend in breach of a Notice shall be a breach of standards and may be reported to the Governance Committee where an Executive Member or to the Chief Executive, where an officer.

10.2 Every Scrutiny Body may by resolution require any Executive Member or Officer attending before it to answer any questions put to them by members of that body. But no-one shall be obliged to answer any question which he/she would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales. Failure to answer a question without good reason may be a breach of the Council's Code of Conduct or the Council's Disciplinary Rules and Procedures and shall be reported to the and Chief Executive.

10.3 Every Scrutiny Body may request (but not require) the attendance before it of persons who are not Executive Members or officers to answer questions.

## **11. INVOLVEMENT OF SCRUTINY BODY CHAIRS IN THE TAKING OF KEY DECISIONS**

11.1 Under the following regulations of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 references are made to "the chairman of every relevant overview and scrutiny committee" for particular purposes. This paragraph 11.1 sets out how those regulations operate in the context of the Council's Executive Arrangements involving overview and scrutiny. Such a reference in

- Regulation 5(6) (Procedures Prior to Private Meetings) and
- Regulation 10(1)(a) (General Exceptions)

is to be deemed to refer to the chair of OSM Committee within whose terms of reference the Key Decision in question falls.

11.2 The supply of a copy of the report mentioned in those regulations to the chair of OSM Committee (or if he or she is unable to act, the supply to the vice-chair) shall be deemed to comply with the Regulations.

11.3 Under Regulation 11 (Cases of Special Urgency) the agreement of certain people is required to allow a Key Decision to be taken in urgent circumstances. This paragraph 11.3 sets out who those people are in order of precedence. For the purposes of sub-paragraphs (a) to (c) of regulation 11 the agreement of the following is required to enable a Key Decision to be taken where compliance with regulation 10 is impractical –

- the Chair of Overview and Scrutiny Management Committee ; or
- if they are unable to act or none at the time is appointed, the Lord Mayor; or
- the Sheriff if the Lord Mayor is unable to act or none at the time is appointed.

11.4 For the avoidance of doubt only the persons mentioned above can give a valid agreement and only provided that the order of precedence is adhered to.

## **12. PROCEDURE FOR CALL-IN OF RELEVANT DECISIONS**

12.1 The powers of referral and reconsideration under Part 1A Section 9(F) of the 2000 Act shall be governed by the procedures set out in this paragraph 12.

12.2 The Call-In Procedure shall only apply to Relevant Decisions that have been made but not implemented at the date of deposit of the Call-In Notice referred to below.

12.3 The Call-In Procedure shall not apply to –

- 12.3.1 a Relevant Decision where the Chair of Overview and Scrutiny Management Committee (or other person in accordance with paragraph 11.3 above) has agreed that the particular matter is urgent and the taking of the decision cannot be reasonably deferred; or
- 12.3.2 a Relevant Decision where the same or substantially the same decision has already been called-in under this procedure. In the event of any dispute, the OSM Committee remains the final arbitrator; or
- 12.3.3 any hearing or allegation of misconduct being considered by the Governance Committee; or
- 12.3.4 decisions of the Cabinet to recommend a proposal vis-à-vis the Policy Framework or Budget
- 12.3.5 decisions made by specialist committees where an appeals procedure already exists, ie decisions made in respect of Development Control, Licensing, consents and other permissions where an appeals procedure already exists.

*Relevant Committee for Call-In*

12.4 For the avoidance of doubt a Relevant Decision that is called-in may only be referred to Overview and Scrutiny Management Committee.

12.5 In accordance with section 9(f) of the 2000 Act the following (and only the following) people may invoke the Call-In Procedure (“Requisitioners”) –

- 12.5.1 The Chair of Overview and Scrutiny Management Committee, acting singly; or
- 12.5.2 Any two members of Overview and Scrutiny Management Committee, acting together; or
- 12.5.3 Any two of the Church and/or Parent Scrutiny Members, acting together, but only in respect of the Council’s functions as a local education authority.

*Deposit of Call-In Notice*

12.6 A Requisitioner may only invoke the Call-In Procedure by depositing a Call-In Notice with the Scrutiny Manager within five clear days after the date of publication of the decision.

12.7 The Scrutiny Manager will consider Notices received and will, on satisfaction of the criteria in paragraph 12.5 and having regard to guidelines agreed by OSM Committee from time to time included in the Overview and Scrutiny Handbook, exercise the Call-In of the decision.

*Date of Call-In meeting*

12.8 A Called-In decision shall be referred to a meeting of Overview and Scrutiny Management Committee. Where the Call-In Notice has been validly deposited–

- 12.8.1 Where not more than 10 clear days would elapse between the date the Call-In Notice was deposited and the date of the next scheduled meeting of Overview and Scrutiny Management Committee, then that (next) scheduled meeting will consider the matter;
- 12.8.2 Where more than 10 clear days would elapse between the date the Call-In Notice was deposited and the next scheduled Overview and Scrutiny

Management Committee meeting, then the Chair shall call a special meeting of Overview and Scrutiny Management Committee under Council Procedure Rule 24 to be held not later than 10 clear days after the date of deposit of the Call-In Notice to consider it.

- 12.9 When a Called-In Decision is referred to Overview and Scrutiny Management Committee the Scrutiny Manager shall arrange for a Call-In Report to be included on or added to the agenda for the meeting. The Call-In Report will be in such format as he or she directs from time to time. It shall however include:
- A copy of the relevant report published for the Decision Making Meeting at which the called-in decision was made;
  - A copy of the written record of the decision taken;
  - A copy of the Call-In Notice;
- 12.10 If the agenda for the Overview and Scrutiny Management Committee meeting has been published, the Call-In Report shall be treated by the Chair as a “late urgent item” and will added to the published agenda for the meeting and discussed by it.
- 12.11 When Overview and Scrutiny Management Committee or Full Council considers the Call-In Report, the relevant Decision Maker must attend the meeting, may make an oral or written statement and, may be questioned by its members. Where the Decision Maker was the whole Executive the Executive Members within whose portfolio the relevant decision falls may attend. The body considering the report may also hear from or question such other people as it thinks appropriate.
- 12.12 When considering a Call-In Report, Overview and Scrutiny Management Committee must resolve to do one of the following things –
- 12.12.1 to resolve that the Called-In Decision be reconsidered by the person who made it, with Overview and Scrutiny Management Committee giving its reasons for doing so; or
- 12.12.2 where it is the initial view of Overview and Scrutiny Management Committee that a decision may be a Contrary Decision, to follow the procedure laid down in paragraph 7 of the Budget and Policy Framework Procedure Rules; or,
- 12.12.3 to resolve to inform the Decision Maker that Overview and Scrutiny Management Committee will not ask that the called-in decision be reconsidered, giving its reasons for doing so.
- 12.13 Overview and Scrutiny Management Committee must take one of the three decisions set out in paragraph 12.12 above and must do so before the end of the meeting. If Overview and Scrutiny Management Committee does not do so then the Call-In Procedure in relation to that Called-In decision will come to an end and the decision may then be implemented. In addition, Overview and Scrutiny Management Committee may also make additional comments or recommendations arising from its consideration of the call-in provided there is no conflict between that and Overview and Scrutiny Management Committee’s statutory requirements under the Local Government Act 2000 and its responsibilities under this Constitution.

*Reconsideration of decision by Decision-Maker*

- 12.14 Where Overview and Scrutiny Management Committee or Full Council has resolved to recommend to the Decision Maker that they reconsider their decision, they/he shall

do so at that Decision Maker's next scheduled Decision-Making Meeting. At that meeting the Decision Maker shall consider a copy of the Call-In Report, the advice of the / Chief Financial Officer and any resolution or reasons of Overview and Scrutiny Management Committee or Full Council when they considered the matter.

12.15 At that meeting the Decision Maker will decide –

12.15.1 to keep to their original decision; or

12.15.2 reconsider taking their decision. If so, they may, in the light of any circumstances that have changed since then, make any decision they could have made when they original considered the Key Decision in question or decide not to take a decision.

12.16 After that meeting the Decision Maker shall report to the next Overview and Scrutiny Management Committee meeting, the decision taken and the reasons for it.

12.17 Any decision taken by the Decision-Maker in respect of a Called-In Decision, shall comply with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

#### *Call-In Notice*

12.18 The Call-In Procedure shall not apply to any decision unless and until a Call-in notice has been validly deposited with the Scrutiny Manager under paragraphs 12.6 and 12.7 above. The Call-In Notice shall be in such form as may be approved by the Scrutiny Manager from time to time for that purpose. It shall however require the Requisitioner(s) to state their reasons for wishing to Call-In the decision. The Scrutiny Manager may reject a Notice that has not been completed satisfactorily. Where two or more persons of the same category are required to act together under paragraph 12.5, they must both sign the Call-In Notice.

#### *Withdrawal of Call-In Notice*

12.19 A deposited Call-In Notice may be withdrawn (subject to the next paragraph) at any time before Overview and Scrutiny Management Committee considers the called-in decision. Withdrawal shall be by written notice deposited with the Scrutiny Manager signed by all those who signed the Call-In Notice. If withdrawn the Scrutiny Manager and relevant Head of Service shall then prepare a report on the circumstances of the withdrawal for inclusion on the agenda for the next scheduled meeting of Overview and Scrutiny Management Committee. This report shall include details of any delay or financial consequences caused by the decision to call-in the decision.

12.20 Once Overview and Scrutiny Management Committee decides to refer a called-in contrary decision to Full Council, the Call-In Notice may not be withdrawn under any circumstances.

#### *Notification of Call-In to others*

12.21 It is important to prevent a called-in decision being inadvertently implemented. As soon as possible after depositing the Call-In Notice the Scrutiny Manager shall supply copies of the Notice to the relevant Executive Member and Head of Service. Although a failure to do so will not invalidate the Call-In of the relevant decision, a failure to take reasonable steps to supply them with copies of the Notice shall be regarded as a breach of standards and may be referred to the Standards Committee.

### *Prevention of implementation*

- 12.22 As soon as the relevant Service Director and/or Executive Member become aware (by whatever means) that a Call-In Notice has been deposited, they shall take all reasonable steps to ensure that the called-in decision is not implemented until the matter has been finally disposed of, or the relevant Call-In Notice withdrawn.
- 12.23 During that period the Executive nor any individual Executive Member or officer may not take a decision, whether or not a key decision and whether or not included in the Forward Plan or concerning the same or a different subject, which has the effect of, or is likely to, substantially prejudicing, limiting or preventing the proper consideration of the Called-In decision by Overview and Scrutiny Management Committee or Full Council, or the proper and effective reconsideration of the called-in decision by the person who took it. The Chair of Overview and Scrutiny Management Committee may require that the Scrutiny Manager prepares a report for inclusion on the agenda for the next scheduled meeting of Overview and Scrutiny Management Committee, explaining the circumstances in which any such decisions, or alleged decisions, were taken. Overview and Scrutiny Management Committee may direct that this report is considered by Full Council.

### *Implementation of a Called-In decision*

12.24 Neither the:

12.24.1 implementation of a Called-In decision prior to its final disposal or the withdrawal of the relevant Call-In Notice, nor

12.24.2 the taking of a decision of the type referred to in paragraph 12.20 above during that period,

shall of itself invalidate the legality of any such decision(s) or its implementation nor shall it render any resulting act, omission or other conduct by a Member, officer or other person (third party) unlawful.

12.25 However, a failure to take reasonable steps to prevent such a decision being taken or implemented shall be regarded as a breach of standards and may be referred to the Governance Committee, if a Member, or to the Chief Executive if an officer.

12.26 If a Called-In decision is implemented prior to its final disposal or the withdrawal of the Call-In Notice, then the Call-In under this procedure and its referral to Overview and Scrutiny Management Committee or Full Council (as the case may be) shall come to an end. Where this happens, the procedure set out below will apply:

12.26.1 The relevant Executive Member shall as soon as possible inform Overview and Scrutiny Management Committee or full Council that the called-in decision has been implemented.

12.26.2 The Scrutiny Manager and relevant Head of Service shall then prepare a report for inclusion on the agenda for the next scheduled meeting of Overview and Scrutiny Management Committee, explaining the circumstances in which the Called-In decision was implemented. Overview and Scrutiny Management Committee may direct that this report is considered by Full Council.

12.26.3 Overview and Scrutiny Management Committee may decide to refer the matter to the Governance Committee and/or Chief Executive.

*Bar on reconsideration during Call-In*

12.27 During the period before a Called-In decision has been finally disposed of, or the relevant Call-In Notice withdrawn, the Decision Maker may not reconsider the called-in decision or take another decision on the same subject matter unless the Chair of Overview and Scrutiny Management Committee gives their agreement.

*Consolidation of different Call-Ins*

12.28 Where it would be convenient, and following consultation with the Chair of Overview and Scrutiny Management Committee, the Scrutiny Manager may direct that two or more Call-ins shall be referred to a particular meeting or series of meetings of a single Standing Scrutiny Panel specified or a Standing Scrutiny Panel may consider more than one Called-In decision at the same meeting.

*Half-yearly reports to Council on use of Call-In*

12.29 In July and March each municipal year Full Council will consider a report from the Scrutiny Manager concerning the numbers, types, outcomes and general use of the Call-In Procedure since the last such report.

*Abuse of Call-In Procedure*

12.30 Call-In Procedures must not be abused or used unduly to delay decisions or slow down the process of decision making. In particular, the Executive will, from time to time, need to take decisions which need to be implemented quickly (paragraph 11.3) In all other instances Call-In must be in accordance with paragraph 12.

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## FINANCIAL PROCEDURE RULES

The Financial Procedure Rules consist of and should be interpreted as the Council's Financial Regulations.

### 1. STATUS OF FINANCIAL PROCEDURE RULES

1.1 The Council's Financial Procedure Rules provide the framework for managing the authority's financial affairs. They apply to every Member and Officer of the authority and anyone acting on its behalf and compliance with these rules is mandatory. These rules must be read in conjunction with the whole of the Constitution and any other Council Standards.

1.2 The rules identify the financial responsibilities of Full Council, Cabinet, Members and Officers. Chief Officers are defined for the purpose of these rules as the Chief Executive Officer (CEO), Monitoring Officer, Chief Financial Officer (CFO) and Executive Directors. All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.

4.21.3 Deliberate disregard of the Financial Procedure Rules will be seen as gross misconduct and dealt with accordingly through the disciplinary procedure

4.31.4 The CFO is responsible for maintaining a continuous review of the Financial Procedure Rules and may, where he or she considers it necessary, issue revisions during the year. Where the CFO considers the revisions to be significant and material additions or changes, these will be reported to Full Council for noting and/or approval. The CFO is also responsible for reporting, where appropriate, any breach of the Financial Procedure Rules to Full Council and/or to Cabinet. It should be noted that the CFO and S151 Officer is the Executive Director for Finance and Commercialisation. Any reference to CFO within these Financial Procedure Rules should be read as referring to that officer.

4.41.5 To underpin the Financial Procedure Rules, the CFO is responsible for issuing any relevant advice and guidance that Members, Officers and others acting on behalf of the authority are required to follow. Such advice and guidance will be reviewed, and amended as necessary, by the CFO.

4.51.6 Chief Officers are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's Financial Procedure Rules and other internal regulatory documents and that they comply with them. An electronic copy can be found on the Council's [website](#).

4.61.7 If it is felt to be in the wider interests of the Council, if an urgent decision is required that either:

- Falls outside of the defined process or limits within Financial Regulations or Financial Procedure Rules, or
- Is within the limits of the Financial Regulations or Financial Procedure Rules but due to reasons of urgency the rules cannot be applied as set out

the urgent decision can be made by the CFO, in consultation with the Cabinet Member [responsible](#) for Finance ~~and Capital Assets~~, the Leader, relevant portfolio holder and Executive Director for the service impacted by the decision. This is subject to it being reported at the next appropriate decision-making meeting.

A record of any authorised exceptions will be kept by the Chief Internal Auditor to assist the S151 Officer in determining if any amendments need to be made to these rules.

## **A: FINANCIAL MANAGEMENT**

### Responsibilities of the CFO

- A.1 To ensure the proper administration of the financial affairs of the authority.
- A.2 To monitor compliance with the Financial Procedure Rules.
- A.3 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.
- A.4 To advise on the key strategic controls necessary to secure sound financial management.
- A.5 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

### Responsibilities of Chief Officers

- A.6 To ~~promote~~ensure that all staff in their area are aware of the Financial Procedure Rules in their departments and to monitor adherence to the standards and practices, liaising as necessary with the CFO.
- A.7 To ensure there are~~promote~~ sound financial practices in relation to the standards, performance and development of staff in their departments.

## **Financial Accountabilities in relation to the Scheme of Revenue Virement (including HRA)**

### Explanatory Note

*The overall budget is agreed by Cabinet and approved by Full Council. Following this approval Chief Officers and budget holders are authorised to incur net expenditure in accordance with the estimates that make up the budget for the current financial year. The rules below cover virements, or the switching of resources between approved estimates, heads of expenditure and income.*

### What is a Virement?

*A virement is the:*

*'planned transfer of a budget for use in a different purpose to that originally intended'.*

*A virement does not create additional overall budget liability. It changes the purpose for which the budget will be used compared to that originally planned. The use of virements is intended to enable services to manage budgets with a degree of flexibility while at the same time ensuring that these remain consistent with the overall policy framework determined by the Council.*

*Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. They should avoid supporting recurring expenditure from virements against one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources.*

*Chief Officers must plan to fund such commitments from within their own budgets having regard to the overall forecast outturn for the service, and the Council. Any budget provided by Full Council to meet specific pressures must be used for the identified purpose. If this budget subsequently is not required, this should be identified to the CFO to enable the resource to be utilised as he/she sees fit.*

Executive Directors should ~~aim to~~ balance their service area net expenditure to the budget allocated. In some cases, this will require a transfer of the budget between their service activities.

For the purposes of the scheme set out below, a virement occurs when a budget is transferred from one Service Activity to another. Service activities that will apply for the following financial year are those which are set out in the budget approved by Full Council for the coming financial year.

- A.8 All virements should be cleared in the first instance by the relevant accounting support for the Service Activity concerned. All virements must be recorded on the ledger system.
- A.9 Controls on the use of additional controllable income are required to ensure that significant additional income is not spent without any control process in place.
- A.10 Decisions will be made in line with the criteria set out in the table below and applies to virements of expenditure budgets or virements of income budgets:

Virement Value	Approval Required
Up to £200,000	Approved by CHIEF OFFICERS in consultation with the CFO
£200,000 to £500,000	Approved by CHIEF OFFICERS in consultation with CFO and Cabinet Member
Over £500,000 to £2 million	Approved by CABINET
Over £2 million	Approved by COUNCIL

- A.11 The CFO can allocate sums of any value to or from central funds or reserves, following the relevant consultation.
- A.12 Any budget virements resulting from a restructure or a reduction in the number of FTE can only be actioned following the appropriate consultation.
- A.13 The HRA contingency and revenue balance is defined as a “non-employee” budget. However, any virements from the HRA revenue balance that would reduce the level of balances below the minimum level set by the CFO in the HRA budget and business plan report can only be approved by Full Council.

## **Financial Accountabilities in Relation to the Treatment of Year-end Balances**

### **Responsibilities of the CFO**

- A.14 [Where the council is in an underspend position the CFO is responsible for administering the scheme of carry-forward within the guidelines approved by Full Council. If the council is in an overspend position only carry forwards that relate to grant income will be considered](#)
- A.15 To report all underspends on service estimates carried forward to Full Council for approval.

### Responsibilities of Chief Officers

- A.16 Any overspends will be reported by the CFO to Cabinet and to Full Council.
- A.17 There is no authority to overspend. Where a Chief Officer believes they may overspend they must inform the CFO immediately.
- A.18 Underspends on specific estimates may be carried forward within guidelines issued by the CFO, subject to the approval of Full Council. However, where budgets being carried forward into the new financial year are ring-fenced (e.g. specific grant funds from Government) and hence the Council can exercise no discretion, these will not require the approval of Full Council.
- A.19 Schools' balances shall be available for carry-forward to support the expenditure of the school concerned as per the criteria in surplus policy. Schools cannot plan for a year end deficit budget when submitting budget plans at the start of the year. Schools that submit deficit plans will be required to resubmit their budget with plans to bring the budget back into balance. The authority will intervene if a school refuses to set a balanced budget by identifying the action a school could take and ultimately by suspending delegation.
- A.20 Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the Cabinet Member concerned [and agreed by Cabinet](#), following evaluation by the relevant Chief Officer and the CFO. Any unplanned deficit incurred during the year would be a first call on the following year's budget; the school would need to include the deficit in its balanced budget plan for the following year. Schools that incur unplanned deficits in successive years would be treated the same as schools submitting deficit plans and the authority would need to intervene. The school will need to work with SCC's School Finance Team (if they have purchased SCC Finance Services via an SLA) or their own finance support (if they have not bought back SCC Finance Services), together with SCC School Improvement Teams to produce a robust Deficit Recovery Plan (DRP), ensuring the spend is brought back in line with their allocated funds.
- A.21 The schools funding comes from Dedicated Schools Grant (DSG) grant. DSG consists of three blocks namely Schools Block, Early Years Block and High Needs Block. The grant is paid in support of the local authority's schools budget. Local authorities are responsible for determining the split of the grant between central expenditure and the individual schools budget (ISB) in conjunction with local schools forums. Local authorities are responsible for allocating the ISB to individual schools in accordance with the local schools' funding formula
- A.22 Scheme for financing schools sets out the financial relationship between the City Council and the maintained schools it funds. The scheme for financing schools is required by the School Standards and Framework Act 1998 and it contains requirements relating to financial management and associated issues. The scheme is binding on both the local authority and schools.

The scheme refers to the following legislation:

- [Section 48 of the School Standards and Framework Act 1998, and Schedule 14 to the Act](#)
- [School and Early Years Finance \(England\) Regulations 2014](#)

### **Financial Accountabilities in Relation to Accounting Policies**

#### Responsibilities of the CFO

- A.23 To select suitable accounting policies, and to ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts, which are prepared at 31 March each year, and covers such items as:
- (a) General principles
  - (b) Adjustments between accounting basis and funding basis
  - (c) Acquisitions and discontinued operations
  - (d) Cash and cash equivalents
  - (e) Exceptional items
  - (f) Prior period adjustments, changes in accounting policies and estimates and errors
  - (g) Employee benefits
  - (h) Events after the balance sheet date
  - (i) Financial Instruments
  - (j) Government grants and other contributions
  - (k) Heritage assets
  - (l) Interests in companies and other entities
  - (m) Investment property
  - (n) Joint arrangements
  - (o) Leases
  - (p) Overhead and support services
  - (q) Property, Plant and Equipment (PPE)
  - (r) Private Finance Initiatives (PFI) and similar contract
  - (s) Provision, contingent liabilities and contingent assets
  - (t) Reserves
  - (u) Revenue expenditure funded from capital under statute (REFCUS)
  - (v) Value added tax (VAT)
  - (w) Collection fund
  - (x) Schools
  - (y) Rounding convention

Responsibilities of Chief Officers

- A.24 To adhere to the accounting policies and guidelines approved by the CFO.

**Financial Accountabilities in relation to Accounting Records and Returns**

Responsibilities of the CFO

- A.25 To determine the accounting procedures and records for the authority. Where these are maintained outside the finance department, the Chief Officer concerned should consult the CFO.
- A.26 To arrange for the compilation of all accounts and accounting records under his or her direction.
- A.27 To comply with the following principles when allocating accounting duties:
- (a) Separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them

- (b) Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- A.28 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 2015.
- A.29 To ensure that all claims for funds including grants are made by the due date.
- A.30 To prepare and publish the draft accounts of the authority for each financial year, in accordance with the statutory timetable, which is 31 May other than for financial years 2020/21 and 2021/22 when it is 31 July. With the requirement for the Governance Committee to approve the audited statement of accounts and for them to be published by 31 July other than for financial years 2020/21 and 2021/22 when it is 30 September.
- A.31 To administer the authority's arrangements for underspends or overspends to be carried forward to the following financial year.
- A.32 To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.

#### Responsibilities of Chief Officers

- A.33 To consult and obtain the approval of the CFO before making any changes to accounting records and procedures.
- A.34 To comply with the principles outlined in paragraph A.27, when allocating accounting duties.
- A.35 To maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements.
- A.36 To supply information required to enable the Statement of Accounts to be completed in accordance with guidelines and timetable issued by the CFO.

#### **Financial Accountabilities in relation to the Annual Statement of Accounts**

##### Responsibilities of the CFO

- A.37 To select suitable accounting policies and to apply them consistently.
- A.38 To make judgments and estimates that are reasonable and prudent.
- A.39 To comply with the Code of Practice on Local Authority Accounting in the United Kingdom (Code of Practice).
- A.40 To sign and date the Statement of Accounts, stating that they present a true and fair view of the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March.
- A.41 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

##### Responsibilities of Chief Officers

- A.42 To comply with accounting guidance provided by the CFO and to supply the CFO with information when required.



## **B: FINANCIAL PLANNING**

### **Responsibilities of the CFO**

- B.1 For the General Fund, to ensure that a five-year overview is prepared on a regular basis for consideration and recommendation by Cabinet, before submission to Full Council. The CFO will also prepare the indicators required as part of the Prudential Code. Full Council may amend the budget and Prudential Indicators or ask Cabinet to reconsider them before approving them.
- B.2 For the HRA, to ensure that a 40-year business plan is produced which covers revenue and capital spending. With regard to the revenue budget, there must be a detailed budget for the forthcoming financial year for consideration and recommendation by Cabinet, before submission to Full Council. The CFO will also prepare the indicators required as part of the Prudential Code. Full Council may amend the budget and Prudential Indicators or ask Cabinet to reconsider them before approving them. The 40-year business plan should also be presented to Cabinet and Full Council as part of the budget report.
- B.3 To advise and supply the financial information that needs to be included in business plans in accordance with statutory requirements and agreed timetables.
- B.4 To contribute to the development of business and service plans.
- B.5 To maintain a 5-year Medium Term Financial Strategy (MTFS) and model.
- B.6 To advise Cabinet and opposition groups on the format and content of the budget that is to be approved by Full Council. This includes providing a commentary on the robustness of the estimates made for the purpose of the calculations (to set the Council Tax), and the adequacy of the proposed level of reserves, as required by Section 25 of the Local Government Act 2003.
- B.7 To ensure horizon scanning and planning within the current economic climate.

### **Responsibilities of Chief Officers**

- B.8 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- B.9 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.
- B.10 To contribute to the development of performance plans in line with statutory requirements.
- B.11 To contribute to the development of corporate and service targets and objectives and performance information.

## **Format of the Budget**

### **Responsibilities of the CFO**

- B.12 To include a statement on the robustness of the estimates and the adequacy of the reserves.

### Responsibilities of Chief Officers

B.13 To ensure robust and up-to-date business plans are in place.

## **Revenue Budget Preparation, Monitoring and Control**

### Responsibilities of the CFO

B.14 To ensure sound financial administration and produce a balanced budget; as set out in S.151 of the Local Government Act 1972.

B.15 To administer procedures to set Council Tax and Business Rates.

B.16 To establish an appropriate framework of budgetary management and control that ensures:

- (a) Expenditure is within budget unless Full Council agrees otherwise.
- (b) Each Chief Officer has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their financial responsibilities.
- (c) Expenditure is committed only against an approved budget head and within resources available.
- (d) All managers responsible for committing expenditure comply with relevant guidance, and the Financial Procedure Rules.
- (e) Each cost centre has a single named manager, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure.
- (f) Significant variances from approved budgets are investigated and reported by budget managers regularly along with action plans for recovery.

B.17 To administer the authority's scheme of revenue virement.

B.18 To submit reports to Cabinet and if necessary, to Full Council, following consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control.

B.19 To prepare and submit reports to Cabinet on the authority's projected income and expenditure compared with the budget on a regular basis.

B.20 All estimates should be calculated using the approved assumptions in the MTFs.

### Responsibilities of Chief Officers

B.21 To ensure that budget estimates reflecting agreed priorities and business plans are produced in consultation with Cabinet Member and submitted to the CFO in accordance with the budget timetable and the guidance issued for the production of budget reports to Cabinet and Full Council.

B.22 To maintain budgetary control within their departments, in adherence to the principles in B.15, and to ensure that all income and expenditure are properly recorded and accounted for.

B.23 To ensure that an accountable budget holder is identified for each item of income and expenditure under the control of the Chief Officer (grouped together in a series of cost

centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.

- B.24 To ensure that spending remains within the service's overall budget and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- B.25 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget, and that this process is operating effectively.
- B.26 To prepare, following consultation with the CFO, reports on the service's projected expenditure compared with its budget, in accordance with the Council's Corporate Monitoring procedure and timetable.
- B.27 To ensure prior approval by Full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
  - (a) Create financial commitments in future years
  - (b) Change existing policies, initiate new policies or cease existing policies
  - (c) Materially extend or reduce the authority's services

The report on new proposals should explain the full financial implications, after consultation with the CFO. Unless Full Council or Cabinet has agreed otherwise, Chief Officers must plan to contain the financial implications of such proposals within their budget.

- B.28 To ensure compliance with the scheme of virement.
- B.29 To agree with the relevant Chief Officer and the CFO where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Chief Officer's level of service activity.

## **Maintenance of Reserves and Balances**

### Responsibilities of the CFO

- B.30 To advise the Cabinet and Council on prudent levels of reserves and balances for the City Council, [giving consideration to level of risk the council faces, and published CIPFA guidance](#).

## **Capital Programme Management (General Fund and Housing Revenue Account (HRA))**

### **Capital Governance**

#### Capital Approvals

- B.31 The Council has an established officer governance process which ensures transparency and gives assurance to members. The Change Authority Board and the Capital Review Group receive and consider proposals and business cases in line with the agreed procedure and timeline for capital approvals as issued by the CFO. Further details of the role of the Change Authority Board and Capital Review Group are included in appendices 1 and 2.
- B.32 All new capital schemes or additions to existing capital schemes would normally have a business justification through a business case to the Capital Review Group. These are considered for prioritisation ahead of recommendation to the Council for approval of the capital programme as part of the annual budget approval in February. Business cases for new or additional capital funding made at any other time during the year will be considered

in exceptional circumstances only, unless external funding has been identified for scheme. There is a separate procedure for the HRA, as per B.33.

- B.33 Individual business cases are also normally expected for new additions to the HRA capital programme. The 40-year HRA business plan, which is approved by Full Council annually, will show the affordability of the overall programme.
- B.34 Approval is also required before expenditure can be incurred against a new scheme in the capital programme. This approval can be requested when the scheme is submitted for addition to the General Fund capital programme. If a scheme is included in the programme, but is dependent on subsequent agreement to spend, approval to spend must be sought usually once a full business case is available and prior to incurring expenditure. Approval for HRA additions and approval to spend will be given to schemes included in the 40-year HRA business plan.
- B.35 Schemes already added to the capital programme may spend up to ten per cent of the scheme budget with the approval of the relevant Chief Officer following consultation with the relevant Cabinet Member and the CFO in advance of approval to spend on the scheme.
- B.36 The same process for considering and approving projects and business cases applies whether the decision is for an officer or a Cabinet Member. A model for business cases is used which is streamlined for less complex projects to ensure the input is proportionate. The full scheme approval process is detailed in Appendix 3.
- B.37 The capital programme shall be recommended for approval by Full Council following consideration by the Capital Review Group. This will include projected available resources, the allocation of resource to schemes, the impact on the revenue budget, prudent retention of resources to meet unforeseen short-term demands, variances in projected available resources and medium-term future needs.
- B.38 In addition to the large schemes and development projects that make up much of the capital programme, there will be routine investment plans for the core business of the Council that have block allocations. These include the schools' maintenance programme, the heritage assets maintenance budget, highways maintenance, the replacement of vehicles and other essential service assets. These are planned and budgeted for through 5-year asset management plans within the capital programme and will operate within the approved control totals. The Executive Director is delegated to move budgets between projects within each programme.
- B.39 A virement is the movement of a budget to another purpose other than that it was allocated to when the capital scheme was approved. This applies to the virement of budgets between capital schemes within the capital programme and between projects within a capital scheme.
- B.40 All virements at any value within a capital programme can be approved by the CFO on submission of a completed DDN. All other virements must be agreed according to the approval levels as set out in Table 1.
- B.41 Requests for approval by Cabinet or Council must be submitted in the correct corporate report format and submitted in accordance with Council's democratic processes.
- B.42 Decisions will be made in line with the approval levels set out in Table 1.

**Notes:**

A diagram summarising the process for approving new capital schemes and additions to existing capital schemes is shown in Appendix 4.

A timeline for capital approvals is shown in Appendix 5.

### Capital Monitoring

- B.43 The monitoring of the capital programme is part of the core business of Cabinet Member Briefing on a quarterly basis with formal decisions published in accordance with constitutional arrangements. The Capital Review Group has the same quarterly programme review.
- B.44 Approvals of slippage and rephasing and the approval of Delegated Decision Notices (DDNs) required to vire budgets between schemes and projects within schemes should be requested in accordance with approval levels set out in Table 1.
- B.45 Capital schemes must be monitored at a service level according to the capital monitoring timetable. This includes a review of expenditure, plans for slippage and rephasing and explanations for any variance to budget.
- B.46 Expenditure included in the Capital Programme must show the total value of contracts and related expenses that the council will incur. Any grants or other income must be shown as a source of capital finance and not as a reduction to the gross expenditure.
- B.47 Expenditure must be in line with the Council's [Contract Procedure Rules](#).
- B.48 Feasibility work carried out prior to a scheme being added to the capital programme is a charge to revenue. If a capital project is approved following feasibility work, the cost of this can be capitalised. Feasibility work is an analysis of all factors of the project including economic, technical, legal and scheduling considerations, to establish the likelihood that the project can be completed successfully.

### Capital Programme Management Responsibilities

Local authorities are required by regulation to have regard to the Prudential Code for Capital Finance in Local Authorities when carrying out financial duties regarding capital expenditure. The objectives of this code are to ensure that the capital investment plans of local authorities are affordable, prudent and sustainable. The responsibilities are set out below to ensure adherence with this code.

#### Responsibilities of the CFO

- B.49 To issue guidance concerning capital schemes and controls, and to determine the definition of "capital", having regard to government regulations and accounting requirements.
- B.50 To ensure that the Capital Strategy and 5-year programme are presented to Full Council as part of the budget and at such other times as the CFO may determine. The HRA capital spending plan is included and detailed in the Council Capital report that is reported to Full Council as part of budget-setting.
- B.51 To report on the outturn of capital expenditure to Council as soon as practicable after the end of the financial year.
- B.52 To give regular updates to Cabinet on the forecast expenditure.

#### Responsibilities of the Capital Review Group

- B.53 To oversee and coordinate the preparation, review and implementation of the Council's Capital Strategy. The Capital Strategy must be approved by Council and reviewed annually.

- B.54 To lead the strategic direction of capital investment for the Council.
- B.55 The full terms of reference for the Capital Review Group are attached at Appendix 1. In summary the Capital Review Group will be responsible for:
- (a) Managing un-ringfenced and corporate resources and reviewing all bids for resources, evaluating them and then agreeing on the prioritisation of resources accordingly.
  - (b) Reviewing the use of any ringfenced resources to ensure alignment with other spending plans and the maximisation of benefits to the Council and achievement of Council outcomes.
  - (c) Recommending the use of both un-ringfenced and ringfenced resources and also the general prioritisation of resources so that Cabinet / Council can make a final well-informed decision on the utilisation of resources.
  - (d) Prior to the annual review of the capital strategy undertaking a review of the individual projects.

*Responsibilities of Chief Officers*

- B.56 To ensure that the correct business case template is completed in full for all new capital projects. This will include full costings, accurate phasing of annual budgets across the life of the project and correctly identifying capital and revenue expenditure required for the project. The completion of the business case should be in consultation with the Finance Business Partner for the service to ensure the accuracy of the financial information provided.
- B.57 The cost of internal resources should be included in the project costs. This will include:
- Project Management
  - Legal Services
  - HR
  - Communications
  - Procurement
  - Finance

## **Table 1 – Capital Approvals**

### **Note:**

The appropriate report should be submitted for decision depending on the value of approval as per sections B40 and B41.

<b>Approval to add new schemes or to increase existing capital schemes</b> <i>Funded from new, sources including 100% ringfenced</i>	<b>Approval to spend against a new or existing scheme</b> <i>If a full business case is available, approval to spend can be given at the same time as approval to add a scheme to the capital programme or increase the value of an existing capital scheme</i>	<b>Virements **</b> <i>Variations across schemes within an overall programme can be approved by CHIEF OFFICER*** in consultation with CFO and relevant Cabinet Member</i>	<b>Slippage &amp; Rephasing</b> <i>Movement of budgets between years</i>
<b>Up to £500,000 – A Delegated Decision Notice (DDN) is required</b> Approved by CHIEF OFFICER*** in consultation with CFO and Cabinet Member	<b>Up to £500,000 – A Delegated Decision Notice (DDN) is required</b> Approved by CHIEF OFFICER*** in consultation with CFO and Cabinet Member	<b>Up to £500,000 – A Delegated Decision Notice (DDN) is required</b> Approved by CHIEF OFFICER*** in consultation with CFO and Cabinet Member	<b>Up to £500,000 – A Delegated Decision Notice (DDN) is required</b> Approved by CHIEF OFFICER*** in consultation with the CFO and Cabinet Member
<b>Over £500,000 up to £5 million</b> Approved by CABINET	<b>Over £500,000 up to £5 million</b> Approved by CABINET	<b>Over £500,000 up to £5 million</b> Approved by CABINET	<b>Over £500,000</b> Approved by CABINET
<b>Over £5 million</b> Approved by COUNCIL	<b>Over £5 million</b> Approved by COUNCIL	<b>Over £5 million</b> Approved by COUNCIL	

\* This includes credit arrangements such as financing leases.

\*\* If the virement is not in line with current approved council policies and strategies the decision must be made by Council regardless of value.

\*\*\*The Chief Officer is the Executive Director of the service that holds the budget for the capital project.

Following the submission of a Delegated Decision Notice (DDN) for consideration and recommendation by the Capital Review Group, the CFO, can approve virements of any value within a programme.

The approval limits do not apply in respect of decisions taken at the Joint Commissioning Board up to a value of £2 million where the decision is taken by an officer / Individual Cabinet Member following consultation with and the agreement of all Cabinet Member Representatives on the Board or to acquisitions and disposals in relation to the Property Investment Fund, authority being delegated to the Associate Director: Capital Assets, following consultation with the Leader of the Council and the Executive Director: Finance and Commercialisation.

## **C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **Risk Management**

#### **Responsibilities of the CFO**

- C.1 To prepare and promote the authority's risk management policy.
- C.2 To develop risk management controls in conjunction with other Chief Officers.
- C.3 To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- C.4 To offer insurance cover to schools.
- C.5 To advise Cabinet on proper insurance cover where appropriate, and effect corporate insurance cover, through external insurance and internal funding.

#### **Responsibilities of Chief Officers**

- C.6 To notify the CFO immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the CFO or the authority's insurers.
- C.7 To take responsibility for the management of operational and service risks in accordance with the risk management policy, having regard to advice from the CFO and other specialist Officers.
- C.8 To ensure that there are regular reviews of risk within their departments and that appropriate actions are taken or are in place to manage risk.
- C.9 To notify the CFO promptly of all new risks, including properties or vehicles that require insurance and of any alterations or new initiatives affecting existing insurances.
- C.10 To consult the CFO and where appropriate the Director of Legal & Business Services, on the terms of any indemnity that the authority is requested to give.
- C.11 To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

### **Internal Control**

#### **Responsibilities of the CFO**

- C.12 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

#### **Responsibilities of Chief Officers**

- C.13 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and financial performance targets, and management of risks.
- C.14 To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the CFO. Chief Officers should also



be responsible for removing controls that are unnecessary or not cost or risk effective, for example because of duplication.

C.15 To ensure staff have a clear understanding of the consequences of lack of control.

### **Audit Requirements – Internal Audit**

#### **Responsibilities of the CFO**

C.16 To ensure that internal auditors have the authority to:

- (a) Access authority premises at reasonable times
- (b) Access all assets, records, documents, correspondence and control systems
- (c) Receive any information and explanation considered necessary concerning any matter under consideration
- (d) Require any employee of the authority to account for cash, stores or any other authority asset under his or her control
- (e) Access records belonging to third parties, such as contractors, when required
- (f) Directly access the Head of Paid Service, Cabinet and Overview and Scrutiny Management Committee

C.17 To approve the strategic and annual audit plans prepared by the Chief Internal Auditor, which take account of the characteristics and relative risks of the activities involved.

C.18 To ensure that effective procedures are in place to investigate promptly any suspected fraud or irregularity.

#### **Responsibilities of Chief Officers**

C.19 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

C.20 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

C.21 To consider and respond promptly to recommendations in audit reports.

C.22 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

C.23 To notify the CFO immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

C.24 To ensure new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Internal Auditor prior to implementation.

## **Audit Requirements – External Audit**

### **Responsibilities of the CFO**

- C.25 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- C.26 To ensure there is effective liaison between external and internal audit.
- C.27 To work with the external auditor and advise Full Council, Cabinet and Chief Officers on their responsibilities in relation to external audit.

### **Responsibilities of Chief Officers**

- C.28 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- C.29 To ensure that all records and systems are up to date and available for inspection.

## **Preventing Fraud and Corruption**

### **Responsibilities of the CFO**

- C.30 To develop and maintain an anti-fraud, anti-bribery and anti-corruption policy.
- C.31 To develop and maintain an anti-money laundering policy.
- C.32 To maintain adequate and effective internal control arrangements.
- C.33 To ensure that all suspected irregularities are reported to the Chief Internal Auditor.

### **Responsibilities of Chief Officers**

- C.34 To ensure that all suspected irregularities are reported to the Chief Internal Auditor.
- C.35 To invoke the authority's disciplinary procedures where the outcome of an investigation indicates improper behaviour.
- C.36 To ensure that where financial impropriety is discovered, the CFO is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- C.37 To maintain a departmental register of interests.

## **Assets – Security**

### **Responsibilities of the CFO**

- C.38 To ensure that an asset register is maintained in accordance with good practice for all fixed assets whose value is material in the manner prescribed by CIPFA in the Institute's Practical Guide to Asset Registers. The function of the asset register is to provide the authority with information about fixed assets so that they are safeguarded, used efficiently and effectively, and are adequately maintained.
- C.39 To receive the information required for accounting, costing and financial records from each Chief Officer.

C.40 To ensure that assets are valued in accordance with the Code of Practice.

Responsibilities of Chief Officers

- C.41 The Service Manager – Asset Management shall maintain a property database in a form approved by the CFO for all land and buildings and plant within buildings currently owned or used by the authority. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- C.42 To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the appropriate Chief Officers has been established.
- C.43 To ensure the proper security of all buildings and other assets under their control.
- C.44 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the appropriate Chief Officers
- C.45 To pass title deeds to the Director of Legal & Business Services who is responsible for custody of all title deeds.
- C.46 To ensure that no authority asset is subject to personal use by an employee without proper authority.
- C.47 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority. If an asset requires to be moved, altered, or disposed of check that the asset has not been leased or that any lease conditions are complied with.
- C.48 To ensure that additions and amendments to the register of moveable assets are notified to Finance in accordance with arrangements defined by the CFO.
- C.49 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- C.50 To consult the CFO in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- C.51 To ensure cash holdings on premises are kept to a minimum.
- C.52 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the CFO as soon as possible.
- C.53 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the CFO, the relevant Cabinet Member, Cabinet or Full Council (as appropriate) agrees otherwise.
- C.54 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the CFO.
- C.55 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.
- C.56 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £200 in value.
- C.57 To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the

inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.

- C.58 To make sure that property is only used in the course of the authority's business, unless the Chief Officer concerned has given permission otherwise.
- C.59 To make arrangements for the care and custody of stocks and stores in the department.
- C.60 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- C.61 To investigate and remove from the authority's records (i.e. write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of a predetermined limit.
- C.62 To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the CFO, Cabinet decides otherwise in a particular case.
- C.63 To seek Cabinet approval to the write-off of redundant stocks and equipment in excess of a predetermined sum.
- C.64 To ensure that, in the event of any disaster, contingency plans for the security of assets and continuity of service or system failure are in place.

## **Assets – Disposal**

### **Responsibilities of the CFO**

- C.65 To issue guidelines representing best practice for disposal of assets. Corporate Property Standards should be followed for disposals of Land and Buildings.
- C.66 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

### **Responsibilities of Chief Officers**

- C.67 To dispose of surplus or obsolete materials, stores or equipment in accordance with the guidelines issued by the CFO.
- C.68 To ensure that income received for the disposal of an asset is properly banked and coded.

## **Treasury Management**

*All financial transactions actioned as part of the Council's Treasury Management function will be undertaken in line with the approved Treasury Management Strategy and practices but will fall outside of the Delegated Decision Notice process.*

### **Responsibilities of CFO**

- C.69 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the authority's treasury management policy statement and strategy.
- C.70 To report a proposed treasury management strategy for the coming financial year to Full Council at, or before the start of, each financial year.

- C.71 To report to Full Council not less than twice in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.
- C.72 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the CFO.
- C.73 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by Full Council.
- C.74 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the appropriate Chief Officer.
- C.75 To affect all borrowings in the name of the authority.
- C.76 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

#### Responsibilities of Chief Officers

- C.77 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval, following consultation with the CFO, of Full Council or Cabinet as appropriate, subject to the criterion as detailed in E.9.
- C.78 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All Officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with CFO, unless the deed otherwise provides.
- C.79 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the CFO, and to maintain written records of all transactions.
- C.80 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.
- C.81 To follow the instructions on banking issued by the CFO.

## **D: SYSTEMS AND PROCEDURES**

### **General**

#### **Responsibilities of the CFO**

- D.1 To make arrangements for the proper administration of the authority's financial affairs, including to:
- (a) Issue advice, guidance and procedures for Officers and others acting on the authority's behalf
  - (b) Determine the accounting systems, form of accounts and supporting financial records
  - (c) Establish arrangements for audit of the authority's financial affairs
  - (d) Approve any new financial systems to be introduced
  - (e) Approve any changes to be made to existing financial systems

#### **Responsibilities of Chief Officers**

- D.2 To ensure that accounting records are properly maintained and held securely.
- D.3 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the CFO.
- D.4 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- D.5 To incorporate appropriate controls to ensure that, where relevant:
- (a) All input is genuine, complete, accurate, timely and not previously processed
  - (b) All processing is carried out in an accurate, complete and timely manner
  - (c) Output from the system is complete, accurate and timely
- D.6 To ensure that the organisational structure provides an appropriate segregation of duties, an adequate level of internal control, and that the risk of fraud or other malpractice is minimised.
- D.7 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- D.8 To ensure that systems are documented and staff trained in operations.
- D.9 To consult with the CFO before changing any existing system or introducing new systems.
- D.10 To establish a scheme of delegation identifying Officers authorised to act upon the Chief Officer's behalf, or on behalf of Cabinet, in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- D.11 Where relevant, to supply lists of authorised Officers, with specimen signatures if required, and delegated limits, to the CFO, together with any subsequent variations.
- D.12 To ensure that effective contingency arrangements, including back-up procedures for computer systems are in place. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.

- D.13 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- D.14 To ensure that the authority's IT Standards issued by the appropriate Head of Service are observed, and that in particular all computerised data, computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- D.15 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
  - (a) Only software legally acquired and installed by the authority is used on its computers
  - (b) Staff are aware of legislative provisions
  - (c) In developing systems, due regard is given to the issue of intellectual property rights

## **Income**

### **Responsibilities of the CFO**

- D.16 To agree arrangements for the collection of all income due to the authority, and to approve the procedures, systems and documentation for its collection.
- D.17 To provide advice to Chief Officers on the statutory regulations which relate to the collection and accounting of income.
- D.18 To assess and approve the form of receipts used.
- D.19 To undertake weekly reconciliations of all deposits to the authority's bank accounts.
- D.20 To provide an accounting system which records income and provides relevant information to Chief Officers so that income can be monitored.
- D.21 To maintain a Value Added Tax (VAT) account and supply HM Revenues & Customs (HMRC) with such details, explanations and statutory returns as required.
- D.22 To provide a system for the collection and control of credit income, and of sundry debts.
- D.23 To create, monitor and maintain a provision for bad and doubtful debts.
- D.24 To annually review the policy for writing off debts and the terms of credit. Cabinet is responsible for approving the procedures for writing off debts as part of the overall control framework of accountability and control.
- D.25 To approve all debts to be written off up to the value of £200,000 and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- D.26 To obtain the approval of Cabinet when writing off debts in excess of £200,000.

### **Responsibilities of Chief Officers**

- D.27 To establish proposals for a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- D.28 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

- D.29 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- D.30 To issue official receipts or to maintain other documentation for income
- D.31 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- D.32 To hold securely receipts, tickets and other records of income for the appropriate period.
- D.33 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- D.34 To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account and the ledger system on a regular basis appropriate to the level of transactions
- D.35 To ensure income is not used to cash personal cheques or other payments.
- D.36 To supply the CFO with details relating to work done, goods supplied, services rendered or other amounts due, to enable the CFO to record correctly the sums due to the authority and to ensure accounts are sent out promptly. To do this, Chief Officers should use established performance management systems to monitor recovery of income and flag up areas of concern to the CFO. Chief Officers have a responsibility to assist the CFO in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf. Only up to approved levels of cash can be held on the premises.
- D.37 To keep a record of any transfer of money between employees. The receiving Officer must sign for the transfer and the transferor must retain a copy.
- D.38 To notify the CFO of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the CFO.

## **Ordering and Paying for Work, Goods and Services**

### **Responsibilities of the CFO**

- D.39 To ensure that all the authority's financial systems and procedures are sound and properly administered.
- D.40 To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.
- D.41 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- D.42 To approve the form of official orders and associated terms and conditions.
- D.43 To make payments from the authority's funds on the Chief Officer's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- D.44 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- D.45 To make payments to contractors on the certificate of the appropriate Chief Officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.



- D.46 To provide advice and encouragement on making payments by the most economical means.
- D.47 To provide, as necessary, cash change floats, and approve and set up bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts.
- D.48 To maintain a record of all such cash floats and bank imprest accounts, and periodically to review the arrangements for the safe custody and control of them.
- D.49 To hold a central record of the scheme of delegation identifying Officers authorised to approve payments, orders and variations up to the value of £2 million as agreed by the Executive Director for each service.
- D.50 Payments, orders and variations over £2 million must be approved by the Executive Director in consultation with the CFO and Cabinet Member for the service.

### Responsibilities of Chief Officers

- D.51 To ensure that unique numbered official orders are used for all goods and services, wherever possible in accordance with the Council's [No Purchase Order No Pay policy](#).
- D.52 To ensure official orders are not used to obtain goods or services for private use.
- D.53 To ensure that only those designated staff initiate or authorise orders and to maintain an up-to-date list of such designated staff, identifying authorisation limits. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurement and the [Contract Procedure Rules](#) must be adhered to when procuring on behalf of the Council. Value for money should always be achieved.
- D.54 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. Where possible a different Officer from the person who authorised the order should always carry out this check. If appropriate, entries should then be made in inventories or stores records.
- D.55 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming that:
  - (a) The goods or services have been received
  - (b) The invoice has not previously been paid
  - (c) The expenditure has been properly incurred and is within budget provision
  - (d) Prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
  - (e) Tax has been correctly accounted for
  - (f) The invoice is correctly coded
  - (g) Discounts have been taken where available
  - (h) Appropriate entries will be made in accounting records
- D.56 For the avoidance of doubt, no pre-payment for goods, services or suppliers shall be allowed above the value of £15,000, without the prior written consent of the CFO and the Director of Legal & Business Services.
- D.57 To ensure no Officer authorises a payment to her or himself, and where practical no Officer should authorise an invoice for which the Officer raised the order.

- D.58 To ensure controls are regularly reviewed to verify they are in place and adequate for the efficient management of the system, which enables invoices to be examined, verified and authorised as properly payable
- D.59 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the Chief Internal Auditor unless a written explanation giving the reason is attached. Any copy invoice must be clearly marked by the supplier that it is a copy.
- D.60 To encourage suppliers of goods and services to receive payment by the most economical means for the authority. It is essential, however, that payments made by direct debit have the prior approval of the CFO.
- D.61 To ensure that the Council obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the authority's [Contract Procedure Rules](#).
- D.62 To utilise any established central purchasing procedures in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the authority's [Contract Procedure Rules](#).
- D.63 To ensure that employees are aware of the national code of conduct for local government employees (summarised in the procedures and conditions of employment manual).
- D.64 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the CFO. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- D.65 To notify the CFO of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the CFO.
- D.66 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the CFO, the systems and procedures to be adopted in relation to financial aspects, including:
- (a) Certification of interim and final payments
  - (b) Checking, recording and authorising payments
  - (c) Monitoring and controlling capital schemes
  - (d) Validation of subcontractors' tax status
- D.67 To notify the CFO immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- D.68 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.
- D.69 To ensure that employees operating an imprest account:
- (a) Obtain and retain vouchers to support each payment from the imprest account, including where appropriate an official receipted VAT invoice
  - (b) Make adequate arrangements for the safe custody of the account
  - (c) Produce upon demand by the CFO cash and all vouchers to the total value of the imprest amount
  - (d) Record transactions promptly
  - (e) Reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder

- (f) Provide the CFO with a certificate of the value of the account held at the end of Period 11 each year, detailing the breakdown between cash at bank, cash in hand, petty cash floats advanced and vouchers.
- (g) Ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (h) On leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the CFO for the amount advanced to him or her.
- (i) Follow the Council's Petty Cash policy.

## **Payments to Employees and Members**

### **Responsibilities of the CFO**

- D.70 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- D.71 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- D.72 To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- D.73 To make arrangements for paying Members travel or other allowances.
- D.74 To provide advice and encouragement to Members, Chief Officers and employees in order to secure payment of allowances, salaries and wages by the most economical means.
- D.75 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.
- D.76 To act as an advisor to Chief Officers on areas such as national insurance and pension contributions, as appropriate.

### **Responsibilities of Chief Officers**

- D.77 To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- D.78 To notify the CFO of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the CFO.
- D.79 To ensure that adequate and effective systems and procedures are operated, so that:
  - (a) Payments are only authorised to bona fide employees
  - (b) Payments are only made where there is a valid entitlement
  - (c) Conditions and contracts of employment are correctly applied
  - (d) Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness

- D.80 To ensure that only those staff designated by them initiate or authorise payroll documentation and to maintain a list of such designated staff, including where appropriate specimen signatures identifying in each case the limits of their authority.
- D.81 To ensure that payroll transactions are processed only through the payroll system. Chief Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought from the CFO.
- D.82 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the CFO is informed where appropriate.
- D.83 To ensure that the CFO is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- D.84 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

#### Responsibilities of Members

- D.85 To submit claims for Members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

#### Taxation

##### Responsibilities of the CFO

- D.86 To complete all HMRC returns regarding PAYE.
- D.87 To complete a monthly return of VAT inputs and outputs to HMRC.
- D.88 To provide details to HMRC regarding the construction industry tax deduction scheme.
- D.89 To complete all relevant company returns.
- D.90 To complete corporation returns for wholly owned companies.
- D.91 To advise Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority, and to maintain up-to-date guidance for all authority employees on taxation issues.

##### Responsibilities of Chief Officers

- D.92 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.
- D.93 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- D.94 To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments. The [IR35 guidance](#) should be followed for all off-payroll workers who will be subject to PAYE deductions unless a determination has been issued by the IR35 team stating otherwise. As per the [Consultants Policy](#) a business case must be submitted for approval to Executive Management Board before engaging consultants.

D.95 To follow the guidance on taxation issued by the CFO, including the [Tax Evasion Policy](#).

### **Quasi Commercial operations**

#### **Responsibilities of the CFO**

D.96 To advise on the establishment and operation of trading accounts and business units.

#### **Responsibilities of Chief Officers**

D.97 To consult with the CFO where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.

D.98 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.

D.99 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

D.100 To ensure that each business unit prepares an annual business plan in accordance with published guidelines.

## **E: EXTERNAL ARRANGEMENTS**

### **Partnerships**

#### **Responsibilities of the CFO**

- E.1 To advise on effective controls that will ensure that resources are not wasted.
- E.2 To advise on the key elements of funding a project including:
  - (a) A scheme appraisal for financial viability in both the current and future years
  - (b) Risk appraisal and management
  - (c) Resourcing, including taxation issues
  - (d) Audit, security and control requirements
  - (e) Carry-forward arrangements.
- E.3 To ensure that the accounting arrangements are satisfactory.

#### **Responsibilities of Chief Officers**

- E.4 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the CFO.
- E.5 To ensure that, before entering into agreements with external bodies, appropriate approvals have been obtained and a risk management appraisal has been prepared for the CFO.
- E.6 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.
- E.7 To ensure that all agreements and arrangements are properly documented.
- E.8 To provide appropriate information to the CFO to enable a note to be entered into the authority's statement of accounts concerning material items.
- E.9 To ensure proper authority is obtained for the creation of any company, or any interest in a company, upon the following provisos:
  - i. Cabinet authority – where the interest is within the Policy Framework, a minority one, there is limited liability, less than 20 per cent board membership and the CFO and the Director of Legal & Business Services have no financial or legal concerns;
  - ii. Council authority – any other situation.

### **External Funding**

#### **Responsibilities of the CFO**

- E.10 To ensure that any match-funding or partnership funding requirements are considered prior to entering into agreements and that future revenue budgets reflect these requirements and that these issues are fully considered before bids are submitted.
- E.11 To ensure that the longer-term sustainability costs have been properly assessed.
- E.12 To ensure that the sustainability of funding has been assessed for risk.
- E.13 To ensure that all agreements entered into are consistent with and support the Council's priorities.

- E.14 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.
- E.15 To maintain a central register of external funding / grant arrangements.
- E.16 To ensure that audit requirements are met.

**Responsibilities of Chief Officers**

- E.17 To consult with the CFO and the relevant Cabinet Member before any bid for any external funds is submitted and to ensure that the necessary approvals are obtained to accept funding in line with the criteria in the table below.
- E.18 To ensure that when a bid is successful, relevant amendments are made to the appropriate capital and revenue budgets, and that all necessary capital and revenue approvals are obtained before any expenditure is incurred or any commitment is made.
- E.19 To consider any future commitments that arise after the period of external funding ceases and agree a written exit strategy in order to avoid unplanned future commitments or provide a robust financial plan to fund any approved future commitments after the period of external funding ceases.
- E.20 To ensure that expenditure is properly incurred and recorded in accordance with the Financial Procedure Rules and any conditions of the funding and that all claims for funds are made within any deadlines.
- E.21 To ensure that the project progresses in accordance with the agreed project plan.

<b>Value of external funding</b>	<b>Approval required for acceptance of external funding bids</b>
<b>Up to £200,000</b>	Approved by CHIEF OFFICERS in consultation with the CFO
<b>£200,000 to £500,000</b>	Approved by CHIEF OFFICERS in consultation with CFO and Cabinet Member
<b>Over £500,000 to £2 million</b>	Approved by CABINET
<b>Over £2 million</b>	Approved by COUNCIL

**Work for Third Parties**

**Responsibilities of CFO**

- E.22 To issue guidance with regard to the financial aspects of third-party contracts and the maintenance of the contract register.

**Responsibilities of Chief Officers**

- E.23 To ensure that the approval of Cabinet is obtained before any negotiations are concluded to work for third parties.
- E.24 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the CFO.
- E.25 To ensure that appropriate insurance arrangements are made.
- E.26 To ensure that the authority is not put at risk from any bad debts.

- E.27 To ensure that no contract is subsidised by the authority.
- E.28 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- E.29 To ensure that the business unit has the appropriate expertise to undertake the contract.
- E.30 To ensure that such contracts do not impact adversely upon the services provided for the authority.
- E.31 To ensure that all contracts are properly documented.
- E.32 To provide appropriate information to the CFO to enable a note to be entered into the Statement of Accounts.



## **APPENDIX 1 – CAPITAL REVIEW GROUP – TERMS OF REFERENCE**

### **CAPITAL REVIEW GROUP**

#### Terms of Reference

##### **Statement of Purpose**

The role of the group is to oversee the capital programme, from proposed projects through to inclusion in the programme and implementation and delivery of the benefits. This will include:

- 1) Acting as a gateway for consideration of what proposals should be recommended for inclusion in the capital programme
- 2) Maintaining an overview of the performance of the projects within the Council's capital programme, identifying any specific implementation challenges being faced and
- 3) Scanning the horizon for projects emerging that may need to be added into the programme in the future.

This remit applies to both the General Fund and Housing Revenue Account (HRA). All proposals will be considered for value for money, alignment with the Council's vision and priorities and within the context of overall affordability of the entire programme.

##### **Attendees**

- Cabinet Member for Finance and Capital Assets (Chair)
- Executive Director of Place
- Executive Director Finance and Commercialisation (S151)
- Head of Financial Planning and Management
- Capital & Treasury Manager
- Head of Property

##### By invite depending on the project requiring approval

- Leader of the Council
- Chief Executive
- Relevant Cabinet Members
- Relevant Executive Directors
- Relevant Project / Programme Managers
- Relevant Heads of Services (to attend at least quarterly to cover capital monitoring)

##### **Core Functions**

- To operate as a critical gateway for capital projects, evaluating and challenging business case proposals and taking a view on prioritisation of projects proposed.

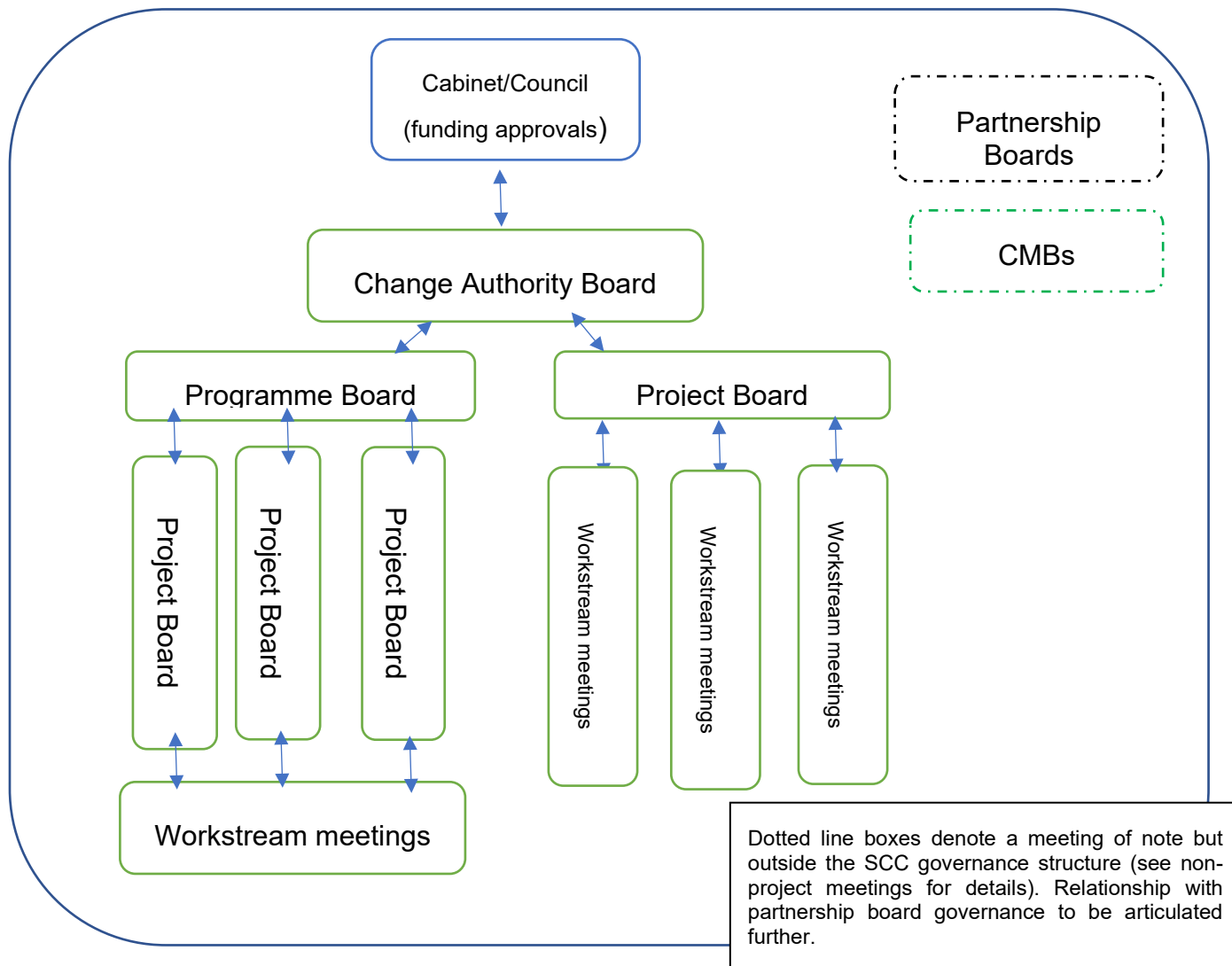
- To review systems of pre-project evaluation, cost estimation and phasing of spend to ensure accuracy of each proposed scheme.
- To review the whole 5-year capital programme taking into account resources and any changes in priorities and recommending any changes to the Cabinet Member for Finance and Capital Assets.
- To review the quarterly reporting provided on the Council's capital programme to identify any areas of focus or concern.
- To agree and review a dashboard reporting system which easily highlights projects and programmes where there is a need for focus.
- To identify common issues being experienced across the programmes and seek to address this corporately.
- To focus on specific projects and programmes where further confidence or information is needed.
- To act as a forum for horizon scanning for projects that will need to be closed or introduced to the capital programme.
- To consider opportunities for bidding to external organisations for funding prior to a sign off by the Council's Section 151 officer.
- To seek assurance that there are effective project and programme management processes in place for the delivery of successful projects.
- To provide assurance that the capital programme is further scrutinised beyond the regular updates provided to Cabinet and EMB and to take actions to expedite any issue that is blocking implementation of agreed projects within the programme.
- To share examples of good practice across the Council and to receive post-implementation review presentations after the completion of major projects for lessons learnt.
- To consider all requests for in-year additions and changes to the capital programme that are not Officer delegated decisions, in accordance with the limits set out in the Financial Procedure Rules.

## APPENDIX 2 – CHANGE AUTHORITY BOARD – TERMS OF REFERENCE

<p>Note: This is <b>not</b> a formal decision-making body. Any decision making must be in accordance with the Constitution ie through Council, Cabinet or powers formally delegated to officers. Please refer to the Director of Legal &amp; Business Services for further advice</p>	
<p><b>Purpose</b></p>	<ul style="list-style-type: none"> <li>• To act as an approval authority for resourcing Concept stage of new projects</li> <li>• To act as a review point for Concept and Definition stages of project governance.</li> <li>• To monitor specific key programmes against agreed milestones, outcomes risks and issues</li> <li>• To resolve escalated conflicts between programmes.</li> <li>• To review agreed priorities against progress and pipeline to support delivery and BAU capacity.</li> <li>• To assess project success and benefits realisation at appropriate points including after formal project close.</li> </ul>
<p><b>Aims</b></p>	<ul style="list-style-type: none"> <li>• EMT understand progress and challenges of key council projects and programmes.</li> <li>• EMT are aware of, and are the decision maker on escalations or conflicts that impact more than one programme of work and/or are outside agreed programme tolerances.</li> <li>• Ensure alignment of any new projects (both service and centrally supported) align to council strategies.</li> <li>• Ensure projects and programmes are following the agreed project governance structure.</li> <li>• Horizon scanning and potential pipeline.</li> <li>• Project improvement through lessons learned feedback.</li> </ul>
<p><b>Projects/Programmes to be included</b></p>	<ul style="list-style-type: none"> <li>• Any project or programme that is outlined in the SCC Corporate Plan 2020-25.</li> <li>• A project or programme that has potential for strategic, reputational, financial or political impact.</li> <li>• Any project or programme that requires resource (including funding) that is not part of a BAU programme.</li> </ul> <p>Note: whether included in this board or not, unless by exception, projects and programmes should only be initiated if they are agreed as part of a business plan.</p>
<p><b>Core Membership</b></p>	<p>Executive Management Team (EMT)            Head of Projects, Policy &amp; Performance, Head of Property, Head of IT            Head of Financial, Planning &amp; Management            PMO and Performance Manager</p>
<p><b>Membership by invite</b></p>	<p>Project/Programme Sponsors            Project/Programme Managers            Service representatives</p>

<b>Standing agenda items</b>	<ul style="list-style-type: none"> <li>• Decision, escalation &amp; awareness reporting of major projects and programmes</li> <li>• Review/approval and prioritisation of new projects.</li> <li>• Stage review of Concept and Definition stage</li> <li>• Critical decisions or milestones on specific projects/programmes</li> <li>• Capital Monitoring</li> <li>• Spotlight on project/programme</li> </ul>
<b>Frequency</b>	Bi-monthly
<b>Administrator</b>	Karen Hilleard (PMO & Performance Manager)

**Project governance – key meetings**



Meeting	Attendees
<p><b><u>Cabinet/Council</u></b> Where Cabinet or full Council approval of funding is required, followed by monitoring projects/programmes against key milestones.</p>	<p>Cabinet Members Executive Management Team Officers as appropriate</p>
<p><b><u>Change Authority Board</u></b> Monitoring suite of major programmes across the council against key milestones and outcomes. Decision maker on programme conflicts, escalations and prioritisation.</p>	<p>Executive Management Team Head of Projects, Policy &amp; Performance Head of Property Head of IT PMO &amp; Performance Manager Other Officers as appropriate</p>

<p><b><u>Programme Board</u></b>  Project updates  Monitoring programme progress and key success criteria.  Decision maker on project conflicts and escalations and within agreed authority levels.</p>	Programme Sponsor Programme Manager Senior Service User Senior Supplier representative (if relevant) As required -Project Manager(s), workstream leads etc
<p><b><u>Project Board</u></b>  Monitoring project progress and key success criteria.  Decision maker within agreed authority levels.  *Note: In a programme set up there will be an additional meeting to manage cross project dependencies etc</p>	Project Manager Business Change Manager Workstream leads – as required SMEs as required
<p><b><u>Non-project meetings</u></b>  Updates should be provided as required at other meetings (eg CMBs, Governance Committee, improvement boards, operational and relevant partnership meetings) but these are for information only, and are not governance or decision meetings for the project or programme. If a potentially issue arises as part of these, they should be flagged as part of the agenda for the next project or programme board for a decision.</p>	

### **APPENDIX 3 – SCHEME APPROVAL PROCESS**

All capital investment will be agreed by the Capital Review Group. This will enable any expenditure and it's funding to be better aligned with the Council and City priorities as well as that of other partners and funding sources. These partners, from both the public and private sector will be at both a regional level and at a district level.

**For all proposals identified within business plans, the following approval process needs to be followed:**

- a) Outline Business Case (OBC) which will focus on options appraisal and quantifiable outcomes.
- b) Full Business Case (FBC) – the final investment decision. This will focus on the how the priorities set out in the OBC will be delivered, including:
  - i. Project description - This should provide sufficient detailed information in order to give an understanding of what the scheme involves, including the need for and urgency for the work. For example, where the scheme involves a programme of works such as "improvements to" or "replacements to" give some indication of where and when the work is to take place. It is insufficient to simply restate the scheme description as contained in the capital programme.
  - ii. Consultation undertaken.
  - iii. Expenditure and funding including whole life costs and revenue implications. This should be based on an agreed design and specification. It should also include an allowance for fees, contingencies and inflation. A risk-based assessment should be applied to the costs and an indication of the potential range of costs included where appropriate. If there is scheme specific external funding, for example third party grants or capital receipts to be generated, this must be identified and any risks to the receipt of this money made clear.
  - iv. Summary of what the scheme will provide in terms of outputs.
  - v. Concept outline – this will cover the initial concept idea, potential costs and funding sources, links to the Council Strategy and the City Plan and how outcomes will be improved.
  - vi. Any further option appraisal
  - vii. Value for Money – including whether there are any revenue implications other than capital financing costs. Where savings are generated the use of the saving must be specified and where there are extra costs there must be a clear statement of how these will be funded. Any impact on fees and charges, either varying existing charges or introducing new ones, must also be specified.
  - viii. Delivery
  - ix. Timescales - Project start and finish dates plus any key milestones or review dates. This is particularly important where a scheme approval covers several financial years.
  - x. Risk Management
  - xi. Sustainability, forward strategy and evaluation
  - xii. Asset Management
  - xiii. Procurement - The proposed procurement regime to be followed where contracts are to be let, in consultation with the Senior Manager Property, Procurement and Contract Management, and the intended start and completion dates, for each management stage of the scheme.
  - xiv. Equality Impact Assessment
  - xv. Environmental Impact Assessment

- xvi. Any approvals or consents that are required from Government Departments or third parties.
- xvii. Change Requests where delegated tolerance levels will be exceeded.

There is a separate process for proposals that are identified by officers outside of the business planning process:

- i. Support for the initial concept of the project must be sought from the relevant Cabinet Member before proceeding with an outline or full business case.
- ii. A full business case as detailed above, or a streamlined version if a less complex project, should normally be prepared in consultation with the Executive Director and Finance Business Partner for the service.
- iii. Once completed and reviewed by the Executive Director and Finance Business Partner, the business case should be taken to the Change Authority Board to review and agree the proposal.
- iv. Once agreed by the Change Authority Board, the business case should be taken to the Capital Review Group for review and agreement before it goes for final approval as required in Table 1.

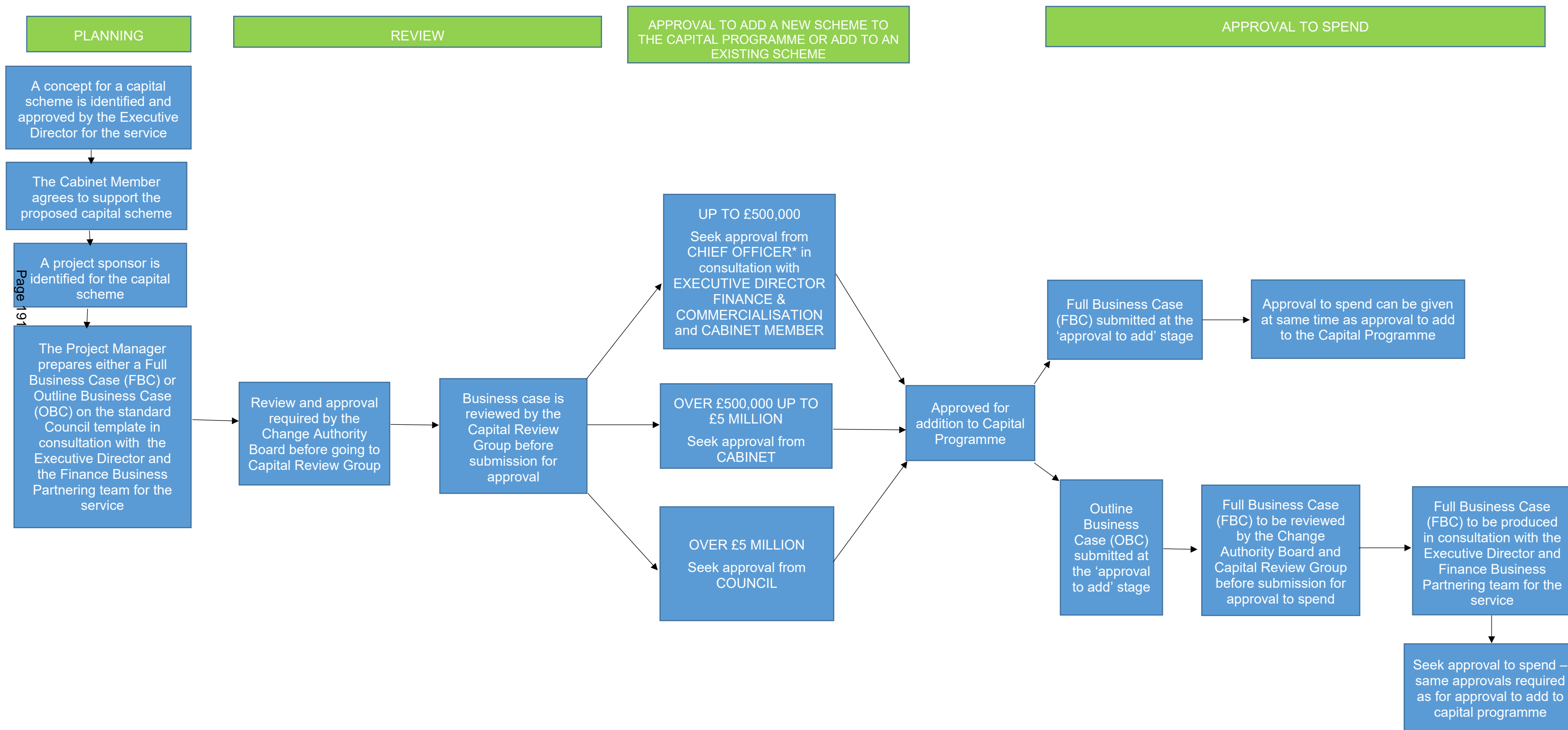
Where there is already an agreed asset management plan the Capital Review Group can choose to request elements of the above business case come forward as they see fit.



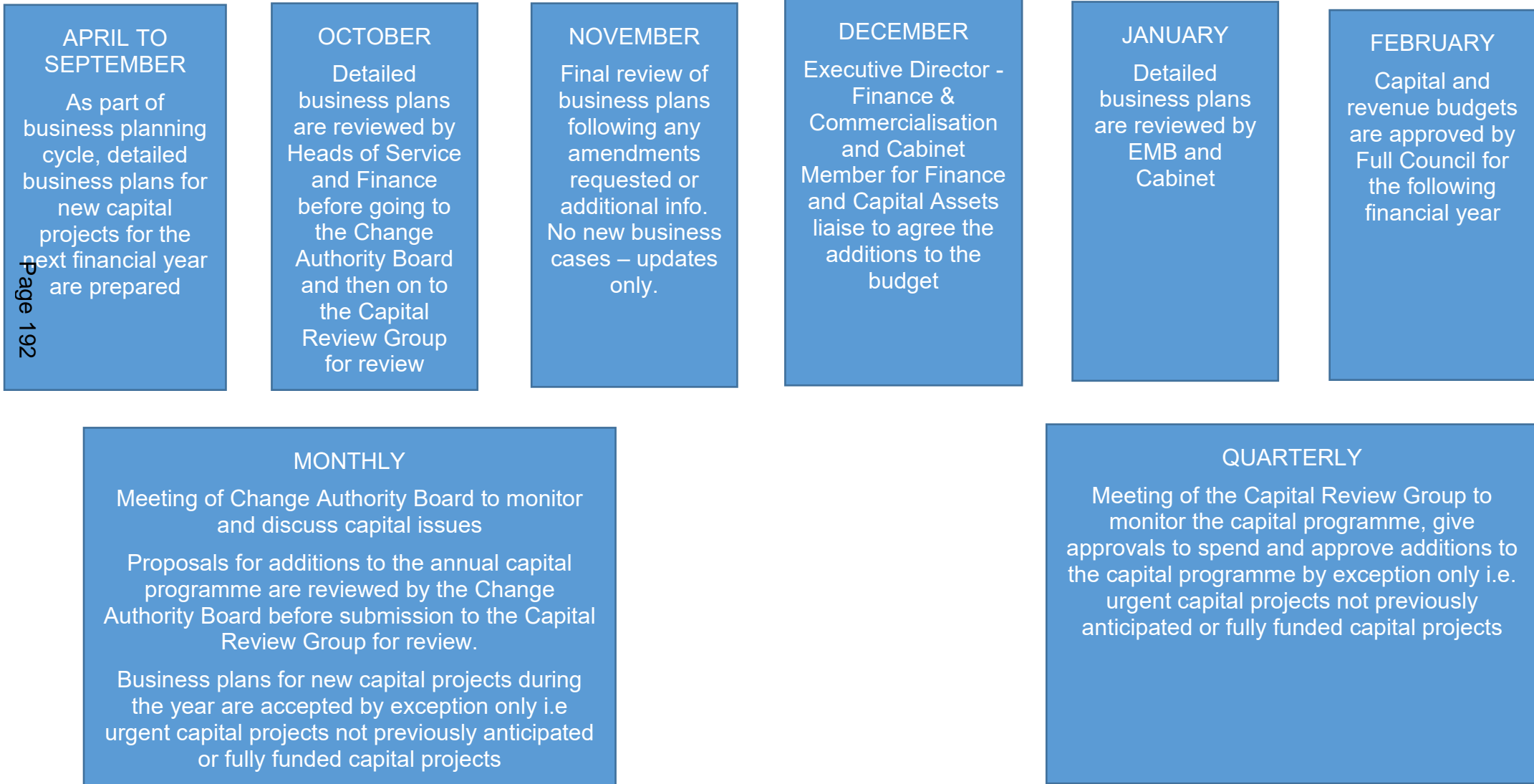
**APPENDIX 4 – DECISION PATHWAY FOR CAPITAL APPROVALS**

**Approval to add a new scheme to the capital programme or to add to an existing capital scheme**

**\*The Chief Officer is the Executive Director for the service that holds the budget for the capital project**



**APPENDIX 5 – TIMELINE FOR CAPITAL APPROVALS (GENERAL FUND AND HRA)**



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## **APPENDIX 6 – GLOSSARY OF TERMS AND ACRONYMS**

### Glossary

Change Request	A proposal to significantly alter a project
Delegated Decision Notice	A form to record details of a key decision that has been delegated to a Chief Officer
Project Sponsor	An individual with overall accountability for the project
Rephasing	Moving a budget for a future year into a previous year if, for example, a project progressed more quickly than originally expected
Ringfenced resources	Funding that has restrictions placed upon it and can only be used for a particular purpose
Slippage	Moving a budget for one year into a future year if, for example, there was a delay in the progress of the project
Un-ringfenced resources	Funding that is not restricted to a particular purpose and which can be allocated as required
Virement	The planned transfer of a budget for use in a different purpose to that originally intended

### Acronyms

BAU	Business As Usual
CAB	Change Authority Board
CFO	Chief Financial Officer
CMB	Cabinet Member Briefing
CRG	Capital Review Group
DDN	Delegated Decision Notice
EMB	Executive Management Board
EMT	Executive Management Team
FBC	Full Business Case
HRA	Housing Revenue Account
OBC	Outline Business Case
PMO	Project Management Office

## Contract Procedure Rules

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## Glossary

Terminology defined in Regulation 2 of Part 1 of the Public Contract Regulations 2015 (“the PCR 2015”) or Regulation 3 of Part 1 of the Concession Contracts Regulations 2016 (“the CCR 2016”) shall, unless stated otherwise, have the same meanings when used within these rules (the “Rules”).

Other key terms are defined in the glossary below:

Term	Meaning
Best Value	the securing of continuous improvement having regard to economy, efficiency and effectiveness;
Contracts Finder	the web-based portal provided or on behalf of the Cabinet Office for the advertisement of public sector contracts;
Contracts Register	the Council’s own register which includes details of its Contracts, commissioned activity, purchase orders involving any one-off and recurring payments, framework agreements and any other legally enforceable agreement relating to the purchase of goods, services or works) with the Council of values of £5,000 (excluding VAT) or more;
Contract Value	the estimated total value of a Contract (excluding VAT) over its full duration (not the annual value) including the value attributable to any extension options and contractually permissible variations;
<del>Council</del> Contract	all contracts, commissioned activity, purchase orders, frameworks <u>or dynamic purchasing system (DPS) agreements, call off agreements</u> agreements and any other legally enforceable agreements entered into by the Council relating to the purchase of goods, services or works;
ICU	the Integrated Commissioning Unit of <del>the NHS Hampshire &amp; Isle of Wight NHS Southampton Clinical Commissioning Group</del> and the Council;
Low Value Threshold	as set out in Table 1;
Find a Tender Service	the UK e-notification service where notices for new procurements are required to be published with effect from 1 <sup>st</sup> January 2021;
PCR Thresholds	the thresholds prescribed for the PCR 2015 as set out in Table 1;
Procurement Teams	the teams (inclusive of those responsible for ICU procurement) <u>responsible for the</u> and oversight and management of Procurement activities within the Council;
Request for Procurement	the document completed by the Requesting Officer and signed by an authorised signatory which is submitted to the Procurement Teams to initiate a Procurement in accordance with these Rules;
Requesting Officer	the officer submitting a Request for Procurement (whether for themselves or on behalf of another officer);

SME	Any business with fewer than 250 employees and either an annual turnover below £45m or a total balance sheet less than £40m.
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## 1. Introduction

- 1.1 These Rules govern and set out how the Council shall select suppliers to provide goods, services or works and form part of the Council's Constitution.
- 1.2 Where within these Rules the Director of Commissioning – Integrated Health & Care and Head of Supplier Management are referred to in the alternative, the former will be responsible for all procurement activities and matters in respect of health and care services procured and managed via the ICU and the latter will be responsible for all other Council procurement activities and matters. Any reference to the roles of Head of Supplier Management or Director of Commissioning – Integrated Health & Care shall be taken to include his or her delegate also.
- 1.3 Where an officer considers that there is good reason to enter into a contract for the purchase of goods, services or works even though it cannot be undertaken in accordance with the procedures specified within these Rules, it shall be managed in accordance with a process agreed by the Chief Executive and the relevant Executive Director.
- 1.4 The Rules are based upon: -
  - 1.4.1 the Council's Constitution;
  - 1.4.2 all relevant statutory provisions including the Local Government Act 1988 Part II, Local Government Act 1999, Local Government Act 2000, the PCR 2015, the Local Government (Contracts) Act 1997, the Localism Act 2011, the Public Services (Social Value) Act 2012 and the CCR 2016 (as amended The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020);
  - 1.4.3 any direction by the Council, a Cabinet Member or Committee having appropriate delegated authority and
  - 1.4.4 Council policies and procedures relating to equality and diversity, safeguarding, Council information and communication technology security, security, data protection and social value.
- 1.5 The Rules do not apply to: -
  - 1.5.1 in-house purchases or in-house service provision (including purchase or service provision from a third party where the contracting authority effectively owns/controls it and the main focus and extent of its activities concerns the contracting entity);
  - 1.5.2 arrangements which establish or implement co-operation between contracting authorities;
  - 1.5.3 arrangements which cover flows of money or pooling of funds between the Council and health bodies (section 75, 76 and 256 agreements under the National Health Service Act 2006 (as amended));
  - 1.5.4 the purchase of land or of any interest in land;
  - 1.5.5 the making or receiving of grants unless an output to be delivered is specified or the terms of the grant otherwise require compliance.
- 1.6 The Rules have three main purposes:

- 1.6.1 To ensure and enable the demonstration of compliance by the Council with public procurement law including the principles of equality of treatment, non-discrimination, transparency, mutual recognition and proportionality.
- 1.6.2 To ensure the Council strives for Best Value in the way it spends money, so that in turn the Council may be able to offer better and more cost-effective services to the public and other stakeholders and
- 1.6.3 To protect officers who follow the Rules.
- 1.7 With the exception of procurements undertaken in accordance with the Low Value Procedure (as detailed in Table 1), officers must not engage with a supplier without first engaging with the Procurement Team in accordance with Rules 9-15 (inclusive).
- 1.8 Executive Directors are responsible for ensuring that their officers comply with these Rules.
- 1.9 The Head of Supplier Management and the Director of Commissioning – Integrated Health & Care will investigate any incidences of non-compliance with these Rules with assistance from the Procurement Teams.
- 1.10 The Head of Supplier Management and the Director of Commissioning – Integrated Health & Care is responsible for providing advice on these Rules with assistance from the Procurement Teams.

## **2. Compliance with these Rules**

- 2.1 Compliance with the Rules is mandatory, and any person found to have been acting in breach of these Rules may be subject to disciplinary proceedings. Compliance includes seeking and having proper regard to all legal, financial and professional advice obtained in accordance with these Rules.
- 2.2 Officers must seek advice from the Procurement Team in any and all instances of uncertainty about whether the Rules apply and how to apply the Rules.
- 2.3 The Rules work in concert with Council policies and relevant legislation. When conducting procurement activities officers must ensure they also comply with:
  - 2.3.1 all requirements of public procurement law;
  - 2.3.2 the Council's Constitution;
  - 2.3.3 the Council's Records Review and Retention Schedule;
  - 2.3.4 the Council's Green City Charter;
  - 2.3.5 Council policies including:
    - the Council's Gift and Hospitality Policy
    - the Council's Anti-bribery Policy
    - the Council's Social Value and Green City Procurement Policy
    - the Council's SCC First Policy
- 2.4 Officers must ensure that any agents, consultants and contractual partners and suppliers conducting procurement activities on the Council's behalf comply with the requirements of Rule 2.3.



- 2.5 The Procurement Teams will advise on whether and how the Rules apply in any particular case. Where appropriate, the Procurement Teams may seek legal advice from the Council's Legal and Governance Team.
- 2.6 Unless expressly directed by the Head of Supplier Management or the ~~Service Director – Quality and Integration~~ [Director of Commissioning – Integrated Health & Care](#), the Procurement Teams must manage all Procurements with an estimated Contract Value exceeding the Low Value Threshold.

### **3. Conflicts of Interest and Corruption**

- 3.1 Any interest which may affect the award of a Contract under these Rules must be declared. Any officer of the Council participating in a Contract award decision or employee of the Procurement Team must provide the Head of Supplier Management and Supplier Management or Director of Commissioning – Integrated Health & Care with an advance written declaration of any such interests. Such interests include the ownership of shares in a potential supplier, previous employment by a potential supplier or the employment of a family member by a potential supplier.
- 3.2 The Head of Supplier Management or Director of Commissioning – Integrated Health & Care must either certify that such interests are acceptable or take any necessary action in respect of potential conflicts of interest and the officer should not participate in the evaluation or award of the contract by the Council.
- 3.3 Officers must be aware of other requirements of the Council's Constitution with regard to conflicts of interest, bribery and corruption.
- 3.4 ~~Every~~ ~~ach-e~~Contract which the Council enters into shall include a provision which entitles the Council to terminate the ~~C~~contract and recover losses from the contractor resulting from such termination if the contractor or anyone acting on the contractor's behalf has:
- 3.4.1 offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do, or has done or forborne to do, any action in relation to the obtaining or execution of the Contract or any other contract with the Council; or
  - 3.4.2 shown or has forborne to show favour or disfavour to any person in relation to the Contract or any other Contract [or agreement](#) with the Council; or
  - 3.4.3 committed an offence under the Prevention of Corruption Acts 1889 to 1916 (or any act or acts as may replace the same) or has given any reward the receipt of which is an offence under the Local Government Act 1972 (or any act as may replace the same) or committed an offence under the Bribery Act 2010.

### **4. Gifts and Hospitality**

- 4.1 No gifts or hospitality should be accepted from any bidders to any Contract being let or about to be let by the Council. Acceptance of gifts or hospitality may be a disciplinary offence. Every officer managing a procurement, letting (or planning to let) a contract or managing a contract for the Council must inform the Head of Supplier Management or Director of Commissioning – Integrated Health & Care of any offers of gifts or hospitality. Reference should be made to the Council's policy on Gifts and Hospitality in place at such time and other relevant Council policies.

## 5. Exemptions to the Rules

- 5.1 No exemption can be given which breaches public procurement law.
- 5.2 An exemption to these Rules may only be agreed by:
- 5.2.1 the Director of Commissioning – Integrated Health & Care (or his or her delegate) or
  - 5.2.2 the Head of Supplier Management (or his or her delegate)
- 5.3 If, after considering a request for an exemption, he or she is satisfied that the exemption is justified because:
- 5.3.1 the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Rules is justifiable; or
  - 5.3.2 the requirement is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
  - 5.3.3 there are other circumstances which are genuinely exceptional.
- 5.4 No exemption requests will be considered unless and until a Request for Exemption form has been fully completed and submitted to the Procurement Team. Officers shall not enter into contracts with suppliers, allow services or works to commence, arrange for the delivery of goods until an exemption request is formally approved by the ~~Director – Quality and Integration~~ [Director of Commissioning – Integrated Health & Care](#) or the Head of Supplier Management . If an exemption is granted, the provisions of the Council's Financial Procedure Rules must still be followed [and details of the Contract must be published in accordance with legislation.](#)
- 5.5 A record of the decision approving an exemption and the reasons for it must be kept by the Procurement Team, an entry made in the register of approved exemptions and the Contracts Register updated accordingly [by the Procurement Team.](#)
- 5.6 Approved exemptions will be conditional on the relevant Executive Director providing and agreeing a plan with the Head of Procurement and Supplier Management or the – Director of Commissioning - Integrated Health & Care to mitigate the need for further exemptions relating to the Contract.
- 5.7 An exemption will be deemed to have been approved by the Director of Commissioning – Integrated Health & Care in the case of a child placement or education funding (or any combination thereof) where:
- 5.7.1 The value of such placement or education funding is below the relevant PCR Threshold and
  - 5.7.2 All compliant frameworks agreements have been considered and are unable to meet the requirement and in any such instance, Rules 5.4 to 5.6 (inclusive) shall not apply.

This Rule 5.7 applies to services for the placement of a child (including most obviously in a residential home, into foster care or into adoption) and for the provision of associated educational services to that child.

- 5.8 An exemption shall never be given in relation to either Rule 3 (Conflicts of Interest and Corruption) or Rule 4 (Gifts and Hospitality).
- 5.9 These Rules may also be varied or departed from when the Director of [Governance, Legal Governance & HR, Legal & Business Services](#) ~~HR~~ advises that statute or subordinate legislation requires such a variation.

## BEFORE PROCUREMENT

### 6. Assessing the Need

- 6.1 With the exception of activity undertaken in accordance with the Low Value Transaction Procedure, the Requesting Officer must engage with the Procurement Teams as soon as a need which may result in a procurement is identified.
- 6.2 Prior to commencing a procurement, the following options for delivery of the need must be considered:
- 6.2.1 The consequences of not buying the goods or services or having the works done at all;
  - 6.2.2 The Council making the goods or delivering the services or works in-house (in accordance with the SCC First Policy);
  - 6.2.3 The Council providing the goods, services or works as part of a partnership arrangement with another party;
  - 6.2.4 The Council commissioning jointly with another contracting authority;
  - 6.2.5 The Council participating in a shared services arrangement with another council or other public sector entities for services delivery;
  - 6.2.6 The Council utilising a pre-existing ~~Council~~ Contract to fulfil the requirement; or
  - 6.2.7 The Council achieving delivery through any combination of 6.2.1 to 6.2.6.
- 6.3 Where the assessment of the need determines that a procurement is required, the appropriate procedure shall be undertaken in accordance with Rule 9 (Procedure Determined by Contract Type and Value).

### 7. Valuation of Contracts

- 7.1 An estimated Contract Value likely to provide the most economically advantageous outcome for the Council must be identified prior to commencing a procurement.
- 7.2 Where the duration of the Contract is indeterminate, the estimated Contract Value must be the estimated value of the Contract over a period of four years.
- 7.3 The estimated Contract Value must be referenced within the Request for Procurement.
- 7.4 If a requirement is or can be related to another Council procurement or is for goods, services or works which are, or may also be, procured by another part of the Council and/or on a recurring basis, this may affect the Contract Value for the purpose of these Rules (i.e. the requirements for aggregation may apply). Officers must obtain guidance from the Procurement Teams before commencing such a procurement.
- 7.5 The Council may decide to award a Contract in the form of separate lots and may determine the size and subject-matter of such lots whilst at all times adhering to

Regulation 46 of the PCR 2015. Such a decision shall be made by the Procurement Teams.

- 7.6 The value of any contract must not be:
- 7.6.1 underestimated deliberately or
  - 7.6.2 calculated by disaggregating (subdividing) it from other elements of the procurement or from other related procurements in order to reduce the perceived Contract Value or avoid the application of procedures set out in these Rules.
- 7.7 If the Council has a single requirement the value of which is over a threshold set out in Table 1 but which the Council wishes to meet by entering into multiple procurements, then the value of the multiple procurements may need to be aggregated for the purpose of these Rules and advice must be sought from the Procurement Team in these instances.
- 7.8 Artificially underestimating and/or disaggregating the Contract Value are clear breaches of the Rules and may lead to disciplinary proceedings being initiated.

## **8. Authority to Purchase**

- 8.1 The Constitution governs the limits within which the Executive Directors and their authorised officers may authorise purchases on behalf of the Council and these limits must not be exceeded. The Executive Director [for Corporate Services](#); ~~Finance and Commercialisation~~ maintains a list of authorisation limits which specifies a maximum financial limit for each transaction for each authorised officer.
- 8.2 Executive Directors must ensure that procurement activity is undertaken by authorised officers who can demonstrate knowledge and understanding of these Rules and skills appropriate to the task. These officers should already have authority under the above list and if not, must be granted authority by the Executive Director; ~~Finance and Commercialisation~~ [for Corporate Services](#).
- 8.3 Officers must ensure that the appropriate budget holder has the funds in place for any proposed contracts and that the necessary budget approval from Finance has been obtained prior to commencement of the procurement process. This must be validated before a decision is made to award a Contract.

## **PROCUREMENT**

### **9. Procedure Determined by Contract Type and Value**

- 9.1 The Rules and the associated procedures vary according to Contract Value, with stricter, more rigorous procedures for higher value transactions. This is to ensure that the benefits of a more thorough, complex procurement process are not outweighed by the cost of the procedure, relative to the value of the goods, services or works in question.
- 9.2 Notwithstanding the Contract Value or procurement procedure utilised, all procurements undertaken by the Council must adhere to public procurement principles of equality of treatment, non-discrimination, transparency, mutual recognition and proportionality and such adherence must be demonstrable if challenged.

- 9.3 Officers must always engage with the Procurement Team prior to starting procurement activity for all procurements other than those with a Contract Value below the Low Value Threshold.
- 9.4 In respect of all procurement procedures other than those undertaken in accordance with the Low Value Transaction Procedure, unless otherwise directed by the Head of Supplier Management or the Director of Commissioning – Integrated Health & Care, a Request for Procurement must be completed, signed by an officer authorised in accordance with the Officer Scheme of Delegation and submitted to the Procurement Team prior to the commencement of any procurement.
- 9.5 Tender or quote documentation appropriate to the procedure being undertaken must be developed to reflect size, scope, and type of specification where required (i.e. input versus output or outcome specification) and any other specific terms and conditions which are key to the subject-matter, subject always to Rule 23 (Conditions of Contract).
- 9.6 Where a competition has been undertaken in accordance with any of the procedures in Table 1 and only a single tender has been received, a Contract may be awarded, subject to a value for money review being undertaken and an audit trail demonstrating compliance with the relevant procedure being available for inspection.
- 9.7 All contractual agreements entered into must specify the goods, services or works to be provided, state the price to be paid, and include appropriate terms and conditions of contract in accordance with Rule 23 (Conditions of Contract).
- 9.8 Where a procurement relates to services (or services together with the purchase or hire of goods or the carrying out of works), an assessment of the required services must be undertaken by the procuring officer in conjunction with the Procurement Team to ensure compliance with the Public Services (Social Value) Act 2012.
- 9.9 In respect of any procedure where more than one quote or tender is being requested, a quote or tender from at least one SME must be sought.
- 9.10 In respect of any procedure where at least three quotes are being requested, quotes from at least two local suppliers must be sought subject to such suppliers existing within the local area. “Local” shall mean within the city of Southampton or if the requirement cannot be sourced within Southampton within the county of Hampshire.
- 9.11 In respect of all procedures other than those undertaken in accordance with the PCR Procedure, where it is deemed appropriate by the Procurement Team when considering value for money [and](#), the sector/market and risks, the procurement may be reserved by supplier location (in respect of services only) or to SMEs and Voluntary, Community and Social Enterprises (VCSEs) (in respect of supplies, services and works) in accordance with Procurement Policy Note (PPN) 11/20 – Reserving Below Threshold Procurements and relevant legislation.
- 9.12 Advice must be sought from the Procurement Teams at the earliest opportunity if a request for de-brief is received from a tenderer or a candidate.
- 9.13 Table 1 (below) shows the relevant procedure to be followed depending upon the nature of requirement and its estimated Contract Value.

**Table 1**

Type of Contract	Estimated Contract Value (excluding VAT) and relevant thresholds	Procedure to be followed	Rule (in this document)
For goods and services	£213,477 ( <del>Indicative</del> value excluding 20% VAT £177,896 <del>7</del> * or above	The PCR Procedure	10
For works	£5,336,937 ( <del>Indicative</del> value excluding 20% VAT £4,447,447*) or above	The PCR Procedure	10
PCR 2015 Schedule 3 - Social and other specific services	Up to <u>and including</u> £663,539 <del>40</del> ( <del>Indicative</del> value excluding 20% VAT £552,950*)	The High Value Transaction Procedure	12
For goods or services	£30,000 - £213,476 <del>7</del> * ( <del>Indicative</del> value excluding 20% VAT £25,000 - £177,897)	The High Value Transaction Procedure	12
For works	£30,000 - £5,336,936 <del>7</del> Indicative value excluding 20% VAT £25,000 - £4,447,447	The High Value Transaction Procedure	12
For goods, services and works	£12,000 - £29,999 ( <del>Indicative</del> value excluding 20% VAT <u>£10,000 - £24,999</u> )	The Medium Value Transaction Procedure	13
For goods, services and works	Up to <u>and including</u> £121,999 <del>000</del> Indicative value excluding 20% VAT £9,999 (“the Low Value Threshold”) ( <del>“the Low Value Threshold”</del> )	The Low Value Transaction Procedure	14
Concession Contracts	All Contract Values	The Concession Contract Procedure	15
* Please note that these are the “PCR Thresholds” and are applicable between 1 January 2022 and 31st December 2023.			

## 10. The PCR Procedure

- 10.1 The PCR Procedure shall be managed by the Procurement Team and approved by the Head of ~~Procurement and~~ Supplier Management or the Director of Commissioning – Integrated Health & Care.
- 10.2 Minimum timescales relating to tender procedures are governed by the PCR 2015 and these must always be followed.
- 10.3 In accordance with Rule 10.2, a Contract Notice must be published in the Find a Tender Service and in Contracts Finder.

10.4 Advertisements published additional to those under Rule 10.3 (for instance in the local press or trade journals):

10.4.1 must not appear on Contracts Finder or in any other form of publication before a Contract Notice is published on the Find a Tender System and

10.4.2 must not contain any information additional to that contained in the Contract Notice.

10.5 All Contracts tendered under this procedure must allow for a ten-calendar day standstill period between when the decision to award is communicated and the Contract being entered into.

10.6 In accordance with Rule 10.2, all Contracts awarded pursuant to the PCR procedure must be publicised by means of a Contract Award Notice transmitted no later than 30 calendar days after the date of the Contract award.

10.7 In line with changes to the PCR 2015, for the purposes of understanding if the value is above the [PCR T](#) threshold, the value of the procurement will be calculated inclusive of VAT. This reflects a change in approach following Brexit and the UK's (now independent) membership of the World Trade Organisation's Agreement on Government Procurement (GPA).

## **11. PCR 2015 Schedule 3 – Social and other specific services**

11.1 Regulations 74 to 76 of the PCR 2015 set out specific services which may be procured by applying this more flexible procedure.

11.2 In respect of procurement for these services, the High Value Transaction Procedure shall be followed unless otherwise directed by the Head of Supplier Management and Supplier Management or the Director of Commissioning – Integrated Health & Care.

## **12. The High Value Transaction Procedure**

12.1 Subject to Rule 12.2, the contract opportunity must be advertised by the Procurement Team at the start of the tender procedure. Information on the contract opportunity must be published on Contracts Finder within 24 hours of being advertised elsewhere.

12.2 The tender procedure shall be that identified as the most appropriate by the Procurement Team.

12.3 Tenders should be sought by the Procurement Team unless the Procurement Team determines that by virtue of its complexity at least three written quotes will allow Best Value to be demonstrated.

## **13. The Medium Value Transaction Procedure**

13.1 At least three [written](#) quotes should be sought by the Procurement Team unless:

13.1.1 the Procurement Team determines that by virtue of its complexity, a tendering exercise should be undertaken to demonstrate Best Value for the requirement or

13.1.2 the Procurement Team determines that only one supplier exists for the specific requirement.

13.2 Where appropriate for the requirement in question, the opportunity will be advertised on the Council's on-line tendering system portal for electronic tendering at the start of the procurement procedure.

#### **14. The Low Value Transaction Procedure**

14.1 If the Contract Value of the procurement is less than the Low Value Threshold then there is no requirement for an officer to engage with the Procurement Team however, officers must contact the Procurement Team when in any doubt over the value of the procurement, how the procurement should be conducted and/or whether disaggregation applies.

14.2 Officers must obtain at least one written quote from a supplier before a supplier can be selected. Where possible, this should include a quote from a local supplier, ("local" to be interpreted in accordance with Rule 9.10).

14.3 Officers must be reasonably certain, all things considered, that the contract that is being entered into represents Best Value.

14.4 Officers must provide the Procurement Team with any and all requested information relating to the Contracts and suppliers to facilitate completion of the Contract Register and to enable the Council to meet its obligations in respect of the Local Government Transparency Code 2015 [including providing details of all Contracts equal to or above £5,000 in Contract Value in a timely manner](#).

#### **15. The Concession Contracts Procedure**

15.1 Concession Contracts are arrangements where operational risk lies with the provider and payment consists of the right to exploit the services or works or those rights along with some payment. Where the value is equal to or above £5,336,937 (indicative value excluding 20% VAT £4,447,447) <sup>1</sup> the procurement of a Concession Contract is governed by the CCR 2016.

15.2 Officers must always obtain advice from the Procurement Team at the earliest opportunity if the letting of a Concession Contract is being considered, regardless of the estimated Contract Value.

15.3 Unless expressly directed by the Head of Supplier Management or the Director of Commissioning – Integrated Health & Care, the Procurement Team shall identify the appropriate route to market and manage any related procurement for Concession Contracts.

#### **16. Receiving and Opening Tenders and Quotes**

16.1 Responses to an invitation to tender or quote must be received according to the format of response specified in the invitation to tender or quote and no later than the time specified for submission of tenders or quotes in the invitation to tender or quote.

16.2 Emailed tenders and quotes received are acceptable but copies must be retained in the relevant file by the Procurement Team (for PCR, High and Medium Value Transaction and Concession Contract Procedures) and the procuring officer (for those undertaken in accordance with the Low-Value Transaction Procedure).

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<sup>1</sup> This is the Concession Contract Regulation threshold with effect from January 2022.



16.3 Tenders or quotes received for all procurement procedures (except the Low Value Transaction Procedure):

16.3.1 must be managed by the Procurement Teams using the Council's on-line tendering system portal for electronic tendering where appropriate. Electronic tender responses must be received, time stamped and opened in accordance with the approved procedures implemented in that system and

16.3.2 a record of opened and rejected tenders and quotes as well as candidates who did not submit a tender or a quote must be recorded on a list of tenders or quotes invited by the Procurement Team.

## 17. Evaluating Tenders and Quotes

17.1 All tenders and quotes should be evaluated against criteria that state the basis for how the Contract will be awarded. In respect of procurements exceeding the Low Value Threshold, this evaluation [criteria](#) must be determined in liaison with the Procurement Team prior to the issue of the invitation to tender or quote and must include mandatory and (where relevant) desirable requirements linked to the subject matter of the Contract.

17.2 The evaluation criteria must be detailed in the document used to invite tenders or quotes and must not be changed during the procurement process. Requests for variant bids (i.e. a proposal for a solution that differs from the solution set out by the Council) must be scored against the same evaluation criteria as a tender or quote which meets the Council's stipulated requirements.

17.3 Contract awards must be based on the identification of the most economically advantageous tender or quote and the evaluation criteria must reflect this.

17.4 An evaluation to determine the most economically advantageous tender or quote involves scoring tenders or quotes objectively using criteria which must:

17.4.1 be relevant to the specific procurement's size and scope;

17.4.2 be pre-determined and listed in the invitation to tender or quote, as the case may be;

17.4.3 be strictly observed at all times throughout the procurement procedure;

17.4.4 reflect the principles of Best Value;

17.4.5 include price, quality and social value (where appropriate);

17.4.6 consider whole-life costings, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal must be taken into account;

17.4.7 indicate how the Council will score tenders or quotes and be capable of objective assessment;

17.4.8 be weighted according to their respective importance which must be detailed in the document used to invite tenders or quotes;

17.4.9 address, where applicable, the bidder's proposal to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006; and

17.4.10 avoid discrimination or perceived discrimination on the basis of nationality or other cause contrary to the any of the Council's policies.

- 17.5 Any resulting contract awarded must be awarded to the bidder who submits the most economically advantageous tender or quote (i.e. the quote or tender that achieves the highest score in the evaluation).
- 17.6 The Procurement Team (or procuring officer in respect of ~~procurements~~ [quotes](#) under the Low Value Transaction Procedure) must obtain clarification or explanation from suppliers who submit tenders or quotes which appear abnormally low and may reject a tender or quote if the evidence supplied is not satisfactory to justify the low tender or quote.
- 17.7 The results of the evaluation process must be recorded in writing.
- 17.8 Unless otherwise required by law, evaluators must not disclose information contained within tenders or quotes returned by a supplier to any third party.

## **18. Framework Agreements and use of Council Contracts**

- 18.1 Before first use by the Council, the use and terms of all framework [and DPS](#) agreements (including those of the Crown Commercial Services and other public purchasing organisations), must be approved in writing by:
- 18.1.1 a solicitor from the Council's Legal and Governance Team and
- 18.1.2 the Head of Supplier Management or the Director of Commissioning – Integrated Health & Care.
- 18.2 ~~Framework A~~ [Agreements](#) approved in accordance with Rule 18.1 may be used by the Council (as part of the procurement procedures in Rules 9-15) following an assessment by the Procurement Team, including whether they are considered to offer Best Value for the need in question and when considering performance on previous [and/or](#) or current contracts (or both) by the relevant framework [or DPS](#) contractors.
- 18.3 Where the Council has in place specific [C](#) ~~e~~ contracts with suppliers to provide goods, services or works which are suitable for the requirement, these [C](#) ~~e~~ contracts, where capable of doing so, must be used to source a requirement unless directed otherwise by the Head of Supplier Management or the Director of Commissioning – Integrated Health & Care.

## **19. Use of Nominated Sub-contractors**

- 19.1 Officers must not nominate the use of specific sub-contractors without the prior written consent of the Head of Supplier Management or the Director of Commissioning – Integrated Health & Care .
- 19.2 Any nominated sub-contractors must have been selected through use of the appropriate tender or quote procedure as if the Council were contracting directly with the sub-contractor.

## **20. Awarding Contracts and Audit Trails**

- 20.1 Executive Directors must ensure that the appropriate budget holder has the funds in place to sustain a Contract prior to award.

- 20.2 Where a Contract Value is below the PCR Threshold for goods or services<sup>2</sup> or, in the case of a works contract, £200,000 (excluding VAT), the ~~A~~Contract must only be ~~awarded and~~ signed by a ~~Chief~~ Officer authorised to do so in accordance with the Officer's ~~S~~ Scheme of Delegation or an officer in receipt of a formal sub delegation subject to receipt of confirmation from an Executive Director (verified by Finance prior to award) that the ~~appropriate budget holder has the funds~~ are in place to sustain the contract.
- 20.3 For all Contracts where the Contract Value is equal to or exceeds the PCR Threshold for goods or services or, in the case of a works contract, £200,000 (excluding VAT), the Contract must either:
- 20.3.1 be made under the Council's seal in accordance with the Constitution; or
- 20.3.2 signed by at least two duly authorised officers of the Council authorised by the Director of Governance, Legal & Governance, Legal and & HR. ~~Director of Legal & Business Services.~~
- 20.4 The decision as to whether to sign or to seal a contract shall rest with the Director of Governance, Legal & HR ~~Director of Legal & Business Services~~. For the avoidance of doubt, no contract shall be attested by or signed by any councillor.
- 20.5 A full and complete audit trail of all procurement activity resulting in the award of a ~~C~~contract, ~~framework or dynamic purchasing system~~ must be retained by the Procurement Team as required by regulation 84 of the PCR 2015 and in accordance with the Council's Records Review and Retention Schedule.
- 20.6 With the exception of procurements undertaken in accordance with the Low Value Procurement Procedure, the Procurement Team shall produce and retain:
- 20.6.1 a report containing information including Contract Value, the names of bidders rejected at the selection stage and the reasons for their rejection (for the PCR Procedure) including any conflicts of interest identified and how they were addressed and
- 20.6.2 an audit trail of the procurement and decision-making process in respect of any procurement which is withdrawn prior to Contract award.
- 20.7 In respect of all Contracts awarded which ~~exceeding~~ £25,000 (excluding VAT) in Contract Value (including those awarded as call-off contracts under framework and DPS agreements), the name of the contractor, the date on which the ~~C~~contract was entered into and the value of the ~~C~~contract must be published on Contracts Finder within a reasonable time of the ~~C~~contract award.

## 21. Ordering and Paying for Goods, Services and Works

- ~~21.1~~ No pre-payment for goods, services or works may be allowed above the value of £15,000, without the prior written consent of the Executive Director: for Corporate Services and the Director of Governance, Legal & HR ~~Director of Governance, Legal and HR~~ Finance & Commercialisation and the Director of Legal & Business Services.

## 22. Parent Company Guarantees and Performance Bonds

2 Contracts for Schedule 3 "Light Touch Regime" services shall be subject to the general PCR Threshold for services in respect of this Rule.

22.1 The requirement for a bond, parent company guarantee, or other security must be determined in consultation with the Head of Supplier Management or the Director of Commissioning – Integrated Health & Care [in consultation with the Head of Finance](#).

### **23. Conditions of Contract**

23.1 Unless expressly agreed by the [Director of Governance, Legal & HR](#)~~Director of Governance, Legal & Business HR, Services~~ all transactions regardless of value must use a model form of conditions of contract provided and approved by the [Director of Governance, Legal & HR](#) ~~Director of Governance, Legal & HR Business Services~~.

23.2 The Head of Supplier Management in conjunction with the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~, must:

23.2.1 keep a list of all model forms of conditions of contract that gives details of when the conditions were last updated; and

23.2.2 review all current model forms of conditions of contract, on a regular basis including when applicable legislation is introduced.

## POST PROCUREMENT

### 24. Contracts Register

- 24.1 The Head of Supplier Management and the Director of Commissioning – Integrated Health & Care must maintain and publish the Contracts Register.
- 24.2 The Contracts Register is maintained by the Procurement Team and published on the Council's website to enable the Council to meet its obligations in respect of the Local Government Transparency Code 2015.

### 25. Variations and Extensions

- 25.1 Any variation to an existing Contract (including an extension to Contract duration) must demonstrate Best Value and must not be instigated solely to avoid or delay the requirement to conduct a procurement.
- 25.2 All variations to a Contract must be made in accordance with the provisions of the PCR 2015 where relevant.
- 25.3 Officers must ensure that the appropriate budget holder has the funds in place for the variation and that the necessary budget approval from Finance has been obtained [before the variation is agreed](#).
- 25.4 Officers must always obtain advice from the Procurement Team before agreeing any variations to Contracts if the variation is not already expressly provided for within the terms and conditions of the Contract.
- 25.5 All variations approved in accordance with these Rules must be documented in writing and signed by an authorised signatory on behalf of the Council and counter-signed by the supplier.
- 25.6 Subject to any legal restrictions and compliance with these Rules, [Chief Officers authorised to do so in accordance with the Officer Scheme of Delegation, or an officer in receipt of a formal sub delegation](#) ~~Executive Directors~~ must authorise a variation to an existing contract where such variation is provided for within the terms and conditions of the contract.
- 25.7 In respect of contracts below the PCR Threshold and subject to any legal restrictions and compliance with these Rules, any variation to an existing Contract where the consequent change in price (determined in accordance with the contract terms) is such that the annual value of the variation is:
  - 25.7.1 less than £25,000 (excluding VAT) or 15% (excluding VAT) of the original annual Contract Value (whichever is the lesser), the variation must be authorised by the relevant [Chief Officer authorised to do so in accordance with the Officer Scheme of Delegation, or an officer in receipt of a formal sub delegation](#) ~~Executive Director~~, provided that the value of the ~~C~~contract post-variation remains below the PCR Threshold;
  - 25.7.2 equal to or greater than £25,000 (excluding VAT) or 15% (excluding VAT) of the original annual Contract Value (whichever is the lesser), the variation must be authorised by the Director of Commissioning – Integrated Health & Care (or his or her delegate) or the Head of Supplier Management

25.8 In respect of Contracts equal to or above the PCR Threshold and subject to any legal restrictions and compliance with these Rules, any variation which is not provided for within the terms and conditions of the Contract. must be authorised by the Director of Commissioning – Integrated Health and Care or the Head of Supplier Management.

~~25.8~~25.9 In respect of contracts above £5,000 (excluding VAT) in Contract Value (excluding VAT), officers must ensure that any agreed variations are communicated to the Procurement Team and the Procurement Team shall record all such variations on the Contracts Register.

## **Officer Employment Procedure Rules**

*These Officer Employment Procedure Rules embody the requirements of the Local Government and Housing Act 1989, the Local Authorities (Standing Orders) Regulations 1993, the Local Authorities' (Standing Orders) (England) Regulations 2001 and Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which require the adoption of certain Standing Orders. These Employment Procedure Rules constitute those Standing Orders.*

1. In these Rules –

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001 and 2015;

"Executive" and have the same meaning as "Executive" and "Executive Leader" in Part II of the 2000 Act;

"member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the functions and duties contained within Section 112 Local Government Act 1972, including the functions of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of Head of Paid Service) as the Head of Paid Service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:–

(a) the officer designated as the Head of Paid Service;

(b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);

(c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

(d) deputy chief officer within the meaning of section 2(8) of the 1989 Act; or

(e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the Head of Paid Service, the authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must

approve that dismissal before notice of dismissal is given to him.

- (2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the Executive must be a member of that committee or sub-committee.
- 5.
- (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
  - (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until –
    - (a) the appointor has notified the proper officer, ~~Service Director: Human Resources & Organisational Development~~[Director of Governance, Legal & HR](#), of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
    - (b) the proper officer has notified every member of the Executive of the authority of –
      - (i) the name of the person to whom the appointor wishes to make the offer;
      - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
      - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the proper officer; and
    - (c) either –
      - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/he nor any other member of the Executive has any objection to the making of the offer;
      - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the Leader; or
      - (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 6.
- (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
  - (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until –
    - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;



- (b) the proper officer has notified every member of the Executive of the authority of –
    - (i) the name of the person who the dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the proper officer; and
  - (c) either –
    - (i) the Leader has, within the period specified in the notice under subparagraph (b)(iii), notified the dismissor that neither he nor any other member of the Executive has any objection to the dismissal;
    - (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the Leader; or
    - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by –
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
8. In paragraph 9, "Chief Financial Officer", "council manager", "disciplinary action", "Head of Paid Service" and "Monitoring Officer", are Relevant Officers and have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and "relevant independent person" has the same meaning as in regulation 4 of those Regulations.
9. No disciplinary action in respect of the Head of Paid Service (unless they are also a council manager of the authority), its Monitoring Officer or its Chief Financial Officer, except action described in paragraph 10, may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. This includes the appointment of an Independent Panel and the decision maker having regard to:
- (i) any advice, views and recommendations of the Panel,
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the relevant officer
10. The action mentioned in paragraph 9 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

## 11. Recruitment and appointment

### a. Declarations

- i. The Full Council, a duly authorised Committee, Sub-Committee, or an Officer acting under delegated powers (as appropriate) will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.
- ii. No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

### b. Seeking support for appointment.

- i. Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii. Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
- iii. Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment provided that Councillor has no role in the decision process of recruitment / appointment to that position.

## 12. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Head of Paid Service or Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- a. draw up a statement specifying:
  - i. the duties of the officer concerned; and
  - 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;
- c. make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

## 13. Dismissal

Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

## **THE CODE OF CONDUCT FOR MEMBERS**

### **PART 1 – Introduction and Interpretation**

This Code applies to you as a member of this authority when you act in your role as a member and it is your responsibility to comply with the provisions of this Code.

As a member you are a representative of this authority and the public will view you as such, therefore, your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code is based upon the “Nolan Principles – the seven principles of public life” which are set out in Appendix 1.

This Code does not cover matters in respect of which the Secretary of State under the Localism Act 2011 specifically provides that criminal sanction shall apply.

In this Code-

“**meeting**” means any meeting of:

- (a) the authority
- (b) the Executive of the authority
- (c) any of the authority’s or its executives committees, sub-committees, joint committees, joint sub-committees, or area committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members

“**member**” includes a co-opted member (voting and non-voting) and an appointed member.

### **PART 2 – Scope and General Obligations**

#### **1. Scope**

- (1) This Code applies to all members of Southampton City Council, including co-opted voting members,
- (2) It is your responsibility to comply with the provisions of this Code.
- (3) You must comply with this Code whenever you –
  - a. conduct the business of your authority, or
  - b. act, claim to act or give the impression you are acting as a representative of your authority or in your official capacity as a member of the authority.
- (4) Where you act as a representative of your authority-
  - a. on another relevant authority, you must, when acting for that other authority, comply with that other authority’s Code of conduct: or
  - b. on any other body, you must, when acting for that other body, comply with your authority’s Code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## 2. General Obligations

- (1) When acting in your role as a member of the authority –
  - a. **do** treat others with respect;
  - b. **do not** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of members;
  - c. **do** ensure that you are aware of and comply with the requirements which the Bribery Act 2010 places on you in your role as a Member and on the Council as a whole;
  - d. **do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
    - i. you have the consent of a person authorised to give it;
    - ii. you are required by law to do so;
    - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
    - iv. the disclosure is-
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; and
      - (cc) you have consulted the Monitoring Officer prior to its release.
  - e. **do not** prevent another person from gaining access to information to which that person is entitled by law;
- (2) When using or authorising the use by others of the resources of the authority-
  - a. **do** act in accordance with the authority's reasonable requirements including the requirements of the authority's ITC policy and the policies listed at Appendix 2, copies of which have been provided to you and which you are deemed to have read;
  - b. **do** make sure that such resources are not used improperly for political purposes (including party political purposes): and
  - c. **do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## PART 3 – Disclosable Pecuniary Interests (Localism Act 2011)

### 3. Notification of disclosable pecuniary interests

- (1) Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.
- (2) A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the description at Appendix 2.

#### **4. Register of Interests**

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

#### **5. Sensitive interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

#### **6. Non participation in case of disclosable pecuniary interest**

- (1) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting-
  - a. you may not participate in any discussion of the matter at the meeting.
  - b. you may not participate in any vote taken on the matter at the meeting.
  - c. if the interest is not registered, you must disclose the interest to the meeting.
  - d. if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- (2) In addition, Council Procedure Rules and Executive Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.
- (3) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member-
  - a. must notify the Monitoring Officer of the interest; and
  - b. must not take any steps or further steps in the matter.
- (4) Where you have a disclosable pecuniary interest in any business of your authority, you may attend that meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

#### **7. Dispensations**

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

#### **8. Offences**

- (1) It is a criminal offence to-
  - a. fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election;

- b. fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
  - c. fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting;
  - d. Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest;
  - e. As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest;
  - f. Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting;
- (2) The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

#### **PART 4 – Other Interests (Personal and Pecuniary)**

##### **9. Notification of other interests**

- (1) In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must, within 28 days of—
- a. this Code being adopted by or applied to your authority; or
  - b. your election or appointment to office (where that is later),
- notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.
- (2) You have a personal interest in any business of your authority where either—
- a. it relates to or is likely to affect—
    - i. any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - ii. any body—
      - aa. exercising functions of a public nature;
      - bb. directed to charitable purposes; or
      - cc. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1), or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

##### **10. Disclosure of other interests**

- (1) Subject to sub-paragraphs (2) to (5) below, where you have a personal interest described in paragraph 9 above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must-

- a. disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) (A) You have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
- (B) In sub-paragraph (2)(A), a relevant person is—
- a. a member of your family or any person with whom you have a close association; or
  - b. any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - c. any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - d. any body of a type described in paragraph 9(2)(a)(i) or (ii).
- (3) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 9(2)(a)(i) or 9(2)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (4) Where you have a personal interest but, by virtue of paragraph 12, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (5) Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **11. Register of interests**

A Member shall enter in the authority's register of interests the receipt of any gift or hospitality, where the Member estimates the value to be at least £50, within 28 days of receipt.

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

## **12. Sensitive interests**

Where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

### **13. Non participation in case of pecuniary interest**

- (1) Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business—
  - a. affects your financial position or the financial position of a person or body described in paragraph 10 ;or
  - b. relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 10.
  
- (2) Subject to paragraph (4) and (5) below, where you have a pecuniary interest in any business of your authority—
  - a. You may not participate in any discussion of the matter at the meeting.
  - b. You may not participate in any vote taken on the matter at the meeting.
  - c. If the interest is not registered, you must disclose the interest to the meeting.
  - d. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
  
- (3) In addition Council Procedure Rules and Executive Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.
  
- (4) Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
  
- (5) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of—
  - a. housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - b. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - c. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - d. an allowance, payment or indemnity given to members;
  - e. any ceremonial honour given to members; and
  - f. setting council tax or a precept under the Local Government Finance Act 1992.
  
- (6) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.



#### **14. Interests arising in relation to overview and scrutiny committees**

- (1) In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- a. that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - b. at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

#### **15. Pre-determination or bias**

- (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member, however do not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (2) When making a decision, do consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

#### **16. Compliance with Constitution, Rules, Standards and Guidance**

Failure to comply with the requirements of the Council's Constitution or any Rule, Protocol, Corporate Standards or Guidance issued pursuant to the Constitution shall be deemed to be a breach of this Code. Rules, Protocols, Corporate Standards and Guidance shall include (but is not limited to) the documents listed in Appendix 3.

## **NOLAN PRINCIPLES - THE SEVEN PRINCIPLES OF PUBLIC LIFE**

**Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

**Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

**Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership** Holders of public office should promote and support these principles by leadership and example.

## DISCLOSABLE PECUNIARY INTERESTS UNDER THE LOCALISM ACT 2011

INTEREST	DESCRIPTION
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <ol style="list-style-type: none"> <li>a. under which goods or services are to be provided or works are to be executed; and</li> <li>b. which has not been fully discharged.</li> </ol>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <ol style="list-style-type: none"> <li>a. the landlord is the relevant authority; and</li> <li>b. the tenant is a body in which the relevant person has a beneficial interest.</li> </ol>
Securities	<p>Any beneficial interest in securities of a body where—</p> <ol style="list-style-type: none"> <li>a. that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</li> <li>b. either— <ol style="list-style-type: none"> <li>i. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ol> </li> </ol>

These descriptions on interests are subject to the following definitions:

**“the Act”** means the Localism Act 2011;

**“body in which the relevant person has a beneficial interest”** means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

**“director”** includes a member of the committee of management of an industrial and provident society;

**“land”** includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

**“M”** means the person M referred to in section 30 of the Act;

**“member”** includes a co-opted member;

**“relevant authority”** means the authority of which M is a member;

**“relevant period”** means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

**“relevant person”** means M or any other person referred to in section 30(3)(b) of the Act;

**“securities”** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000() and other securities of any description, other than money deposited with a building society.

## **RULES, PROTOCOLS, STANDARDS AND GUIDANCE**

- The Southampton City Council Constitution (all parts)
- Corporate Standards for:
  - Decision Making
  - Legality
  - Finance
  - HR
  - IT
  - Procurement
  - Property
- [Obligations of Members on Outside Bodies](#)
- [Probity in Planning](#)
- Licensing Handbook
- [Guidance on Use of Resources](#)
- Health & Safety Roles and Responsibilities for Elected Members
- [Officer Member Protocol](#)
- [Anti-Fraud and Anti-Corruption Policy and Strategy](#)
- [Duty to Act Policy](#)
- [Code of Corporate Governance](#)
- Equality Scheme
- Dignity at Work Policy
- [Data Protection Policy](#)
- [Anti-Money Laundering Policy](#)
- [Partnership Code](#)
- Guidance on the Use of Electronic Devices
- [Code on Local Authority Publicity](#)

## **Officer Code of Conduct**

### *Honesty and Integrity*

1. The employee should perform his duties with integrity, honesty, impartiality and objectivity.

### *Accountability*

2. The employee is accountable for his actions to the authority.

### *Respect for Others*

3. The employee should—
  - a. treat members and co-opted members of the authority professionally; and
  - b. not discriminate unlawfully against any person, and should treat others with respect, regardless of their race, age, religion, gender, sexual orientation or disability

### *Stewardship*

4. The employee should—
  - a. use any public funds entrusted to him in a responsible and lawful manner; and
  - b. not make personal use of property or facilities of the authority unless properly authorised to do so.

### *Personal Interests*

5. The employee should—
  - a. not allow his private interests to conflict with the interests of the authority;
  - b. not use his position to improperly confer an advantage or disadvantage on any person;
  - c. comply with any requirements of the authority to register or declare interests; and
  - d. comply with any requirements of the authority to declare hospitality, benefits or gifts received.

### *Whistleblowing*

6. The employee should—
  - a. endeavour to use the authority's confidential reporting procedure (Duty to Act) wherever he becomes aware of actions by other employees which are inconsistent with this Code; and
  - b. familiarise himself with his rights and responsibilities under the Council's Whistle blowing Policy (Duty to Act).

### *Openness*

7. The employee should—
  - a. not disclose information given to him in confidence by anyone, without the consent of a person authorised to give it, or unless he is required by law to do so; and
  - b. not prevent another person from gaining access to information to which that person is entitled by law.

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*Appointment of staff*

8. The employee should not be involved in the appointment or any other decision relating to the discipline, promotion or pay and conditions of another employee or prospective employee to whom they are related or with whom they have a close personal relationship.

*Duty of trust*

9. The employee should—
  - a. not conduct himself in a manner which could reasonably be regarded as bringing his authority into serious disrepute; and
  - b. act in accordance with the trust that the public is entitled to place in him.

*Political neutrality*

10. The employee should observe statutory restrictions on his political activities.

## **Protocol on Member / Officer Relations**

### **Introduction and Principles**

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.6 This Protocol should be read in conjunction with the Members' and Employees' Codes of Local Government Conduct, the Council's Constitution and any guidance issued by the Governance Committee and/or Monitoring Officer.

### **Allegations of Member or Officer Misconduct: Responses by Members or Officers as Appropriate**

- 2.1 In a situation where a Member identifies that an Officer may have committed a breach of the Council's disciplinary rules and procedures, s/he shall draw the issue to the attention of the Chief Executive (Head of Paid Service) who, following consultation with the [Director of Governance, Legal & HR](#), ~~Director of Legal & Business Services~~, will ensure that the appropriate action is taken.
- 2.2 In respect of an Officer who believes a Member has breached the Members' Code of Conduct, they should:
  - a. not offer any opinion or judgement upon that conduct to the Member;
  - b. they must advise the Monitoring Officer immediately of the circumstances, facts, their belief and the rationale behind it, including supplying all and any documentation; and
  - c. they should not comment further on the issue to any other Officer or Member without the prior consent of the Monitoring Officer.

These provisions are to protect both the Member and Officer, avoid Officers from becoming unduly involved in allegations of Member misconduct at an inappropriate



level and to ensure that any investigation that may need to be carried out by the Monitoring Officer or other agency, is not in any way fettered or damaged.

### **The Relationship: General Points**

- 3.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their committees and sub-committees.
- 3.2 At the heart of the Code, and this Protocol, is the importance of mutual respect. Member / Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 3.3 Inappropriate relationships can be inferred from language / style. To protect both Members and Officers, Officers should address Members as "Councillor XX / Lord Mayor / Sheriff" save where circumstances clearly indicate that a level of informality is appropriate, eg a one to one between an Executive Director or Head of Service and their respective Cabinet Member.
- 3.4 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a longstanding tradition in public service. An Officer has no means of responding to such criticisms in public. If a Member feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, s/he should raise the matter with the respective ~~Service~~ Director or Head of Service. The ~~Service~~ Director or Head of Service will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should report the facts to the Executive Director who heads the Directorate concerned, or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint, will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 3.5 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Section / Division / Directorate at or in a manner that is incompatible with the overall objectives of this Protocol.
- 3.6 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, s/he should raise the matter with his/her Executive Director, Head of Service or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Head of Service, Executive Director or Chief Executive will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the [Director of Governance, Legal & HR](#), ~~Director of Legal & Business Services~~ in the context of the Governance Committee considering the complaint.

## **The Relationship: Officer Support to Members: General Points**

- 4.1 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to both the Executive and all Councillors in their several areas.
- 4.2 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Chief Financial Officer – have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- 4.3 The following key principles reflect the way in which the officer core generally relates to Members:
  - all officers are employed by, and accountable to the authority as a whole;
  - support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their communities, etc;
  - day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers;
  - the authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and Overview and Scrutiny role; and
  - all officers will be provided with training and development to help them support the various Member roles effectively and to understand the new structures.
- 4.4 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.
- 4.5 It is important that all Members, in exercising their functions as a Councillor, take appropriate legal, financial and professional officer advice, particularly about contractual matters. In order to ensure the highest standards of conduct are maintained at all times in relation to this important area of the Council's functions, additional guidance on Best Practice for Member Conduct during a Procurement Exercise is laid out in Appendix D.
- 4.6 Generally, all Members – whether Executive or otherwise – should consider, when invited to / attending a meeting, whether or not minutes should be taken and/or an officer should be present. It is a matter for Members' judgement whether this is necessary / appropriate, but factors such as whether any commitment is likely to be given on behalf of the Council and/or whether any complex financial, legal or procurement issues may be discussed will be relevant in deciding that. In such situations, Members are generally recommended to have an officer present and to ensure that contemporaneous minutes are taken and, where appropriate, shared with the other parties present to ensure that an accurate record is maintained. It will, however, be a case of judgement on each and every occasion as to how and when this principle is applied.
- 4.7 Finally, it must be remembered that Officers within a Division or Directorate are accountable to their Head of Service and Executive Director and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Head of Service or Executive Director.

## The Relationship: Officer Support: Members and Party Groups

- 5.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.
- 5.2 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 5.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 5.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
  - 5.4.1 Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
  - 5.4.2 party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
  - 5.4.3 similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 5.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers may not attend and/or give advice to such meetings.
- 5.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 5.7 Whilst any Member may ask a relevant Head of Service, Executive Director or the Chief Executive for written factual information about a Directorate or service, such requests must be reasonable and not seek information relating, for instance, to case work of a similar nature, eg Social Services, employment, etc. Requests will be met subject to any overriding legal considerations (which will be determined by the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~), or if the recipient of any request considers the cost of providing the information requested or

the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response, s/he should raise the matter in the first place with the relevant Director, and if still dissatisfied should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader(s).

- 5.8 Requests for information about generic group employee matters such as divisional structures, the overall cost of service provision for a group of employees etc should be considered in the normal way as set out above. Heads of Service, ~~Service~~ Directors, Executive Directors or the Chief Executive should ensure that any information supplied does not contain any personal information (within the meaning of the Data Protection Act 1998) relating to individual employees such as salary, grade, Trade Union affiliation etc.
- 5.9 Requests for personal information about specific employees or where the group of employees is so small that individual employees personal details are likely to be revealed should only be considered where a Member has a demonstrable need for such detailed personal information in order to carry out the business of the Council and they could not carry out that business without the information being supplied in a redacted form. Any such request must be accompanied by the Members reasons for requiring the information and must be forwarded to the [Director of Governance, Legal & HR](#), ~~Service Director: HR & OD~~ for determination (following consultation with the Council's Data Protection Officer and / or Monitoring Officer as appropriate).
- 5.10 All information held by the Council, in whatever form, is confidential to the Council unless and until such confidentiality is waived by the Proper Officer and subject to the requirements of the Data Protection Act 1998. Officers and elected Members are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Act and to familiarise themselves with their obligations under the Act accordingly. Officers or Members who require advice or assistance in relation to their duties under the Data Protection Act 1998 should take advice from the [Director of Governance, Legal & HR](#), ~~Director of Legal & Business Services~~ or the Corporate Legal Team as appropriate.
- 5.11 In relation to budget proposals:
- a. the Administration shall be entitled to confidential information / discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee / Council meetings, whichever is the earlier; and
  - b. the opposition groups shall also be entitled to confidential information / discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee / Council meetings, whichever is the earlier.
- 5.12 As part of the Budget process, Officers may be called upon to give advice on budgetary proposals, wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the "normal" rights that any member has to seek advice "in confidence" from Officers. In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Members. In doing so, they should be aware of the need to remain impartial. It is appropriate and indeed, in certain circumstances, necessary that as a matter of professional judgement, if a proposed course of action is imprudent, that Officers should advise the Members of the Authority that this is so. It would, however, be for the Officer to decide how and when to do so, subject to the general rules outlined in paragraph 5.10 below. This is

without prejudice to issues of legality and financial administration which are covered by specific duties placed on the Chief Financial Officer and Monitoring Officer.

- 5.13 In view of the need to ensure that the professional integrity of Officers is not impugned, deliberately or inadvertently, the following principles will be applied (although they may be departed from by the Chief Executive, Monitoring Officer or Chief Financial Officer as and when appropriate given their specific statutory duties):
- a. any advice or information provided to any Member(s) in writing will be marked 'strictly confidential, signed and dated by the responsible Officer and shall follow the guidelines set out in Appendix B;
  - b. generally, such advice / information will be provided to the Group Leaders, unless there are over-riding considerations associated with the statutory responsibilities of the Head of Paid Service / Chief Financial Officer / Monitoring Officer which would warrant the advice being shared with all Members;
  - c. Group Leaders and Members who received such advice will treat such advice as strictly confidential to the Council and will ensure that, if such advice is further shared or disseminated within their groups, their groups understand that the advice is confidential to the Council and not to be disclosed further under any circumstances.
  - d. Officers will also provide, as appropriate, briefings for either Group Leaders and/or all Members as requested by the Group Leaders and/or determined by the Chief Executive, Chief Financial Officer and/or Monitoring Officer prior to the Budget on any particular issues or matters which those Officers, as a matter of professional judgement, consider should properly be drawn to Members' attention.

The over-riding obligation will be to ensure that the integrity of the administration of public affairs is maintained. The prime responsibility of Officers in the matter of any challengeable decision arises in advising Members of the Council before decisions are reached. It is incumbent, in these circumstances, for Councillors to be fully advised on the legal and financial consequences of any proposed course of action.

- 5.14 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 5.15 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

### **The Relationship: Officer Support: The Executive**

- 6.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.
- 6.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a ~~Service~~ Director, Head of Service or other senior Officer will always be fully responsible for the contents of any report submitted in

his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a ~~Service~~ Director or Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

- 6.3 The Executive and its members have wide ranging leadership roles. They will:
- lead the community planning process and the search for best value, with input and advice from Overview and Scrutiny Committees, area committees and any other persons as appropriate;
  - lead the preparation of the local authority's policies and budget;
  - take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
  - be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 6.4 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through Overview and Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.
- 6.5 Under Executive Arrangements, individual Members of the Executive will, for the first time, be allowed to formally take decisions. The Executive and Cabinet members must satisfy themselves that they are clear what exactly they can and cannot do.
- 6.6 The Council has put in place mechanisms / protocols which ensure that (as with the Council, its Committees and Sub-Committees, and the Executive and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.
- 6.7 As a result of the particular issues arising during contractual discussions, particular guidance has been provided for all Members at Appendix D to this Officer / Member Protocol. Whilst this guidance is predominantly aimed at Executive Members, who will largely be the Members directly involved in discussions with potential tenderers / contractors / sub-contractors during the course of a procurement exercise, it is not exclusively aimed at Executive Members – it is specifically aimed at all Members, and for that reason, all Members should be aware that their conduct during a procurement exercise should follow the guidance in Appendix D.
- 6.8 Decisions taking by individual Members of the Executive give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Members of the Executive should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Financial Officer as appropriate) which will arise from their decisions. To ensure effective leadership for the local authority and the communities it serves, there are arrangements to ensure co-ordination of and sharing responsibility for Executive decisions including those made by individuals.

- 6.9 Officers will continue to work for and serve the local authority as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Executive, that their political neutrality is not compromised.
- 6.10 In organising support for the Executive, there is a potential for tension between Chief Officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

### **The Relationship: Officer Support: Overview and Scrutiny**

- 7.1 Overview and Scrutiny is an important constituent part of effective democracy and the Council's constitutional arrangements. Officers have lead and significant role in making it effective. However, it is not Overview and Scrutiny's role to act as a Disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Panel's behalf. This is the Chief Executive's function alone in relation to staff, the Monitoring Officer's and the Governance Committee as regards the conduct of Members. This means:
- Overview and Scrutiny's questioning should not be directed to the conduct of individuals, not in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, but with the implication of allocating criticism or blame;
  - in these circumstances, it is for the Chief Executive to institute a formal enquiry, and Overview and Scrutiny may ask (but not require) him to do so.
- 7.2 Overview and Scrutiny should not act as a "court of appeal" against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) as other procedures exist for this. These are internal, eg the Corporate Complaints Procedure, and external / statutory, eg Local Government Ombudsman or appeal to the Courts. That said,
- Overview and Scrutiny may investigate the manner in which decisions are made but should not pass judgements on the merits of a decision in individual cases;
  - they can comment, however, on the merits of a particular policy affecting individuals.
- 7.3 It would be unfair to invite someone to appear before a Panel without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Overview and Scrutiny ought to provide written questions ("Indicative Topics") beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel had previously indicated.
- 7.4 The Overview and Scrutiny Handbook contains guidelines as to the procedure at Evidence Meetings, and guidance for Members and Officers.
- 7.5 Overview and Scrutiny are, however, entitled to the following:

- a. the level and extent of questioning, and the depth to which Overview and Scrutiny Members may probe Officers is dependent upon the seniority of the Officers present – accordingly when calling Officers to give evidence, Members may wish to consider the level and nature of the Officer they wish to have before them in the light of the line of questioning they wish to follow;
- b. Officers may be asked to give a professional opinion, and Officers may be asked to give alternative options. Officers may not confine themselves solely to justifying either the position of or the advice that they gave to the Executive, although in giving options, it is to be expected that they will explain the rationale for the advice that they gave and if the advice given to the Executive reflects, in their professional opinion, the best option, to justify that;
- c. it is appropriate for Members of Overview and Scrutiny to ask Officers to explain and justify advice given to Members, whether on the Executive or otherwise, prior to decisions being taken, and to justify decisions Officers have taken under delegated powers.

#### 7.6 Officers are expected:

- a. to maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions;
- b. to be prepared to explain and justify advice given to Members, including members of the Executive and the Council prior to decisions being taken and to justify decisions they themselves have taken under the Scheme of Delegation;
- c. to ensure that an Officer of sufficient seniority appears before the relevant meeting in the light of the indicative topics supplied by Overview and Scrutiny in advance;
- d. where requested to provide information to Scrutiny, eg on alternative options, to provide that information in as a comprehensive and timely fashion as if the request had come from the Executive.
- e. to respond to questions from Members in an open, constructive and helpful manner;
- f. not to mislead or be economical with the truth.

### **Support services to Members and Party Groups**

- 8.1 The only basis on which the Council can lawfully provide support services (eg, stationery, typing, printing, photo-copying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

### **Members' Access to Information and to Council Documents**

- 9.1 Members have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the ~~Service~~ Director, Head of Service or another senior Officer of the Division concerned. Requests for employee related information (whether group of employees or individual employees) must be treated in accordance with paragraphs 5.8 – 5.10 above. In cases of doubt,



Members should approach the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ for assistance.

- 9.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 9.3 Members will find set out in Appendix C guidance on their rights to obtain information. The law in this area is complex, legislation including the Access to Information provisions of the Local Government Act 1972, the Data Protection Act 1998 as well as the Local Government Act 2000 have all had an impact. However, the Freedom of Information Act 2000 will have an even greater impact, and could potentially provide Members with a single route through which to obtain information in support of their work, whatever their role within the authority. The guidance note set out in Appendix C maps the hierarchy of rights of Members to information, but should be read in combination with the contents of the Constitution, most particularly the Access to Information Procedure Rules which cover the statutory obligations of the authority in terms of information and its relationship with the decision-making process.
- 9.4 In relation to business of the Executive, by virtue of Regulation 16 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012:
- i. where there is a meeting (eg Cabinet) and there is a document which is in the possession / under the control of the Executive relating to the business to be conducted at that meeting, that document shall be available for inspection at least five clear days before that meeting;
  - ii. where the decision is made at a private meeting by a Cabinet Member or is a Key Decision delegated to an Officer, the document shall be available either after the meeting closes or when the decision is made;
  - iii. there are savings for exempt and confidential material and any document that contains advice provided by a political advisor or assistant.
- 9.5 Finally, any Council information provided to a Member is deemed to be information provided in confidence, is subject to the protections afforded by the Data Protection Act 1998 and must only be used by the Member for the purpose for which it was provided, ie in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports / briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in paragraph 2(1)(d) of the Members' Code of Conduct:

## **"2. General Obligations**

- (1) When acting in your role as a member of the authority –
- a. ...;
  - b. ...
  - c. ...;
  - d. do not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
    - i. you have the consent of a person authorised to give it;
    - ii. you are required by law to do so;
    - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

- iv. the disclosure is-
  - (aa) reasonable and in the public interest; and
  - (bb) made in good faith and in compliance with the reasonable requirements of the authority; and
  - (cc) you have consulted the Monitoring Officer prior to its release.
- e. ...”

Failure to observe this obligation or disclosure of confidential information may amount to a breach of the Code of Conduct. Failure to safeguard and protect the confidentiality of personal information within the meaning of the Data Protection Act 1998 may result in prosecution of the Authority and / or any individual Officer or Member by the Information Commissioner and the imposition of significant monetary penalties.

- 9.6 Any Member request for personal information or personal data about an individual employee (rather than a general group of employees as a whole) should only be supplied where there is a demonstrable need for that Member to have the information at that level of detail in order to carry out their duties as a Member of the Council. Any such requests should be referred to and considered by the Head of Strategic HR who may, if necessary, refer the request to the Monitoring Officer.
- 9.7 In cases where such information is to be released, the [Director of Governance, Legal & HR](#), ~~Service Director: HR & OD~~ will specifically remind the Member that the information is confidential, subject to the protection of the Data Protection Act 1998 and confirm the necessary measures for handling that data in order to keep it confidential and ensure that it is not further disclosed to any other person or body either within or external to the Council.

### Correspondence and Advice

- 10.1 Members seeking advice from officers shall be entitled to assume that such advice is given under “Chatham House rules” in terms of disclosure to other Members, unless otherwise agreed with the officer(s) concerned.
- 10.2 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. In other words, a system of “silent copies” should not be employed.
- 10.3 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (eg, representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader or the Leaders of all political groups represented on the Council by agreement, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.
- 10.4 Correspondence received by Democratic Services from the public with a request that it is either copied to Members and/or forwarded to Members will, subject to any overriding legal considerations, be forwarded / copied.
- 10.5 Officers responding to members queries should do so in a timely manner, and in accordance with the agreed standards for replying to letters and emails from Members. Namely:

- a. Members will receive an acknowledgement within two working days of the date of the enquiry, to include the name and contact details of the officer dealing with the enquiry (subject to leave, etc);
- b. a response will be given as soon as possible but not later than 10 working days of the date of the enquiry. If it is not possible to give a detailed response within 10 working days, the councillor should be informed within that period of the date by which they can expect to receive the information requested and be given a reason for the delay.

Democratic Services, provides an alternative route whereby Members may make enquiries or request information from officers within the authority. Any Member may pass an enquiry to Democratic Services who will then refer it to the appropriate officer and follow it up as necessary. Members can expect to be updated as to progress by the officer responsible for replying to the request.

## Publicity and Press Releases

- 11.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.
- 11.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. It is appended to this Officer / Member Protocol (Appendix A). The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as s/he thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity.
- 11.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should initially seek advice from the Communications Manager who will refer the matter to the Monitoring Officer, if necessary / appropriate. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the [Director of Governance, Legal & HR](#), ~~Director of Legal & Business Services~~ as appropriate.

## Involvement of Ward Councillors

- 12.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other

policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

### **Conclusion**

- 13.1 Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers.

### **Officer / Member Protocol**

- 14.1 This version was approved by the Council as part of the Constitution in May 2015.
- 14.2 Copies of the Protocol will be issued to all Members as part of the Constitution upon election.
- 14.3 Questions of interpretation of this Protocol will be determined by the [Director of Governance, Legal & HR](#)~~Director of Legal & Business Services~~.

## Appendix A

### THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

#### Introduction

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.
2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newsheets and maintenance of websites – including the hosting of material which is created by third parties.
3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

#### Principles

4. Publicity by local authorities should:-
  - be lawful
  - be cost-effective
  - be objective
  - be even-handed
  - be appropriate
  - have regard to equality and diversity
  - be issued with care during periods of heightened sensitivity

#### Lawfulness

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority’s Advertising Codes.
6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.
8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material

in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.

9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

### **Cost-effectiveness**

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.
11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.
12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.
13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.
14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

### **Objectivity**

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.
16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.
17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the

recruitment of staff, should not be used in any publication owned or controlled by a political party.

18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

### **Even-handedness**

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the “face” of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.
21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.
22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.
23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.
24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.
25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

## **Appropriate use of publicity**

26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.
27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.
28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newssheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.
29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.
30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newssheets or similar publications published by the local authority, should do this on the front page of the publication.

## **Equality and diversity etc**

31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations. Care during periods of heightened sensitivity
33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.



35. In general, local authorities should not issue any publicity which seeks to influence voters. However, this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

## **Appendix B**

### **Guidelines for Council-wide Briefing Notes**

1. This Guidance applies to briefing notes issued on a Council-wide basis associated with / during the Budget process.
2. All Officer advice should always take account of and follow the general guidance set out in this Officer / Member Protocol and the Council's Constitution.
3. Specific advice is contained in this Officer / Member Protocol as to Council-wide briefing notes issued as part of / during the Budget process at paragraphs 5.12 and 5.13 and this should be followed.
4. The content of any briefing notes issued on a Council-wide basis associated with / during the Budget process, should follow this guidance as to its contents:
  - a. Topic;
  - b. Provenance - who requested the note be produce (advice may be reactive or pro-active – so it may be an Officer decision that this advice was needed to be placed before Members – in which case state who made that decision;
  - c. What is the current Council policy?
  - d. What is professional officer advice – including what are the ramifications of the current Council policy and any possible / proposed changes to that?
  - e. Who is the author of the briefing note?
  - f. The note should be dated.
5. Any such Council-wide briefing notes associated with the Budget process should, if not written by the relevant Directors, be cleared with them as well as the Chief Financial Officer.
6. Before being issued, any Council-wide briefing notes associated with the Budget process should be cleared with the Chief Executive.

Members should be left in no doubt as the provenance of any Council-wide briefing notes associated with / issued during the Budget process, and should be clear what is Officer professional advice regarding the ramifications of policy options / decisions.

## Appendix C COUNCILLORS' ACCESS TO INFORMATION – A HIERARCHY OF RIGHTS

### Introduction

1. The rights of access to information by Councillors is a complex mix of legislation available to Councillors and the public alike, legislation specific to local government and “common law rights” given to Councillors by the Courts. This Guidance endeavours to provide some guidelines for Members through this “maze”. Members may also seek advice “in confidence” from the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~.
2. For general rights of access available to the public, please see the Access to Information Procedure Rules as set out in the Council's Constitution.

### What is the Hierarchy of Rights?

3. The law relevant to access to information by Councillors includes the following:
  - (1) **The Freedom of Information Act 2000.** This makes non-personal information freely available to all, with only limited exceptions.
  - (2) **The Data Protection Act 1998.** This relates to personal information, and generally makes this non-disclosable except in certain circumstances.
  - (3) Local Government Legislation
    - (a) **Access to Information provisions of the Local Govt Act 1972.** This gives the public access to Committee Minutes and Agenda, and to background material relevant to those documents.
    - (b)
      - (i) Other legislation (Local Government (Executive Arrangements) (Meetings and Access to Information) Regulations 2012)) ensures that Members are entitled to material relevant to public / private meetings of the Leader and Cabinet (and decision making by individual portfolio holders).
      - (ii) However, these rights do not apply to draft documents, to the advice of a political advisor or to most exempt / confidential information (unless such information is needed for the work of the Scrutiny Committee).
    - (4)
      - (c) “Common Law Rights” (derived from Court judgements) give Members the right to inspect Council documents insofar as this is reasonably necessary to enable a Member to perform his/her duties as a Councillor – this is known as the “need to know” basis.
      - (d) However, Members do not have any right to “a roving commission” through Council documents – mere curiosity is not sufficient.

### Navigating the Hierarchy of Rights

#### Freedom of Information Act 2000

4.
  - (1)
    - (a) In broad terms, if the information being sought by a Member is non-personal, then the Freedom of Information Act 2000 allows access to most Council documentation<sup>1</sup>

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<sup>1</sup> Strictly speaking, if there are rights of access to information under other legislation, then the Freedom of Information Act 2000 does not apply. However, for the purposes of simplicity and to develop common access to information procedures for both Councillors and the public alike, this note assumes that Freedom of Information

- (b) The first port of call for information under the Freedom of Information Act is the Council's Publication Scheme. This is located on the Council's website [Publication Scheme \(southampton.gov.uk\)](http://southampton.gov.uk) and sets out most of the Council's published material. This information can be accessed and used without any further reference to the Council. The remainder of this note assumes that the information being sought by a Councillor is not available under the Publication Scheme.
- (2) The Freedom of Information Act would allow access to information about the construction of a new leisure facility (which is likely to be non-personal information) - but note the possible "block" to obtaining this information (see paragraphs 4(3) and (4) below) but could not be used to gain access to information about a named individual's record of housing waiting list applications – this latter is covered by the Data Protection Act 1998 (see Section 6 below).
- (3) In certain circumstances, access to documentation via the Freedom of Information Act can be "blocked", although most of the "blocks" are subject to a "public interest test". So, for example:-
  - (a) Releasing commercially sensitive information to a member of the public is not likely to be in the public interest.
  - (b) Whereas (subject to the usual rules of confidentiality), it is likely to be in the public interest to release such information to a Councillor.
- (4) Examples of blocks ("exemptions") under the Freedom of Information Act are:
  - (a) Work in progress (draft reports, for example) need not be disclosed.
  - (b) Information subject to a data-sharing protocol (eg. between all member organisations of the Crime and Disorder Partnership) should not be released until all organisations have each agreed to disclosure. This is to ensure that crime & disorder and fraud investigations are not prejudiced.
  - (c) Commercially sensitive information.
  - (d) Where, in the opinion of a designated officer (who is to be the Monitoring Officer) disclosure of information would or would likely to inhibit the free and frank provision of advice, the free and frank exchange of views for the purposes of deliberation, or would otherwise prejudice or would be likely otherwise to prejudice the effective conduct of public affairs. This exemption is also subject to the public interest test.
- (5) If the rights outlined above are not sufficient to provide a Councillor with the information he needs, then it is necessary to navigate further down this hierarchy.

## **Data Protection Act 1998**

- 5. (1) If the information sought by a Councillor relates to an identified living individual, then the Data Protection Act applies.
- (2) There are 2 classes of Data Protection – "normal" personal information and "sensitive personal information". Sensitive personal information includes:-
  - (a) Racial or Ethnic Origin
  - (b) Religious beliefs
  - (c) Trade Union membership
  - (d) Physical or Mental health

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Act-like principles apply to Councillors as well as to members of the public. In this way, we can start with wide, general powers of access only narrow down into more specific powers when strictly necessary.

- (e) Actual or alleged criminal offences and criminal records
  - (f) Sexual life
  - (g) Political opinions.
- (3) (a) Where “normal” personal information is involved, unless additional consent has been granted by the individual concerned, information about an individual can only be used for the purposes for which that information was obtained.
- (b) Councillors have the same rights as Council employees to access personal information.<sup>2</sup>
- (c) Putting the above together, a Councillor who needs to have information about a named individual’s housing waiting list application may do so. However (unless the individual concerned has given a specific or general consent) the same information could not be used for purposes concerned with (say) Council Tax or Housing Benefits.
- (4) (a) The Council has a duty to ensure that personal information disclosed to Members using the above procedures is used strictly for the purposes for which it is disclosed and that Members will keep the information secure and confidential (and then disposed of in a similarly careful manner).
- (b) Councillors must observe the Code of Conduct and all the provisions of the Constitution. Officers will automatically assume that Councillors will treat personal information in accordance with the previous paragraph.
- (5) (a) Where “sensitive” personal information is involved (see paragraph 5(2) above) then more rigorous procedures are necessary:-
- (i) Either explicit consent of the person concerned must be obtained; or
  - (ii) If this is not practicable, Members must complete a form under the Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002.
- (b) Paragraphs 4(4), 5(3) and (4) above, of course, apply to “sensitive” personal information as they do to “normal” personal information.
- (6) If the rights outlined above are not sufficient to provide a Councillor with the information he needs, then it is necessary to navigate further down this hierarchy.

**Access to Information Provisions of the Local Government Act 1972 / Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012**

7. (1) In effect, the rights available to Councillors through the Freedom of Information Act and the Data Protection Act will begin to override both older legislation such as the Local Government Act 1972 and also older common law rights.<sup>3</sup>
- (2) (a) Where a Councillor cannot obtain the disclosure of information under the Freedom of Information Act (because, say, commercial confidentiality is too sensitive to permit it, or because of implications for fraud investigations) or the Data Protection Act (because a Councillor cannot establish a need to know the information, or

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<sup>2</sup> and the Councillor concerned must have a “need to know”, and not just be “curious” – see paragraph 4(4) above.

<sup>3</sup> But see Footnote 1

because a Councillor wants to use the information in a context different to that for which the information was gathered) then the information may still become available to Members at a later date via Committee agenda, and the right to see background material associated with such an agenda.

- (b) Once a matter has reached the stage where it is before a Committee / Cabinet, then members of that Committee / Cabinet would have a “need to know” all relevant information; and other Councillors would be able to use the usual Access to Information provisions.
- (3) (a) Councillors also have additional rights of access to material in the possession/control of the Leader and Cabinet (rather than Council officers) relating to public/private meetings of the Cabinet or to any decision taken by an individual portfolio holder.
- (b) However, the above rights do not apply to draft documents, to the advice of a political advisor or to most categories exempt/confidential information (unless the Scrutiny Committee require such exempt / confidential information as part of actions / decisions it is scrutinising).

## General

- 8. (1) Material from Legal Services (where Legal Services is providing legal advice to one of its in-house clients at the Council) may be non-disclosable due to legal professional privilege.
- (2) Information supplied under the Data Protection Act 1998 must not be used or disclosed for political purposes.
- (3) (a) Requests for Information under the control of Officers should normally be made to the relevant ~~Service~~ Director.
- (b) Requests for information under the control of the Leader and Cabinet should normally be made to the Leader and/or the relevant Portfolio Holder.
- (4) (a) Councillors must not put undue pressure on Officers to release information to which the Councillor is not entitled to have access.
- (b) Should a ~~Service~~ Director need advice as to whether information can be released to a Councillor s/he should contact the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~.
- (c) The additional access to information rights given to Councillors are to allow them to do their jobs as Councillors. Confidential or exempt information should only be used in appropriate circumstances, in accordance with the proper performance of their duties as Councillors. Information should only be passed between Councillors if both Councillors can demonstrate a “need to know”.
- (5) (a) Any complaints by a Councillor about the non-disclosure of information should be made in writing to the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~, whose decision shall be final as far as the Council is concerned.
- (b) However, if the Councillor remains dissatisfied, the Councillor may be able (under FOI) to refer the matter to the Information Commissioner.

**Appendix D**  
**BEST PRACTICE GUIDANCE ON CONDUCT FOR MEMBERS DURING A**  
**PROCUREMENT EXERCISE**

**A. BACKGROUND**

1. Under the City Council's Code of Conduct for Members, a Member must not, amongst other things, in his/her official capacity or any other circumstance, conduct him or herself in a manner which could reasonably be regarded as bringing his/her office or the authority into disrepute, nor do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
2. In the context of a procurement exercise, this would include taking any action which could, in the opinion of the Monitoring Officer or Chief Financial Officer, compromise the objective handling of the tendering processes and lead to (or likely to expose the Council to) a successful legal challenge.
3. Tendering procedures are highly complex and there are risks involved in the failure to comply with the UK and European legislation. This guidance is intended to assist in raising awareness of the risks and to ensure that proper procedures are in place to minimise such risks.

**B. LEGAL CONTEXT**

4. When awarding contracts, the City Council is subject to the requirements of administrative law, contractual law, EU requirements on non-discrimination and free movement of goods and services, general common law principles and the specific rules on public procurement discussed below.
5. The public procurement remedies procedures are based upon the provisions of the 'Remedies Directive' (Directive (EEC) 665/89), the provisions of which were implemented into UK law in the Works, Supplies and Services Regulations (the Regulations'). There is a general statutory obligation under the regulations for contracting authorities to comply with the public procurement rules. There are also specific provisions which establish the procedures for remedy where an aggrieved contractor, supplier or service provider suffers, or is at risk of suffering, some form of loss due to non-compliance by the contracting authority with the procurement rules.
6. Enforcement of the procurement rules operate both at the EU and at the national level. The national courts or tribunals in each member state are empowered to take measures to remedy any violation of the law and to compensate for loss. At the EU level, the Commission can commence proceedings against the national government concerned under the EC Treaty if any contracting authority breaches the rules. In the UK, the obligation to comply with the provisions of the Regulations in relation to contracts that fall within the ambit of those regulations is considered in law to be a 'duty' owed to providers.
7. Non-compliance with EU law is not a criminal offence, but it can give rise to a breach of statutory duty and will open the Council to a legal challenge by way of Judicial Review and/or claim for damages. If a Member's action(s) or inaction(s) have caused the same, the member may have acted beyond his/her powers and/or be in breach of the Code of Conduct for Members. In such event, the Monitoring Officer will refer the matter to the Governance Committee for determination by way of a written complaint against the relevant Member(s). Ultimate sanction is disqualification from office and/or civil action in damages.

8. If a corrupt practice or other criminal activity is alleged or discovered under the Prevention of Corruption Acts or Bribery Act 2010 against a Member or Officer, the Monitoring Officer will consider how the Police may be used to help safeguard and protect the interests of the Council.

**C. BEST PRACTICE GUIDANCE**

9. In light of the inherent risks involved in a failure to comply with legal requirements affecting tendering procedures, Members / Officers should have regard to the following:

- 9.1 Communication (including any information, instruction, or response) from and to the City Council and Tenderers (or potential Tenderers or potential subcontractors to Tenderers) involved in a procurement process must be clear, duly recorded, appropriate and understood by the parties;

- 9.2 Tenderers / sub-contractors are always advised not to arrange or participate in any meeting(s) or other form of communication with any Member(s) or Officer(s) of the City Council that has not been arranged under and in accordance with any specific guidance/protocol issued in relation to the procurement process in question. As a general rule, where no such specific guidance/protocol has been issued, such meetings or other form of communication should not take place without the written consent of the Monitoring Officer and the Chief Financial Officer;

- 9.3 Where an existing supplier / sub-contractor to the City Council seeks a meeting or other form of communication with a Member - ostensibly about matters related only to the existing supply - and that existing supplier / subcontractor may potentially be or is, at that time, also a Tenderer / subcontractor in relation to either a planned / foreseen procurement process or an ongoing procurement process of which the Member ought reasonably to be aware of, the Member should decline to meet or otherwise ensure that a sufficiently senior officer is present at such meeting to safeguard the probity and propriety of the Council's actions or inactions;

- 9.4 Any meeting between any Tenderer / sub-contractors and a Member or Officer of the City Council, should be kept to an absolute minimum, as the risk of allegation(s) of fraud and/or corrupt practices is a high possibility and one to be avoided. Any meetings that do take place with Tenderers / subcontractors must be contemporaneously minuted / noted and, in the exceptional event that a one-to-one meeting does take place, the contemporaneous minutes / notes of the meeting must be provided to the Chief Financial Officer within three days of the meeting, for the file, so as to protect and safeguard the relevant Member / Officer from any unwarranted accusations; and

- 9.5 Confidential information relating to any Tenderer / sub-contractor (or prospective Tenderer or sub-contractor) must remain confidential, unless the Courts or the law orders otherwise. Where any Member or Officer is in any doubt about whether a meeting or other form of communication with a Tenderer / sub-contractor is appropriate or permitted, s/he should seek guidance from the Monitoring Officer and Chief Financial Officer.



## **Civic and Ceremonial Protocol**

A Member will be elected by Full Council each year to hold the office of Chairman. The Chairman of the Council will be known as the Lord Mayor when carrying out his/her civic and ceremonial role. The responsibilities of the position will be carried out in accordance with the Letters Patent conferred by the Crown and guidance contained in this Protocol. This Protocol should be read in conjunction with the Civic Handbook – The Role of the Lord Mayor and Sheriff.

### **Key responsibilities of the Lord Mayor**

1. To chair meetings of the Council effectively.
2. To preside over civic functions, including but not limited to the Remembrance Service, the reception following the annual meeting and to promote the City of Southampton Awards Scheme.
3. To act and conduct him/herself as the First Citizen and ambassador of the Council in promoting the City of Southampton and the Council's aims including its vision.
4. To lead the community in support of the Council's values and visions, to provide community leadership and to proactively engage with the Council, its priorities, aims and objectives and the partners of the Council (including, but not limited to, the local strategic partnership) in supporting the City and its citizens.
5. To assist the promotion of good causes. To promote, raise the profile and gain publicity for projects and events that are of a good charitable or voluntary nature that benefit the citizens of Southampton, particularly smaller organisations.
6. To attend funerals of officers who die in service and civic dignitaries past and present.
7. To raise funds for the charities chosen by the Lord Mayor, and to announce to the AGM Full Council a charity or charities that will be supported during the Civic Year that will benefit the citizens of Southampton. The Lord Mayor will report the amount raised to the AGM.
8. To give a summary of activities / achievements during the year at the AGM.
9. To represent the Council at events, including any international visits which should promote the Council's aims, values and/or vision.
10. To encourage citizenship and participation in the life of the City.
11. The Deputy Lord Mayor will undertake a similar role as the Lord Mayor and will be known as the Sheriff when carrying out his/her civic and ceremonial role. The Sheriff and the Lord Mayor will work together in developing a programme that would successfully fulfil the above roles.
12. To observe civic protocols when undertaking the civic and ceremonial role.

## Key responsibilities of the Sheriff

1. To deputise for the Lord Mayor, when appropriate, and undertake the key responsibilities of the Lord Mayor, at the direction of the Lord Mayor.
2. To chair Court Leet and Beat the Bounds.
3. To attend the Annual Sheriffs' Conference.

## CIVIC PROTOCOLS

### Definitions

In these protocols:

- 'The Lord Mayor's Office' is the office and staff designated by the Head of Service Support as supporting the Lord Mayor and Sheriff.

### 1. INTRODUCTION

- 1.1 The Lord Mayor, Sheriff and their escorts / consorts, when undertaking their civic and ceremonial roles, shall:

- 1.1.1 not bring the Council into disrepute through abuse of office;
- 1.1.2 follow any instructions issued by the Lord Mayor's Office;
- 1.1.3 not attend any function or otherwise give support to any organisation or person, whose objectives are contrary to law and/or Council policy,
- 1.1.4 not solicit engagements or visits at home or abroad or otherwise procure favours by virtue of office; and
- 1.1.5 not overspend the budget / allowance allocated by the Council to the Lord Mayor.
- 1.1.6 it will be the Lord Mayor and/or Sheriff's responsibility to ensure that, in attending any event or initiative on behalf of the Council when undertaking their civic and/or ceremonial roles, that the Lord Mayor and/or Sheriff and their escorts / consorts, shall behave in a manner appropriate and fitting to their position as First and Second Citizens of the City, and any breach of this protocol may constitute a breach of the Code of Conduct for Members.

### 2. ANNUAL MEETING OF THE COUNCIL / COUNCIL MEETINGS

- 2.1 The Annual Meeting includes the Lord Mayor Making ceremony. The Lord Mayor's Office will prepare the Council's guest list in liaison with the Head of Service Support. Traditionally the incoming Lord Mayor and Sheriff are allowed a personal guest list of approximately ten. These are usually family, friends and work colleagues whom the Lord Mayor invites to the Lord Mayor Making Ceremony and the parlour for refreshments after the meeting.
- 2.2 The Lord Mayor will be guided and supported in chairing Full Council meetings by the [Director of Governance, Legal & HR](#) ~~Director of Governance, Legal & HR~~. The Lord Mayor will be provided with appropriate support, guidance and assistance including

(but not limited to) briefing the Lord Mayor prior to the Council meeting on procedural and other relevant issues.

### **3. THE ELECTION OF THE LORD MAYOR**

- 3.1 The election of a Chairman of the Council (Lord Mayor) shall be the first item of business conducted by the Council in accordance with Local Government Act 1972 and the Constitution. The process shall be that required by law and the Constitution. If making nominations and undertaking this process, members shall take account in nominating any prospective candidate of the responsibilities of the job as set out in this Protocol, and Members shall, subject to the inherent discretion of the Council to elect whomsoever they deem fit as Chairman / Lord Mayor within the law and the Council's Constitution use their best endeavours to avoid a contest at the Annual General Meeting.

### **4. SUPPORT TO CHARITIES**

- 4.1 The Lord Mayor must abide by any guidance issued from time to time by the [Director of Governance, Legal & HR](#), ~~Director of Governance, Legal & HR~~ and/or the Chief Financial Officer in respect of the Lord Mayor's charities and/or the budget allocated to the Lord Mayor by the Council.
- 4.2 The Lord Mayor may select one or more charities that s/he shall announce at the Annual General Meeting, which s/he shall support. These charities will already be established and registered with the Charity Commission. If, in the opinion of the Chief Financial Officer, any charity is unacceptable for legal or financial reasons, the Lord Mayor shall select an alternative.
- 4.3 All administrative functions related to the Lord Mayor's charities must be undertaken by the appropriate officers of the charity in question and not by the Lord Mayor or the Council, or by officers.

#### The Lord Mayor's Charity

- 4.4 It is expected that the charity will undertake all fund raising and its administration, as the Council does not have the staffing resources to support this type of activity. However, officers are happy to advise the charity as to the suitability of events, appropriate procedures and matters of protocol if required.
- 4.5 The Lord Mayor's Charity has been registered with the Charity Commission. All monies raised during the Lord Mayor's year of office will be distributed to the chosen charities as soon as possible after the end of the Lord Mayor's term of office.

### **5. APPOINTMENT OF CHAPLAIN**

- 5.1 The Lord Mayor may appoint a Chaplain, and in accordance with the Council's values and visions The Lord Mayor's Office shall advise any incoming Lord Mayor on these issues and options.
- 5.2 To encourage a deeper and broader relationship between the Council and faith communities, the religious advisers will act as a 'sounding board' to advise on effective engagement with faith communities, and the impact of Communities and Local Government policy on faith communities.

## **6. ANNUAL CIVIC SERVICE**

- 6.1 The Lord Mayor may hold an Annual Civic Service in June at the place of worship determined by the Team Rector of the City Centre Parish. Alternatively, the Lord Mayor may hold an alternative event which will enhance the Council's understanding of, and engagement, with faith communities in the City. Such events must be inclusive of all sections of the community and open to all faiths.

## **7. EVENTS**

- 7.1 The Lord Mayor should work with officers to produce a proactive programme, which meets the Civic and Ceremonial Portfolio objectives. The Lord Mayor will take account of the Executive's requirements and priorities in determining the programme. All invitations to civic / ceremonial events to be undertaken by the Lord Mayor and/or Sheriff or any proposal for a civic event or engagement, however arising, will be processed through officers who will liaise closely with the Lord Mayor, conduct any necessary research and advise the Lord Mayor and/or Sheriff on their suitability. Attendance at all engagements will be co-ordinated by officers. Events attended by the Lord Mayor should be of a non-political nature. The advice of the Leader and/or Head of Service Support should be sought if necessary. Delegations or visits led by the Lord Mayor to places outside Southampton should be subject to appropriate planning, budget and reporting, and must be organised by officers.

- 7.2 The Sheriff should cover events / engagements that the Lord Mayor is unable to undertake. Where the Sheriff is not available, the Council's representative should be a Councillor (with priority for former Mayors/Lord Mayors). Invitations should only go beyond Sheriff when it is considered that the lack of civic presence would be seen as detrimental to the Council. Officers should decide this in consultation with the Head of Service Support when necessary. As the consorts / escorts of both the Lord Mayor and Sheriff have no legal status, they should rarely attend functions independently of the Lord Mayor or Sheriff. Consorts / escorts must never attend an event / engagement as a representative of the Council.

- 7.3 At events hosted by the Council, such as conferences and seminars, the Lord Mayor will normally give a welcome to delegates. At events promoting Council achievements (eg opening new facilities) the Lord Mayor will normally undertake ceremonial duties such as cutting of a ribbon, and the Leader or appropriate Cabinet Member will normally make the official speech.

- [7.4 Outside of any formal presentation of a Freedom of the City, or City of Southampton award at the council's AGM, it is recognised that the Lord Mayor may want to celebrate the important contribution particular individuals, groups, or organisations make to the city of Southampton through an informal Lord Mayor's Award presentation or 'thank you' event during their Lord Mayoral year. Such arrangements should be discussed and agreed with the Lord Mayor's Office.](#)

## **8. VISITS ABROAD**

- 8.1 Any planned visits abroad should be discussed with officers who will refer the issue to the Head of Service Support if necessary. Visits should be for official purposes and not of a personal or political nature.
- 8.2 If the Lord Mayor proposes such a visit, as a guide it will be necessary to consider the following:

- 8.2.1 the purpose of the visit, the benefits to Southampton and its residents and how it will contribute to the city and/or detailed itinerary;
  - 8.2.2 the names of others who will be accompanying the Lord Mayor, details of the costs and any hospitality that will be received and from whom;
- 8.3 Invitations abroad should be arranged through officers. The Head of Service Support will decide on any logistical or other arrangements necessary or appropriate or ancillary to any visit abroad, eg whether or not officers of the Council should accompany the Lord Mayor.

## **9. ADMIRAL OF THE PORT**

- 9.1 As Admiral of the Port, the Lord Mayor has no formal powers as such associated with this particular office. However, in view of the historic relationship between the City Council and particularly the Lord Mayor as Admiral of the Port and port-related activities and because of the significance of the port to Southampton's life, the Lord Mayor shall maintain, promote, enhance and support those links, whether in the business, leisure, tourism or other aspect of the City's life.

## **10. ALLOWANCE**

- 10.1 Both the Lord Mayor and Sheriff are paid an allowance during their term of office to reflect expenses incurred. This is to cover general expenses and receptions they wish to host. The Lord Mayor and officers should ensure that overall spend on the civic purse, civic hospitality and civic functions is within budget. The Lord Mayor should abide by any rules or guidance issued from time to time by the Head of Service Support and/or the Chief Finance Officer in respect of the budget allocated to the Lord Mayor by the Council.

## **11. USE OF THE OFFICIAL CAR**

- 11.1 The Lord Mayor and Sheriff are provided with transport for official functions where appropriate. The transport should not be used by the Lord Mayor and Sheriff other than in the civic and ceremonial capacity of these offices. Instructions to the Town Sergeants and attendants providing the chauffeuring service are given by officers. It is normal for the Lord Mayor or their escort to be collected from the Lord Mayor's residence; where this is not practical, arrangements shall be agreed in advance with officers.

## **12. USE OF LORD MAYOR'S OFFICE AND PARLOUR**

- 12.1 The Lord Mayor and Sheriff may use accommodation (the Lord Mayor's office and parlour) provided by the Council to undertake their duties. Use of this accommodation is managed through officers. The Lord Mayor and/or Sheriff shall not use this accommodation other than for civic and/or ceremonial purposes without the prior consent of officers. The accommodation is the asset of the Council under the control of officers.

## **13. ACCEPTANCE OF GIFTS**

- 13.1 Personal gifts received by the Lord Mayor and Sheriff must be declared in the normal way. Gifts presented to the Lord Mayor and /or Sheriff (in his/her ceremonial capacities as first or second citizen for the City) shall be accepted by the Lord Mayor or Sheriff for the city / Council, may not be retained by the Lord Mayor or Sheriff either during their municipal year or after and shall be passed to officers who shall

manage such gifts on behalf of the Council. Gifts received during the year shall be displayed in the Lord Mayor's Parlour. In exceptional circumstances, the Head of Service Support may decide that it is appropriate for them to retain a gift (for example, when the gift is of nominal value and/or similar gifts are presented to and retained by other Members and/or officers).

#### **14. USE OF IMAGES OF THE LORD MAYOR AND/OR SHERIFF IN ELECTORAL MATERIAL**

- 14.1 It is considered inappropriate for the Lord Mayor and/or Sheriff to appear in any electoral material, whether associated with their election, or another candidate's election, in any official regalia or robes. The Lord Mayor and Sheriff should use all reasonable endeavours to avoid this from occurring. Any such occurrence may well be reported to the Governance Committee depending upon the circumstances.

#### **15. MEDIA**

- 15.1 Given the status of the Lord Mayor and Sheriff as First and Second Citizens of the City, any dealings with the media should be conducted via Public Relations and officers should be advised. The Communications team is responsible for dealing with the press and media on behalf of the Council. Therefore, all official communication relating to the Council (but not party political or private matters) should be dealt with by the team. The Lord Mayor and Sheriff should be aware that any private / party political communications they issue may bring their office into disrepute and should always, therefore, seek advice before doing so.

#### **16. SUPPORT FROM OFFICERS**

- 16.1 Officers will provide to the Lord Mayor and Sheriff upon their appointment to office information on:

16.1.1 The different allowances and how they may be used;

16.1.2 Awareness of tax liabilities of allowance

16.1.3 Local charities and regular yearly events and functions;

- 16.2 During the Civic year, officers will:

16.2.1 manage the civic diary and ensure arrangements for chauffeuring are in place;

16.2.2 receive and follow up invitations;

16.2.3 arrange occasional events;

16.2.4 give proper briefings and advice as necessary;

16.2.5 manage the budget, in consultation with the Head of Service Support

16.2.6 prepare necessary reports for the Council / Committee etc;

16.2.7 provide such other support as is necessary and appropriate.

- 16.3 Officers are under the managerial control of the Head of Service Support and ultimately the Director of ~~Legal & HR~~ [Customer Experience](#)

## **17. SUPPORT FROM THE REST OF THE COUNCIL**

- 17.1 During the course of the Lord Mayoral year, the Lord Mayor and the Head of Service Support will liaise regularly. Officers will take steps in order to enable regular briefings to take place, and will liaise with the Head of Service Support to ensure this happens.
- 17.2 At the commencement of the Lord Mayoral year, the Lord Mayor will have meetings with the Chief Financial Officer and Head of Service Support, so the Lord Mayor may be briefed and aware of issues of interest. The Lord Mayor's role will include supporting the council's corporate priorities and the key themes that the Lord Mayor wishes to adopt should be explored to ensure they match the council's corporate plan. In this way, all of the engagements and initiatives that the Lord Mayor undertakes will be supportive of the work of the council.
- 17.3 During the Lord Mayoral year the Lord Mayor may wish to be briefed by officers on other issues of interest to the Lord Mayor or on issues that arise relevant to the Lord Mayoral duties. Meetings may also be arranged on behalf of the Sheriff.

## **18. END OF YEAR REPORT**

- 18.1 At the end of the Lord Mayor's municipal year, the Lord Mayor will have the opportunity to review the year with the Head of Service Support. The views of the Lord Mayor will be taken into account in making changes to this protocol, the work of officers and in the planning of future initiatives. A report on the work of the Lord Mayor will be included on the Lord Mayor's web page.

## **19. CIVIC EVENTS CO-ORDINATION**

- 19.1 Following identification of the key themes that the Lord Mayor wishes to adopt, a meeting will be held with the Leader of the Council to set a programme for the co-ordination of events. The meeting will ensure that appropriate Members and Officers represent the Council according to the type of function and will advise external organisations to whom representative invitations should be addressed. The programme of events will be reviewed by the Head of Service Support as appropriate to ensure that the programme continues to match the council's corporate objectives.

## **20. GUIDANCE ON THE USE OF THE SOUTHAMPTON COAT OF ARMS**

- 20.1 Southampton's Coat of Arms has been in use since the 12<sup>th</sup> Century. The final addition to the Coat of Arms was made in 1575.
- 20.2 The Coat of Arms comprises:
- **The Arms:** shown on a shield and divided into two parts. The top half is white or silver with two red roses side by side. The bottom half is red with a single white or silver rose in the centre.
  - **The Crest:** A queen holding the sword of justice and the balance of equity resting upon a castle surmounting a knight's helmet and red and white wreath.
  - **The Supporters:** A two mast, armed Tudor ship on each side of the shield with a yellow or gold lion standing in the bow holding up the shield in its front paws.

Full details on the history and makeup of the Arms is available from the Council's City Archives Services.

20.3 The Coat of Arms are the legal property of the City of Southampton and may only be used by or with the permission of Southampton City Council (as registered heraldic owner) in accordance with this Guidance and general heraldic law.

#### 20.4 Use of the full Coat of Arms

20.4.1 Use of the full Coat of Arms (shield, crest and supporters together) is reserved to Full Council and the Lord Mayor of Southampton.

20.4.2 The full Arms are only to be used in relation to wholly Council functions or in relation to the Lord Mayor's civic duties and obligations. This will include, but is not limited to, use on Lord Mayor's Office official stationary, portraits and associated memorabilia related to the Office.

20.4.3 Use of the full Arms *may*, at the discretion of the Head of Service Support and after consultation with the [Director of Governance, Legal & HR](#), ~~Director of Legal & HR~~ and the Lord Mayor, also be used in relation to:

- Use the making of Honorary Aldermen and the granting of the Freedom of the City
- the procurement and presentation of high-quality Civic gifts to visiting dignitaries of national and international stature.
- Historic books, documents & manuscripts produced by the Council whether intended for publication or archival purposes.

#### 20.5 Use of the Shield or Shield & Crest

20.5.1 use of the Shield / Shield & Crest is at the discretion of the Head of Service Support and after consultation with the [Director of Governance, Legal & HR](#), ~~Director of Legal & HR~~ and the Lord Mayor and is limited to:

- All other uses by the Council
- Requests by third parties for use in relation to non-profit making or charitable purposes where such use is made to denote the support of the Council or Lord Mayor.

Such uses may include graphical representations to accompany written "introductions" or statements of support supplied on behalf of Full Council or by the Lord Mayor's Office, graphical representations to denote historic, heraldic or other Civic matters such as dissertations etc by local history groups and representation on items such as calendars and music compilations where it is determined that publication is in the interests of the Council and does not undermine the historic status of the Arms.

20.6 No requests from third parties relating to commercial, profit generating or non-charitable uses will be permitted.

20.7 Where this Guidance indicates that use is at the discretion of the Head of Service Support subject to the following paragraph, that decision shall be final.

20.8 If a third party remains dissatisfied by a refusal in accordance with this Guidance, they may submit a request in writing for the matter to be reconsidered. The matter



will be referred to the Governance Committee for determination at their next available scheduled meeting.

## **Code for Dealing with Joint Arrangements with Third Parties**

### **1. INTRODUCTION**

This Code provides guidance and recommended procedures to avoid conflicts of interest for the Council, its employees and consultants engaged in any joint or proposed joint arrangements with outside bodies on which Members and/or employees will be representatives whether or not assets and/or staff transfer, permanently, temporarily or by secondment. In this Code, “Joint Arrangements” includes proposed, evolving or developing joint arrangements including (but not limited to) the situation before any legal entity or Special Purpose Vehicle (SPV) has been created.

This guidance must be read in conjunction with all other appropriate legislation, guidance, codes and the like. This includes, but is not limited to:

- Localism Act 2011
- Section 117 of the Local Government Act 1972
- The Council’s Constitution, including (but not limited to)
  - Members’ Code of Conduct
  - Employees’ Code of Conduct (when issued)
  - Protocol for Officer / Member relationships
  - Chief Officer Employment Procedure Rules
  - Financial Procedure Rules
  - Contract Procedure Rules
- Disciplinary rules and procedures
- National and local conditions of service
- Internal and external legal advice regarding the conduct of Members and employees in joint working arrangements
- Posts which are “politically restricted” by virtue of the provisions of the Local Government and Housing Act 1989 (as amended)

### **2. PURPOSE**

The purpose of this Code is to ensure probity and confidence in the Council’s dealings with outside bodies. This includes taking steps to avoid conflicts of interest and bias, to maintain commercial confidentiality while safeguarding the use of public money and to limit the financial exposure of the Council, its Members and Officers.

### **3. IDENTIFYING AND DEALING WITH THE POTENTIAL FOR CONFLICT**

In any proposal where Members or employees may have joint interest, or where there are joint working arrangements involving public funds, or transfer of public assets and the like, the following must be established:-

(a) Is there a conflict?

It is impossible to list all areas of a potential conflict and employees and Members are personally responsible for asking themselves whether there is or is likely to be a conflict of interest. The interest need not be pecuniary and will arise wherever there is a possibility of bias, which may influence the decision. There is a danger of bias where an interest affects an individual or a member of their household more than the generality of others who may be affected by a decision.

The type of decisions being made will include:

- transfer of assets from the Council to another person/party with whom they have an interest
- granting of public funds by the Council to another person/party with whom they have an interest
- a decision to enter into a scheme with another person/party with whom they have an interest with an immediate or potential financial impact on the Council
- contractual arrangements between the Council and another party/parties with whom they have an interest and negotiations on such arrangements

Those with a position of potential influence will be:

- members of the Executive / other Members who are advisors (regardless of political party)
- directors on a board or shadow board and subscriber representatives on companies
- trustees
- employees with delegated decision-making positions or a policy formulation role
- secondees from the Council to another party with delegated decision-making ability or policy formulation posts

(b) Employees

Employees must be clear from whom they take instructions at all times. If an employee's job within the Council would involve them making proposals, drafting policy or influencing any decision or action which will benefit a person or body with whom they have either a direct or potential interest and with whom the Council has or intends to enter into joint arrangements, they must:

- (i) Prepare a report for their line manager, Executive Director or Chief Executive, clearly setting out:
  - the basis of their direct or potential interest
  - any adverse or potentially adverse consequences for the authority and/or benefits to the third party
  - Set out their current or potential areas of influence within the third party.
- (ii) Employees who have prepared a report in accordance with paragraph (b)(i) above shall not be permitted to prepare reports for Members, make any delegated decision, commit expenditure, or give instructions

to other employees to do so on any matter where they have identified such an interest or potential interest.

- (iii) Employees who have applied for, or intend to apply for or have been appointed to a position with a body outside the Authority with whom the Council has or intends to enter into joint arrangements shall not be permitted to instruct other employees, make proposals or delegated decisions or prepare reports on any matters that are directly applicable to any proposed contractual relationship between the Council and their new or potential employer.
- (iv) Secondments to a joint partner or any shadow arrangement set up by the Council to facilitate the negotiations shall be by way of letter clearly setting out the terms of the secondment, use of information, reporting lines, restrictions on activities and the like. Anyone appointed to such an arrangement shall not brief Members or otherwise do anything which may be seen to influence those making decisions on behalf of the Council unless invited to do so by the relevant Executive Director or Chief Executive and shall only then do so in the company of another Council officer.
- (v) In any report prepared for consideration by Members involving arrangements between the Council and a third party with whom the Council has an interest the report shall indicate:
  - the nature of the joint interest/influence;
  - any proposed transfer of assets included in the proposal together with details of valuations of the assets and full financial appraisal. Such a report must contain the comments of the Chief Financial Officer;
  - Where a report is lengthy (for example in bidding documents / government submissions etc) the report must clearly state, in the recommendations, each aspect of the bid and seek approval. It is not sufficient merely to seek endorsement of the bid/submission;
  - Where the proposal affects employees this must be clearly stated in the report.
- (vi) At the outset of any such joint arrangements the relevant Executive Director or Chief Executive shall ensure that a clear structure of accountability, line management and reporting lines. This will require review on a regular basis. It must deal with any proposals for secondments. All secondments (whether to posts in the Council or to an outside body) must be made by letter to the employee concerned setting out the structure applicable. All employees working on the proposal must receive written details (whether by way of letter or copy of structure chart) making it clear to them who their line manager is and from whom they may take instructions and to whom they may divulge information (be it their line manager, another employee or committee).

Employees may apply for an employed position with a joint partner of the Authority provided they shall not be employed by the Council and the joint partner at the same time. The employee may use their skills, knowledge and

expertise acquired whilst in the employ of the Council but shall not use any information they have obtained whilst in the Council's employ. Such information shall remain confidential to the Council and not be used for the benefit of the joint partner.

(c) Members

Where Members are likely to be in the position of having a joint influence through being a subscriber, director or other member of a company or third party with which the Council is entering into a joint arrangement adherence must be had to the Members' Code of Conduct. If the Member's position is such that they could be involved in the decision making process on both sides, the relevant Members should consider whether they need to declare a prejudicial interest and not take part in any discussion or vote on the matter. Nor must they be in any position where they may be perceived as influencing the matter within the Authority.

Members shall be informed of any arrangements made under paragraphs (b)(iv) or (b)(vi) above in connection with restrictions on access to Members by those staff seconded to any shadow arrangements.

#### 4. SEPARATION OF FUNCTIONS

In any situation where joint arrangements are such that Council officers are advising the Authority and the proposed new provider or special purpose vehicle appropriate arrangements shall be considered by the relevant Executive Director or Chief Executive. Where it is necessary for such advice to continue from within the Council pending the new provider being formally established with their own ability to operate financially and contractually the relevant Executive Director or Chief Executive shall ensure robust and sound arrangements are in place to ensure that confidentiality is maintained, advice is provided separately to the Council from the SPV and such other arrangements and/or requirements as may be advised by the Monitoring Officer / [Director of Governance, Legal & HR](#), ~~Director of Legal & Business Services~~ and/or Chief Financial Officer from time to time. This shall include (but not exclusively) arrangements for:

- Physical separation of staff
- Confidentiality of paper and electronic information in respect of the project
- Separation of support services such as post handling and typing
- Guidance to staff on arrangements for the contact between them

The relevant Executive Director or Chief Executive shall ensure that all appropriate Members, the Monitoring Officer and the Chief Financial Officer are informed when and what the arrangements are made.

The Chief Financial Officer shall take steps to ensure that arrangements are put in place, and that they are maintained.

#### 5. CONSULTANTS

In preparing any consultants' briefs drafting contracting terms or otherwise employing consultants, employees must have regard to whether there may be a conflict or potential conflict of interest or whether confidential information may be disclosed

which could benefit another party for whom the consultant also acts, even if that other party is a body partly or solely set up by the Council.

In any brief to consultants where they may be required to give advice to the Council and to a third party with whom the Council is or will enter into an agreement, the consultants shall from the point where a potential conflict of interest may arise only act for one party and not both. All Consultancy contracts and/or letters of appointment will contain an appropriate clause, concerning conflicts of interest and consultants shall be under a duty to immediately notify the Council of any potential conflict. Where a contract has to be terminated or be amended due to a conflict of interest this should be at no cost to the Council. Employees must avoid preparing any brief which may give rise to a consultant acting for both the Authority and a third party where there is a potential for conflict.

## **6. MEANING OF CONFLICT OF INTEREST**

Any interest in a matter, which creates a danger of bias. This shall arise where the interest affects the individual concerned or an organisation, which they influence more than the generality of those affected by the decision.

## **7. SANCTIONS**

In the event of any alleged breach of this Code, if the alleged breach is also an alleged breach of the Members Code of Conduct, it will be dealt with in accordance with the procedures set out by the Localism Act 2011.

In the event of an alleged breach by an officer, the matter will be considered by the Chief Executive following consultation with the [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~, in accordance with the Council's disciplinary rules and procedures.

## **8. FURTHER GUIDANCE**

Further and additional guidance may be issued on a case-by-case basis or as needed by the Monitoring Officer / [Director of Governance, Legal & HR](#) ~~Director of Legal & Business Services~~ and/or the Chief Financial Officer.

## PROTOCOL FOR THE MONITORING OFFICER

### A General introduction to statutory responsibilities

1. The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in Southampton City Council.
2. The current responsibilities of the Monitoring Officer role rest with the ~~Director of Legal & Business~~ [Director of Governance, Legal & HR Services](#), who undertakes to discharge ~~his~~ the statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. The Monitoring Officer will appoint a Deputy Monitoring Officer as appropriately needed. In doing so, he will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
3. A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:
  - a. complying with the law of the land [and ensuring good corporate governance](#) (including any relevant Codes of Conduct);
  - b. complying with any General Guidance issued, from time to time, by the Governance Committee and the Monitoring Officer;
  - c. making lawful and proportionate decisions; and
  - d. generally, not taking action that would bring the Council, their offices or professions into disrepute.

### B Working Arrangements

4. Having excellent working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Monitoring Officer and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and his staff) in discharging these responsibilities.
5. The Monitoring Officer issues guidance to officers to assist them in understanding the nature, breadth and requirements that the Monitoring Officer puts upon all officers. The guidance also explains how the Monitoring Officer will approach the role. The Monitoring Officer considers that the role is a positive and preventative one, related to legality, avoidance of maladministration and observance of codes of conduct / practice where there is actual / potential transgression by the Council. The Monitoring Officer gives authoritative advice and guidance on these issues which will be conducive to a culture of propriety and integrity. This will provide comfort for officers and Members alike. However, although the Monitoring Officer will seek to be positive about the role, it must be recognised that the role imposes a personal duty to make a public, statutory report where it appears to be necessary. This might ultimately force the authority to consider issues it might not wish to.

The Monitoring Officer and the authority should co-operate in everyway possible so as to reduce the chance of the need for the Monitoring Officer to issue a formal report. In support of this, the Monitoring Officer places significant reliance upon the advice and support given by colleagues in Legal Services who will, in providing

advice do so in an enabling manner, but also identify areas of particular risk and concern, assisting officers / Members to achieve their objectives, but ultimately in a lawful and proper manner.

6. The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-
- a. be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - b. have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council, including joints bodies, partnerships, etc 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, Cabinet, by Cabinet Members under individual delegations, Committee meetings and/or Council Management Team (or equivalent arrangements);
  - c. have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member decision meetings, Committee meetings or Executive Management Board (or equivalent arrangements);
  - d. in carrying out any investigation(s) have unqualified access to any information held by the City Council and to any officer who can assist in the discharge of ~~his~~those functions;
  - e. ensure the other statutory officers (Head of Paid Service and the Chief Financial Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - f. meet regularly with the Head of Paid Service and the Chief Financial Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - g. report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Chief Financial Officer;
  - h. as per the statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources he requires to discharge ~~his~~the statutory functions;
  - i. have a special relationship of respect and trust with the Lord Mayor, Sheriff, Leader, Group Leaders and Chairs of the committees, sub-committees and panels with a view to ensuring the effective and efficient discharge of Council business;
  - j. develop effective working liaison and relationship with the external Auditor and the Local Government and Social Care Ombudsman (including having the authority, on behalf of the City Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council;



- k. maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
- l. give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the Governance Committee (unless the Chair of Governance Committee agrees a report is not necessary);
- m. in consultation, as necessary, with the Chair of the Governance Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- n. have sufficient resources to enable ~~them~~<sup>him</sup> to address any matters concerning ~~his~~ <sup>the</sup> Monitoring Officer functions;
- o. subject to the approval of the Governance Committee, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues; ~~and~~
- p. appoint a deputy and keep ~~them~~<sup>him or her</sup> briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer;
- q. have responsibility for Local Government and Social Care Ombudsman and whistle-blowing functions of the authority;
- r. ensure that Members and Officers of the authority are fully aware of their obligations in relation to probity.

The ~~Director of Governance, Legal & HR Business~~ Director of Governance, Legal & HR Services will be the Proper Officer for Access to Information, decision-making, Data Protection Act 1998 and the Freedom of Information Act 2000.

- 7. To ensure the effective and efficient discharge of these arrangements, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
- 8. The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements.
- 9. To ensure the effective and efficient discharge of this Protocol, the Chief Financial Officer will ensure adequate insurance and indemnity arrangements are in place to safeguard the interests of the City Council and the proper discharge of the Monitoring Officer role.

### **C Sanctions for breach of Southampton's Code of Conduct for Members**

- 10. Complaints in relation to a breach of the Code of Conduct for Members will be investigated in accordance with the Council's adopted procedures

### **D Monitoring the Protocol**

- 11. The Monitoring Officer will report to the Governance Committee as to whether the arrangements set out in this Protocol have been complied with and will include any proposals for amendments in the light of issues which have arisen.

### **E Conflicts and Interpretation**

- 12. Where the Monitoring Officer has received a complaint or is aware of an event which may lead to ~~them~~<sup>him</sup> issuing a statutory report relating to a matter upon which ~~they~~

~~have~~ ~~has~~ previously advised the Council, ~~they~~ ~~he~~ shall consult the Chief Executive who may then either refer the matter to the Deputy Monitoring Officer for investigation and report to the Chief Executive, ~~or~~ ask a neighbouring authority to make their Monitoring Officer available to investigate the matter, or instruct an external solicitor or counsel and report to the Chief Executive and/or the authority as appropriate.

13. Questions of interpretation of this guidance will be determined by the Monitoring Officer.

## **F Protocol for the Monitoring Officer**

14. This Protocol was approved by Full Council for inclusion within the Council's Constitution on 18<sup>th</sup> ~~.....~~ May 202~~0~~3.

### **SUMMARY OF MONITORING OFFICER FUNCTIONS**

<b>Description</b>		<b>Source</b>
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Local Government & Housing Act 1989 ss 5, 5A (as inserted by SI 2001/2237).
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Local Government & Housing Act 1989 ss 5, 5A (as inserted by SI 2001/2237).
3	Appointment of Deputy and power to delegate.	Local Government & Housing Act 1989 s 5, Local Government Act 2000 s 82A (as inserted by the Local Government Act 2003 s 113).
4	Power to delegate	Local Government Act 2000 s 82A.
5	Report on resources.	Local Government & Housing Act 1989 s5.
6	Receive copies of whistle-blowing allegations of misconduct.	Code of Members' Conduct
7	Investigate misconduct in compliance with the Council's adopted Code of Conduct	Localism Act 2011 s 28
8	Establish and maintain registers of Members' interests and gifts and hospitality.	Localism Act 2011 Chapter 7
9	Advice to Members on interpretation of Code.	Code of Members' Conduct.
10	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Localism Act 2011 Chapter 7
11	Compensation for maladministration.	Local Government Act 2000 s 92.

	Description	Source
12	Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members.	Department for <a href="#">Levelling Up, Housing, Communities</a> & Local Government, Local Government & Social Care Ombudsman,

## PARTNERSHIP CODE

### INTRODUCTION

1. Partnership working can bring significant benefits, including improved outcomes and more efficient and integrated services for people who live, work and visit the city. However, partnerships need to be properly established and well managed if they are to deliver benefits and value for money.
2. This Partnership Working Code outlines the minimum requirements for establishing, managing and reviewing partnerships, as well as expected conduct of Council officers and Councillors who are a member of a partnership. The Code should be read in conjunction with other Council documents including the Council's Constitution [Code of Conduct for Members](#), [Officer Code of Conduct](#) and [Code for dealing with Joint Arrangements with Third Parties](#).

### PURPOSE

3. The purpose of this Code is to ensure that Councillors and Council officers involved in establishing, managing or contributing to a partnership are able to:
  - Demonstrate a clear rationale for the partnership and the Council's involvement
  - Obtain appropriate approval for setting up or being involved in a new partnership
  - Understand the Council's role, and their role, in a partnership
  - Apply clear standards for partnership working
  - Ensure time and resources invested in the partnership contributes to the Council's priority outcomes and is (and will continue to be) worthwhile in terms of adding value.

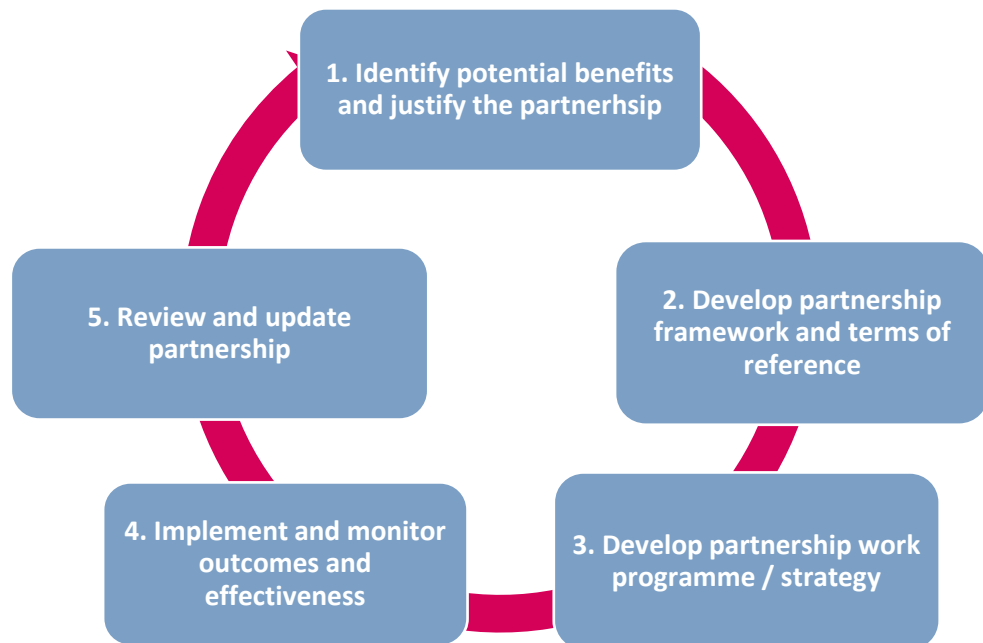
### WHAT IS A PARTNERSHIP?

4. In its broadest sense, a partnership can be defined as: *'an agreement between two or more independent bodies to work collaboratively to achieve an objective'*. The key characteristic is that the partners aim to achieve something they could not do alone, by pooling skills and other resources. For the purpose of this Code, these are two main types of partnerships. They are:

Formal or strategic partnerships	Informal or non-strategic partnerships
<p>The partnership meets one or more of the following:</p> <ul style="list-style-type: none"> <li>• It is critical to the delivery of key Council objectives or level 1 strategies</li> <li>• It meets or delivers one of the Council's statutory obligations e.g. Crime and Disorder Act 1998</li> <li>• The Council's reputation could be damaged if the partnership fails to deliver</li> </ul>	<p>The partnership meets one or more of the following:</p> <ul style="list-style-type: none"> <li>• It supports the delivery of an operational strategy or objective</li> <li>• It is established around a specific issue which will benefit from a range of partners being involved</li> </ul>

## IF THE COUNCIL IS ESTABLISHING OR LEADING A PARTNERSHIP

5. If you are establishing or leading a partnership on behalf of the Council you will need to give consideration and resources to its development, delivery and review and follow the **Partnership Cycle** obtaining appropriate approvals at each stage. The below sections provide detail as to the actions you will need to take.



### STEP 1: Identify potential benefits and justify the partnership

6. You should contact the ~~Intelligence, Insight and Communications~~[Strategy & Performance Team](#) team as early as possible for an initial discussion about the proposals to establish a partnership. This will focus on identifying the need for the partnership, and the resources, timeline and approval route to establish and continue a partnership that is effective and value for money.
7. It is critical that partnership, whether formal or informal, provides value for money, and has clear outcomes that meet the strategic aims of the Council, as outlined in the priorities and outcomes in the [Southampton Corporate Plan 2020-2025](#). A formal or significant partnership should only be established if it is critical to the delivery of a key Council outcome or statutory obligation.
8. The Intelligence, Insight and Communications team will support you to:
- Review the requirement for a new partnership
  - Identify whether the partnership is formal/strategic or informal/non-strategic
  - Agree appropriate governance routes to obtain approval to proceed with establishing the partnership
9. The proposal to develop a new partnership must be agreed with the Intelligence Insight and Communications team, and approved by the EMB sponsor and lead Councillor before you can proceed with establishing the partnership and developing the terms of reference for both formal and informal partnerships.

## STEP 2: Develop the partnership framework and Terms of Reference

10. Partnership arrangements can be complicated and could become overly bureaucratic. It is important to achieve a balance between having sufficient clarity about the purpose, benefits and role of the partnership, and ensuring any resources input into its development and monitoring are appropriate.
11. You will need to consider and document the following issues in the partnership's 'terms of reference':
  - Aims and objectives
  - Membership
  - Proportionate and effective governance arrangements
  - Protocol for dealing with conflicts.
12. You should refer to the Council's constitution for the [Code for Dealing with Joint Arrangements with Third Parties](#). This provides recommended procedures to avoid conflicts of interest for the Council, its employees and consultants engaged in any joint arrangements involving public funds, or transfer of public assets.
13. You should undertake a risk assessment for the partnership, and establish appropriate processes and procedures to ensure that:
  - All partners are aware of and understand the nature and extent of the key risks that they face both individually and as part of the partnership.
  - There is a shared commitment to effectively manage the key risks to ensure the partnership's objectives are achieved.

Further information on managing partnership risks is available to Southampton City Council Members and employees via the Council's intranet.
14. You must consider if establishing the partnership has any equality implications against the Equalities Act 2010 and ensure that the partnership considers and promotes its statutory Equality Duty. [The Equalities guidance and Equality and Safety Impact Assessments](#) provide a framework to ensure the decisions, strategies and policies of the partnership comply with their duties and ensure any potential negative impacts are mitigated and followed up as appropriate.
15. You should also consider whether the lifetime of the partnership is expected to be long-term or temporary. Some informal/non-strategic partnerships established to support a particular project or in response to a particular issue may only be required for a fixed period of time.
16. Arrangements for the partnership should then be documented in a formal written agreement or Terms of Reference, and this should be published on the Council's website. The Intelligence, Insight and Communications team can provide example Terms of Reference.
17. The draft Terms of Reference must be submitted to the Intelligence, Insight and Communications team and distributed to key stakeholders for review. As a minimum, this should include the partnership's EMB sponsor, Cabinet portfolio holder or lead Councillor for an informal partnership. Once a final draft is agreed, approval of the Terms of Reference should be sought from EMB and Cabinet for a formal / strategic partnership.

### **STEP 3: Develop the Partnership Work Programme**

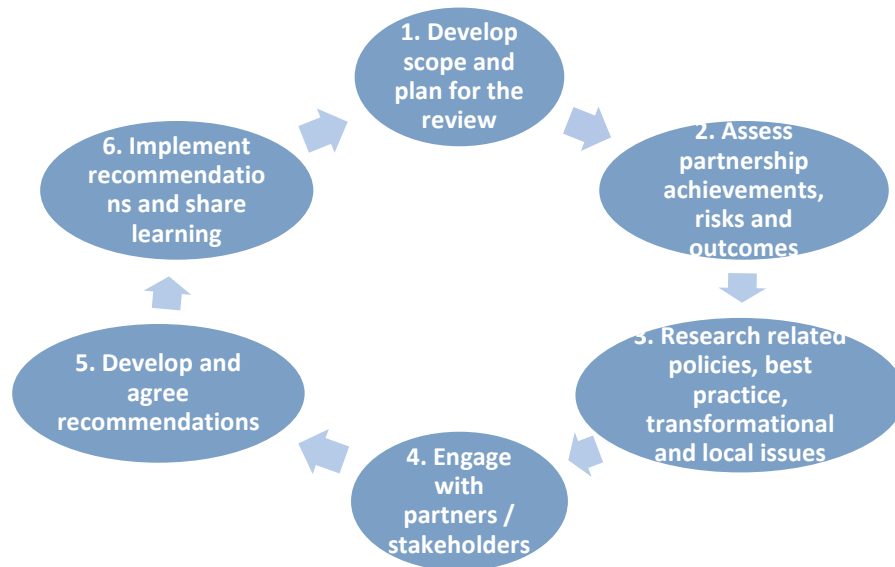
18. Once the partnership's Terms of Reference are approved, the objectives and aims of the partnership will need to be translated into an agreed work programme. This will outline how the partnership will achieve its objectives and set out the actions and outcomes that the partnership's success will be measured against.
19. Southampton City Council has an agreed Strategy and Policy Framework, which forms a key part of our 'one council' approach to strategy and policy development. If a new strategy requirement is identified as part of the development of the partnership work programme, you must contact the Intelligence, Insight and Communications team and follow the agreed strategy development process.

### **STEP 4: Implement and monitor the partnership**

20. The owner of the partnership will oversee and be responsible for implementing and monitoring the success, risks and outcomes of the partnership, and will need to ensure that the following issues are agreed and addressed on an ongoing basis:
  - Agree resources to deliver objectives
  - Agree clear accountability, monitoring and reporting processes
  - Establish communication mechanisms
  - Undertake risk assessments
  - Reporting outcomes and performance – reports should be shared and discussed regularly with the EMB sponsor and lead Member
  - Establish ongoing governance arrangements, including any sub groups.

### **STEP 5: Review and update the partnership**

21. During their lifetime, partnerships need to adapt to changing circumstances. As a minimum, an annual review should be undertaken of the outcomes achieved, including targets, performance, risk management, financial controls, value of the partnership (in terms of the partnership's and Council's objectives) and whether it is still fit for purpose and providing value for money. The review should be sufficiently robust and challenging, whilst remaining proportionate and appropriate to the working arrangements of the partnership.
22. The review of the partnership may be led by the partnership, however, independent input should be sought through the involvement of the Intelligence, Insight and Communications team.
23. The following steps should form part of the review:



24. At the end of the review, a report must be produced including recommendations. This should be cleared by the Projects, Policy & Performance team to ensure there are no significant implications for other partnerships, and that best practice opportunities, gaps and duplications have been identified. It should also be cleared by the partnership chair, and must be approved by the EMB sponsor and lead Member, as well as the partnership itself.

## DISSOLVING THE PARTNERSHIP

25. If you are considering dissolving the partnership, you should contact the [Projects, Policy & Performance Strategy & Performance](#) team as early as possible for advice on the process to follow.
26. You will need to prepare a briefing paper, with the Chair of the partnership, for approval by the EMB sponsor and lead Councillor for both formal/strategic and informal partnerships. This paper should clearly set out the following issues, in relation to dissolving the partnership:
- The rationale for dissolving the partnership
  - Implications for the Council's priorities or statutory duties
  - Any unmet need of the Council and partners
  - Continued risks to the Council if the partnership no longer exists
  - Costs or funding implications
  - Proposals for resolving any outstanding issues
  - Overall learning and outcomes of the partnership
  - Views of the partnership members
  - Timeline and process for dissolving the partnership.

## COMMITTING RESOURCES TO A PARTNERSHIP WHERE THE COUNCIL IS NOT THE LEAD AUTHORITY

27. Where the Council is not leading a partnership, but there is a clear benefit in contributing or attending it, there will still be resource and reputational implications to be considered. It is important that the Council understands the potential benefit and



outcomes that the partnership can offer to support the Council's objectives and priorities.

28. If you are proposing to commit Council resources to a partnership, contact the Intelligence, Insight and Communications team to have an initial discussion about the partnership aims and objectives, to ensure the potential benefits of the partnership fit with the Council's priorities and strategies, and do not duplicate other partnerships.
29. The relevant EMB member and lead Councillor should be briefed on the aims and objectives of the partnership, the expected input and commitment from the Council and potential impact on the Council's priorities.

### **IF YOU ARE A MEMBER OF A PARTNERSHIP**

30. It is important that members of a partnership understand their own role and responsibilities. When committing Council resources (including employee time and money) to a partnership, your first and foremost duty is to the Council. As a Councillor or Council officer, you must adhere to the [Code of Conduct for Members](#) and [Officer Code of Conduct](#) in the Council's Constitution.
31. As a member of a partnership, you should consider if the partnership is following good practice, that it is contributing to the Council's values and priority outcomes and that it adds value, by actively engaging in any review of the partnership and ensuring that all the appropriate frameworks are in place.
32. Individually, as a representative of the Council on a partnership you should:
  - Represent the Council's views within the partnership
  - Act as the key link back to the Council to promote success of the partnership and inform / engage others in the decisions and activity of the partnership through effective communication
  - Be an active participant in meetings, develop issues for consideration by the partnership and execute additional activity in relation to delivering the partnership's objectives
  - Provide professional advice and expertise as appropriate to the partnership
  - Behave with honesty and integrity at all times, act in good faith and not take advantage, misrepresent or conceal anything pertinent to the partnership
  - Avoid and work to resolve conflicts
  - Highlight any personal interests, if they arise.
33. If you are concerned about anything to do with the partnership activity, contact the Projects, Policy & Performance team in the first instance who will offer support and advice on the matter, including whether it is appropriate to escalate the concern to the partnership chair, EMB sponsor or lead Councillor.

#### **Contact:**

Projects, Policy & Performance team: [policy&strategy@southampton.gov.uk](mailto:policy&strategy@southampton.gov.uk)

## **PART 6: MEMBERS' ALLOWANCE SCHEME**

### **Members' Allowances Scheme**

Southampton City Council, in exercise of the powers conferred by the Local Authorities (Members' Allowance) (England) Regulations 2003 have made a scheme for the payment of Members Allowances as follows:

#### 1. Basic Allowance

- a. Basic Allowance is intended to recognise the time devoted by Councillors to their work, including approved duties and such inevitable calls on their time as meetings with constituents, political group and Council meetings. It is also to cover the costs of phone calls and other incidental costs for which no other provision is made.
- b. The Basic Allowance for each member will be £13,900.00 per annum from 1<sup>st</sup> June 2022.
- c. When the term of office of a Member or Special Responsibility begins or ends otherwise than at the beginning or end of a financial year, entitlement shall be to payment of such part of the basic allowance as is proportionate to the number of days served as a Member in that year.

#### 2. Special Responsibility Allowance

- a. For each financial year a Special Responsibility Allowance shall be paid to those Councillors who hold the special responsibilities specified below in relation to the work of the Council.
- b. The Council will pay the following annual amounts for Special Responsibilities:
 

Leader of Council	£27,800.00
Executive Members	£13,900.00
Opposition Group Leaders	£12,163.00
per group member (based on a per group figure of 1/24 <sup>th</sup> of the Basic Allowance x by no in Group)	
Chair of Overview and Scrutiny Management Committee	£6,950.00
Chairs of Regulatory Panels, Committees and Sub-committees	£6,950.00
Chairs of Scrutiny Panels, Committees and Commissions	£3,475.00
- c. Members are entitled to claim one Special Responsibility Allowance only.
- d. Special Responsibility Allowances are paid pro rata from the date the appointment is made to the date the appointment ceases inclusive.
- e. At least one Special Responsibility Allowance shall be paid to a person who is not a member of the controlling group or the Executive.
- f. Where the term of office of a Member begins or ends otherwise than at the beginning or end of a year, entitlement shall be to payment of such part of the special responsibility allowance as is proportionate to the number of days served as a Member in that year.

- g. Where a special responsibility is shared between more than one Member over the course of a financial year, each Member shall be entitled to a pro rata payment equivalent to actual number of days served in undertaking that special responsibility.

### 3. Co-optees' Allowance

- a. An allowance shall be payable to any person co-opted as a Member of any Committee or Panel which usually meets at least four times in any financial year in respect of their attendance at that Committee or Panel or any conference approved by that Committee or Panel.
- b. The amount of co-optee allowance shall be £719.00 per annum.
- c. Where the term of office of a Member begins or ends otherwise than at the beginning or end of a year, entitlement shall be to payment of such part of the co-optees' allowance as is proportionate to the number of days served as a Member in that year

### 4. Travel and Subsistence Allowances

- a. Councillor and non-Councillor Members are entitled to receive payment of travelling and subsistence allowance where expenditure has been necessarily incurred on travelling inside or outside of the UK or on subsistence for the purposes of performing approved duties, including:
  - i. Civic duties undertaken by the Lord Mayor and Sheriff.
  - ii. Attendance at a meeting of the Council or of any of its Executive, Committees, Panels, Briefings or Working Parties or such other duties as are approved by the Council under this paragraph.
  - iii. Site visits duly authorised by the meetings of the Executive, Council, Committees or Panels.
  - iv. Attendance at conferences duly authorised by meetings of the Executive, Council, Committees or Delegated Powers.
  - v. Attendance at joint meetings with other local authorities authorised by meetings of the Executive, Council, Committees and Panels.
  - vi. Meetings, including public meetings, by prior arrangement with or at the request of Council officers on Council business.
  - vii. Attendance at one Group meeting before each Council Meeting or Executive Meeting, limited to a claim for up to four hours.
  - viii. Meetings with residents and other associations or such other duties as are approved by the Council under this paragraph.
  - ix. Meetings of bodies where appointments of representatives are made directly by the Council (including those made by the Executive).
- b. If the duty or work you are doing for the Council is not on the above list, Members need to ensure such a duty or work approved by the relevant Committee before claiming any travel and subsistence allowance.
- c. Travel Allowance Rates
  - i. Allowances for travel are set at the same rate as that for Southampton City Council employees.

- ii. Where a Member uses a private car, the mileage rate shall not exceed 45p per mile.
- iii. All claims for travel allowances for mileage must be accompanied by an appropriate VAT receipt for fuel.
- iv. For journeys exceeding 100 miles (excluding London), mileage will be paid only up to the rate of the standard class rail fare.
- v. The rate for motorcycles shall not exceed 24p per mile.
- vi. The rate for pedal cycles shall not exceed 37.1p per mile.
- vii. The rate of travel by taxi shall not exceed:
  - in cases of urgency or where no public transport is reasonably available; the amount of the actual fare and any reasonable gratuity paid; and
  - in any other case, the amount of the fare for travel by appropriate public transport.

In order to claim taxi fares, receipts will be required.
- viii. Bus and rail fares, tolls or ferry charges and parking fees will be reimbursed at actual cost.
- ix. Air Travel must be booked through the City Council (Member Services) having been authorised by the relevant Service Director/Head of Service and will be paid direct from divisional budgets.

e. Subsistence Allowance Rates

- i. Subsistence allowance rates are set at the same rate as that for Southampton City Council employees.
- ii. Members may claim the following maximum subsistence allowances, on a meals basis:

Breakfast allowance (more than 4 hours away from normal Place of residence, before 11:00 am)	£6.00
Lunch allowance (more than 4 hours away from normal place of residence, including lunchtime between 12 noon and 2:00 pm)	£8.20
Tea allowance (more than 4 hours away from normal place of residence, including the period 3:00 pm to 6:00 pm)	£3.60
Evening allowance (more than 4 hours away from the normal place of residence ending after 7:00 pm)	£10.50

- iii. Claims should be reduced by an appropriate amount in respect of any meal provided free of charge.
- vi. Claims will be paid on production of a valid receipt. Where the amount on the receipt is less than the rates set out above, the amount paid will not exceed the amount on the receipt.

5. Dependents' Carers' Allowances

Members who are responsible for providing care to children / dependent relatives qualify for a Dependant Carers' Allowance to assist with financial loss incurred in paying for care of the child / dependant relative whilst attending the approved duties specified at 3(a) above.

- a. The allowance will cover paid care for the children who live with the claimant.
- b. The paid carer cannot be a member of the immediate family or household.
- c. The allowance will be the actual fee per hour, per child, but not exceeding £8.75 per hour.
- d. Rates are linked to the Living Wage per hour of approved duties plus travel time.
- e. Claims for child care should be made on the Members' (Dependent Carers) Allowances form. Payment will only be made on production of a completed and signed form together with an invoice or receipt from the paid carer.
- f. Members are encouraged to use a registered childminder / carer where practicable.

6. Annual Adjustment of Allowances

- a. This scheme of allowances will come into operation on 1<sup>st</sup> June 2019.
- b. Basic and Special Responsibility Allowances are based on the Living Wage and will be adjusted in line with changes to the Living Wage in accordance with the following scale:

Basic Allowance	Equivalent to 27 hour week
Leader of the Council SRA	Equivalent to 2 x Basic Allowance
Cabinet Member SRA	Equivalent to 1 x Basic Allowance
Opposition Group Leader SRA	Based on a per Group member figure 1/24 <sup>th</sup> of the Basic Allowance
Chair of Overview and Scrutiny Management Committee	Equivalent to 0.5 x Basic Allowance
Chair of Regulatory Panel, Committee or Sub-committee	Equivalent to 0.5 x Basic Allowance
Chair of Scrutiny Panel, Committee or Commission	Equivalent to 0.25 x Basic Allowance
Co-opted member	Link to NJC pay award for Local Government employees

- c. The travel, subsistence and carer rates will be adjusted in line with the rate for Southampton City Council employees.
- d. Where an allowance has been paid to a Member in respect of any period of service and they:
  - i. are suspended for that period;
  - ii. cease to be a Member of the Authority;

- iii. are in any other way not entitled to receive an allowance in respect of that period such part of the allowance as relates to that period shall be repaid to the Authority.
- e. A member may elect to forgo an allowance or any part of an allowance by giving notice of such intention in writing to the Service Director: Legal & Governance.

7. Pensions

There is currently no pension scheme for Members.

8. Claims and Payments

Claim forms are available on the Council's Intranet site and from Democratic Services. Claim forms should be returned to the Team Leader: Members' Services, who will obtain the necessary authorisation for payment. It is important that claim forms are fully completed and signed to avoid delay.

- a. Councillors and co-optees should submit claim forms before the 1st of each month (or nearest possible date when the 1st falls on a weekend). This gives time for claims from Councillors to be authorised and payment to be made through the Payroll Group on the 23rd of that month. Travel and Subsistence, Co-optees Allowance and Dependant Carers Allowance for Members will be paid through the Payroll Group in the same manner as Basic and Special Responsibility Allowances. Payments to Co-optees (or other Members in exceptional circumstances only) may be made by cheque, generally within 34 weeks of the claim form being received.
- b. All claims must be made within three months of the date of the relevant meeting/s.

9. Other entitlements

- a. Rail warrants can be obtained for Members on request for Approved Duties. It is advisable to allow three working days for these to be issued and despatched.

- b. Telephone allowances

The rate for telephone line rental allowances are set at the same rate as that for employees of Southampton City Council. The allowance for telephone line rental is £15.00 per month, and the maximum for telephone line rental/Internet Service Provider for homeworkers is a maximum of £15.00 per month.

10. The Council adopted the LGA Policy on Parental Leave on 18<sup>th</sup> October 2018. The LGA Policy can be found [here](#).

## **Review of Allowances**

The City Council shall, pursuant to the Local Authorities (Members Allowances) (England) Regulations 2003, establish and maintain an Independent Remuneration Panel to consider and advise on the categories and levels of Members Allowances paid by the Authority.

The Panel will comprise not less than three people who shall not be Members of any District, County or London Borough Council. The number of people appointed to the Panel, the terms

of appointment to the Panel and the level of remuneration payable to appointees will be determined and reviewed from time to time by the Service Director: Legal & Governance.

The Panel shall be convened at such times as may be deemed appropriate by the Service Director: Legal & Governance and in accordance with the Regulations to comment on and review any Allowance Scheme in force in the Authority. Any such scheme must in any event be reviewed every four years from adoption or amendment.

The Panel shall produce a report which shall set out the Panel's recommendations in respect of the payment of such Allowances as it thinks fit. That report shall be made available for inspection by members of the public and notice of the proposed recommendations published in a local newspaper circulating in the area.

The report of the Panel will be considered by Full Council as soon as is reasonably practicable after publication of the Notice referred to above. Following consideration of the Panel's report Full Council shall set the level of the Allowances paid by the Authority until such time as they are again submitted for review by the Independent Remuneration Panel.

## **EXPLANATORY NOTES**

### **Payment of Allowances**

The payment of allowances and related matters are handled within HR Pay. Enquires regarding the payment of your allowances should be made to HR Pay.

The following points should assist you to understand how the allowances are paid and answer some of the general points that could arise from time to time:

- Records of Members allowances showing the amount and nature of the payment are open to inspection by Local Government electors resident in the area and are subject to both internal and external audit.
- Claim Forms need to be completed for dependant carers and travel and subsistence allowances, although it is NOT necessary to claim for the Basic Allowance, Special Responsibility Allowance or Co-optees Allowance. These allowances will be paid directly into your bank or building society account on the 23rd of each month.
- New members and retiring Members will be paid allowances pro rata to their period of office.

### **Social Security and Income Tax**

Guidance notes have been produced by the Government on the interaction of Members allowances with the tax and social security benefits system. The guidance covers such matters as the extent to which Members allowances are liable to tax, what expenses can be offset against tax and the circumstances and extent to which the receipt of allowances may affect entitlement to benefits.

Basically, Members allowances are treated as earnings and therefore deduction of tax and national insurance contributions are made as required unless payments fall below the lower earnings limits. Members can therefore be affected, both as contributors and beneficiaries of the Social Security Scheme. These contributions can give rise to pension entitlement and other Social Security Benefits. If a member has any doubts about how they are affected they should contact the local Social Security Office.

Members are entitled to claim Tax Allowances from the Inland Revenue for expenses wholly and necessarily incurred in connection with Ward Duties. Claim form P87 and advice is available from the Inspector of Taxes, District 1, 8 Ogle Road, Southampton (Tax Ref No. 718/S2066). With regard to the payment of allowances for Civic Dignitaries, the local Inspector has agreed that the allowance is no more than a reimbursement of expenses with the exception of the cost of clothing. Specific advice is available for the Lord Mayor and Sheriff on the implications of returning such expenditure to the Inland Revenue.

### **Statutory Sick Pay**

Members who are below the state pension age and pay National Insurance are entitled to claim Statutory Sick Pay for periods of sickness in excess of three days. To make a claim:

- Complete a self-certificate, which is available from doctors' surgeries, for the first seven (7) days of sickness and obtain a doctors' statement where the sickness period exceeds seven (7) days. Send these documents to HR Pay.
- Periods of sickness should be clearly indicated on the Members "Application for Allowances" forms.



**Contacts for further information.**

The local tax and benefits offices will be able to deal with queries related to personal circumstances.

If you need further guidance or advice on how the Council treats allowances under PAYE, please contact the Payroll & Pensions Team at [Payroll.Pensions@southampton.gov.uk](mailto:Payroll.Pensions@southampton.gov.uk) ).

If you have any other queries about the Allowance Scheme, please contact Lisa Sillence, Team Leader: Member Services (Tel 023 8083 2433 or e-mail [lisa.sillence@southampton.gov.uk](mailto:lisa.sillence@southampton.gov.uk)).

## EXECUTIVE MANAGEMENT TEAM STRUCTURE – MAY 2022

[To be updated/added]

Executive Management Team  
([southampton.gov.uk](https://www.southampton.gov.uk))

## PART 8: ANCILLARY DOCUMENTS

### APPOINTMENT OF STATUTORY AND PROPER OFFICERS

#### Introduction

- 1.1 This report reviews the position of the statutory and Proper Officers within the authority and records the appointment of Proper Officers by the ~~Director of Legal & Business Services~~. Director of Governance, Legal, Legal & HR.
- 1.2 The Local Government Act 1972 and other legislation requires local authorities to make specific statutory appointments which carry specific responsibilities. Three of those posts are the statutory officer posts, namely the Head of Paid Service, Chief Financial Officer and Monitoring Officer. These are identified in Appendix A.
- 1.3 Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the "Proper Officer" to carry out particular functions under various Acts of Parliament. Those posts designated as Proper Officer are specified in Appendix B.

#### Appointment

- 2.1 The Director of Legal, Governance, Legal & HR ~~Director of Legal & Business Services~~ has delegated authority to act as / make any Proper Officer appointments.
- 2.2 If the office of any of the Proper Officers is vacant or the person appointed is absent or otherwise unable to act then the most senior available officer or person to the Proper Officer is authorised to act as Proper Officer.

**STATUTORY OFFICERS**

Legislation requires local authorities to identify specific officers for particular responsibilities. These are detailed below:

**STATUTORY REQUIREMENTS****ALLOCATED TO****STATUTORY OFFICERS****Section 4 Local Government Act 1989**

Head of Paid Service

Chief Executive

**Section 151 Local Government Act 1972**

Chief Financial Officer

Executive Director: ~~Finance & Commercialisation~~ [for Corporate Services](#)**Section 5 Local Government Act 1989**

The Monitoring Officer

[Director of Governance, Legal, Governance & HR](#) ~~Director of Legal & Business Services~~**OTHERS**

Director of Adult Social Services

(Section 6 Local Authority Social Services Act 1978)

~~Operations Director (Adult Social Care)~~ [Executive Director for Wellbeing & Housing](#)**Section 18 Children's Act 2004**

Director of Children's Services

Executive Director: ~~Wellbeing (Children & Families)~~ [for Children & Learning](#)**Representation of the People Act 1983**

Electoral Registration Officer

Mark Heath (personal appointment)

(Section 9-13A Representation of the People Act 1983)

**Agriculture Act 1970**

Agricultural Analyst

Hampshire Scientific Service, Hampshire County Council, Hyde Park Road, Southsea, Portsmouth PO5 4LL

**Food Safety Act 1990**

Public Analyst

(Section 5 Food Safety Act 1990)

Hampshire Scientific Service, Hampshire County Council, Hyde Park Road, Southsea, Portsmouth PO5 4LL

**Weights & Measures Act 1985**

Inspector of Weights and Measures

Trading Standards Officer Team Leader

(Section 69(1) Weights &amp; Measures Act 1985)

**Registrations Service Act 1953**

Registrar of Births and Deaths

Superintendent Registrar

(Sections 5 &amp; 6, Registrations Service Act 1953)

Registrar of Births, Deaths &amp; Still Births

Registrar of Marriages

**Environmental Protection Act 1990**

Officer identified as dealing with stray dogs  
(Section 149 Environmental Protection Act  
1990)

Animal Welfare Officer

**The Cremation Regulations 1930**

Regulation 7 requires that the Cremation  
authority appoints a Registrar for Cremation

Service Manager - Bereavement is appointed  
as the Registrar for Cremations

**Data Protection Act 1998**

[Director of Governance, Legal, Governance &  
HR](#)~~Director of Legal & Business Services~~

**Local Government Act 2000**, Section 21ZA  
Scrutiny Officer

Scrutiny Manager

## PROPER OFFICER RESPONSIBILITIES

Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the "Proper Officer" to carry out particular functions under various Acts of Parliament.

### 1. DIRECTOR OF GOVERNANCE, LEGAL, GOVERNANCE & HR SERVICE ~~DIRECTOR: LEGAL BUSINESS OPERATIONS~~

The Director of Governance, Legal, Governance & HR ~~Director of Legal & Business Services~~ is appointed the Proper Officer in relation to:

- (a) any reference in any enactment passed before or during the 1971 -72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the clerk of a Council or the town clerk of a borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council;
- (b) any reference in any local statutory provision to the clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council:
- (c) the following provisions:

#### Local Government Act 1972

Section of the Act	Proper Officer's Functions
Sections 83(1)-(4)	Witness and receipt of declaration of acceptance of office
<sup>1</sup> Section 84	Receipt of declaration of resignation of office
Section 88(2)	Convening of meeting of Council to fill casual vacancy in the office of Chair
<sup>1</sup> Section 89(1)(b)	Receipt of notice of casual vacancy from two local government electors
Section 96(1)	Receipt of notices of pecuniary interest
Section 96(2)	Keeping record of disclosures of pecuniary interest under Section 94 and of notices under Section 96(1)
Section 100(B)(2)	Circulation of reports and agendas
Section 100(B)(7)	Supply of papers to the press
Section 100(D)(1)(a) and 100D(5)(a)	Background papers
Section 100F(2)	To decide which documents are excluded from members inspection

<sup>1</sup> The Electoral Registration Officer may deputise for the Director of Governance, Legal, Governance & HR ~~Director of Legal & Business Services~~ for these matters

<b>Section of the Act</b>	<b>Proper Officer's Functions</b>
Section 191	Functions with respect to Ordnance Survey
Section 210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities or, if there is no such office, to the Proper Officer
Section 225(1)	Deposit of documents
Section 229(5)	Certification of photocopies (note Section 3)*
Section 234	Authentication of documents (note Section 3)**
Section 236(9) & (10)	Service of byelaws on other authorities
Section 238	Certification of byelaws
Schedule 12 paragraph 4(2)(b)	Signature of summonses to Council meetings

#### **Local Government Act 1974**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 30(5)	Notice of Local Government and Social Care Ombudsman's report.

#### **Local Government (Miscellaneous Provisions) Act 1976**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 41	Evidence of resolutions and minutes of proceedings

## **2. CHIEF FINANCIAL OFFICER (EXECUTIVE DIRECTOR: ~~FINANCE & COMMERCIALISATION~~ FOR CORPORATE SERVICES)**

The Chief Financial Officer is appointed the Proper Officer in relation to the following:

- (a) Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before the 26 October 1972 to the Treasurer or a Treasurer of a Borough which by virtue of any provision of the said Act is to be construed as a reference to the Proper Officer of the Council
- (b) Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of an order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council
- (c) Provisions of the Local Government Act 1972, as follows:-

#### **Local Government Act 1972**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 115(2)	Receipt of money due from officers
Section 146(1)(a) & (b)	Declarations and certificates with regard to

Section of the Act	Proper Officer's Function
--------------------	---------------------------

securities

3. **HEAD OF ~~BUSINESS OPERATIONS~~ SERVICE SUPPORT**

The Head of ~~Business Operations~~ Service Support is appointed the Proper Officer in relation to the following:

(a) The following provisions:

**Local Government Act 1972**

Section of the Act	Proper Officer's Functions
Section 100(C)(2)	Summaries of minutes
Schedule 12 paragraph 4(3)	Receipt of notices regarding addresses to which summons to meetings are to be sent
Section 229(5)	Certification of photocopies (only in respect of Minutes and Records of Decision)*
Section 234	Authentication of documents (only in respect of Minutes and Records of Decision)**
Section 248(2)	Keeping roll of Freeman

**Local Government and Housing Act 1989**

Section of the Act	Proper Officer's Function
Sections 15 and 16	Appointment of Members to Committees in accordance with Group Leader or Group Leader's representatives wishes.

(b) The Director of Governance, Legal and HR ~~Head of Business Operations~~ Service Support is appointed the Proper Officer in relation to the following:

Issues in respect of Electoral Registration, etc.

4. **HEAD OF ~~PLANNING & ECONOMIC DEVELOPMENT~~ TRANSPORT & PLANNING<sup>2</sup>**

**Local Government Act 1972**

Section of the Act	Proper Officer's Functions
Schedule 16	Receipt of deposit lists of protected buildings

Also appointed the Proper Officer in respect of powers contained in Section 78 of the Building Act 1984, ie, to act as "the surveyor" empowered to take and authorise emergency action in respect of damage and dangerous buildings, walls etc, and to order the demolition of buildings rendered dangerous by fire damage, without the prior authorisation of the Council.

<sup>2</sup> ~~To be carried out by the Head of Green City & Infrastructure from 01/07/2022 until restructure confirmed~~



and Regulation 4 of the Neighbourhood Planning (Referendums) Regulations 2012.

**5. HEAD OF CONSUMER PROTECTION & ENVIRONMENTAL SERVICES  
Local Government Act 1972**

The Head of Consumer Protection & Environmental Services is appointed the Proper Officer in relation to:

- (a) Sections 9(1), 9(2), 13(2)(h), 13(3)(b) and 20(b) of the Registration Services Act 1953
- (b) the provisions of the Registration of Births, Deaths and Marriages Regulations 1968 to 1994.

**6. THE CONSULTANT IN COMMUNICABLE DISEASE CONTROL (CCDC)  
THE COUNCIL'S SCIENTIFIC OFFICER**

The Consultant in Communicable Disease Control with Southampton University Hospitals NHS Trust is appointed the Proper Officer for the purposes of:-

- (a) Sections 11(1), 11(3), 18(1), 20(1), 21(1), 22(1), 23(2), 24(1), 26(2), 29(4), 30(2), 31(1), 32(1), 34(3), 34(5), 35(1), 36(1), 37(1), 38(1), 39(1), 39(3), 40, 41 (1), 42(1), 43(1), 48(1), 50(2)(b) and 51 (1) of the Public Health (Control of Disease) Act 1984.
- (b) Regulations 6, 8, 10 and 12 of The Public Health (Infectious Diseases) Regulations 1988.
- (c) All functions of the "Medical Officer" under the Public Health (Aircraft) Regulations 1979 (as amended) and the Public Health (Ships) Regulations 1979 (as amended).

In accordance with the provisions of Section 101 Local Government Act 1972 the Consultant in Communicable Disease Control may when absent authorise another community physician with experience in environmental health and the control of communicable diseases to act as Proper Officer.

**7. EXECUTIVE DIRECTOR: ~~COMMUNITIES, CULTURE & HOMES~~ FOR WELLBEING & HOUSING**

The Executive Director: ~~Communities, Culture & Homes~~ for Wellbeing & Housing is appointed the Proper Officer in relation to the following:

- (a) the issue of certificates under the provisions of the Rent (Agriculture) Act 1976 in relation to the provision of alternative accommodation
- (b) the provisions of Schedule 15 Part (iv) of the Rent Act 1977 relating to certificates as to the provision of suitable alternative accommodation.

**8. OTHER – NATIONAL ASSISTANCE ACTS**

The Head of Young Peoples Services ~~Head of CYP Strategic Commissioning, Education, Inclusion & Infrastructure, Director of ASC Operations and Head of Provider Services Adults and Service~~ Executive Director for Wellbeing & Housing & Communities are appointed the Proper Officers in relation to Section 47 National Assistance 1948 and Section 1 National Assistance (Amendment) Act 1951.

## 9. OTHER – CALDICOTT GUARDIAN

The ~~Operations Director (Adult Social Care) and Executive Director: Wellbeing (Children & Families)~~[Executive Director for Wellbeing & Housing and Executive Director for Children & Learning](#) are jointly appointed the Caldicott Guardian under recommendations of the Caldicott Committee and its reports *Review of Patient-Identifiable Information* (1997) and *Information: to Share or not to Share* (2013), and under obligations contained in the Data Protection Act 1998, Human Rights Act 1998 the Social Care Records Guarantee.

## 10. NON-EXECUTIVE DECISION-MAKING

The report author of any report to be considered by the Council or a Committee / Sub-Committee thereof is appointed as Proper Officer under the Local Government Act 1972 in relation to:

- (a) The identification of and compilation of lists of background papers to reports;
- (b) The identification of confidential documentation.

## 11. RETURNING OFFICER

As Returning Officer and Electoral Registration Officer, to undertake all functions and responsibilities for local, national, European and any other elections, in accordance with UK and European legislation and regulations, save where otherwise provided including, but not limited to, the registration functions and duties (including varying the location of polling places where required) and the determination of fees and charges for local elections in accordance with the decision of the Hampshire and Isle of Wight Election Fees Working Party.

## 12. OTHER

The Constitution and/or primary and secondary legislation associated with the Constitution and both Executive and non-Executive functions and decision-making contain a range of Proper Officer posts. Save where prescribed in this part of the Constitution, those responsibilities are set out in the remainder of the Constitution, eg Council Procedure Rules. In the absence of any identified postholder, the Proper Officer shall be the [Director of Legal, Governance, Legal & HR](#)~~Director of Legal & Business Services~~.

## **PART 9: DEFINITIONS**

### **Definitions**

<b>Access to Information Rules</b>	those Rules setting out the terms on which members of the public may attend Council meetings and obtain copies of documents as detailed in Part 4 of this Constitution
<b>Area</b>	the geographical area which is the administrative responsibility of the Authority
<b>Authority</b>	The local authority known as Southampton City Council
<b>Cabinet</b>	the Leader and Cabinet Members together
<b>Cabinet Member</b>	a Councillor who is appointed by the Leader to be a member of the Cabinet
<b>Chair</b>	Any individual appointed to chair a Committee
<b>Chief Executive</b>	the Chief Executive for the time being of the authority
<b>Chief Financial Officer</b>	the Officer appointed by the Authority to be Chief Finance Officer and have responsibility for those duties designated under Section 151 of the 1972 Act, Section 73 of the 1985 Act and Section 112 of the 1988 Act
<b>Committee</b>	Any committee, sub-committee, board, sub-board or commission of the Council
<b>Council</b>	the collective terms for all of the elected Members of the Authority
<b>Councillor / Member</b>	an elected Member of the Authority
<b>External Auditor's Management Letter</b>	Annual Letter issued by the external Auditor
<b>Executive</b>	a collective term embodying the Cabinet and Leader when they operate as a collective decision-maker (The Cabinet) or individually (Cabinet Member).
<b>Executive Decisions</b>	decisions of the Executive in accordance with the Executive Procedure Rules
<b>Executive Directors</b>	such directors as are for the time being appointed
<b>Extraordinary Meeting</b>	a Council Meeting called in accordance with the Council Procedure Rules

<b>Head of Paid Service</b>	the Officer appointed by the Authority to undertake all duties designated under Section 4 of the 1989 Act. The Chief Executive is the Head of Paid Service
<b>Leader</b>	the Councillor elected by the Council to be the Executive leader of the Authority
<b>LMS Scheme</b>	the Local Management of Schools Scheme
<b>Lord Mayor</b>	the Councillor elected by the Council to chair meetings of the Council
<b>Monitoring Officer</b>	the Officer appointed by the Authority to undertake all duties designated under Section 5 of the 1989 Act. The Director of Legal & Business Services is the Monitoring Officer
<b>Officer</b>	an employee of the Authority
<b>Ombudsman</b>	the Local Government and Social Care Ombudsman
<b>Proper Officer</b>	the Officer with statutory responsibilities as set out in Part 8 of this Constitution
<b>Secretary of State</b>	the Secretary of State for Communities, Housing and Local Government
<b>Statutory Officers</b>	the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer
<b>The 1972 Act</b>	the Local Government Act 1972
<b>The 1985 Act</b>	the Local Government Act 1985
<b>The 1988 Act</b>	the Local Government Act 1988
<b>The 1989 Act</b>	the Local Government Act 1989
<b>The 2000 Act</b>	the Local Government Act 2000
<b>The 2011 Act</b>	the Localism Act 2011

# PART 10: OFFICER SCHEME OF DELEGATION AND ASSOCIATED DOCUMENTATION, RULES & GUIDANCE



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## GENERAL NOTES

NB: These notes form part of the Register of Delegated Powers

1. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
2. The exercise of a delegated power, duty or function shall:
  - a. be subject to the City Council's Policy Framework and/or Budget;
  - b. be subject to any Special Procedure and/or Protocol;
  - c. be subject to the requirements of the Constitution and Corporate Standards; and
  - d. be subject to the requirements of the Council Procedure Rules [\(CPRs\)](#), Financial Procedure Rules, Contract Procedure Rules, Corporate Standards and any delegations contained therein.
3. An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow:
  - a. such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power etc. has control;
  - b. such authorisations should only be given where there is significant administrative convenience in doing so;
  - c. the officer authorised by the other should act in the name of the officer who received the original delegation;
  - d. no authorisation may be given if the statute or law prohibits it.

Authorisations of this kind should not be considered to be the norm but used only in appropriate circumstances and after careful thought. There can be no additional such delegation. Any mis-categorisation of a delegation as being Executive, non-Executive or anything else shall not invalidate the delegation.
4. References to any Act, Regulation, Order or Byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
5. Any reference to any Act of Parliament includes reference to Regulations and subordinate legislation upon which UK legislation is based, or from which powers, duties and functions of the Council are derived.
6. Where the exercise of powers is subject to prior consultation with another officer, that officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
7. Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
8. Delegations to officers are subject to:
  - a. the right of the delegating body to decide any matter in a particular case;
  - b. the officer may, in lieu of exercising his/her delegated power, refer to the delegating body for a decision; and
  - c. any restrictions, conditions or directions of the delegating body.

## GENERAL NOTES

9. In exercising delegated powers, the officer shall:
  - a. take account of the requirements of the Corporate Standards and Special Procedures and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
  - b. shall exercise the delegation so as to promote the efficient, effective and economic running of that Division, Directorate and the Council, and in furtherance of the Council's visions and values; and
  - c. shall, where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.
10. Except where otherwise expressly provided either within this Scheme of Delegation or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
11. Save in respect of any statutory roles that are not capable of delegation, any power conferred on a subordinate officer shall be exercisable by the Executive Director or by the Chief Executive or any other Executive Director in their absence if appropriate to do so.
12. The compilation of a Register of Delegated Powers is a statutory requirement. The Register is maintained by the Director of Governance, Legal & HR, and delegations are added to it as they are made by delegating bodies. Officers should take care to inform themselves of any subsequent changes to the Register before solely relying on this document.
13. The Director for Governance, Legal & HR shall have the power to amend this Register to reflect re-organisations, changes in job titles and vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.
14. Any post specifically referred to below shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded. Any power contained within this Register in anticipation of any reorganisation may be exercised in accordance with the preceding Register to the date of that reorganisation.
15. Any reference to a Committee, Panel or Sub-Committee shall be deemed to include reference to a successor Committee or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
16. Where a power or duty is delegated to an officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
17. All enquiries about this register should be made to the Director of Governance, Legal & HR.



## GENERAL NOTES

18. All matters of interpretation of this document will be determined by the Director of Governance, Legal & HR.
19. If a matter is delegated to an officer, but that delegation cannot be implemented, that should be reported to the delegating body.
20. Functions, matters, powers, authorisations, delegations, duties and responsibilities, etc within this Scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
21. Non-executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Any function that is not therefore specified must be assumed to be executive.
22. Advice on procedures, and matters to be taken into account in exercising officer delegated powers, is set out in the Guidance on Decision-Making issued by the Director of Governance, Legal & HR.
23. This Scheme of Delegated Powers was approved as part of the Council's Constitution on 17<sup>8</sup>~~th~~<sup>32</sup> May 202~~32~~. Ad hoc additional revisions will be considered by the Council as appropriate and page revision numbers indicated on replacement pages.
24. For the avoidance of doubt, where a power or duty delegated under this scheme includes at source a power to recover costs, fees or charges, the delegation shall include the power to take all necessary action to recover such fees cost or charges by way of civil debt or otherwise and shall be without prejudice to any other power to charge or recover costs that the Council may have under legislation.
25. Delegations set out in Section 2 onwards, can also be exercised by their relevant officers in relation to functions for which they are responsible and/or manage.
26. Where there is doubt over the responsibility for the exercise of the delegated power, the Chief Executive or Director for Governance, Legal & HR or his or her nominee is authorised to act.

## CHIEF EXECUTIVE

### 1. CHIEF EXECUTIVE

- 1.1 The Chief Executive shall be the Head of Paid Service and be provided by the authority with such resources as s/he deems necessary to perform that role. The Head of Paid Service shall have overall corporate management and operational responsibility for the way in which the organisation delivers its services.
- 1.2 The Chief Executive may decide that any function, question or matter is urgent and:
- a. a decision must be made before the next scheduled meeting of the Executive, Council or of the appropriate Committee or Sub-Committee; or
  - b. a recommendation to the Executive, Council or within the terms of reference of a Committee or Sub-Committee should be implemented prior to the next scheduled meeting of the Executive, Council, Committee or Sub-Committee by which it could be approved;
- in either case, if the Chief Executive is satisfied that it is not expedient, practicable or necessary in the circumstances to convene a special meeting of the Executive, Council or a special meeting or urgent business sub-committee meeting of the Committee or Sub-Committee in question then paragraph 1.4 shall apply.
- 1.3 The Chief Executive shall have the power (or may designate an Executive Director who will then have power) to determine the question or matter or to implement the recommendation (as the case may be) in the name of and without further reference to the Executive, Council or to the appropriate Committee or Sub-Committee.
- 1.4 The exercise by the Chief Executive and Executive Directors of any powers under this Urgent Matters delegation shall be subject to the following conditions:
- a. that the determination of the question or other matter or implementation of the recommendation is capable of determination under law in this manner;
  - b. that the Chief Executive or designated Executive Director before making a decision shall consult with the Leader;
  - c. that the Chief Executive or designated Executive Director before making a decision shall consult with the Director of Governance, Legal & HR and the Executive Director for Corporate Services or their nominated deputies;
  - d. that a record of all decisions made or recommendations implemented, together with the consultations shall be recorded and maintained by the Director of Governance, Legal & HR ; and
  - e. that any decisions made or recommendations implemented under this provision shall be reported to the next scheduled meeting of the Executive, Council, Committee or Sub-Committee, which would otherwise have dealt with the question or matter.
- 1.5 Each Executive Director (in their service area) and Director of Governance, Legal & HR (all areas) may each exercise the powers of the Chief Executive in the event of his/her incapacity, absence or unavailability.

**2. CHIEF OFFICERS (EXECUTIVE MANAGEMENT BOARD MEMBERS, MONITORING OFFICER & DIRECTOR OF PUBLIC HEALTH)**

- 2.1 If a function, power or responsibility has not been specifically reserved to the Council, a Committee or the Executive, the Chief Executive and Executive Director within whose remit the matter falls is authorised to act.
- 2.2 The Council, its Committees and the Executive will make decisions on matters of significant policy. Executive Directors are given express authority to take all necessary actions to implement Council, Committee and Executive decisions that commit resources within agreed budgets in the case of financial resources, as necessary and appropriate.
- 2.3 In relation to all delegated authorities conferred on the Executive Directors, the Chief Executive may allocate or reallocate responsibility for exercising particular powers in the interests of effective corporate management as he or she thinks fit.
- 2.4 To take all routine and day-to-day operational service decisions within agreed policies provided they are met from within overall approved budgets in relation to the services for which they are responsible, subject to any other requirements imposed by the Constitution (eg Financial Procedure Rules [and CPRs](#)).
- 2.5 To take all decisions necessary to give effect to implement the contents of any approved Policy Framework plan, in relation to the services for which they are responsible, and within agreed budgets in the case of financial resources, as necessary and appropriate.
- 2.6 To take any action on urgent matters which would otherwise require reference to, or consultation with, the Council, a committee or the Executive if there is no such time for such reference or consultation to be made and provided the Chief Executive, Executive Director for Corporate Services and Director of Governance, Legal & HR (or their nominees) agree to the proposed course of action before it is decided. All such decisions shall be reported to the next meeting of the Council, Committee or Executive.
- 2.7 To act and to exercise the functions of the Council under all current or future legislation and Council plans, policies, guidelines and procedures relating to the services and functions managed, operated and controlled by the Executive Director. This should be taken to include all regulations, orders and guidance subsequently issued by Ministers in relation to such services and functions.
- 2.8 To set, approve or vary, following consultation with the relevant Cabinet Member, and Executive Director for Corporate Services and Director of Governance, Legal & HR, the scale of fees and charges for all services within their service area. The revised scale of fees and charges, unless confidential, must be made available on the Council's internet and/or be available in paper form on request and is subject always to any statutory or common law duty to consult the public or service users.
- 2.9 To write off debt, following consultation with the Executive Director for Corporate Services, in line with guidance that is issued by the Executive Director of Corporate Services.
- 2.10 To act under all current or future legislation and Council plans, policies, guidelines and procedures relating to their services and functions managed, operated and controlled by them or their Heads of Service, and shall have the authority to vary or change their

## CHIEF OFFICERS

services or functions following consultation with the Chief Executive (where there are Head of Paid Service issues), and the Executive Director for Corporate Services and Director of Governance, Legal & HR where legislation, regulations, orders or guidance subsequently issued by Ministers in relation to such services or functions require a change in service delivery greater than “de minimis”.

- 2.11 To have the authority and to authorise officers within their functional responsibilities to undertake activities and have powers to undertake those activities including powers of entry, in accordance with relevant legislation as advised from time to time by the Director of Governance, Legal & HR.
- 2.12 Following consultation with the Director of Governance, Legal & HR, to take decisions, serve notices, requirements or orders, make applications, exercise powers of entry, provide reports and institute or defend any proceedings before any Magistrate, Court or other Tribunal on behalf of the Council in discharge of the Council’s functions arising under any law or Act within the postholder’s management or control.
- 2.13 Following consultation with the Director of Governance, Legal & HR, to authorise appropriate officers to administer formal cautions in respect of any criminal offence.
- 2.14 To act under all current and future legislation and Council plans, policies, guidelines and procedures relating to the services and functions managed, operated and controlled by the Executive Director. This should be taken to include all regulations, orders and guidance subsequently issued by Ministers in relation to such services and functions.
- 2.15 To undertake all and any functions and tasks necessary in support of or related to supporting approved partnerships and joint working. This includes joint working with other public bodies and agencies, including the CCG, NHS Trusts and associated bodies, other local authorities and other appropriate bodies. Such organisations may also include representatives of the private sector. This would include Solent LEP, Partnership for South Hampshire (PfSH), Solent Freeport Co and Transport for South Hampshire (TfSH).
- 2.16 To respond to consultations and requests for submission from Government Departments, other local authorities, international, academic, research, business representatives and other bodies in respect of: provision and sharing of data and research initiatives; policies, strategies and plans; performance and partnership working.
- 2.17 Following consultation with the Executive Director for Corporate Services and Director of Governance, Legal & HR, to submit bids for or tenders involving funding or assistance from central government, or from any other source (direct or indirect to the council itself), and to take any further steps including the entering into of any relevant agreements to fulfil the requirements of any bid or tender and to take any necessary or expedient action (including the purchase of services, supplies and works) in the consequential administration of any such bids or tenders. (NB: this delegation applies not only to lottery bids, but also to any new schemes as yet not in place, and is framed broadly and should apply in the same way).
- 2.18 To complete and submit expressions of interest, enter into and vary, research and development projects and associated partnerships within estimates, including seeking

## CHIEF OFFICERS

external funding or joining funding partnerships, providing the whole life cost of the project does not have an adverse impact on the council's financial position.

- 2.19 To authorise the attendance by any Member at a conference, meeting or other event, following consultation with the Director of Governance, Legal & HR, provided the costs are to be met from the relevant Portfolio budget.
- 2.20 Following consultation with the Executive Director for Corporate Services and the appropriate officers dealing with international matters, to complete and submit expressions of interest for funding or initiatives to any UK or international funding agencies.
- 2.21 To purchase services or sell spare capacity where there is a financial, service or other benefit to the authority, ~~in~~after consultation with the Executive Director for Corporate Services and Director for Governance, Legal & HR.
- 2.22 To obtain information under Section 330 of the Town and Country Planning Act 1990 and Section 16 Local Government (Miscellaneous Provisions) Act 1976 about interests in land.<sup>1&2</sup>
- 2.23 Within the scope of the postholder's employment, to manage investigations and grant authorisations under Section 28 and 29 of the Regulation of Investigatory Powers Act 2000, subject to having completed the required Authorised Officer training.
- 2.24 To execute and authorise the execution of works in default of compliance of any statutory notice served and to demand the recovery of expenses incurred by the local authority.
- 2.25 To serve notice requiring payment for works carried out in default.
- 2.26 To authorise staff to enter premises where such action is necessary to conduct duties and is authorised by legislation appropriate to that Executive Director's service areas.
- 2.27 To make payments of trust monies for the maintenance, advancement or benefit of a beneficiary following consultation with the Executive Director for Corporate Services.
- 2.28 To pay expenses such as travel expenses, facilitators' expenses for disabled people, interpreters' expenses for non-English speakers and carers' expenses for people with caring responsibilities or other factors to enable participation at consultation meetings.
- 2.29 To undertake benchmarking, cost comparison consultation and all activities associated with Best Value and to take all actions necessary and expedient to ensure best professional practice and Best Value.
- 2.30 To seek planning permission, conservation area consent and listed building consent in accordance with the Town and Country Planning Act 1990 and The Planning (Listed Buildings and Conservation Areas) Act 1990, subject to:
  - i. the Executive Director for Place being given 14 days to comment on the proposal prior to the submission of the formal application; and

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<sup>1</sup> This section of the scheme of delegation should be interpreted widely to aid the smooth running of the organisation and effective deployment of resources and the efficient delivery of services.

<sup>2</sup> In determining the services for which Executive Directors are responsible, regard should be had to Article 11 of the Council's Constitution which sets out the functions and areas of responsibility for each of the Executive Directors.

## CHIEF OFFICERS

- ii. the Executive Director for Place agreeing that the proposal was not in conflict with any planning policy of the Council and could be dealt with under delegated powers; if he did not agree his reasons to be given in writing.
- 2.31 ~~Subject to the approval of the Director for Governance, Legal & HR, to enter into any contract in line with Contract Procedure Rules the CPRs etc for the provision of services, goods or materials for another body where to do so is considered beneficial to the City Council, if there is any variation to these terms or payment is via another means than invoice (ie direct debit) then approval should also be sought from the Executive Director for Corporate Services.~~
- 2.32 To use all powers necessary to effect the acquisition of services from other authorities or bodies and to set up joint, consortium or other bodies and panels to secure the provision of those services needed to discharge the functions of the Council.
- 2.33 To take any consequential action necessary or expedient in respect of a bid or tender involving funding or assistance from central government, or from any other source.
- 2.34 To act in all matters associated with the delivery of regeneration and other programmes, partnerships or arrangements managed and delivered by external partnership bodies where the Council is the accountable body or is responsible for or is a significant stakeholder in the programme, partnership or arrangement, and in particular to do so following consultation with the appropriate board, other body responsible for the management of the programme, partnership or arrangement, and to seek and replace members of such bodies and the Cabinet Member.
- 2.35 To authorise all suitably qualified members of staff under their line management or control to carry out all powers delegated and, following consultation with the Director for Governance, Legal & HR, to sign statutory notices on behalf of the Council.
- 2.36 To investigate and respond to all complaints, whether under the Council's Customer Complaints procedure or otherwise.
- 2.37 To dispose of any surplus equipment.
- 2.38 To undertake any preparatory work necessary on any project, scheme or other matter intended to be placed before the Executive, the Council, a Committee, Sub-Committee or Officer with appropriate delegated powers so that the Executive, Council, Committee Sub-Committee or Officer with appropriate delegated powers can, with the benefit of full background information and advice, determine whether or not to proceed with said project, scheme or other matter with or without variation.
- 2.39
- a. To settle ex-gratia payments of up to £5,000.
  - b. In relation to the Customer Complaints Policy, a complaint being considered by the Local Government and Social Care Ombudsman, or matter being referred or considered by an Officer as instructed by the Chief Executive or by any third party tribunal or entity, to settle and make a payment of compensation, including (but not limited to) an ex-gratia payment of up to £10,000 following consultation with the Director of Governance, Legal & HR.
- 2.40 To arrange visits, lectures and similar visits to publicise Council and City activities.
- 2.41 Where a decision is required to be made by the Council, Executive or any officer, following consultation with the community or part of a community, the relevant

## CHIEF OFFICERS

Executive Director is authorised to commence that consultation, following consultation with the relevant Cabinet Member, and the decision shall be reported back to the relevant decision-maker for it to then to determine whether or not to proceed (including the results of that consultation).

- 2.42 Under the direction of the Director for Governance, Legal & HR, to take such action as is required or necessary in respect of commissioning, monitoring or approving all reports for submission to any decision-making body of the Council or any partner body.
- 2.43 To make arrangements for managing and ensuring the quality of the information to be included within the Forward Plan in accordance with the Council's Constitution, the Local Government Act 2000 and secondary legislation.
- 2.44 As directed from time to time by the Head of Communications, to take such action as necessary in relation to internal or external communications.
- 2.45 Following consultation with the relevant Cabinet Member and Director for Governance, Legal & HR to make applications to the Secretary of State in respect of works on common land.
- 2.46 The power to enter into grant agreements for the award of grants derived from Government funded programmes and to determine when a legal charge is required on property to secure the repayment of any grant award.
- 2.47 To enter into professional memberships in the interests of the authority.
- [2.48](#) To approve press releases and media statements, in line with the Council's Media Protocol.
- [2.49](#) [To approve, allocate, modify and amend grants to cultural / voluntary organisations, following consultation with the relevant Cabinet Members and Executive Director for Corporate Services and make decisions to vary the budget allocation within Financial Procedure Rules.](#)

## WELLBEING & HOUSING

### **3. EXECUTIVE DIRECTOR WELLBEING & HOUSING (DASS)**

- 3.1 To discharge the Council's functions with regard to the assessment of need for, and provision of, community care services in accordance with the Part III of the National Health Service and Community Care Act 1990 and any Regulations thereunder.
- 3.2 To act as receiver under legislation relating to mental health.
- 3.3 All Adults Social Care functions exercisable by the Council in its capacity as a local authority, including acting as the Council's Caldicott Guardian (CG).
- 3.4 To accept guardianship applications and subsequent and to determine subsequent applications for discharge by the Authority.
- 3.5 To approve expenditure incurred under Section 48 of the National Assistance Act 1948, in the protection of movable property of persons and to recover such expenditure where applicable.
- 3.6 For the purposes of Section 114 of the Mental Health Act 1983, to issue approvals on behalf of the Council in respect of mental health social workers.
- 3.7 To discharge the Council's functions with regard to the assessment of need for, and provision of, community care services in accordance with the Part III of the National Health Service and Community Care Act 1990 and any Regulations thereunder.
- 3.8 To discharge the Council's functions for care and support in accordance with the Care Act 2014 and any regulations thereunder.
- 3.9 To enter into any agreements including partnership arrangements to authorise a person or organisation to discharge the Council's functions under the Care Act 2014.
- 3.10 Following consultation with the Executive Director for Corporate Services, to write off debt or waive future charges in respect of care provision where it is felt that an individual would be at risk if the debt were pursued or they chose to withdraw from care on financial grounds. A written record of these decisions setting out the reasons for the write-off or waiving of charges should be kept and a copy provided to the Income & Expenditure Manager. Such reductions or waiving of charges would only be for the minimum period that such risks exist.
- 3.11 To undertake reviews of decisions of Assets of Community Value (ACVs).



## WELLBEING & HOUSING

### 4. DIRECTOR OF PUBLIC HEALTH

- 4.1 To undertake overall responsibility for all of the local authority's duties to take steps to improve public health and to provide officers and elected members with appropriate advice, based on a patterns of local health need of what works and potential returns on public health investment.
- 4.2 To undertake any of the Secretary of State's public health protection or health improvement functions delegated to local authorities.
- 4.3 To plan for, and respond to, emergencies that present a risk to public health, after consultation with the Council's emergency planning officer where appropriate. For the avoidance of doubt this includes all appropriate functions under the Coronavirus Act 2020 and secondary legislation, including Directions and similar statutory orders.
- 4.4 To undertake local authority's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders.
- 4.5 To be responsible for the local authority's public health response as a responsible authority under the Licensing Act 2003, including making representations about licensing applications under sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act.
- 4.6 To be responsible for providing Healthy Start vitamins at any maternity or child health clinic commissioned by the Council, in accordance with the Healthy Start and Welfare Food Regulations 2005 as amended.
- 4.7 To produce and update as necessary the Southampton Joint Strategic Needs Assessment in partnership with the Hampshire, Southampton & Isle of Wight Clinical Commissioning Group, or successor body.
- 4.8 To lead on and co-ordinate the development, production, publication and updating of the Southampton Joint Health and Wellbeing Strategy in partnership with the Hampshire, Southampton & Isle of Wight Clinical Commissioning Group, or successor body.
- 4.9 To produce the Director of Public Health's annual report.
- 4.10 To provide public health advice to NHS commissioners to help secure:
  - a. Commissioning strategies that meet the needs of vulnerable groups
  - b. The development of evidence-based care pathways and service specifications
  - c. Evidence-based prioritisation policies
  - d. Health needs audits and health equity audits and health impact assessments
- 4.11 To ensure delivery of the National Child Measurement Programme.
- 4.12 To secure the delivery of the NHS Health Check assessment.
- 4.13 To ensure appropriate access to sexual health services.
- 4.14 To ensure appropriate clinical governance arrangements are in place in respect of any clinical services commissioned, including sexual health and drug and alcohol services.
- 4.15 To maintain a particular focus on ensuring disadvantaged groups receive the attention they need, with the aim of reducing health inequalities.

## WELLBEING & HOUSING

### 5. DIRECTOR OF COMMISSIONING - INTEGRATED HEALTH & CARE

- 5.1 To discharge the Council's functions with regard to the assessment of need for, and provision of, community care services in accordance with the Care Act 2014 , and any Regulations thereunder.
- 5.2 To approve expenditure on contributions towards the running costs of new meals-on-wheels schemes and luncheon clubs and variations in costs of existing schemes.
- 5.3 To act as receiver under legislation relating to mental health.
- 5.4 To approve expenditure incurred under Section 48 of the National Assistance Act 1948, in the protection of movable property of persons and to recover such expenditure where applicable.
- 5.5 To take any decision and/or develop approaches that commit Council resources that are within budget and policy to deliver better outcomes for local people to meet the requirements of the Care Act, Children's Act and allied legislation and Public Health responsibilities, after consultation with the relevant Director and Cabinet Member.

~~5.6 To approve, amend or terminate contracts with providers whose services are commissioned by Southampton City Council or jointly with partners, including the Health & Care Partnership Board.~~

~~5.7~~5.6 To be responsible for all procurement activities and matters in respect of health and care services procured and managed via the [Integrated Commissioning Unit \(ICU\)](#) including:

- a. Providing advice on the [Contract Procedure Rules \(CPRs\)](#);
- b. Managing procurements with an estimated contract value exceeding [the Low Value Transaction threshold set out in the CPRs £5,000=](#);
- c. Investigating and advising relevant Chief Officers in respect of incidences of non-compliance with the CPRs;
- d. Certifying that any interest which may affect the award of a contract under [Contract Procedure Rules CPRs](#) are acceptable or take any necessary action in respect of potential conflicts of interest and instruct that the officer should not participate in the award of the contract by the Council;
- e. Approving the appropriate procurement route for any procurement governed by public procurement law or any other legislation and make all subsequent decisions in relation to such procurement whether governed by public procurement law or not.;
- f. Authorising the nomination by the Council of specific sub-contractors;
- g. Maintaining the Contracts Register;
- h. Approving the use of framework agreements (including Crown Commercial Services and other Public Purchasing Organisations) [following an assessment of the terms of the framework ensuring that it offers best value and legal compliance in respect of frameworks for health and care services procured and managed via the Integrated Commissioning Unit](#);
- ~~i. Authorising extensions to contracts for health and care services procured and managed via the Integrated Commissioning Unit;~~

## WELLBEING & HOUSING

- ~~j.i.~~ Authorising below PCR Threshold extensions and variations; relating to contracts for health and care services procured and managed via the Integrated Commissioning Unit or where the consequent change in price (determined in accordance with the contract terms) is greater than £25,000 or 15% of the original annual contract value (whichever is the lesser);
- ~~k.i.~~ Agreeing Approving exemptions to the Contract Procedure Rules CPRs relating to health and care services procured and managed via the Integrated Commissioning Unit;
- k. Approving payments in advance, only with prior written approval of the Executive Director for Corporate Services and Director for Governance, Legal & HR.
- l. Approving, amending or terminating contracts with providers whose services are commissioned by Southampton City the Council or jointly with partners, including the Health & Care Partnership Board.
- m. Authorising extensions and variations to a contract awarded under the Public Contracts Regulations 2015 ("PCR 2015") where such extensions and variations are permitted by the PCR 2015.
- n. Authorising named individuals to be the Council's nominated professional officers for inclusion in appropriate contracts.
- o. Authorising the nomination by the Council of specific sub-contractors.
- p. Approving acceptance of tenders other than the most economically advantageous.

~~5.85.7~~ 5.85.7 To enter into partnership arrangements with Health bodies and approve future variations to the arrangements under Section 75 of the National Health Services Act 2006 after consultation with the relevant Cabinet Members and the Director for Governance, Legal & HR.

~~5.95.8~~ 5.95.8 Following consultation with the relevant Executive Director and Director for Governance, Legal & HR, to extend, re-negotiate or enter into any further agreements with health bodies in relation to any funding streams allocated to the Hampshire & Isle of Wight Integrated Care Board (ICB), or successor body, or exercised within the Terms of Reference of the Southampton Health & Care Partnership Joint Commissioning Board with the specific purpose of being transferred to or from the local authority under a Section 256 or Section 76 of the NHS Act 2006 arrangement and add any such sums to the budget.

~~5.105.9~~ 5.105.9 Any function exercised on behalf of an NHS body or Southampton Health & Care Partnership Board relating to children contained within the Health Acts.

~~5.115.10~~ 5.115.10 To set the fees and charges associated with the Southampton Shared Lives Scheme (formally known as the Adult Placement Scheme).

5.11 To exercise all adult social care and health (adults and children) functions and to take any decisions falling within the Terms of Reference of the Southampton Health & Care Partnership Board between the Council and the ICB / Health Partners, subject to financial procedure Rules and approved budgets.

## WELLBEING & HOUSING

- 5.12 [Approving, allocating and amending grants to voluntary and other organisations and making decisions to vary the budget allocation within Financial Procedure Rules.](#)

## WELLBEING & HOUSING

### **6. DIRECTOR OF ADULT SOCIAL CARE – OPERATIONAL SERVICES**

- 6.1 To discharge the Council's functions with regard to the assessment of need for, and provision of, community care services in accordance with the Care Act 2014
- 6.2 To act as receiver under legislation relating to mental health.
- 6.3 To accept guardianship applications and subsequent and to determine subsequent applications for discharge by the Authority.
- 6.4 To approve expenditure incurred under Section 48 of the National Assistance Act 1948, in the protection of movable property of persons and to recover such expenditure where applicable.
- 6.5 For the purposes of Section 114 of the Mental Health Act 1983, to issue approvals on behalf of the Council in respect of Approved Mental Health Professionals.
- 6.6 To discharge the Council's functions with regard to the assessment of need for, and provision of, community care services in accordance with the Care Act 2014 any Regulations thereunder.
- 6.7 To enter into any agreements including partnership arrangements to authorise a person or organisation to discharge the Council's functions under the Care Act 2014.
- 6.8 To administer, determine, revoke and resolve appeals in relation to blue badge applications under the Chronically Sick and Disabled Persons Act 1970 where applications require medical assessment.

## WELLBEING & HOUSING

### 7. HEAD OF QUALITY, GOVERNANCE & PROFESSIONAL DEVELOPMENT

Currently no delegations.

## WELLBEING & HOUSING

### 8. DIRECTOR OF HOUSING

- 8.1 To serve Notices of Seeking Possession and/or Notices to Quit where appropriate and to take necessary action upon the expiry of such Notices.
- 8.2 To institute proceedings for the recovery of possession of property and/or land occupied by squatters.
- 8.3 To serve notices and to institute forfeiture proceedings to residential leaseholders in appropriate cases.
- 8.4 To evict, where lawful, necessary and expedient.
- 8.5 To authorise a one-off reduction in rent by up to a maximum of £500 where some or all of the dwelling is unusable due to major works or loss of services.
- 8.6 To authorise the sale of Council houses and flats in accordance with the Right to Buy legislation and the shared ownership scheme for all mortgagees, their management and subsequent repayment.
- 8.7 To authorise variations in shop leases, rents and terms of tenure where this is consistent with effective management of estates, contributes to social enterprise or tackling worklessness, or provides services which support the local community.
- 8.8 To authorise the repossession, under the County Court Rules 1981 of properties sold under the Right to Buy Legislation and the shared ownership scheme following default on Mortgage Payments rent and/or leasehold maintenance and major works costs.
- 8.9 To approve home loss, disturbance and ex-gratia payments for removal expenses for displaced tenants on modernisation or major works of Council dwellings.
- 8.10 To determine transfer by applications by tenants on management grounds.
- 8.11 To authorise attendance and representation of the Council at Leasehold Valuation Tribunal (LVT) for the purposes of presenting information as required and to agree decisions or proposals made through the LVT process in accordance with the Council's legal responsibilities in the discharging of the Council's housing functions.
- 8.12 To discharge the Council's functions as a local housing authority in respect of the day to day routine management, maintenance, improvement and repair of properties or land held under the powers of the Housing Act 1985 or any re-enactment thereof including those properties sold under the Right to Buy Scheme and any other properties managed but not funded from the Housing Revenue Account in accordance with agreed policies and the Council's relevant Procedure Rules.
- 8.13 To grant tenancies to people left in occupation, and joint tenancies in accordance with Annex C of the Code of Guidance on Parts VI and VII of the Housing Act 1996.
- 8.14 To determine applications made under the Leasehold Reform, Housing and Urban Development Act 1993.
- 8.15 To institute proceedings under the Protection from Eviction Act 1977.
- 8.16 To institute proceedings under Section 1 Accommodation Agencies Act 1953.
- 8.17 To allocate acquired properties, hostel accommodation and property allocated for short life. In addition, in exceptional circumstances, to approve the permanent rehousing of applicants, both to be exercised outside the Council's Points Scheme.
- 8.18 To discharge the Council's functions and duties under Part III Housing Act 1985 and Part VII of the Housing Act 1996 (homelessness) and to make all administrative decisions in this regard.

## WELLBEING & HOUSING

- 8.19 To let empty acquired properties to housing co-operatives or Housing Associations for housing use and to obtain any necessary consent, following consultation with the Executive Director for Corporate Services.
- 8.20 To grant secure tenancies to tenants where a return to their previous address is either not feasible or where to do so would be in the interests of the best management of the stock.
- 8.21 To take all decisions and exercise all discretionary power in relation to properties which have proved hard to let.
- 8.22 To operate the Special Needs quota exceptional allocations policy as approved. This policy to include PDO referrals in accordance with the Potentially Dangerous Offenders protocol and MAPPAs in accordance with the Multi-Agency Public Protection Agreement.
- 8.23 To determine the appropriate number of temporary units of accommodation to be used for this purpose at any one time, including the approval to use Council "normal" stock as temporary accommodation for the discharge of duties under the Homelessness Act 2002.
- 8.24 To review and amend the current Allocations Policy.
- 8.25 To grant exceptions to the Allocations policy.
- 8.26 To allocate Government awarded funds as required following consultation with the relevant Cabinet Member and Executive Director for Corporate Services.
- 8.27 To determine applications under Section 3(5) Housing Defects Act 1984.
- 8.28 To authorise payments under the Tenants Right to Compensation or Improvements and the Right to Repair.
- 8.29 To determine when the Landlord Controlled Heating should be switched on and off, after consultation with the relevant Cabinet Member to determine and revise the level of charges for Landlord Controlled Heating in future years.
- 8.30 To make financial amendments to the Housing Revenue Account Business Plan and refresh every two years, following consultation with the relevant Cabinet Member.
- 8.31 To grant tenancies to applicants in accordance with the Allocations Policy and to grant temporary service tenancies.
- 8.32 To make decisions on the application of the Disabled Adaptations in Council Housing Policy in individual cases and to make amendments to the policy as required.
- 8.33 To undertake the discharge of any of the Council's functions relating to the welfare of civilians under the Civil Defence Acts 1937 to 1948 and under Section 138 of the Local Government Act 1972 as amended by Civil Contingency Act 2004.
- 8.34 To commence a programme of consultation and engagement with residents and stakeholders on sites identified for redevelopment, subject to consultation with the Head of Stronger Communities, the relevant Cabinet Member and where the site involves Council homes following consultation with the Executive Director: Place.
- 8.35 Following consultation with the relevant Cabinet Member and appropriate stakeholders to review and amend service policies and strategies.
- 8.36 ~~To grant a service concession to procure services that meet the Council's service plans, following consultation with the Executive Director for Corporate Services or Director for Governance, Legal & HR and the relevant Cabinet Member.~~



## WELLBEING & HOUSING

- 8.37 To authorise and implement changes to the Decommissioning of Housing Stock Policy as required, following consultation with the Cabinet Member responsible and Executive Director for Corporate Services.
- 8.38 To amend the allocations criteria for supported housing, following consultation with the relevant Cabinet Member and tenants.
- 8.39 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation,
- 8.40 Determine and alter as necessary a scale of reasonable charges in respect of enforcement action under s49 of the Housing Act
- 8.41 Determine and alter as necessary an administrative fee for works carried in default of notices.

**9. HEAD OF STRONGER COMMUNITIES**

- 9.1 To take any decisions or actions necessary in relation to community safety and anti-social behaviour, including the submission of funding bids, approving projects related to community safety and anti-social behaviour, authorising enforcement action, approving specific projects to meet targets in corporate plans and any projects relating to community cohesion, tackling social exclusion and discrimination.
- 9.2 To approve, allocate, modify and amend grants to voluntary organisations, following consultation with the relevant Cabinet Members and Executive Director for Corporate Services and make decisions to vary the budget allocation within Financial Procedure Rules.
- 9.3 Following consultation with the relevant Cabinet Member and the Executive Director for Corporate Services, to agree for the Council to act as the accountable body on behalf of formally constituted “friends” groups, resident, tenant or community groups, or sports clubs applying for external grant funding of less than £125,000 to improve the city’s open spaces and associated assets and infrastructure. This responsibility may include procuring supplies, goods or services on behalf of the grant recipient ~~through identifying the most economically advantageous quote or tender~~, certifying receipt of goods and services, agreeing practical completion of site works, authorising payment of invoices, controlling and monitoring project expenditure, and keeping accurate and auditable financial records for the purpose of reclaiming project expenditure from the external grant funding body.
- 9.4 To formally sign off regeneration Delivery Plans and Funding Agreements with the appropriate Funding Agencies for all externally funded projects and programmes relating to equalities, cohesion, community safety and community involvement following consultation with the Executive Director for Corporate Services.
- 9.5 To make amendments to the Partnership Terms of Reference and membership for Southampton Connect, the Safe City Partnership and the Prevent Working Group, in consultation with the relevant Partnership Chair, lead Cabinet Member & Director for Governance, Legal & HR.
- 9.6 To liaise with the Police on matters regarding the Prevent duty and related matters.
- 9.7 To undertake any duties in respect of new work in the areas of strategy, community safety and equalities.
- 9.8 To act in all matters associated with the delivery of neighbourhood renewal, inclusion, community safety and community involvement and other programmes, partnerships or arrangements managed by external partnership bodies where the Council is the accountable body or is responsible for or is a partner in the programme, partnership or arrangement, and in particular to do so following consultation with the board or other body responsible for the management of the programme, partnership or arrangement, and to seek and replace members of such bodies.

(Action should only follow appropriate consultation at the outset. Where land use and planning processes are involved this must be with the Executive Director for Corporate Services, Director for Governance, Legal & HR and the Executive Director: Place. Where there is existing or intended Council ownership this must include the Head of Corporate Estates & Assets.

## WELLBEING & HOUSING

### 10. HEAD OF SUPPORTED HOUSING

Currently no delegations.

- 10.1 To discharge the Council's functions as a local housing authority in respect of the day-to-day routine management of supported housing properties or land held under the powers of the Housing Act 1985 or any re-enactment thereof including those properties sold under the Right to Buy Scheme in accordance with agreed policies and the Council's relevant Procedure Rules.
- 10.2 To grant exceptions to the Allocations policy in relation to an age- criteria associated with any of the Council's supported housing stock.
- 10.3 To make decisions relating to the suitability of applicants in the allocation of 'housing with care' properties within the Council's own stock to ensure the integrity of each complex is maintained in order to provide an environment suitable for people with a variety of levels of need whilst retaining the overall sense of independent living.
- 10.4 Following consultation with the relevant Cabinet Member
- ~~10.4~~10.5 To agree to waive charges in relation to telecare services

## CORPORATE SERVICES

### **11. EXECUTIVE DIRECTOR OF CORPORATE SERVICES (SECTION 151 OFFICER)**

- 11.1 To have authority to take all action as is necessary or expedient to fulfil the statutory obligations under Section 151 Local Government Act 1972.
- 11.2 To vary the limit on the value of houses on which advances under the Housing (Financial Provisions) Act 1958, may be made to employees subject to existing income requirements.
- 11.3 To determine the instalment date in respect of the Statutory Instalment Scheme for the Council Tax.
- 11.4 To make arrangements with the Council's bankers regarding the operation of the Council's bank accounts and the terms on which they are conducted.
- 11.5 To exercise all the powers and duties exercisable by the City Council under the legislation (which for the avoidance of doubt also includes regulations, orders, etc.) concerning:
- |                     |                              |                 |
|---------------------|------------------------------|-----------------|
| Council Tax         | National Non-Domestic Rating | Housing Benefit |
| Council Tax Benefit | General Rates                |                 |
- reserving only to the Council those functions specifically precluded from delegation by legislation.
- 11.6 To approve the Council Tax Base for the City.
- 11.7 To approve the National Domestic Rates Return (NNDR1) for submission to the Government.
- 11.8 To take all and any decisions necessary or required to be taken by an officer of the Council in relation to the Council's Treasury Management activities and to authorise all officers within the Finance Division to undertake operational Treasury Management activity consistent with those decisions and the Annual Treasury Management Strategy.
- 11.9 To set the mortgage interest rate for Council mortgages in accordance with the Housing Act 1985.
- 11.10 To introduce and operate a Discretionary Housing Payments Scheme in accordance with the Discretionary Financial Assistance Regulations 2001.
- 11.11 To write off any arrears accrued by tenants where he or she is satisfied that:
- arrears arose because the tenant was given incorrect or insufficient Housing Benefit advice; and
  - the tenant was not warned that this advice was a provisional estimate and any difference would have to be made good.
- 11.12 In relation to water rates and budget warmth debts, to write off any debts which have been accepted and cannot be recovered.
- 11.13 To set the rent to be charged to tenants for each leased dwelling to ensure that the costs of the overall scheme are at least covered by rental income.
- 11.14 After consultation with the relevant Executive Director and the Director for Governance, Legal & HR, to enter into business agreements for the provision of financial assistance

## CORPORATE SERVICES

provided by external partners in relation to the Housing Strategy or such other strategy or policy dealing with such matters.

- 11.15 To provide or arrange for the provision of financial advice to the Council, including from external sources.
- 11.16 To negotiate all loans of money to the Council (including bank overdrafts) within the Council's overall borrowing powers.
- 11.17 To act as the Council's Registrar of stocks, bonds, mortgages and other securities, and maintain adequate records of all borrowings of money by the Council.
- 11.18 To invest or utilise such surplus monies of the Council and to realise such investments as considered proper and in the Council's interest.
- 11.19 To be responsible to the Council for the purchase, sale, realisation or exchange of investments.
- 11.20 To enter into any operating leasing agreements that might be required.
- 11.21 To write off any debts of the Council up to £200,000 and to establish, write-off limits for Council Officers and guidance for debt write-off in the case of hardship or safeguarding individuals.
- 11.22 To approve any direct debit arrangements for the Council.
- 11.23 After consultation with the relevant Executive Director to make an advance of funds to post-16 learning providers.
- 11.24 To issue a Financial Notice to Improve in accordance with the Apprenticeships, Skills, Children & Learning Act 2009.
- 11.25 After consultation with the relevant Executive Director, to issue a capital related borrowing consent in relation to post-16 learning providers.
- 11.26 After consultation with the relevant Executive Director, to issue a solvency related borrowing consent in relation to post-16 learning providers.
- 11.27 After consultation with the relevant Executive Director, to use intervention powers under the Apprenticeships, Skills, Children and Learning Act 2009.
- 11.28 To act as the Council's Money Laundering Officer.
- 11.29 To review annually or at such other periods as is considered necessary all risks and insurances following consultation with appropriate Executive Directors, and make arrangements and agree terms with insurers for those risks considered to be economic to transfer to the Council's insurers.
- 11.30 To support service areas and EMB in the management of operational and strategic risk.
- 11.31 To arrange appropriate risk financing measures and provide advice and guidance on the extent of insurance or self-insurance arrangements.
- 11.32 Where appropriate, to arrange the placement of cover with insurers including the negotiation of premium rates and policy terms.
- 11.33 To provide and manage a claims handling service to process claims made by directorates and by members of the public.

## CORPORATE SERVICES

- 11.34 Following consultation with the Council Capital Review Group and/or Change Authority Board and the Director for Governance, Legal & HR, shall be empowered to take all decisions or actions necessary to develop, implement and deliver transformation projects approved by the Council Capital Review Group and/or Change Authority Board in line with Financial Procedure Rules including but not limited to incurring expenditure, structural re-organisations, service reorganisations and entering into contracts and partnership arrangements to deliver services as required together with all ancillary matters necessary to give effect to or conducive to the delivery of such projects.
- 11.35 To allocate and monitor S106, Community Infrastructure Levy monies in consultation with Council Capital Review Group and/or Change Authority Board.
- 11.36 To manage the Council payment terms and cash handling policy.
- 11.37 To accept and approve to spend all future COVID funding following consultation with the relevant Cabinet Member, the Leader, relevant portfolio holder and relevant Executive Director in whose areas the funding implementation impacts. This must be reported to Cabinet quarterly for transparency.

**12. CHIEF INTERNAL AUDITOR**

- 12.1 Acting as the Council's Chief Internal Auditor in accordance with the Accounts and Audit Regulations 2015 (as amended) and the Public Sector Internal Audit Standards.
- 12.2 Preparing and maintaining anti-fraud, bribery and corruption and other associated Council policies.
- 12.3 Acting as a nominated contact under the Council's Whistleblowing Policy, Bribery Act Policy and Anti-Money Laundering Policy, including undertaking the role of the Council's Money Laundering Reporting Officer (MLRO).

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### **13. HEAD OF FINANCE (DEPUTY S151 OFFICER)**

13.1 To act as the Council's Section 151 officer in the absence of the Executive Director for Corporate Services.

No other specific delegations.



## 14. HEAD OF SUPPLIER MANAGEMENT

### 14.1 Responsibility for all procurement activities and matters (other than those in respect of health and care services procured and managed via the ICU) including:

14.1.1 ~~P~~To providinge advice on the Contract Procedure Rules-(CPRs).

14.1.2 ~~To~~ investigatinge and advisinge Chief Officers in respect of incidences of non-compliance with the CPRs.

~~14.1.2~~14.1.3 Managing procurements with an estimated contract value exceeding the Low Value Transaction threshold set out in the CPRs.

14.1.3 ~~To~~ authorise use of contracts other than “corporate contracts” (defined as contracts procured for universal use across Council services).

14.1.4 ~~A~~To authorisinge the nomination by the Council of specific sub-contractors.

14.1.5 ~~M~~To maintaininge and publishinge the Contracts Register.

14.1.6 ~~A~~To authorisinge named individuals to be the Council’s nominated professional officers for inclusion in appropriate strategic and key managed contracts.

~~14.1.6~~

14.1.7 ~~A~~To approvinge all exemptions to CPRs other than those relating to health and care services procured and managed via the Integrated Commissioning Unit.

14.1.8 ~~A~~To approvinge acceptance of tenders other than the most economically advantageous.

14.1.9 ~~A~~To authorisinge Executive Directors to participate in contracts arranged by the Central Business Consortium member authorities.

14.1.10 ~~———— To approve procedures specifying the requirements of CPRs and local procedures implementing those requirements.~~

~~14.1.11~~14.1.10 ATo approvinge the appropriate procurement route for any procurement governed by public procurement law or any other legislation and makinge all subsequent decisions in relation to such procurement whether governed by public procurement law or not.

14.1.1214.1.11 ATo approvinge advertisements under the PCR Procedure set out in the CPRs.

14.1.13 ~~———— To approve a regime for setting up, amending, reviewing and managing supplier lists~~

14.1.1414.1.12 ATo approvinge payments in advance, only with prior written approval of the Executive Director for Corporate Services and Director of Governance, Legal & HR.

14.1.1514.1.13 ATo approvinge and signinge framework agreements (other than those relating to health and care services procured and managed via the Integrated Commissioning Unit) (including those available under Crown Commercial Services and other Public Purchasing Organisations) for use within the Council following an assessment of the terms of the framework ensuring that it offers best value and legal compliance.

14.1.1614.1.14 MTo managinge all procurement procedures above the Low Value Transaction threshold set out in the CPRs and authorisinge such other person or department as he or she may direct, to do so.

~~14.1.17 To manage all high-value transactions, and authorise such other person or department as he or she may direct to do so, working with the relevant client departments / directorates.~~

~~14.1.18~~ 14.1.15 To authorise any variations to an existing contract (~~other than those relating to health and care services procured and managed via the Integrated Commissioning Unit (ICU)~~) and if relevant, a consequent change in price, determined in accordance with the contract terms where the annual value of the variation is greater than £25,000 or 15% of the original annual contract value (whichever is the lesser).

~~14.1.19~~ 14.1.16 To authorise all extensions and variations to a contract awarded under the Public Contracts Regulations PCR 2015, the Concession Contracts Regulations 2016 or the Utilities Contracts Regulations 2016 where such extensions and variations are permitted by the relevant legislation. (~~other than those relating to health and care services procured and managed via the Integrated Commissioning Unit~~).

14.1.17 C certifying that any interest which may affect the award of a contract under Contract Procedure Rules CPRs are acceptable or taking any necessary action in respect of potential conflicts of interest and instructing that the officer should not participate in the award of the contract by the Council.

14.2 Making arrangements for the receipt and opening of all tenders invited in accordance with the provisions of the Council's CPRs.

14.3 Authorising use of contracts other than "corporate contracts" (defined as contracts procured for universal use across Council services).

14.4 Approving procedures specifying the requirements of CPRs and local procedures implementing those requirements.

14.5 Approving a regime for setting up, amending, reviewing and managing supplier lists.

14.6 To taking all and any decisions necessary or required to be taken by the Council under the Council's strategic and key managed contracts, including:-

- a. the Highways Services Partnership (HSP) with Balfour Beatty Living Places Limited
- b. the Street Lighting Private Finance Initiative with Tay Valley Lighting (Southampton) Limited
- c. the CCTV and Intelligent Traffic Systems (Citywatch) contract with Balfour Beatty Living Places Limited
- d. the Leisure Services contract with Places for People Limited
- e. the Guildhall Management contract with Live Nation Limited;
- f. the Schools Private Finance Initiative with Pyramid Schools;
- g. the Waste Disposal tripartite agreement;
- h. the Commercial Waste contract with TJ Waste & Recycling Limited;
- i. the Managed Services for Temporary Agency Resources with Comensura Limited;
- j. the Client Case Management System with Careworks Limited; and
- k. all other contract designated by the Chief Executive as a strategic or key managed contract for the purposes of this delegation.

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~~e~~ Except where the decision to be made is a Key Decision in which case the delegation may only be exercised following consultation with the Director for Governance, Legal & HR and the relevant Cabinet Member.

14.6 In conjunction with the Director for Governance, Legal & HR:

- a. keep a list of all model forms of conditions of contract that gives details of when the conditions were last updated; and
- b. review all current model forms of conditions of contract, on a regular basis including when applicable legislation is introduced.

~~14.3~~ 14.6 ~~To make arrangements for the receipt and opening of all tenders invited in accordance with the provisions of the Council's Contracts Procedure Rule~~

**15. DIRECTOR OF GOVERNANCE, LEGAL & HR**

*The Director of Governance, Legal & HR is the Monitoring Officer for the purposes of Section 5 Local Government and Housing Act 1989 and is the Officer appointed to discharge ~~monitor~~ the Council's legal affairs.*

- 15.1 To provide or arrange for the provision of legal advice to the Council, shared services, partner bodies and organisations, etc including obtaining Counsel's opinion and instructing external solicitors or counsel as appropriate ~~either on a case by case, or in any other appropriate manner or form.~~
- 15.2 To commission, monitor and approve all reports for submission to any decision-making body of the Executive, the Council, Committees, Panels and Sub-Committees and to ensure their compliance with all the Procedures and other rules contained within the Constitution and with Corporate Standards and legal and financial requirements, following consultation with Executive Directors and the Executive Director for Corporate Services:
- a. defining the overall standards to be adhered to for that particular service area; and
  - b. commissioning advice on changes to policy.
  - c. To approve changes to Level 1 and Level 2 strategies and plans following consultation with the Leader and relevant Cabinet Member.
- 15.3 To undertake all functions delegated to any Executive Director or Head of Service under the management or control of the Director for Governance, Legal & HR.
- 15.4 To approve the disposal of assets belonging to deceased residents to persons entitled to them after payment of proper claims on account of funeral expenses or sums due to the Council.
- 15.5 To authorise the removal of parts of the body of deceased residents in accordance with the wish expressed by the resident during lifetime (where the Council is lawfully in possession of the body).
- 15.6 To take any consequent decision regarding the development and implementation of a specific spending plan for the Common Assessment Framework project after consultation with the relevant Cabinet Member and the Executive Director for Corporate Services.
- 15.7 To appoint members to the Joint Venture PSP Board following consultation with the relevant Cabinet Member.
- 15.8 To be any Proper Officer, required by any legislation.
- 15.9 To fill vacant Executive appointments following consultation with the Leader.
- 15.10 To undertake, appoint and vary the appointment of any Proper Officer required by any legislation.
- 15.11 To receive and consider a certificate received under Section 47(2) National Assistance Acts 1948 and 1951 to make an application for an order for removal.
- 15.12 To approve designated deputies to carry out the functions of a Proper Officer for the purposes of Section 47 National Assistance 1948 and Section 1 National Assistance (Amendment) Act 1951.

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15.13 In the absence of any other Officer with delegated powers, Committee or Sub-Committee, to perform the Council's powers and duties in respect of:

- a. Coroner Services;
- b. Magistrates' Court Committee;
- c. Probation Service;
- d. Hampshire Combined Fire Authority.

~~15.14 To determine the procurement route for any procurement governed by the UK procurement regime or any other legislation and make all subsequent decisions in relation to such procurement.~~

~~15.15~~ 15.14 To amend the Constitution pursuant to any decision of the Council or where any change in the law requires a consequential change in the body of the Constitution.

~~15.16~~ 15.15 To take any action necessary or appropriate in relation to Corporate Governance, Standards, the Ethical Framework or any other related issue to Members, ethics, qualification and disqualification, and in this context, subject to any decisions of the Governance Committee, to take any consequential action arising from a breach of the Code of Conduct for Members / Employees, and any other related provisions or issues.

~~15.17~~ 15.16 To determine all matters delegated to in his/her capacity as Proper Officer under the Council's Constitution, which may be amended from time to time, including delegations under the following rules:

- Council Procedure Rules
- Executive Procedure Rules
- Overview and Scrutiny Procedure Rules
- Budget and Policy Framework Rules
- Access to Information Rules

~~15.18~~ 15.17 Following consultation with the Executive Director for Corporate Services, to grant specific indemnities to supplement the Standard Indemnity (as amended) where considered that the form of the Standard Indemnity (as amended) provides insufficient protection for the needs of the Council, Members and/or officers in question.

~~15.19~~ 15.18 To undertake all functions and responsibilities not the responsibility of other officers associated with the Access to Information provisions contained within the Local Government Acts 1972 and 2000 (and regulations made thereunder).

~~15.20~~ 15.19 To determine the fees and charges for local elections in accordance with the decision of the Hampshire and Isle of Wight Election Fees Working Party.

~~15.21~~ 15.20 To produce and revise Corporate Standards, Codes of Conduct, Special Procedures and Protocols and any other appropriate documentation, whether associated with the Constitution or not for Officers, Members and third parties as appropriate.

~~15.22~~ 15.21 To sign or endorse any documents on behalf of the authority where so requested by a citizen, eg authentication details, etc.

~~15.23~~ 15.22 To issue and certify all forms of authorisation, including identity cards, for all Council officers and employees.

- ~~15.24~~15.23 To certify as a true and correct record any documents in accordance with Section 229 Local Government Act 1972.
- ~~15.25~~15.24 To implement the Incident List and Exclusion Policy and to issue and vary a procedure under which the Council shall operate said policy.
- ~~15.26~~15.25 To hold and monitor use of the Council's copy of the electoral register, pursuant to Regulation 107 of the Representation of the People (England and Wales) Regulations 2001 (as amended).
- ~~15.27~~15.26 Approve the model forms of conditions of contract and, in conjunction with the Head of Supplier Management:
- a. keep a list of all model forms of conditions of contract that gives details of when the conditions were last updated;
  - b. review all current model forms of conditions of contract, on a regular basis including when applicable legislation is introduced.
- ~~15.28~~15.27 To carry out all functions and responsibilities associated with the Local Land Charges Act 1975, any subsequent legislation or regulations and the Council's responsibilities for maintaining and operating the Register of Local Land Charges including, but not limited to, the setting of fees.
- ~~15.29~~15.28 To enter into agreements on appropriate terms and conditions on behalf of the Council, as the lead organisation and responsible recipient of any grant funding received.
- ~~15.30~~15.29 To enter into grant agreements for the award of grants derived from Government funded regeneration programmes up to £100,000 in value and to determine when a legal charge is required on property to secure the repayment of any grant awarded.
- ~~15.34~~15.30 Power to institute criminal or civil proceedings for non-compliance with notices issued under Part VII of the Town and Country Planning Act 1990.
- ~~15.32~~15.31 To take any action (including, but not limited to, issuing, withdrawing, waiving, enforcing and cost recovery) after consultation with the relevant Executive Director pursuant to the Anti-Social Behaviour Act 2003 (High Hedges).
- ~~15.33~~15.32 To prepare, approve, conclude, sign or seal all legal documentation for the Council.
- ~~15.34~~15.33 (i) To investigate, institute or authorise legal proceedings and to prosecute and defend any proceedings (~~statutory or common law or howsoever arising~~) brought by or against the Council or take any other action necessary to protect the legal position of the City Council.
- (ii) In respect of all statutory and common law offences referred to within this scheme, where deemed appropriate and reasonable to institute, or authorise legal proceedings and prosecutions where the cause of action arises or the place of offence is outside of Council boundaries where such action deliver a benefit to the residents of the City of Southampton.
- ~~15.35~~15.34 To appear and to authorise officers including those not within the managerial control of the Director for Governance, Legal & HR to:
- (i) issue statutory notices or documents under any legislation, and
  - (ii) appear on behalf of the Council in proceedings in the County Court,

## CORPORATE SERVICES

pursuant to Section 60 County Courts Act 1984, as amended by s125 (7) of County and Legal Services Act 1990, and in the Magistrates' Court pursuant to Section 223 Local Government Act 1972 or other courts or tribunals at his/her discretion.

~~15.36~~[15.35](#) To settle any claim whether proceedings have been initiated or not, up to £250,000 following consultation with the Executive Director for Corporate Services. This excludes insurance claims and matters dealt with by partners such as Balfour Beatty LLP.

~~15.37~~[15.36](#) To determine Council, Committee and Executive decision-making administrative procedures and the timetable for meetings in so far as they relate to the notice of key decisions, Forward Plan, despatch of agendas and compliance with the Local Government Acts 1972 and 2000 (and regulations made thereunder) and compliance with the Council's Rules of Procedure.

~~15.38~~[15.37](#) To sign on behalf of the Council, Members' Declaration of Interest forms and to maintain any statutory or voluntary registers of Members' interests.

~~15.39~~[15.38](#) To make appointments to the role of Designated Independent Person under the Localism Act 2011.

~~15.40~~[15.39](#) To determine applications made under the Assets of Community Value (ACV) regulations.

### HROD

~~15.41~~[15.40](#) Following consultation with the relevant Cabinet Member, to negotiate and adopt revised personnel procedures and associated conditions of service where there is no change in policy or strategy.

~~15.42~~[15.41](#) To approve any variations or changes to the approved pay and allowances framework.

~~15.43~~[15.42](#) To delete posts from the organisational structure. Any other variations in the organisational structure are subject to approval from the appropriate Executive Director.

~~15.44~~[15.43](#) To lead on all aspects of organisation design of the Council to ensure it remains fit for purpose.

**16. HEAD OF LEGAL PARTNERSHIPS**

- 16.1 To issue a direction to unauthorised campers to leave land and to request an Order from the Magistrates Court if the direction to leave is not complied with, pursuant to Section 77 Criminal Justice and Public Order Act 1994.
- 16.2 To grant authorisations for the dissemination of information under Section 142 Local Government Act 1972 and Section 115 Highways Act 1980.
- 16.3 To grant permissions, consents and licences under the Highways Act 1980 for the provision of services for the benefit of the public, eg recreation and refreshments on the highway, construction of bridges, cycle facilities, highway amenities, etc.
- 16.4 To undertake the Council's functions under the Commons Registrations Act 1965 and any subsequent or ancillary legislation, in so far as the power to register common land, town, or village greens is exercisable solely for the purpose of giving effect to (a) an exchange of lands affected by an order under Section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67), or (b) an Order under Section 147 of the Inclosure Act, 1845 or Section 16 / 17 of the Commons Act 2006.
- 16.5 To determine all matters arising from the Local Government & Social Care Ombudsman) in whatever manner is appropriate, including agreeing appropriate remedies to complaints on behalf of the Council.
- 16.6 To enter into legal agreements pursuant to Section 38 and 278 Highways Act 1980, where a decision has been taken to grant planning consent or resolved to grant planning consent subject to the completion of the appropriate highway agreements.
- 16.7 All functions, powers and duties under the Wildlife and Countryside Act 1981 as amended by the Countryside and Rights of Way Act 2000 and other legislation and guidance in relation to Rights of Ways and associated functions.
- 16.8 All functions, powers and duties under the Wildlife and Countryside Act 1981 as amended by the Countryside and Rights of Way Act 2000 and other legislation, including but not limited to duty to keep a definitive map and statement under review.
- 16.9 To take action, where necessary, under section 149 of the Highways Act 1980 to undertake prosecutions to remove obstructions from footpaths and pavements.
- 16.10 Power to issue notices under Part VII of the Town and Country Planning Act 1990.
- 16.11 To enter into any necessary planning obligations on behalf of the Council prior to the grant of planning permission.
- 16.12 Power to agree and recommend the terms of variation or enter into any Deed of Variation for a planning obligation where the overall effect of the planning obligation is still achieved.
- 16.13 To obtain information about people interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- 16.14 To make any order, notice or decision, grant any license, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation.
- 16.15 To prepare, approve, conclude, sign or seal all legal documentation for the Council.



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- 16.16 To recover all debts with the exception of outstanding general rates, community charges, national non-domestic rates, Council tax, mortgages and rent arrears.
- 16.17 To sign or endorse any documents on behalf of the authority where so requested by a citizen, eg authentication details, etc.

**17. DATA PROTECTION OFFICER**

- 17.1 To act as the Council's Senior Information Risk Officer.
- 17.2 To take all action pursuant to information law including, but not limited to the Data Protection Act, GDPR (or equivalent), Freedom of Information Act 2000, the Regulation of Investigatory Powers Act 2000 and all relevant secondary legislation and guidance.
- 17.3 To make decisions in respect of the use and release of digital images and other data arising from CCTV equipment under the control of the division, including responding to requests from the police, insurers, media and members of the public.

**18. HEAD OF HR & OD**

- 18.1 To make such operational requirements as to comply with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 as referred to in the revised Officer Employment Procedure Rules.
- 18.2 To review the defined levels of post at which action can be taken under HR and Organisational Development procedures, including termination of employment, consistent with changes in the Council's organisational structures.
- 18.3 To approve changes in the designation of posts.
- 18.4 To apply, vary or end the payment of a market supplement provided that funding is available within divisional budgets, following consultation with the relevant Cabinet Member.
- 18.5 Following consultation with the relevant Executive Director, to approve the payment of honoraria.
- 18.6 To determine applications for the re-assessment of the grade of posts, whether initiated by management or an employee.
- 18.7 To review and vary the value of long service awards, following consultation with the relevant Cabinet Member.
- 18.8 To review and update the level of allowances paid to employees in accordance with the conditions of service, eg the allowance paid to appointed first aiders, following consultation with the relevant Cabinet Member.
- 18.9 Provided that the cost can be met from within existing budgetary provision and the maximum of the grade is not exceeded, to authorise up to two accelerated increments following examination success or for other reasons.
- 18.10 To authorise the allocation and payment of car allowances.
- 18.11 To authorise any advancement against salary payments.
- 18.12 To approve payments of up to twice the maximum salary of spinal column point 21 in respect of the Personal Injury Scheme, following consultation with the relevant Cabinet Member.
- 18.13 To vary the amount of trade union facility time approved corporately, subject to the availability of finance, following consultation with the relevant Cabinet Member.
- 18.14 To appoint officers for the implementation of the Council's functions as prescribed by Procedure Rules and Recruitment Policy.
- 18.15 To agree an overlap period for the appointment of employees provided the necessary finance is available within service budgets.
- 18.16 To authorise the appointment of temporary employees provided that the necessary finance is available within service budgets or financed from external sources.
- 18.17 To approve and authorise overtime in accordance with the scheme of allowances, subject to the necessary finance being available.
- 18.18 To authorise attendance of employees on courses of study for an initial or second qualification, together with the granting of financial assistance towards approved expenses, in line with Council.
- 18.19 Subject to budgetary provision, to approve the attendance of employees at conferences, courses and seminars.

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- 18.20 To approve payment of subscriptions for membership of professional associations (only one per employee) when the job description specifies that such membership is obligatory.
- 18.21 To authorise subsistence payments in accordance with the Council's approved schemes.
- 18.22 To approve an occasional payment to an employee where a Service has a need for language interpretation where the number of occasions on which the additional skills are required are minimal in accordance with the defined rate of payment, and to approve payment where either there is a substantial use of language interpretation skills or the service requires the language skills to be made available on demand.
- 18.23 To authorise up to 18 days paid leave of absence per annum for employees undertaking public duties and to approve additional paid or unpaid leave up to a maximum of 10 days.
- 18.24 To authorise up to 28 days paid leave of absence per annum for employees undertaking duties as a Member of a relevant Council (Local Government and Housing Act 1989).
- 18.25 To authorise leave of absence without pay for over three months for post entry training or for other reasons.
- 18.26 To grant compassionate leave of up to six days.
- 18.27 To grant compassionate leave in excess of six days.
- 18.28 To approve other special leave, with or without pay.
- 18.29 To grant extensions of sick pay in excess of standard policy terms at either full or half pay dependent on the circumstances.
- 18.30 To decide each new request for paid time off work for trade union activities or for training or for time off work without pay for trade union duties.
- 18.31 To undertake and discharge the roles of Proper Officer in respect of the appointment or dismissal of statutory and non-statutory Chief Officers and Deputy Chief Officers and Executive Directors.
- 18.32 To lead on all aspects of organisation design of the Council to ensure it remains fit for purpose.
- 18.33 In respect of the resolution dated 16th April 2002 of Employment Panel regarding Appointment and Dismissal of Chief Officers and Executive Directors to implement and adopt arrangements in the event of exceptional circumstances and following consultation with the relevant Cabinet Member.
- 18.34 To consider and resolve any redundancy, severance payments and early release of pension benefits after consultation with Executive Director for Corporate Services and Director for Governance, Legal & HR (requests from schools will be required to submit a business case).
- 18.35 To approve changes in the number (full time equivalents) or grades on the organisational structure of directorates, where such changes are within overall employee costs, financed from external sources or from ongoing service budgets, and where accommodation is available, following consultation with the relevant Cabinet Member.
- 18.36 To make payments to staff in accordance with the adopted Policy Statement on Discretionary Severance and Payments arrangements where an unreduced pension

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is payable and where there is no discretionary element, after consultation with the Executive Director for Corporate Services.

## 19. HEAD OF IT

- 19.1 To ~~call off of frameworks which have been procured in accordance with the CPRs initiate tendering processes~~ for IS/IT products and services, ~~subject to consultation with the Director for Governance, Legal & HR and Executive Director for Corporate Services.~~
- ~~19.2 To vary, renegotiate and amend leases and other IT contract details in agreement with the Director of Governance, Legal & HR, where these improve service or reduce costs.~~
- ~~19.3~~19.2 To approve changes and exceptions to IS/IT Corporate Standards and Policy.
- ~~19.4~~19.3 To enter into professional IT memberships in the interests of the Authority.
- ~~19.5~~19.4 To initiate projects to explore new technology opportunities for the Authority, subject to appropriate budgetary provision.
- ~~19.6~~19.5 Enter into any arrangements necessary in the event of a disaster recovery situation affecting IT, and to approve exemptions to ~~Contract Procedure Rules~~CPRs for emergency disaster recovery work for IT services and provision in the best interests of the Authority, following consultation with the Director for Governance, Legal & HR and the appropriate Executive Director and Head of Supplier Management.
- ~~19.7~~19.6 To produce and vary IT procedures, including IT ordering procedures provided these do not conflict with Financial Procedure Rules or ~~Contract Procedure Rules~~CPRs subject (in respect of ordering / contractual issues) to the agreement of the Executive Director for Corporate Services and the Head of Supplier Management.
- ~~19.8~~19.7 To review annually or at any such other periods as may be considered necessary, all IT plans and risks associated with them following consultation with Executive Directors.
- ~~19.9~~19.8 To prepare or approve the form and content of all IT plans, proposals, policies, standards, strategy and acquisitions.
- ~~19.10 To approve the acceptance of IT contracts other than the lowest for contracts up to £150,000 in value subject to the approval of the Executive Director for Corporate Services.~~
- ~~19.11~~19.9 To approve dispensation for those not able to adopt IS/IT Corporate Standards, policies or strategy.

**20. DIRECTOR OF CUSTOMER EXPERIENCE**

- 20.1 To approve appointments to the Southern Group Valuation Tribunals.
- 20.2 To approve changes and enhancements to the Council's website and its technology and standards and similar initiatives.
- 20.3 To publish and edit the Council's website (Internet), intranet (Staff Stuff) and any subsequent related media.
- 20.4 To enter into professional Customer Service memberships in the interests of the Authority.
- 20.5 To grant a civic reception or luncheon following consultation with the Lord Mayor.

**21. HEAD OF SERVICE SUPPORT**

- 21.1 To determine the eligibility and suitability of applicants and to appoint a pool from which the members of the Independent Education Appeals and Review Panels are to be drawn.
- 21.2 To determine the category of members of the pool (lay or independent members) and to maintain a list of pool members.
- 21.3 To appoint three members of the pool to sit as an Independent Education Appeal or Review Panel and to appoint one of their number to act as chair of the panel when constituted.
- 21.4 To act as Clerk to the Independent Education Appeal and Review Panels and to appoint officers to act as clerks at hearings of the Panels.
- 21.5 Following consultation with Group Secretaries, to fill vacancies on all appointments to outside bodies and organisations that arise subject to changes being reported to the next Council meeting.
- 21.6 To appoint members nominated by external organisations to any bodies set up under statutory requirements, partnership or other arrangements, excluding members of the Council.
- 21.7 To take any action necessary or appropriate in relation to the operation of the Lord Mayor's Office, in relation to the activities or functions organised on behalf of or involving the Lord Mayor and/or Sheriff.
- 21.8 To make arrangements for the appointment, operation and remuneration of an Independent Remuneration Panel to recommend the level of allowances paid to Members.
- 21.9 To determine the eligibility of Members and others and authorise payment to those entitled to such allowances.
- 21.10 To revise the Members' Allowance Scheme in line with changes to the National Minimum Wage and any other change to the rate identified in the Scheme.
- 21.11 To determine the political balance requirement in respect of the membership of any bodies within the scope of the provisions of the Local Government and Housing Act 1989.
- 21.12 To authorise the temporary replacement of Committee and Sub-Committee members in accordance with the published procedure under Council Procedure Rules.
- 21.13 To administer, determine, revoke and resolve appeals in relation to blue badge applications under the Chronically Sick and Disabled Persons Act 1970 unless applications require further medical assessment.



**22. EXECUTIVE DIRECTOR: PLACE**

- 22.1 To enter into professional ~~transport, sustainability, planning and building control~~ memberships in the interests of the authority.
- 22.2 To liaise [Government agencies and](#) with relevant authorities in Hampshire, PFSH, Solent Transport, Transport for the South East, Solent Freeport Co and the Solent LEP on strategic spatial planning, transport, [economic development, skills](#) and energy issues and flood risk management.
- 22.3 To determine fees and charges under the Building (Local Authority Charges) Regulations, after consultation with the BC Partnership.
- 22.4 To issue and refuse safety certificates, under the Safety at Sports Grounds Act 1975 and Fire Safety and Safety of Places of Sports Act 1987.
- 22.5 Power to obtain information under Section 330 of the Town and Country Planning Act 1990 about interests in land or under section 171C Town and Country Planning Act 1990.
- 22.6 Following appropriate consultation with the relevant Cabinet Member, the relevant spokespersons of other political groups and where appropriate, with members of partner authorities to prepare “proofs of evidence” presented on behalf of the Council to any relevant examination or inquiry.
- 22.7 To monitor the application of the Planning Enforcement Policy, conduct any necessary reviews of the policy and, after consultation with the Director of Governance, Legal & HR, to make any changes to the policy necessary.
- 22.8 To formally sign off regeneration Delivery Plans and Funding Agreements with the appropriate Funding Agencies for all externally funded projects and programmes relating to equalities, cohesion, community safety and community involvement following consultation with the Executive Director for Corporate Services.
- 22.9 To determine applications for registration under s4 of the Hampshire Act 1983.
- 22.10 To authorise officers to exercise powers of entry in respect of the Town and Country Planning Act 1990, including section 196A, section 214B and section 324 relating to their functional responsibilities.
- 22.11 To appoint officers for the implementation of the Council's functions under all relevant legislation under which the Executive Director: Place is empowered to act.
- 22.12 To authorise the institution of legal proceedings for the contravention or failure to comply with notices served under the legislation under which the Executive Director: Place is empowered to act.
- 22.13 In relation to Examination of a Neighbourhood Development Plan in accordance with s.38A of the Planning & Compulsory Purchase Act 2004 and Schedule 4B of the Town & Country Planning Act 1990, to determine whether or not the procedural requirements for the preparation of the Plan have been met, to take all action necessary to consult on the Plan, to prepare, following consultation with the relevant Cabinet and Ward Members, the Council's comments on the Plan and to submit the Plan together with all ancillary documents for Examination.
- 22.14 To take all action necessary to receive, process, carry out statutory consultation on and to determine any application for designation of a neighbourhood area received in accordance with Sections 61G and 61H of the Town & Country Planning Act 1990.

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- 22.15 To determine applications for exceptional relief from, and applications to deliver payment in kind for, Community Infrastructure Levy, following consultation with the relevant Cabinet Member, Executive Director for Corporate Services and Director of Governance, Legal & HR.
- 22.16 To undertake all functions in relation to planning, transport planning, flood risk management, energy management and sustainability exercisable by the Council.
- 22.17 To change the decision-making body and managerial responsibilities for any property within the relevant portfolios in line with any amendments to the terms of reference for Executive decision-making bodies, Committees and Sub-Committees, following consultation with the Executive Director for Corporate Services and Head of Corporate Estates & Assets.
- 22.18 In relation to Environment and Transport functions, to enter into any partnership and governance arrangements with external organisations, contribute to any work in the preparation of strategic plans.
- 22.19 To agree the settlement of both capital and revenue elements of the concessionary fares schemes in accordance with DfT guidance and the Council's own appeals procedures, following consultation with the Executive Director for Corporate Services, the Director for Governance, Legal & HR and the relevant Cabinet Member.
- 22.20 To manage the Renaissance Board administration.

**23. HEAD OF TRANSPORT & PLANNING**

- 23.1 To liaise with relevant authorities in Hampshire, PFSH, ~~and the Solent LEP~~ [and the Environment Agency](#) on flood and coastal erosion risk management issues.
- 23.2 To represent the Council as a Lead Local Flood Authority on flood defence, coastal defence and European Marine Site Management Group including the Southern Regional Flood and Coastal Committee, Association of SuDS Authorities and Southern Coastal Group.
- 23.3 To enter into, vary and determine public transport contracts in order to optimise the delivery of transport policy objectives and maintain reliable services.
- 23.4 To liaise with and respond to consultation from neighbouring authorities, from public transport operators and public transport infrastructure providers on [transport](#) services, routes and timetables and other bodies on local and strategic transport matters including [infrastructure projects](#), public transport services, routes and timetables, and implications.
- 23.5 Following consultation with the Director of Governance, Legal & HR:
- a. to introduce temporary road closures and other temporary traffic restrictions on the highway;
  - b. to maintain a list of all closures authorised under this delegated procedure, including the reason for the restriction and its predicted and actual duration.
  - c. Authority to enter into agreements, approve plans, inspect works and require reasonable fees from developers on behalf of the Council, as highway authority, when negotiating works agreements for the adoption of highways under Sections 38 and 278 of the Highways Act 1980;
  - d. To agree to the adoption of new highways arising from new development under Section 38 of the Highways Act 1980 by the Council as highway authority;
  - e. To issue and serve notices under the Advance Payment Code of the Highways Act 1980;
  - f. To inspect Private Streets and where necessary instruct the Director for Governance, Legal & HR to serve notices where required for the repair of such streets.
  - g. To initiate works in default of compliance with the requirements of such notices;
- 23.6 Authority to do anything necessary on behalf of the Highway Authority to give effect to decisions relating to Sections 37, 38 and 278 of the Highways Act, 1980, including entering into agreements, approving plans, inspecting works and requiring the necessary fees from developers when negotiating works and agreements for the adoption of highways on behalf of the Highway Authority.
- 23.7 To determine and vary the Capital Programme in accordance with the policies and other criteria set by the Authority.
- 23.8 To serve notice requiring payment for works carried out in default and execute work in default of compliance of any notice served and to demand the recovery of expenses incurred by the local authority.

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- 23.9 To act as “Engineer”, “Employer” or any designation attributable to any other officer under a standard form of contract or partnership arrangement for the purposes of engineering contracts let by the authority.
- 23.10 To issue street works licences and permits to control street works and roadworks carried out on the public highway.
- 23.11 Following consultation with the relevant Cabinet Member, annually review the Transport Asset Management Plan.
- 23.12 To issue permits allowing vehicles into “Pedestrian Only” streets in order to carry out essential works.
- 23.13 To agree street naming and numbering.
- 23.14 To act as Traffic Manager to meet the duty of the Traffic Management Act 2004 and ensure that the road network in Southampton is properly managed.
- 23.15 To grant use of the Above Bar pedestrian precinct and Bargate pedestrian area in accordance with conditions laid down and Part VIIA of the Highways Act 1980 where applicable, and where appropriate to make a proper charge.
- 23.16 To make any order or decision, grant any consent or licence or take any ancillary action and enforcement (including setting, varying and removing charges), relating to highways and traffic management and parking matters such as but not confined to, Traffic Regulation Orders, under the following legislation, subject to the right of appeal to the Appeals Panel by any person permitted under the relevant legislation to object to the making of any such order or decision:
- Anti-Social Behaviour Act 2003
  - Clean Neighbourhood and Environment Act 2005
  - Countryside and Rights of Way Act 2000
  - Crime and Disorder Act 1998 (Section 17)
  - Criminal Justice and Public Order Act 1994
  - Disabled Persons Badges Act 2013
  - Gambling Act 2005
  - Hampshire Act 1983
  - Highways Act 1980
  - Licensing Act 2003
  - Local Government Act 1972 (Section 111)
  - Local Government Act 2000 (Section 2)
  - Local Government (Miscellaneous Provisions) Act 1976
  - New Roads and Street Works Act 1991
  - Public Health Act 1875
  - Public Health Act 1925
  - Refuse Disposal (Amenity) Act 1978
  - Road Humps Regulations 1990
  - Road Traffic Act 1988 (re cycle races)
  - Road Traffic Act 1991
  - Road Traffic Regulation Act 1984 (including orders made under Pedestrian Crossings Regulations and Traffic Signs Regulations and General Directions)
  - Transport Acts 1985 and 2000
  - Road Traffic Regulation (Special Events) Act 1994

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Road Traffic (Temporary Restrictions) Act 1991  
Scrap Metal Dealers Act 2013  
Town and Country Planning Acts  
Town Police Clauses Act 1847  
Traffic Calming Act 1992  
Traffic Management Act 2004  
Transport Acts 1985 and 2000

- 23.17 To exercise the Councils functions, roles, duties and powers relating to the Land Drainage Act 1991, Flood and Water Management Act 2010 and Coastal Protection Act 1949.
- 23.18 Giving advice or recommendations to Local Planning Authority on development plans or applications as Lead Local Flood Authority in line with requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and Flood and Water Management Act 2010.
- 23.19 To determine applications for drainage approvals and issue ordinary watercourse land drainage consents under the Land Drainage Act 1991.
- 23.20 To serve notice and carry out enforcement proceedings against contraventions under the Flood and Water Management Act 2010 and the Land Drainage Act 1991 as amended, which may include carrying out work and recovering costs from the offender.
- 23.21 To designate any structure or feature which may affect flood risk, to determine applications to alter or remove designated features under the Flood and Water Management Act 2010, and take enforcement action against unconsented activity which may affect a designated structure or features.
- 23.22 Approve the publication of the register of flood risk structures or features under Section 21 of the Flood and Water Management Act 2010.
- 23.23 Approving the publication of formal flood investigations undertaken under Section 19 of the Flood and Water Management Act 2010.
- 23.24 To prepare, implement and monitor a Local Flood Risk Management Strategy for local sources of flood risk under the Flood and Water Management Act 2010, and a Preliminary Flood Risk Assessment under the Flood Risk Regulations 2009.
- 23.25 Exercise power to obtain information relating to flood risk under the Flood and Water Management Act 2010.

**24. SERVICE MANAGER: DEVELOPMENT MANAGEMENT**

- 24.1 To exercise all Planning functions exercisable by the Council in its capacity as a local authority.
- 24.2 To determine planning applications and any other applications, submissions, consents, etc required to be made and to be determined by the Local Planning Authority subject to the following restrictions:
  - a. For applications for planning permission (therefore, applications for advertisement consent, prior approval, time limited applications, lawful development certificates, etc are excluded) that fall within the major, minor or other category (as defined by the Government), and where within the standard 21-day publicity period a request made in writing on the prescribed Call-in Form, giving valid and material planning grounds, by a ward member of the ward in which the application site predominantly falls, or where at least five written letters of representation (where such representation is contrary to the officer's recommendation) on valid and material planning grounds have been received from five different individuals within the administrative ward of the City the development lies shall be brought to the Planning and Rights of Way Panel meeting for consideration. If a request by a member is received after the publicity period, or the necessary five independent properly addressed letters of representation (where such representation is contrary to the officer's recommendation) are received after the publicity period, the consideration of referral to the Panel will be at the discretion of the Service Manager – Development after consultation with the Chair of the Planning and Rights of Way Panel;
  - b. Where officers recommend approval where the proposal is contrary to the development plan and where three or more objections are received in writing from at least three different individuals;
  - c. applications which are considered to be of particular interest, strategic importance or wider public interest shall be referred to the Planning and Rights of Way Panel by the Head of Development;
- 24.3 Where appropriate, to instruct the Director for Governance, Legal & HR to serve any notices in pursuance of regularising breaches of planning (and other relevant legislation), commence court proceedings and to complete or seal agreements, , in respect of (but not restricted to) the following:
  - a. Notices under Section 215 of the Town and Country Planning Act 1990 (Amenity Notices);
  - b. Notices under Section 171 of the Town and Country Planning Act 1990 (Planning Contravention Notices);
  - c. Notices under Section 187A of the Town and Country Planning Act 1990 (Breach of Conditions Notices);
  - d. Notices under section 172 of the Town and Country Planning Act 1990 (Enforcement Notices)

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- e. To institute emergency proceedings to take necessary enforcement action to restrain breaches of planning control (including listed building control), under section 171E (temporary stop notices); section 183 (stop notices); section 187B (injunctions restraining breach of planning control) of the Town and Country Planning Act 1990; section 44A of the Listed Buildings Act 1990 (injunctions restraining breach of listed building control); section 214A (injunctions in relation to tree preservation orders), following consultation with the Director of Governance, Legal & HR ;
- f. Directions under Article 4 of the General Permitted Development Order 1995 removing development rights to demolish a building upon a receipt of a predetermination application subject to a report for confirmation being submitted to a subsequent meeting of the Planning and Rights of Way Panel;
- g. Hazardous substances contravention's notices;
- h. Revocation or modification of Hazardous Substances Consents;
- i. Prosecution for illegal display of advertisements;
- j. To decide whether an assessment and environmental statement is required under the Environmental Assessment Regulations; and to respond to requests for screening and scoping opinions under those Regulations;
- k. To decide whether development is likely to have a significant effect on land protected under international designation; and to carry out appropriate assessment as required by the Habitat Regulations where the Council is the competent authority;
- l. To authorise persons to enter any land without a warrant or under warrant in accordance with Sections 196A and 196B of the Town and Country Planning Act 1990 or under section 324 of the same Act;
- m. To authorise the Director for Governance, Legal & HR to sign unilateral undertakings, or enter into agreements under Section 106 of the Town and Country Planning Act 1990, to undertake deeds of variation and subsequently amend any terms previously agreed, unless the Planning and Rights of Way Panel has asked for those discussions to be referred back to it;
- n. Authority to enter into agreements (following consultation with the Head of Transport & Planning), approve plans, inspect works and require reasonable fees from developers on behalf of the Council, as highway authority, when negotiating works agreements for the adoption of highways under Sections 38 and 278 of the Highways Act 1980, to agree to the adoption of new highways arising from new development under Section 38 of the Highways Act 1980 by the Council as highway authority, to authorise the Director for Governance, Legal & HR to sign unilateral undertakings, or enter into agreements under Section 106 of the Town and Country Planning Act 1990 and to undertake deeds of variation and subsequently amend any terms previously agreed, unless the Planning and Rights of Way Panel has asked for those discussions to be referred back to it

### ~~24.4 To agree street naming and numbering.~~

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~~24.5~~24.4 Power to issue Planning Enforcement Notices under any planning or listed building legislation, subject to the preparation of an enforcement report and Planning and Rights of Way Panel and Ward members not requiring a report to the Planning and Rights of Way Panel.

~~24.6~~24.5 Power to issue a certificate of existing or proposed lawful use or development (Sections 191(4) and 192(2) of the Town and Country Planning Act 1990).

~~24.7~~24.6 To act in all matters associated with the delivery of neighbourhood renewal, inclusion, community safety and community involvement and other programmes, partnerships or arrangements managed by external partnership bodies where the Council is the accountable body or is responsible for or is a partner in the programme, partnership or arrangement, and in particular to do so following consultation with the board or other body responsible for the management of the programme, partnership or arrangement, and to seek and replace members of such bodies.

~~24.8~~24.7 NB: Action should only follow appropriate consultation. Where land use and planning processes are involved this must be with the Executive Director for Corporate Services, Director for Governance, Legal & HR and the Executive Director: Place. Where there is existing or intended Council ownership this must include the Head of Property.

~~24.9~~24.8 To review and determine applications for buildings to be added or removed from the Council's list of locally important historic buildings known as the 'Local List' following consultation with the relevant Cabinet Member.



**25. SERVICE MANAGER: BUILDING CONTROL**

25.1 To represent the Council and recommend decisions on building control operational issues at the Building Control Governing Board set up to manage the Partnership between Southampton and Eastleigh.

25.2 Discharge, save for any reservations shown below, the powers set out in the paragraph following the reservations.

The powers referred to above shall not include the following:

- a. powers where an individual officer is required by law to hold a relevant qualification and that officer does not hold that qualification;
- b. powers which fall outside the individual's actual authority as determined by his/her post or are not covered by an instruction by management; or
- c. any other situation where an individual officer is prevented, for whatever proper reason, from exercising that power.

The powers that may be exercised include, without prejudice to the generality of the following, the power to serve (which term includes signature and issue) notices and the power to exercise any statutory (or common law) power conferred by the legislation referred to below, including any subordinate legislation, ie Regulations, Orders and Byelaws etc, made thereunder. Such powers will also extend to legislation (primary and subordinate etc.) not referred to below, always provided that the officer is not excluded by virtue of any reservation set out in the preceding paragraph. All of these powers are also exercisable by the Executive Director: Place.

25.3 In relation to the Building Act 1984, to:

- a. serve notice giving approval / rejection in respect of Building Regulations plans (Section 16);
- b. serve notice giving approval / rejection in respect of building over sewers (Section 18);
- c. serve notice giving approval of buildings with short-lived materials and get appropriate conditions or to reject the plans (Section 19);
- d. to reject plans for buildings with unsatisfactory drainage (Section 21);
- e. to serve notice re lapse of deposit of plans (Section 32);
- f. to carry out tests on materials and components etc for conformity with Building Regulations (Section 33);
- g. to serve notice to alter / remove work etc (Section 36);
- h. to serve notice to make satisfactory provision for drainage (Section 59);
- i. to serve notice regarding entrances, exits, etc (Section 71);
- j. to serve notice regarding means of escape in case of fire (Section 72);
- k. to serve a notice regarding the raising of chimneys (Section 73);
- l. to take any action necessary in respect of dangerous structures (Sections 77 & 78);
- m. to serve notice re ruinous dilapidated and neglected sites (Section 79);
- n. to accept notices of intention to demolish (Section 80);

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- o. to serve notice requiring shoring and weatherproofing to adjoin buildings (Section 81);
  - p. to enter buildings to ascertain if a breach of relevant legislation has occurred (Section 95).
- 25.4 To serve notice to require builders to open up works (Regulation 16 of the Building Regulations).
- 25.5 To serve notice and/or carry out works of boarding up of dangerous buildings (Section 29 of the Local Government Miscellaneous Provisions Act 1982).
- 25.6 To refer questions, as to whether or not certain work complies with the Building Regulations to the appropriate Government department.
- 25.7 To deal with “type” relaxations to the Building Regulations instigated by the appropriate Government department.
- 25.8 To authorise prosecution for non-compliance with notices served and non-compliance of the Building Regulations.
- 25.9 To deal with Partnership applications on behalf of other local authorities in accordance with the nationally agreed Local Authority Building Control Partnership Scheme.
- 25.10 To deal with System Approvals in accordance with the nationally agreed scheme.
- 25.11 To approve or refuse plans deposited under the Hampshire Act 1980 for the provision of a satisfactory means of escape for fire brigade vehicles and personnel, for precautions, against fire and cubic content of buildings and special precautions for underground car parks.
- 25.12 Apply and enforce regulations in relation to sustainability and security issues under the Sustainable and Secure Buildings Act 2004
- 25.13 To enter premises and issue safety certificates for sports stadia under the Safety at Sports Grounds Act 1975.
- 25.14 To issue a safety certificate for a designated stand (Section 26 of the Fire Safety and Safety at Places of Sport Act 1987).
- 25.15 To enter premises and sports grounds to serve a prohibition notice prohibiting or restricting the admission of spectators (Section 10 of the Safety at Sports Grounds Act 1975).
- 25.16 To give advice on discrimination issues including surveying the built environment as required under the Equalities Act 2010.
- 25.17 To enter premises for the purposes of consulting and advising on the licensing objectives and compliance with the Licensing Act 2003.
- 25.18 To act as authorised officers for the purposes of gaining entry for inspection of premises under the Local Government (Miscellaneous Provisions) Act 1982.
- 25.19 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation, following consultation with the Director for Governance, Legal & HR.

**26. HEAD OF ECONOMIC DEVELOPMENT & REGENERATION**

- 26.1 To liaise with economic partnerships and other economic bodies to represent the Council's interests on economic issues.
- 26.2 To liaise with skills partnerships and other skills economic bodies to represent the Council's interests on skills issues.
- 26.3 To liaise with employer/sector/trade representative bodies to represent the Council's interests on business growth issues and ways to improve business engagement and subsequent support to businesses across the city.
- 26.4 To lead, approve and oversee the implementation of an economic strategy for the city that delivers measurable outcomes
- 26.5 To approve Section 106 Employment and Skills Plans.
- 26.6 To approve the letting of contracts for the provision of learning, skills and employment support related services.
- 26.7 To liaise with economic partnerships and other economic bodies to represent the Council's interests on economic issues.
- 26.8 [To take any decisions or actions necessary in relation to Adult and Community Learning, and Employment and Skills, including the submission of funding bids, approving projects related to Community Learning, and Employment and Skills, and approving specific projects to meet targets in corporate plans.](#)

## 27. HEAD OF CORPORATE ESTATE & ASSETS

- 27.1 To deal with applications for landlord's consent to carry out alterations, except in cases where some unusual factor is present and on which a policy decision is needed. Where consent is given, the under mentioned Standard Conditions I or II be attached as appropriate:

Standard Condition I:

- a. Compliance in all respects with all byelaws, licences and other consents applicable to the property and, in particular, with the conditional planning permission
- b. The work to be completed in all respects to the satisfaction of the ~~City~~ Council, which shall be evidenced by the ~~City~~ Council's certification to that effect.
- c. The consent as landowner shall not affect, restrict or diminish the powers or rights of the ~~City~~ Council as a local authority.

Standard Condition II (applicable where a formal licence is required):

- d. Compliance in all respects with all byelaws, licences and other consents applicable to the property and, in particular, with the conditional planning permission
  - e. The execution of such formal deed containing such provisions to safeguard the interests of the Council as the Director for Governance, Legal & HR may determine.
- 27.2 To approve the principle of and negotiate and agree terms of sale of freehold reversionary interests secured on individual dwellings originally constructed by either the Council or self-build groups to the owner-occupier;
- 27.3 Following consultation with the relevant Cabinet Member, to approve the terms of sale of all other property providing the consideration does not exceed £500,000. Consultation is not required for garden land sales to householders, residential freehold reversions or statutory transfers.
- 27.4 To approve terms of sale of property exceeding £500,000 in value providing the consideration does not exceed £1.5 million, following consultation with the relevant portfolio Cabinet Member and the Cabinet Member for Finance.
- 27.5 To agree with the Valuation Office Agency assessments in respect of all properties for which the Council is the ratepayer, and to make references to the Valuation Tribunal as appropriate.
- 27.6 To approve the surrender or assignment of any lease, licence, wayleave or easement by Agreement between the parties. If any lease, licence, wayleave or easement relates to properties of strategic (meaning the property or the area in which it is located is the subject of potential development or other plans), cultural, community or heritage interest, this must be done after consultation with the relevant Cabinet Member.
- 27.7 To approve terms for acquisition of land pursuant to an authorised agreement under Section 106 Town and Country Planning Act 1990, or as a condition in a planning consent provided there are no abnormal or onerous liabilities attached to the acquisition, the purchase price is nominal and there is finance allocated for ongoing maintenance.

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- 27.8 To approve variations to the terms of leases, licences, easements or wayleaves, covenants or any other transaction when the consideration for the variation does not exceed £100,000 per annum or a premium payment of £1,000,000, and where the Council is incurring the additional consideration, provided sufficient finance is available. If leases, licences, easements or wayleaves, covenants or any other transaction relates to properties of strategic (meaning the property or the area in which it is located is the subject of potential development or other plans), cultural, community or heritage interest, then this must be done after consultation with the relevant Cabinet Member.
- 27.9 To approve the following up to the financial limits specified, subject to sufficient finance being available:
- a. easements and wayleaves granted by or granted to the Council;
  - b. disturbance claims or ex gratia payments;
  - c. settlement and apportionment of well-maintained payments due under the Housing Acts where agreement can be reached with the parties;
  - d. lettings up to and including on a year to year basis;
  - e. any other lettings, renewals or rent / licence fee reviews provided the new / reviewed rent / fee is no more than £50,000 less than the amount previously due;
  - f. the restructure of ground leases where additional rental is generated and/or where the consideration comprises wholly or partly of a premium payment and the premium does not exceed £500,000; and
  - g. applications for rent reductions on Investment Property providing corresponding estate management benefits are secured by the Council and the new terms are not below market value, to be exercised following consultation with the Executive Director for Corporate Services.

If any of the above relate to properties of strategic (meaning the property or the area in which it is located is the subject of potential development or other plans), cultural, community or heritage interest, then this must be done after consultation with the Leader and relevant Cabinet Member, except where it is a short term letting which terms reflect the Council's development plans.

- 27.10 Following consultation with the relevant Executive Director, to grant licences for works on land.
- 27.11 Following consultation with the relevant Cabinet Member, to approve the exchange of land with a third party where the Council's existing land value is estimated to be no more than £500,000.
- 27.12 To approve the exchange of land with a third party where the Council's existing land value is estimated to be greater than £500,000 providing the consideration does not exceed £1.5 million, following consultation with the relevant Cabinet Member.
- 27.13 To approve appropriations between relevant function areas and statutory holding powers except where public notice of the proposed appropriation is required and objections are received.

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- 27.14 To approve any major alteration, demolition, refurbishment or new project on land in which the Council has an interest providing that the proposed expenditure does not exceed £1.5 million. This must be done after consultation with the relevant Cabinet Member, if this relates to properties of strategic (meaning the property or the area in which it is located is the subject of potential development or other plans), cultural, community or heritage interest.
- 27.15 To approve the temporary use of property, pending long-term use.
- 27.16 To manage the Council's investment and general purpose property portfolios.
- 27.17 To perform all functions of the Council in respect of its responsibilities and powers under the Party Walls etc Act 1996, including the service and response to Statutory Notices, appointment of Party Wall Surveyors and compliance with all steps required by any Party Walls Award.
- 27.18 Authority to exercise the powers and duties of the Council under the Landlord and Tenant (Covenants) Act 1995.
- 27.19 To grant and sign licences in a form approved by the Director of Governance, Legal & HR.
- 27.20 To approve the acceptance of formal tenders for land disposals, whether the highest bid or not, up to £1.5 million capital (where the principle of the disposal has already been approved) or £150,000 per annum revenue income. Consultation with the relevant Cabinet Member only required if s/he has expressed a wish to be consulted when giving approval in principle.
- 27.21 To agree compensation under Land Compensation legislation where no interest in the land is acquired by the Council.
- 27.22 To carry out site investigations and soil surveys, where necessary, to establish the development potential of vacant land subject to the availability of the necessary finance to carry out such investigations.
- 27.23 To place property on the market with a view to a disposal. Consultation with the relevant Cabinet Member is required prior to placing a property on the open market for sale."
- ~~27.24 To appoint external agents or consultants to provide specialist services in respect of the Council's property portfolio, subject to compliance with Financial Procedure Rules and Contract Procedure Rules.~~
- ~~27.25~~ 27.24 To approve the acquisition of a lease or licence in property where service areas of the Council operate partnerships with external bodies and funding is available.
- ~~27.26~~ 27.25 To approve the acquisition of interests in property, provided the consideration does not exceed a premium payment of £500,000 or £100,000 per annum, provided sufficient finance is available, after consultation with the relevant Cabinet Member and the Executive Director for Corporate Services.
- ~~27.27~~ 27.26 Following consultation with the relevant Cabinet Member in relation to the principle, to authorise the variation of individual projects in the approved Capital Building Maintenance (non-housing) programme during its implementation, should this be required as a result of urgent or unforeseen repair needs arising, or services requirement changes.

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- ~~27.28~~27.27 To add new projects or remove projects from the approved Capital Building Maintenance (non-housing) programme project list following consultation with the relevant Cabinet Member and the Executive Director: Finance & Commercialisation.
- ~~27.29~~27.28 To vary the timing and cost of projects already within the approved Capital Building Maintenance (non-housing) Programme as may be required, following consultation with the relevant Cabinet Members (for the Capital Programme and the building concerned, if different).
- ~~27.30~~27.29 To approve claims for dilapidations in respect of leasehold interests granted by the Council, or granted to the Council, provided the consideration does not exceed £1 million, and provided sufficient finance is available. Where leases are granted to the Council and costs exceed £250,000, consultation with the relevant Cabinet Member must take place.
- ~~27.34~~27.30 To authorise lease surrenders and/or renewals to Scout or Guide Groups or other community or charitable organisations which include any underlet for any purpose authorised by Section 1 Localism Act at rents less than best consideration where it is proposed to underlet to a nursery provider or similar community use.
- ~~27.32~~27.31 Following consultation with the relevant Cabinet Member in relation to the principle, to approve lettings or lease renewals at less than best consideration where the principle of letting to the organisation concerned has already been approved (by virtue of a previous letting or any other appropriate means) or where the Council is obliged to renew a letting by virtue of Landlord and Tenant legislation.
- ~~27.33~~27.32 Following consultation with the relevant Cabinet Member in relation to the principle, to approve lettings or lease renewals at less than best consideration for any property for up to a five year period.
- ~~27.34~~27.33 After consultation with the relevant Cabinet Member, to enter into option agreements, disposals or any other property transactions with the Public Sector plc, to progress redevelopment and property schemes in line with the Council's Corporate Property Strategy or such other strategy or policy approved by the Council for managing the Council's corporate property.
- ~~27.35~~27.34 After consultation with the relevant Cabinet Member, the Executive Director for Corporate Services and the Council's Capital Review Group and/or Change Authority Board to approve the acquisition or sale of property or other investments for the Property Investment Fund.
- ~~27.36~~27.35 Following consultation with the relevant Cabinet Member in relation to the principle, and together with the Executive Director: Place and following consultation with the Director of Governance, Legal & HR, to undertake the acquisition of land for a development scheme,
- ~~27.37~~27.36 To approve any transaction, subject to the approval of the Executive Director for Corporate Services and Executive Director: Place. If leases, licences, easements or wayleaves, covenants or any other transaction relates to properties of strategic (meaning the property or the area in which it is located is the subject of potential development or other plans), cultural, community or heritage interest, then this must be done after consultation with the relevant Cabinet Member.
- ~~27.38~~27.37 To determine applications for home loss payments under the Land Compensation Act 1973.

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~~27.39~~27.38 Where the Council has resolved to make a Compulsory Purchase Order settle terms for the purchase of property and valid heads of claim, subject to the approval of the Executive Director for Corporate Services.

~~27.40~~27.39 After consultation with the Director for Governance, Legal & HR to accept Blight Notices which are valid and which are served in respect of major development schemes proposals.

~~27.41~~27.40 To make minor amendments to boundaries after consultation with the relevant Cabinet Member to disposals in respect of approved major development schemes.

~~27.42~~27.41 To allow developers on to Council land to carry out site investigations subject to the granting of an appropriate licence.

~~27.43~~27.42 In relation to the Housing Strategy to:

- a. alter existing or introduce new formulae to calculate loan repayment sums in respect of financial assistance packages;
- b. approve adjustments to the occupancy terms for the grant element of existing and new financial assistance packages; and
- c. approve the introduction of subsequent financial assistance packages developed, and any significant alterations to the criteria of existing packages.

following consultation with the relevant Cabinet Member and the Executive Director for Corporate Services.

~~27.44~~27.43 To authorise and implement changes to the Decommissioning of Housing Stock Policy as required, following consultation with the Director of Housing, the Cabinet Member responsible and Executive Director for Corporate Services.

~~27.45~~27.44 To approve after consultation with the relevant Cabinet Member terms for the repurchase of property sold through the Right to Buy process and compensation payments to business tenants to facilitate site assembly for Estate Regeneration Projects, where Cabinet approval exists for these land acquisitions.

~~27.46~~27.45 Following consultation with the relevant Cabinet Member responsible, Director of Governance, Legal & HR, Executive Director for Corporate Services and Executive Director: Place to demolish properties or dispose of land held within the Housing Revenue Account subject to best consideration being received for vacant properties, vacant sites or garages for the purposes of estate regeneration and the development of new housing.

~~27.47~~27.46 Following consultation with the relevant Cabinet Member responsible, Director of Governance, Legal & HR, Executive Director for Corporate Services and subject to funding and budgetary approval being in place, to acquire land for the purposes of estate regeneration and to secure demolition of any buildings if appropriate.

~~27.48~~27.47 Following consultation with the Leader, relevant Cabinet Member, Executive Director for Corporate Services and the Director for Governance, Legal & HR to accept, in accordance with Financial Procedure Rules any grant funding towards the costs of the homes and development projects and as a consequence:

- a. increase the capital budget for this project by the value of the grants received; and
- b. increase the scheme approval sums by the value of the grant received.



~~27.49~~27.48 Following consultation with the relevant Cabinet Member, Executive Director for Corporate Services and Director of Governance, Legal & HR to:

- a. procure a development / investment partner or partners to redevelop the regeneration sites;
- b. enter into a development agreement to deliver the redevelopments including, if required, disposal of freehold;
- c. acquire, where terms can be agreed, adjoining parcels of land; and
- d. accept, in accordance with Financial Procedure Rules, any grant funding towards the costs of the redevelopment of the estate regeneration sites.

~~27.50~~27.49 To approve home loss, disturbance and ex-gratia payments for removal expenses for displaced tenants on modernisation or major works of Council dwellings.

~~27.51~~27.50 To accept written in-house bids for the maintenance and improvement of HRA buildings following consultation with the Executive Director for Corporate Services.

~~27.52~~27.51 To ~~accept written bids and arrange and~~ enter into suitable supplier contract arrangements for the provision of maintenance and improvement schemes and to do anything necessary to implement, subject to the formal approval of the proposed partnering arrangements by the Executive Director for Corporate Services after consultation with the Director of Governance, Legal & HR.

~~27.53~~27.52 To determine appropriate officers to act as security administrators for the Homes England Investment Management System.

~~27.54~~27.53 To acquire dwellings repurchased under Part XVI Housing Act 1985, following consultation with the Executive Director for Corporate Services, subject to finance being available.

~~27.55~~27.54 To exercise all Energy Management and Sustainability functions exercisable by the Council in its capacity as a local authority.

**28. HEAD OF CULTURE & TOURISM**

- 28.1 To approve the provision of new culture facilities identified and provided for in the medium-term financial plan subject to the proposals not requiring the appropriation or disposal of an interest in an Open Space within the meaning of Section 229 or 232 of the Town and Country Planning Act 1990.
- 28.2 To approve the implementation of discount prices where considered appropriate to meet market conditions, to improve operational efficiency, to achieve financial benefits or to encourage participation by the Authority's target groups.
- 28.3 To negotiate fees for hiring of indoor and outdoor entertainment.
- 28.4 To subsidise the cost of facilities for any event held at any of the Council's cultural facilities (museums, libraries, archives, event spaces, heritage assets) in accordance with the Council's approved terms and conditions.
- 28.5 To undertake negotiations on behalf of the Council in respect of proposed special events in the City.
- 28.6 To grant permission for the use of Speakers' Corner at Hoglands Park, and where appropriate, to make proper charge.
- 28.7 To grant permission for events, entertainments, markets and promotional activities on public lands (including the Guildhall Square open space, Cultural Quarter and Above Bar Precinct) and, where applicable, to make appropriate charges.
- 28.8 In association with the Chipperfield Advisory Committee, to select and acquire works of art for the collection under the Chipperfield Bequest, up to the value of £125,000, subject to the necessary finance being available.
- 28.9 To select and acquire works of art for the collection under the Smith Bequest.
- 28.10 To grant permission for loans from and to the collections and to permit the reproduction of work from the collection.
- 28.11 To select works and subjects and to arrange for their reproduction for art gallery and museum purposes, subject to proper charges being made where appropriate.
- 28.12 To enter into standard agreements for the carrying out of archaeological works
- 28.13 To negotiate on and accept prices for events, including trade fees and admission charges, subject to the proviso that these conform to any relevant Council policy.
- 28.14 To revise the Implementation Plan for the Collections Development Policy (including Acquisition and Disposal Policies) for Museum Accreditation, following consultation with the relevant Cabinet Member.
- 28.15 To use the David and Liza Brown Bequest Fund for the purchase of works of art for the Art Gallery's permanent collection in the future.
- 28.16 To grant permission for filming requests on Council land or premises, following consultation with the Director for Governance, Legal & HR and to make a charge, where applicable.
- 28.17 To act as City liaison to promote filming at privately owned locations and to charge and retain a location finder's administrative charge, where applicable.
- 28.18 To provide appropriate support to Culture Trust and similar bodies following consultation with the relevant Cabinet Member.

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- 28.19 Ability to make operational decisions on opening / closing museum, archive and library venues due to range of factor e.g. pandemic, health and safety, staffing shortages / illness.
- 28.20 Exercise the functions of the Council including all powers and duties of the Council in terms of the following legislation and any subsequent or similar legislation or replacing or expanding legislation:
- Cultural Property (Armed Conflict) Act 2017
  - Dealing in Cultural Objects 2003
  - Human Tissues Act 2004
  - Museums and Libraries Act 1964
  - Public Records Act 1958 (places of deposit)
  - Local Government Records Act 1962 (amended 2003)
  - Scheduled Ancient Monuments Act 1979
  - Treasures Act 1996
  - Town and Country Planning Act 1990
  - National Planning Policy Framework
  - Museums Association Code of Ethics
- 28.21 To grant, but not refuse, street trading consents in respect of Guildhall Square, except for the sale of fruit and vegetables, subject to the terms and conditions of the licence and other legal criteria as appropriate including but not limited to those indicated in Appendix 4 of the City Services Committee on 21st December 1992, to restrict the hours of occupation and operation to between 8:00 am and 9:00 pm on any day, not excluding Sunday, save as restricted by law, for up to a maximum of 30 traders at any one time and subject to any supervision of any provision that may then be in force.

**29. DIRECTOR OF ENVIRONMENT**

- 29.1 To appoint professional and technical support staff that are deemed to have suitable qualifications, as inspectors under Section 19 Health and Safety at Work etc. Act 1974 and for those officers to exercise all statutory powers relating to enforcement, including but not limited to bringing proceedings.
- 29.2 To authorise suitable specialists under Section 20 (2)(c)(i) of the Health and Safety at Work etc Act 1974.
- 29.3 To liaise with relevant waste collection and waste disposal authorities in Hampshire on waste management issues.

## 30. HEAD OF CITY SERVICES

30.1 To agree to waive charges for allotments.

~~30.2 To decide and accept the most suitable tender for mobile catering services in the parks and enter into a contract with that operator.~~

~~30.3~~ 30.2 Following consultation with the Director of Governance, Legal & HR, to make applications under Section 38 of the Commons Act 2006.

~~30.4~~ 30.3 Following consultation with the relevant Cabinet Member, the Director for Governance, Legal & HR and the Executive Director for Corporate Services, to agree for the Council to act as the accountable body on behalf of formally constituted “friends” groups, resident, tenant or community groups, or sports clubs applying for external grant funding of less than £125,000 to improve the city’s open spaces and associated assets and infrastructure. This responsibility may include procuring supplies, goods or services on behalf of the grant recipient ~~through identifying the most economically advantageous quote or tender~~, certifying receipt of goods and services, agreeing practical completion of site works, authorising payment of invoices, controlling and monitoring project expenditure, and keeping accurate and auditable financial records for the purpose of reclaiming project expenditure from the external grant funding body.

~~30.5~~ 30.4 To commence impoundment procedures when a horse is deemed to pose an unacceptable risk to public safety, private property, adversely affect public rights to recreation, or is significantly damaging the environment.

~~30.6~~ 30.5 All Waste and Fleet Transport service functions exercisable by the Council.

~~30.7~~ 30.6 All powers necessary and expedient in relation to the Council’s statutory duties to collect and dispose of municipal waste, including but not limited to the authority to enter into contracts necessary to give effect to or facilitate this function.

~~30.8~~ 30.7 To liaise with waste collection authorities in Hampshire on all strategic waste issues, ensuring appropriate consultation with colleagues on non-specific waste issues such as spatial planning.

~~30.9~~ 30.8 To determine the charges for the collection of trade refuse, garden waste, charity, textile and shoe banks and MOTs.

~~30.10~~ 30.9 To set or vary charges for residents using the special bulky domestic refuse collection service waste receptacles, including bulk bin containers, where these are not provided free in accordance with Council policy, following consultation with the appropriate Cabinet Member and the spokesperson for each opposition party.

~~30.11~~ 30.10 To require the production of a trade waste transfer document and the power to issue a fixed penalty for failing to so provide pursuant to section 34A of the Clean Neighbourhood and Environment Act 2005.

~~30.12~~ 30.11 To take any action in relation to, or associated with the Council’s LGV Operators Licences and road traffic legislation.

~~30.13~~ 30.12 To take any action in relation to or associated HGV Operators’ Licences.

~~30.14~~ 30.13 To procure and maintain the Council’s vehicle fleet in accordance with the Council’s Contract Procedure Rules CPRs and the relevant regulatory frameworks.

~~30.15~~ 30.14 Power to make, modify or vary, revoke and confirm Tree Preservation Orders under Sections 198 and 201 of the Town and Country Planning Act 1990 except where valid objections are received.

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- ~~30.16~~30.15 To determine applications for works to trees that are subject to protection by Tree Preservation Order and to impose such conditions on any consent that s/he deems appropriate.
- ~~30.17~~30.16 To serve a notice to plant replacement trees, where they are a requirement of the land owner's duty to replace under Section 206 of the Town and Country Planning Act 1990 or where replacements have been conditioned under a tree works decision notice.
- ~~30.18~~30.17 To execute works in default of non-compliance with a notice to replant trees and to recover all reasonable costs from the landowner.
- ~~30.19~~30.18 Power to make, modify or vary, revoke but not confirm Tree Preservation Orders under Sections 198 and 201 of the Town and Country Planning Act 1990 and to confirm such orders except where valid objections are received.
- ~~30.20~~30.19 To determine applications for works to trees that are subject to protection by Tree Preservation Order and to impose such conditions on any consent that s/he deems appropriate.
- ~~30.21~~30.20 To serve a notice to plant replacement trees, where they are a requirement of the land owner's duty to replace under Section 206 of the Town and Country Planning Act 1990 or where replacements have been conditioned under a tree works decision notice.
- ~~30.22~~30.21 To execute works in default of non-compliance with a notice to replant trees and to recover all reasonable costs from the landowner.
- ~~30.23~~30.22 To determine whether to proceed with an applicant's case, in pursuance of section 68(2) – 68(5) of Anti-Social Behaviour Act 2003 (High Hedges).
- ~~30.24~~30.23 To determine whether or not, and to what extent to refund fees pursuant to s68(8) of the Anti-Social Behaviour Act 2003 (High Hedges).
- ~~30.25~~30.24 To execute works in default of the remedial work detailed in any remedial notice under the Anti-Social Behaviour Act 2003 (High Hedges).
- ~~30.26~~30.25 To undertake a six-monthly review of the level of the fee to be charged for the service under Part 8 of the Anti-Social Behaviour Act 2003 and to vary the fee level as necessary to ensure that the costs of providing the service are recovered in the financial year (High Hedges).
- ~~30.27~~30.26 To authorise an appropriate officer to enter land for any purpose pursuant to Part 8 of the Anti-Social Behaviour Act 2003 (High Hedges).
- ~~30.28~~30.27 To approve modifications to the Southampton's Tree Operational Risk Management System (STORMS) following consultation with the Director for Governance, Legal & HR, the Council's Risk and Insurance Manager and the Council's Health and Safety Manager to ensure the system remains fully effective.
- ~~30.29~~30.28 To serve a notice on any owner of land on which a tree is situated that is in such a condition that there is imminent danger of its causing damage to persons or property pursuant to section 23 of the Local Government (Miscellaneous Provisions) Act 1976, after consultation with the Director for Governance, Legal & HR.
- ~~30.30~~30.29 To authorise any officer to enter land for the purposes of assessing the condition of tree or trees on another land pursuant to section 24 of the Local Government (Miscellaneous Provisions) Act 1976.

**31. HEAD OF CONSUMER PROTECTION & ENVIRONMENTAL SERVICES**

- 31.1 To act under all current or future legislation and Council plans, policies, guidelines and procedures relating to the services and functions managed, operated and controlled by the Executive Director. This should be taken to include all regulations, orders and guidance subsequently issued by Ministers in relation to such services and functions.
- 31.2 To undertake all Environmental Health and Consumer Protection Services functions exercisable by the Council in its capacity as a local authority. This includes Registration and Bereavement Services' functions.
- 31.3 To act as Proper Officer for Registration under the Registration Service Act 1953.
- 31.4 Exercise the functions of the Council including all powers and duties of the Council in terms of the following legislation and any subsequent or similar legislation or replacing or expanding legislation:

Administration of Justice Act 1970  
Administration of Justice Act 1985  
Agriculture (Miscellaneous Provisions) Act 1968  
Agriculture Acts  
Agriculture Produce (Grading and Marketing) Acts 1928 and 1931  
Animals Act 1971  
Animal and Animal Products (Import and Export) (England and Wales) Regulations 2000  
Animal Boarding Establishments Act 1963  
Animal Feed (Hygiene Sampling etc and Enforcement) (England) Regulations 2015  
Animal Health Act 1981  
Animal Health Act 2002  
Animal Welfare Act 2006  
Anti-Social Behaviour Act 2003  
Anti-Social Behaviour Act 2006  
Anti-Social Behaviour, Crime and Policing Act 2014  
Beef Labelling (Enforcement) (England) Regulations 2000  
Bovines and Bovine Products (Trade) Regulations 1998  
Breeding of Dogs Act 1973 & 1991  
Breeding and Sale of Dogs (Welfare) Act 1999  
Breeding of Dogs (Licensing Records) Regulations 1999  
Brucellosis (England Order 2015)  
Building Act 1984  
Burial Act 1853  
Business Names Act 1985  
Business Protection from Misleading Marketing Regulations 2008  
Bye-laws for Hairdressers and Barbers  
Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008  
Cancer Act 1939

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Cattle Identification Regulations 2007  
Cemeteries Order 1977  
Children & Families Act 2014  
Children and Young Persons (Protection from Tobacco) Act 1991  
Children and Young Persons Act 1933  
Chronically Sick & Disabled Persons Act 1970  
Civil Enforcement Of Parking Contraventions (England) General Regulations 2007  
Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007  
Civil Contingencies Act 2004  
Civil Partnership Act 2004  
Clean Air Act 1993  
Clean Air Act 1983 – Motor Fuel (Composition and Content) Regulations  
Clean Neighbourhood and Environment Act 2005  
Common Agriculture Policy (Wine) (England & Northern Ireland) Regulations 2001  
Companies Act 2006  
Consumer Credit Act 1974  
Consumer Protection (Distance Selling) Regulations 2000  
Consumer Protection Act 1987  
Consumer Protection from Unfair Trading Regulations 2008  
Consumer Rights Act 2015  
Control of Pesticide Regulations 1986  
Control Of Pollution Act 1974, Part 3 (except sections 70(2), (3) and 71), sections 91-94, section 97 and Part 6.  
Control of Pollution (Anti-Fouling Paint) Regulations 1986  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Copyright, Designs and Patents Act 1988  
Courts and Legal Services Act 1990  
Countryside and Rights of Way Act 2000  
Crime and Disorder Act 1998  
Criminal Justice Act 1988  
Criminal Justice and Public Order Act 1994  
Criminal Justice & Police Act 2001  
Customs and Excise Management Act 1979  
Dairy Products (Hygiene) Regulations 1985  
Dangerous Dogs Act 1991  
Dangerous Wild Animals Act 1976  
Deregulation Act 2015  
Designation of Local (Southampton Port Health Authority) District Order 1978.  
Development of Tourism Act 1969 Tourism (Sleeping Accommodation Price Display) Order 1977



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Disabled Persons Parking Badges Act 2013  
Dogs (Fouling of Land) Act 1996  
Ecodesign for Energy-Using Products Regulations 2007  
Education Reform Act 1988  
Energy Act 1976  
Energy Conservation Act 1981  
Energy Efficiency (Private Rented Property)(England & Wales) Regulations 2015  
Enterprise Act 2002  
Environment Act 1995  
Environmental Protection Act 1990  
Environmental Protection (Duty of Care) Regulations 1991  
Environmental Protection (Microbeads)(England) Regulations 2017  
Estate Agents Act 1979  
European Communities Act 1972 (save as amended by the European Union (Withdrawal) Act 2018)  
European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:

- African Horse Sickness (England) Regulations 2012
- Animal and Animal Products (examination for Residues and Maximum Residue Limits)(England and Scotland) Regulations 2015
- Animal By-Products (Enforcement)(England) Regulations 2013
- Animal Feed (Basic Safety Standards)(England) Regulations 2019
- Avian influenza (Preventative Measures)(England) Regulations 2006
- Avian Influenza (Vaccination)(England) Regulations 2008
- Biofuel Labelling Regulations 2004
- Bluetongue Regulations 2008
- Business Protection from Misleading Marketing Regulations 2008
- Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008
- Cattle Identification Regulations 2007
- Construction Products Regulations 2013
- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
- Consumer Protection from Unfair Trading Regulations 2008
- Consumer Rights (Payment Surcharges) Regulations 2012
- Cosmetic Products Enforcement Regulations 2013 and the EU Cosmetic Products Regulation 1223/2009
- Crystal Glass (Descriptions) Regulations 1973
- Detergents Regulations 2010
- Diseases of Swine Regulations 2014
- EC Fertilisers (England and Wales) Regulations 2006
- Eggs and Chicks (England) Regulations 2009
- Electrical Equipment (Safety) Regulations 2016
- Electromagnetic Compatibility Regulations 2016
- Energy Information Regulations 2011
- Energy Performance of Buildings (England and Wales) Regulations 2012

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Equine Identification (England) Regulations 2018  
Financial Services (Distance Marketing) Regulations 2004  
Fluorinated Greenhouse Gases Regulations 2015  
Food Information Regulations 2014  
Food Safety & Hygiene (England) Regulations 2013  
Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006  
Footwear (Indication of Composition) Labelling Regulations 1995  
Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018  
General Product Safety Regulations 2005  
Genetically Modified Organisms (Traceability and Labelling)(England) Regulations 2004  
Infant Formula and Follow On Formula (England) Regulations 2007  
Materials and Articles in Contact With Food (England) Regulations 2012  
Measuring Container Bottles (EEC Requirements) Regulations 1977  
Measuring Instruments Regulations 2016  
Non- Automatic Weighting Instruments Regulations 2016  
Novel Foods (England) Regulations 2018  
Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 in so far as it relates to food law  
Official Feed and Food Controls (England) Regulations 2009 in so far as it relates to food law  
Olive Oil (Marketing Standards) Regulations 2014  
Organic Products Regulations 2009  
Package Travel and Linked Travel Arrangements Regulations 2018  
Packaging (Essential Requirements) Regulations 2015  
Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001  
Personal Protective Equipment (Enforcement) Regulations 2018  
Poultry Meat (England) Regulations 2011  
Pressure Equipment (Safety) Regulations 2016  
Products of Animal Origin (Disease Control)(England) Regulations 2008  
Pyrotechnic Articles (Safety) Regulations 2015  
Quality Schemes (Agricultural Products & Foodstuffs) Regulations 2018  
Quick Frozen Food Stuffs (England) Regulations 2007  
Radio Equipment Regulations 2017  
REACH Enforcement Regulations 2008  
Recreational Craft Regulations 2017  
Registration of Establishments (Laying Hens) (England) Regulations 2003  
Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013  
Scotch Whisky Regulations 2009  
Simple Pressure Vessels (Safety) Regulations 2016  
Specified Products from China (Restrictions On First Placing On The Market) (England) Regulations 2008  
Spirit Drinks Regulations 2008  
Supply of Machinery (Safety) Regulations 2008  
Textile Products (Labelling and Fibre Composition) Regulations 2012

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Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010  
Tobacco and Related Products Regulations 2016  
Toys (Safety) Regulations 2011  
Trade in Animals and Related Products Regulations 2011  
Transmissible Spongiform Encephalopathies (England) Regulations 2018  
Veterinary Medicines Regulations 2013  
Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012  
Weights and Measures (Packaged Goods) Regulations 2006  
Welfare of Animals at Time of Killing (England) Regulations 2015  
Wine Regulations 2011  
Zoonoses (Monitoring) (England) Regulations 2007

Explosives Acts 1875  
Fair Trading Act 1973  
Fireworks Act 2003  
Food Act 1984  
Food and Environment Protection Act 1985  
Food Safety Act 1990  
Food Hygiene (England) Regulations 2006  
Food Safety and Hygiene (England) Regulations 2013  
Food Standards Act 1999  
Foot and Mouth Disease (Control of Vaccinations) (England) Regulations 2001  
Forgery and Counterfeiting Act 1981  
Fraud Act 2006  
Fuel (Lead Content of Petrol) Regulations 1981 (as amended);  
Fur Farming (Prohibition) Act 2000  
General Food Regulations 2004  
Gambling Act 2005  
Hallmarking Act 1973  
Hampshire Act 1983  
Health Act 2006  
Health & Social Care Act 2008  
Health and Safety at Work etc Act 1974 together with the following Regulations made under the 1974 Act:  
    The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003  
    The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013  
    The Chemicals (Hazard Information and Packaging for Supply) Regulations 2009  
    The Dangerous Substances and Explosive Atmospheres Regulations 2002,  
    The Explosives Regulations 2014,  
    The Petroleum (Consolidation) Regulations 2014, and

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The provisions of the following Acts mentioned in Schedule 1 to the 1974 Act;  
Explosives Act 1875  
Public Health Acts 1936 and 1961  
Health Protection (Coronavirus, Restrictions) (England) Regulations 2020  
Health Protection (Local Authority Powers) Regulations 2010  
Highways Act 1980  
Home Safety Act 1961  
House to House Collections Act 1939  
Housing Act 1985  
Housing Act 1996  
Housing Act 2004  
Housing Regeneration Act 2008  
Horse Passports Regulations 2009  
Hypnotism Act 1952  
International Health Regulations 2005  
Intoxicating Substances (Supply) Act 1986  
Knives Act 1997  
Legal Services Act 2007  
Licensing Act 2003  
Local Authority Cemeteries Order 1977  
Local Government Act 1972 (Section 111)  
Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
Marriage Act 1994  
Medicines Act 1968  
Motor Cycle Noise Act 1987  
Motor Fuel (Sulphur Content of Gas Oil) Regulations 1981  
Motor Vehicle (Safety Equipment for Children) Act 1991  
Noise Act 1996  
Noise and Statutory Nuisance Act 1993  
Non-Automatic Weighing Instruments Regulations 2000  
Offensive Weapons Act 2019  
Olympic Symbol etc (Protection) Act 1995  
Organic Products Regulations 2001  
Ozone Depleting Substances Regulations 2015  
Performing Animals (Regulation) Act 1925  
Pesticides (Fees and Enforcement) Act 1989  
Pet Animals Act 1951 and Pet Animals Act 1951 (Amendment) Act 1983  
Petroleum (Consolidation) Act 1928.  
Plastic Materials and Articles In Contact With Food (England) Regulations 2009  
Poisons Act 1972  
Police and Criminal Evidence Act 1984  
Police, Factories etc (Miscellaneous Provisions) Act 1916

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The Southampton Port Health Authority Order 2010  
Prevention of Damage by Pests Act 1949  
Prices Act 1974  
Private Water Supply Regulations 2016 and 2017  
Proceed of Crimes Act 2002  
Processed Animal Proteins (England) Regulations 2001  
Products of Animal Origin (Import and Export) Regulations 1991  
Products of Animal Origin (Import and Export) (Amended) Regulations 1997  
Property Misdemeanors Act 1991  
Protection of Animals (Amendment) Act 2000  
Protection of Animals Act 1911  
Psychoactive Substances Act 2016  
Public Health Acts Amendment Act 1907  
Public Health (Control of Disease) Act 1984  
Public Health (Infectious Diseases) Regulations 1988  
Public Health Act 1936  
Public Health Act 1961  
Public Health Ships Regulations 1979 as amended by the Public Health Ships (Amendment)(England) Regulations  
Refuse Disposal (Amenity) Act 1978  
Registered Designs Act 1949  
Redress Schemes for Letting Agencies Work and Property Management Work (Requirement to Belong To Scheme etc) (England) Order 2014  
Road Traffic Acts 1988 and 1991  
Road Traffic Regulation Act 1984  
Scrap Metal Dealers Act 2013  
Sheep and Goats (Records, Identification & Movement)(England) Order 2009  
Single Use Carrier Bags Charges (England) Order 2015  
Site Waste Management Plans Regulations 2008  
Slaughterhouses Act 1974  
Solicitors Act 1974  
Standardised Packaging of Tobacco Products Regulations 2015  
Sunbed (Regulation) Act 2010  
Telecommunications Act 1984  
Tenant Fees Act 2019 (and the Housing & Planning Act 2016 as it relates to Client Money Protection Schemes)  
Theft Act 1968  
Timeshare Act 1992  
Tobacco Advertising and Promotion Act 2002  
Town and Country Planning Act 1990  
Town Police Clauses Act 1847  
Trade Descriptions Act 1968  
Trade Marks Act 1938

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Trade Marks Acts 1994  
Traffic Management Act 2004  
Transport Act 2000  
Unfair Terms in Consumer Contracts Regulations 1999  
Unsolicited Goods and Services Acts 1971 and 1975  
Video Recordings Act 2010  
Vehicles (Crime) Act 2001  
Water Act 2003  
Weights and Measures Act 1985  
Zoo Act 1981

This delegation is subject to a requirement to consult with the Director for Governance, Legal & HR prior to the service of any order, notice or commencement of any legal proceedings.

- 31.5 To determine applications for information to be treated as commercially confidential under Section 22 of the Environmental Protection Act 1990 (as amended).
- 31.6 To sign and serve notices under Sections 33, 34, 46, 47, 59 and 71 of the Environmental Protection Act 1990 (as amended) to deal with waste.
- 31.7 To sign and serve notices under Sections 80 and 80A of the Environmental Protection Act 1990 (as amended) dealing with the abatement of nuisances.
- 31.8 To authorise as enforcement officers such members of professional and technical support staff who are deemed to have suitable qualifications in respect of Section 19 of the Food and Environment Protection Act 1985, as amended by the Pesticides (Fees and Enforcement) Act 1989.
- 31.9 To issue and sign written instruments of appointment under the Act and regulations.
- 31.10 To grant authorised officers the power to sign and serve notices under Section 19 of the Food and Environment Protection Act 1985.
- 31.11 To appoint such members of professional and support staff deemed to have suitable qualifications under Section 5(6) of the Food Safety Act 1990.
- 31.12 To appoint suitable specialists under Section 32(4) of the Food Safety Act 1990.
- 31.13 All powers and duties under the Health Protection (Local Authority Powers) Regulations 2010 including but not restricted to the powers under Sections 2 to 11 to deal with children attending school, decontamination of persons and premises and to restrict access to and move dead bodies.
- 31.14 To introduce increased charges for the issue of Ship Sanitation control and exemption certificates for coastal vessels.
- 31.15 To discharge the functions, duties and powers to control disease on ships and aircraft as conferred by the Public Health (Ships) Regulations 1979 and Public Health (Aircraft) Regulations 1979 as amended in 2007 to implement the requirements of the International Health Regulations 2005. To include the appointment of a medical officer, medical practitioners and authorised officers to exercise the powers conferred by the regulations.
- 31.16 All powers and duties under the Public Health (Control of Disease) Act 1984 as amended by the Health and Social Care Act 2008 including but not restricted to the

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powers under Sections 45M and 76 to deal with the protection of health from the risk of infection and deal with defective premises.

- 31.17 To exercise duties under the Public Health (Control of Disease) Act as amended by the Health and Social Care Act 2008 to arrange for a body to be removed to a mortuary for burial or cremation.
- 31.18 In accordance with the Public Health (Infectious Diseases) Regulations 1988, to require persons to discontinue or refrain from engaging in any occupations connected with food and to take such other step as empowered under the Regulations.
- 31.19 To make payments by way of compensation, to persons required to discontinue or refrain from engaging in any occupation connected with food.
- 31.20 To appoint Public Analysts under the Food Safety and Agriculture Acts.
- 31.21 To exercise all powers necessary and expedient in relation to the Council's collection of healthcare waste functions (commercial and domestic), including but not limited to the authority to enter into any contracts necessary to give effect to or facilitate this function.
- 31.22 To institute proceedings under the Protection from Eviction Act 1977.
- 31.23 To institute proceedings under Section 1 Accommodation Agencies Act 1953.
- 31.24 To make minor modifications to the approved terms and conditions of financial assistance provided in accordance with the Council's Housing Strategy or such other strategy or policy in relation to this function.
- 31.25 To consider and determine any application from any person considered to be a special case and who therefore falls outside the Housing Strategy or such other strategy or policy in relation to this function.
- 31.26 To provide temporary rehousing, subject to a maximum period of four months where financial assistance repair work takes place in accordance with the Council's Housing Strategy or such other strategy or policy in relation to this function.
- 31.27 To amend the system of prioritising enquiries and applications for financial assistance arising from owner-occupiers and/or private sector tenants to ensure resources are targeted towards those living in the worst housing conditions and in greatest need in relation to the Housing Strategy or such other strategy or policy in relation to this function.
- 31.28 To determine when a land charge is required on a property to secure the repayment of any financial assistance granted in accordance with the Council's Housing Strategy or such other strategy or policy in relation to this function.
- 31.29 To approve applications for the provision of financial assistance in accordance with the Council's Housing Strategy or such other strategy or policy in relation to this function.
- 31.30 To waive financial assistance repayment conditions in relation to the Council's Housing Strategy or such other strategy or policy in relation to this function.
- 31.31 To authorise Environmental Health Officers and other authorised officers to take all enforcement action, powers and provision as appropriate, under the Housing Act 2004, and any subsequent secondary legislation, in accordance with the Council's enforcement policies.
- 31.32 Determine and alter as necessary a scale of reasonable charges in respect of enforcement action under s49 of the Housing Act;

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- 31.33 Determine and alter as necessary a scale of reasonable fees in respect of the licensing of houses in multiple occupation under s63(3) of the Housing Act; and
- 31.34 Determine and alter as necessary an administrative fee for works carried in default of notices.
- 31.35 To seek confirmation from the appropriate national authority of a designation for an Additional Licensing Scheme under section 56 of the Housing Act 2004, following consultation with those persons likely to be affected by any such scheme.
- 31.36 To seek confirmation from the appropriate national authority of a designation for a Selective Licensing Scheme under section 80 of the Housing Act.
- 31.37 To approve the use of the Enforced Sale Procedure.
- 31.38 To determine when a local land charge is required on property to secure the repayment of any grant awarded in accordance with the Council's Housing Strategy or such other strategy or policy in relation to this function.
- 31.39 To make necessary revision to the Enforcement Policy as the need arises, following consultation with the relevant Cabinet Member.
- 31.40 To authorise Environmental Health Officers and other authorised officers to take all enforcement action, powers and provision as appropriate, under the Housing Act 2004, and any subsequent secondary legislation, in accordance with the Council's enforcement policies.
- 31.41 To seek confirmation from the appropriate national authority of a designation for an Additional Licensing Scheme under section 56 of the Housing Act 2004, following consultation with those persons likely to be affected by any such scheme.
- 31.42 To seek confirmation from the appropriate national authority of a designation for a Selective Licensing Scheme under section 80 of the Housing Act.
- 31.43 To affix statutory notices to and to arrange for the removal of, vehicles deemed to be abandoned on public land.
- 31.44 To undertake any necessary investigative work for the purposes of enforcement including issue a fixed penalty notices or any other notice on any person or person found littering, flyposting, or committing graffiti.
- 31.45 To serve street litter control notices.
- 31.46 To undertake all functions, powers and duties including authorising legal action in respect of Blue Badge & Parking Permit fraud.
- 31.47 To enter into agreements with external bodies for the purposes of maintaining graves, memorials and crematoria.
- 31.48 To inspect burial grounds for the purposes of ensuring that the rules and regulations imposed by the burial authority are adhered to.
- 31.49 To remove unauthorised memorials situated within the burial authority's land, including cemeteries and crematoria.
- 31.50 To keep a register of all burials and cremations.
- 31.51 To authorise the disposal of cremated remains.
- 31.52 To approve the grant, renewal, refusal and revocation of licences to approved premises under the Marriage Act 1994 as the Proper Officer for Registration.
- 31.53 To authorise officers to exercise powers of entry and other statutory powers including, but not limited to, search and seizure conferred by the legislation set out in 14.4 referred to below and elsewhere in the Scheme relating to Environmental Health



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Officers, Environmental Health practitioners, Trading Standards Officers, Fair Trading Officers and other Enforcement Officers. This is deemed to include all secondary legislation and any other superseding enactments relating to the acts below that may from time to time come into force.

- 31.54 To undertake any duties in respect of new work in the areas of strategy, community safety and equalities.
- 31.55 To authorise legal proceedings or other action to be taken to recover possession of any property or land which is being occupied by travellers, squatters or other unlawful occupants.
- 31.56 To appoint officers for the implementation of the Council's functions under all legislation, including the power to appoint a Chief Inspector of Weights and Measures under the Weights and Measures Act 1985, Environmental Health Officers and other Environmental Health practitioners (including Environmental Health Technicians and Scientific Officers), Trading Standards Officers, Fair Trading Officers and other Enforcement Officers.
- 31.57 To execute works by agreement, at the expense of the owner or occupier, in respect of any notice served.
- 31.58 To authorise and institute any legal proceedings, the issue of simple cautions and, where authorised by the Finance and: Legal & Business Operation, to prosecute or defend any such proceedings, in relation to any powers listed or implied under the delegations to the Executive Director: Communities, Culture & Homes, Environmental Health Practitioners, the Chief Inspector of Weights & Measures, Trading Standards Officers and Fair Trading Officers.
- 31.59 To authorise and issue any Fixed Penalty Notices, relating to any function or responsibility under the Executive Director's management or control.
- 31.60 In addition to the statutory offences referred to in this scheme, to investigate, institute and authorise legal proceedings and where authorised by the Director of Governance, Legal & HR , to prosecute in respect of any statutory conspiracy offences and common law offences to include conspiracy and conspiracy to defraud; and authorisations to officers contained within this scheme shall include powers to investigate any statutory conspiracy offences and common law offences such as conspiracy and conspiracy to defraud.
- 31.61 In respect of all statutory and common law offences referred to within this scheme, where authorised by the Director of Governance, Legal & HR , and where deemed appropriate and reasonable to institute, or authorise legal proceedings and to prosecute where the cause of action arises or the place of offence is outside of Council boundaries where such action deliver a benefit to the residents of the City of Southampton.
- 31.62 To grant, but not refuse, consent for performances of hypnotism under the Hypnotism Act 1952.
- 31.63 To approve local certification of films that are capable of classification without difficulty and which are not likely to cause public concern, following consultation with the Chair of the Licensing Committee.
- 31.64 Subject to any requirement to place any matter before a duly convened Licensing Committee, to undertake the following functions under the Licensing Act 2003:

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- a. where no objection or adverse representation is made to an application, to determine the following applications:
  - i. for a personal licence;
  - ii. for a premises licence or a club premises certificate;
  - iii. for a provisional statement;
  - iv. to vary a premises certificate or club premises certificate;
  - v. to vary a designated premises supervisor;
  - vi. to transfer a premises licence;
  - vii. for an interim authority;
  - viii. to serve counter notices in respect of temporary event notices ;
  - ix. for removal of the mandatory designated supervisor condition for community premises.
- b. in all cases, to determine the following matters:
  - i. a request to be removed as a designated premises supervisor;
  - ii. to decide whether a representation is irrelevant, frivolous, vexatious, etc;
  - iii. to keep a register under Section 8 of the Act;
  - iv. to enter premises as an authorised officer of the Council pursuant to Sections 96, 108 and 179 of the Act;
  - v. to agree to dispense with a hearing pursuant to Regulation 9 Licensing Act 2003 (Hearings) Regulations 2005;
  - vi. consultation of other responsible authorities on minor variation applications;
  - vii. applications for minor variations of premises licences and club premises certifications;
  - viii. to suspend premises licences or club premises certificates where the annual fee or late night levy has not been paid;
  - ix. to withdraw club premises certificates where a club does not satisfy the conditions for being a qualifying club in relation to a qualifying club activity.

31.65 To enter premises for the purposes of consulting and advising on the licensing objectives and compliance with the Licensing Act 2003.

31.66 To serve a closure notice under section 19 of the Criminal Justice and Police Act 2001 where premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises.

31.67 To issue a closure notice under sections 76 to 91 (Chapter 3) of the Anti-Social Behaviour, Crime and Policing Act 2014, if satisfied that there are reasonable grounds:

- (a) that the use of particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public, or.
- (b) that there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises.

and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

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- 31.68 To ensure that any appropriate body or individual has been consulted before issuing a notice under 18.66.
- 31.69 To vary and cancel a closure notice under 18.66.
- 31.70 To serve a closure notice, an extension notice, a cancellation notice and variation notice, and to enter any premises for the purposes of complying with section 79(2)(a) Anti-Social Behaviour, Crime and Policing Act 2014.
- 31.71 Where appropriate, to apply to the Magistrates' Court for a closure order.
- 31.72 To carry out appropriate consultation and to recommend to Council on the making, extension, variation and discharge of Public Spaces Protection Orders under sections 59 to 75 (Chapter 2) of the Anti-Social Behaviour, Crime and Policing Act 2014.
- 31.73 To inspect licensed sex establishments.
- 31.74 To renew sex establishment licences where no objection is made.
- 31.75 To grant by way of renewal, but not refuse, street trading consents for Above Bar Pedestrian Precinct.
- 31.76 To grant, but not refuse, applications for street collection permits and house-to-house collection licences under the Police, Factories, etc, (Miscellaneous Provisions) Act 1916 and the House to House Collections Act 1939.
- 31.77 To determine applications for hackney carriage licences, in accordance with Council policy and to suspend and revoke such licences.
- 31.78 To determine applications for private hire vehicle licences, in accordance with Council policy and to suspend and revoke such licences.
- 31.79 To determine applications for hackney carriage drivers' licences, in accordance with Council policy and to suspend and revoke such licences.
- 31.80 To determine applications for private hire drivers' licences, in accordance with Council policy and to suspend and revoke such licences.
- 31.81 To determine applications for private hire operators' licences, in accordance with Council policy and to suspend and revoke such licences.
- 31.82 To make or vary a hackney carriage table of fares and to determine objections to any proposal to make or vary a table of fares.
- 31.83 Subject to any requirement to place any matter before a duly convened Licensing Committee to undertake the following functions under the Gambling Act 2005:
  - i. to determine applications for premises licences where no relevant representations are received.
  - ii. to determine applications to vary premises licences in respect of which no representations have been received.
  - iii. to determine whether a representation is vexatious, frivolous or would not influence the authority's determination of the application.
  - iv. to determine applications for transfer of premises licences where no representations are received.
  - v. to revoke premises licences for failure to pay the annual fee.
  - vi. to determine that a premises licence has lapsed.
  - vii. to reinstate a lapsed premises licence where no representations are received.
  - viii. to reject an application for review of a premises licence on various grounds.

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- ix. to initiate a review of a premises licence.
  - x. to determine that representations about a review of a premises licence is frivolous, vexatious or will certainly not influence a review of a premises licence.
  - xi. to determine action following a review of a premises licence where no hearing is held and all parties agree in advance to the relevant action.
  - xii. to determine applications for a provisional statement in respect of which no representations are received.
  - xiii. to disregard representations made in respect of applications for premises licences after issue of a provisional statement.
  - xiv. to issue a counter notice to a temporary use notice where the number of permitted days are exceeded.
  - xv. to object to a temporary use notice.
  - xvi. to institute criminal proceedings in respect of an offence under the provisions of the Act.
  - xvii. to determine applications for family entertainment centres.
  - xviii. to notify the lapse of family entertainment centre gaming permit.
  - xix. to register non-commercial societies for small lotteries.
  - xx. to refuse applications for registration for small society lotteries.
  - xxi. to revoke registrations of societies for small society lotteries.
  - xxii. to cancel registrations of societies for small society lotteries in the event of non-payment of the annual fee.
  - xxiii. to determine applications for variation of club gaming permits and club registration permits and cancellation of permits where no representations are received.
  - xxiv. to cancel club gaming permits and club registration permits for failure to pay the annual fee.
  - xxv. to determine applications for grant, variation or transfer of licensed premises gaming machine permits.
  - xxvi. to cancel licensed premises gaming machine permits and vary the number or category of machines where no representations are received.
  - xxvii. to cancel licensed premises gaming machine permits for failure to pay the annual fee.
  - xxviii. to determine applications for prize gaming permits and applications for renewal of prize gaming permits.
  - xxix. to determine that a prize gaming permit has lapsed.
- 31.84 Under the Police & Social Responsibility Act 2001 (PSR Act), to determine whether the holders of any relevant late night authorisations fall within any permitted exemption or reduction categories and in particular whether the holders of any relevant late night authorisations who are members of any approved business-led best practice scheme fall within the permitted reduction category.

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- 31.85 To determine the aggregate amount of expenses of the Council that are permitted deductions under section 130(1)(b) of the PSR Act 2011.
- 31.86 To publish annual notices under section 130(5) of the PSR Act 2011 relating to anticipated expenses and the net amount of the levy payments.
- 31.87 To make adjustments to payments in accordance with paragraph 7 of the Late Night Levy (Application and Administration) Regulations 2012.
- 31.88 To determine from time to time when and for what purposes the Council will apply the non-specified proportion of the net amount of the levy payments.
- 31.89 To obtain additional software licences for any library IT when the user base expands.
- 31.90 To set levels of royalty payment and agree licences to print.
- 31.91 To sign agreements for copying from books and journals.
- 31.92 Subject to obtaining the necessary licences for the library service only, to take multiple abstracts from national newspapers.
- 31.93 To accept publicity for display from outside bodies, subject to any legal requirements and policies adopted by the Council.
- 31.94 To take whatever action is necessary in respect of library fines, and costs / charges for lost books, photocopying, loans, etc, including waiving or reducing.
- 31.95 To deal with applications for the use of car parks on their individual merits, normally to be granted only to charities and non-profit organisations, following consultation with the Director of Governance, Legal & HR.
- 31.96 To grant permission for use of Council car parks for display purposes.
- 31.97 To advertise proposed disabled persons' parking bays in accordance with Council policy.
- 31.98 In accordance with orders made under the Road Traffic Regulation Act 1984 and subsequent legislation and Council policy to take actions to manage the residents parking schemes, and in relation to parking control the waiving of the penalty, standard or excess charge: the acceptance of an alternative amount in lieu of the penalty, standard or excess charge: the service of notices to ascertain the identity of the driver of a vehicle, the initiation of prosecutions and the issue of permits, dispensations and waivers.
- 31.99 In accordance with orders made under the Road Traffic Regulation Act 1984 and subsequent legislation and Council policy to take actions necessary to manage the pay and display and pay on foot systems of parking control in car parks and lorry parks; issue of penalty, standard and excess charges notices and notices of offence; the sale of prepaid parking tickets; the collection of parking charges; the initiation of prosecutions; and the issue of permits, dispensations and waivers.
- 31.100 To register unpaid penalty charges (Charge Certificates) at the Traffic Enforcement Centre (County Court Bulk Centre) and to seek warrants of execution to complete the recovery process.
- 31.101 To present the Council's evidence to the National Parking Adjudication Service.
- 31.102 To approve the issue of civil penalty notices in Cemetery Road and to respond to appeals (challenges) against the issue of any notice.
- 31.103 Under the Scrap Metal Dealers Act 2013, to undertake the administration and enforcement of the function, the power to request further information of applicants (paragraph 4, schedule 1), to determine applications (including refusal), revoke

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licences or to impose conditions under section 3(8) and the power to issue or cancel a closure notice for unlicensed sites, and, where appropriate, to apply for closure orders (schedule 2) and take such other action in this respect as may be required.

- 31.104 To make any order, notice or decision, grant any license, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation, following consultation with the Director of Governance, Legal & HR.
- 31.105 To enter into agreements with external bodies for the purpose of maintaining and managing the highway, transport asset management, on and off street car parks maintenance and management.

**32. HEAD OF EMERGENCY PLANNING & BUSINESS CONTINUITY**

32.1 To undertake all functions and responsibilities associated with Emergency Planning.

## CHILDREN & LEARNING

### **33. EXECUTIVE DIRECTOR FOR CHILDREN & LEARNING (DCS)**

- 33.1 To exercise all the powers and duties exercisable by the Council relating to the enforcement of legislation and byelaws (which for the avoidance of doubt also includes regulations, orders etc) relating to Children's Services, including the licensing of the employment of children.
- 33.2 To act as the Council's Director of Children's Services (DCS) and Caldicott Guardian (CG) in relation to all children's services and children's safeguarding functions, duties and powers.
- 33.3 Following consultation with Director of Governance, Legal & HR, to institute any proceedings in any court or tribunal for an order under the Children Act 1989 and other associated children's legislation where it is considered appropriate to do so, and to appear on behalf of the Council in any court proceedings:
- 33.4 To pay allowances in respect of children being looked after by the Council in accordance with the scheme approved by the Council for the time being.
- 33.5 To give consents on behalf of the Council where necessary in the interests of children and young persons of whom the Council is in loco parentis.
- 33.6 To approve levels of and variations in fees where the Council has accepted responsibility for children, young persons, or adults attending establishments not maintained or assisted by the Council and alterations in charges for the maintenance of such residents.
- 33.7 To take such actions and decisions as may be required on behalf of the Council acting as an adoption agency.
- 33.8 To approve the reimbursement of or a contribution towards the legal expenses of prospective adopters reasonably incurred during the course of applications to adopt children in the care of the Council, where considered that the prospective adopter's application is in the best interests of the child.
- 33.9 To reduce or waive the charge of providing a home study report for prospective inter-country adopters.
- 33.10 To exercise the functions of the Council in relation to individual children boarded out under the Children Act 1989 and other Regulations.
- 33.11 To take such actions and decisions as are necessary to discharge the Council's duties to promote the welfare of individual children and young persons in the Council's care including (but not limited to):
- a. giving consent for medical, dental and other treatment, for the issue of passports; and for such other purposes as may be required from time to time;
  - b. appointing persons to review cases where children are kept in secure accommodation;
  - c. appointing an independent person to be a visitor to a particular child in the circumstances set out in paragraph 17 of Schedule 2 to the Children Act 1989 in accordance with the Definition of Independent Visitors (Children) Regulations 1991.
- 33.12 To have discretion to reduce or waive any charge in any particular case of exceptional hardship.



## CHILDREN & LEARNING

- 33.13 To administer boarding policies and fees.
- 33.14 To appoint such professional and technical support staff for the supply of children's activities as are deemed to be acceptable under the Children Act 1989 and to sign and issue written instruments of appointment.
- 33.15 Any function exercised on behalf of an NHS body relating to children.
- 33.16 To make such directions and to take such other steps as necessary or expedient to prevent a breakdown, or continuing breakdown, of discipline or governance at any school or suspend the financial delegation of any school in accordance with the Education Acts.
- 33.17 To exercise all functions under sections 10 to 17 inclusive and 20(9) of the Children Act 2004.
- 33.18 Following consultation with the Local Education Authority Governors' Appointment Panel, to nominate LA governors.
- 33.19 To approve nominations of LA representatives to serve on College Governing Bodies.
- 33.20 Following consultation with the appropriate Governing Body, to short-list candidates for interview for appointment as head teacher.
- 33.21 To approve individual exceptions to the general principle of including the names and addresses of all governors in written information for parents.
- 33.22 To administer within budgetary provision any scheme of aid to pupils with outstanding ability in sport.
- 33.23 To write off bad debts (up to a limit of £5,000) owed to the Council, linked with, attributed to or associated with the discharge of the Council's Children's Services functions.
- 33.24 To exercise (following consultation with the Executive Director for Corporate Services where affecting the level of Council Tax) all the powers and duties exercisable by the Council under the legislation (which for the avoidance of doubt also includes regulations, orders, etc.)
- |                              |   |
|------------------------------|---|
| Mandatory Awards             | Discretionary Major and Minor Awards    |
| Special Discretionary Awards | Discretionary European Fees Only Awards |
| Study Awards                 | Disabled Students Allowances            |
- reserving only to the Council those functions precluded from delegation by legislation and referring to the relevant Appeals Panel any appeal that cannot be resolved.
- 33.25 To make modifications / amendments to the approved standard conditions of grant aid.
- 33.26 Following consultation with the relevant Cabinet Member, the Director for Governance, Legal & HR and the Executive Director for Corporate Services to amend the terms of reference and membership set for the Schools' Forum and Admissions Forum so far as may be necessary to give effect to any new Act, Regulation or Code of Practice.
- 33.27 To issue penalty notices for non-attendance at all Southampton schools in accordance with the Education (Penalty Notices) (England) Regulations 2004 as amended.
- 33.28 To provide financial assistance to community organisations hiring education facilities in the City in order to encourage dual use.
- 33.29 To determine all matters, decisions and appeals relating to school transport and following a consultation with a three person panel comprising senior officers.

## CHILDREN & LEARNING

- 33.30 Following consultation with the Executive Director for Corporate Services, to approve all staffing and insurance arrangements for the visits of Youth Bands Orchestras and Choirs.
- 33.31 In exceptional cases, to make available awards to pupils with musical talent who do not attend Southampton schools.
- 33.32 To approve, for music or performing arts courses, any college a Discretionary Award applicant wishes to attend.
- 33.33 To make suitable adjustments annually to the maximum grant available for uniform / dress allowances to pupils of secondary school age to take account of inflation.
- 33.34 Where a family is in receipt of relevant benefits to pay for all initial replacement clothing and incidental expenses while the child is at a boarding school, as long as the family's financial circumstances make them eligible.
- 33.35 To make the maximum clothing grant available to children at boarding schools with expensive clothing lists where families have a very low income, although not qualifying for relevant benefits.
- 33.36 To refer disputes with the governing bodies of schools to the Secretary of State under Section 495 of the Education Act 1996 and to apply to the Secretary of State for him to use his powers to prevent the unreasonable exercise of functions under Section 496 and to use his powers under Section 497 (General Default Powers) and 498 (Appointment of Governors) of the 1996 Act.
- 33.37 To permit playgroups to use any surplus school furniture or equipment as appropriate.
- 33.38 To review and amend the scale of grants for extra-curricular activities to pupils at non-maintained schools as necessary.
- 33.39 To approve educational arrangements with regard to swimming.
- 33.40 Following consultation with the relevant Cabinet Member, schools and governing bodies, to determine school term and holiday dates for future academic years
- 33.41 To appoint supervisors on buses where this is considered to be necessary to ensure the safety of children who are legally entitled to be transported to and from school.
- 33.42 To determine when supervision is necessary in motorcars and to arrange accordingly for pupils attending day schools.
- 33.43 To arrange with parents or private motorists for the transport of children who qualify for transport to ordinary or special schools and to pay mileage rates as set out in the Council's Home to School Transport Policy.
- 33.44 To arrange transport where this is justified by exceptional family circumstances or on medical grounds.
- 33.45 To accept a route other than the shortest available in cases where the shortest route could constitute a temporary danger to a pupil.
- 33.46 To vary the charge for privilege transport from time to time.
- 33.47 To approve additional payments in exceptional cases in respect of travel expenses incurred by pupils with special educational needs attending boarding schools.
- 33.48 To approve the payment of travelling expenses to parents of disabled children at residential special schools in cases of hardship where the frequency of visits per term for essential social reasons is in excess of the number of normally permitted visits.

## CHILDREN & LEARNING

- 33.49 To act in all cases relating to the placement of, or the provision of equipment for disabled children, with professional advice as to the appropriate form of action to be taken.
- 33.50 Following consultation with the relevant Cabinet Member to remove providers of nursery education who are failing to meet the national Code of Practice, or local conditions of funding, from the Directory of Registered Providers and where conditions of funding have been breached and cannot otherwise be remedied to the satisfaction of the Council, to seek the recovery of all or part of any nursery education grant paid to them.
- 33.51 Following consultation with the relevant Cabinet Member and Director of Governance, Legal & HR, to develop and agree an appropriate process for any decisions to remove nursery education providers from the Directory of Registered Providers with the Southampton Early Years Development and Childcare Partnership, including a right to appeal the decision to an Appeals Panel comprising the Chair of the Early Years and Development Childcare Partnership, the Early Years and Development Childcare Manager and an independent representative for providers (or their respective nominees). All appeals will be conducted in accordance with the agreed procedure.
- 33.52 To oversee arrangements for early years settings on the Directory of Registered Providers in respect of eligible pre-school children receiving their entitlement to early years education and for the annual review of the funding rate that will apply to each provider under the authority's early years funding formula.
- 33.53 To approve the data and inflation rates used in calculating school budget shares including numbers of special unit places.
- 33.54 To approve a catchment area, within the limits imposed by the Secretary of State from time to time, for each school on the Council's approved list, for travelling expenses to be paid within that area or adjacent to it in the light of school organisation changes.
- 33.55 Following consultation with the appropriate Governing Body, to raise or lower the admission limit for a school on a temporary basis.
- 33.56 To agree, following consultation with the Director of Governance, Legal & HR, the wording, form and content of any Statutory Notice for School Organisational Changes and the arrangements for their publication.
- 33.57 Following consultation with the Director of Governance, Legal & HR, to issue regulations relating to safety matters in educational establishments as the need arises and to secure appropriate monthly arrangements for the review of such safety matters.
- 33.58 To determine requests for the provision of school meals in school holidays.
- 33.59 To approve the granting of a free meal at a further education establishment to certain students enrolled on courses for the unemployed sponsored by the Council, in accordance with the current eligibility for free school meals.
- 33.60 Following consultation with the Executive Director for Corporate Services, to determine (raise or lower) charges for all types of school meals in accordance with the general policy of the Council on the School Meals Service.
- 33.61 To exercise all functions under Sections 23C to 24D of the Children Act 1989.

**34. DEPUTY DIRECTOR - CHILDREN'S SOCIAL CARE**

- 34.1 Following consultation with Director of Governance, Legal & HR, to institute any proceedings in any court or tribunal for an order under the Children Act 1989 and other associated children's legislation where it is considered appropriate to do so, and to appear on behalf of the Council in any court proceedings:
- 34.2 To pay allowances in respect of children being looked after by the Council in accordance with the scheme approved by the Council for the time being.
- 34.3 To give consents on behalf of the Council where necessary in the interests of children and young persons of whom the Council is in loco parentis.
- 34.4 To approve levels of and variations in fees where the Council has accepted responsibility for children, young persons, or adults attending establishments not maintained or assisted by the Council and alterations in charges for the maintenance of such residents.
- 34.5 To take such actions and decisions as may be required on behalf of the Council acting as an adoption agency.
- 34.6 To approve the reimbursement of or a contribution towards the legal expenses of prospective adopters reasonably incurred during the course of applications to adopt children in the care of the Council, where considered that the prospective adopter's application is in the best interests of the child.
- 34.7 To reduce or waive the charge of providing a home study report for prospective inter-country adopters.
- 34.8 To exercise the functions of the Council in relation to individual children boarded out under the Children Act 1989 and other Regulations.
- 34.9 To take such actions and decisions as are necessary to discharge the Council's duties to promote the welfare of individual children and young persons in the Council's care including (but not limited to):
  - a. giving consent for medical, dental and other treatment, for the issue of passports; and for such other purposes as may be required from time to time;
  - b. appointing persons to review cases where children are kept in secure accommodation;
  - c. appointing an independent person to be a visitor to a particular child in the circumstances set out in paragraph 17 of Schedule 2 to the Children Act 1989 in accordance with the Definition of Independent Visitors (Children) Regulations 1991.
- 34.10 To have discretion to reduce or waive any charge in any particular case of exceptional hardship.
- 34.11 To administer boarding policies and fees.
- 34.12 To appoint such professional and technical support staff for the supply of children's activities as are deemed to be acceptable under the Children Act 1989 and to sign and issue written instruments of appointment.
- 34.13 Any function exercised on behalf of an NHS body relating to children.

## CHILDREN & LEARNING

- 34.14 To make such directions and to take such other steps as necessary or expedient to prevent a breakdown, or continuing breakdown, of discipline or governance at any school or suspend the financial delegation of any school in accordance with the Education Acts.
- 34.15 To exercise all functions under sections 10 to 17 inclusive and 20(9) of the Children Act 2004.
- 34.16 To write off bad debts (up to a limit of £5,000) owed to the Council, linked with, attributed to or associated with the discharge of the Council's Children's Services functions.
- 34.17 To exercise (following consultation with the Executive Director for Corporate Services where affecting the level of Council Tax) all the powers and duties exercisable by the Council under the legislation (which for the avoidance of doubt also includes regulations, orders, etc.)
- |                              |   |
|------------------------------|---|
| Mandatory Awards             | Discretionary Major and Minor Awards    |
| Special Discretionary Awards | Discretionary European Fees Only Awards |
| Study Awards                 | Disabled Students Allowances            |
- reserving only to the Council those functions precluded from delegation by legislation and referring to the relevant Appeals Panel any appeal that cannot be resolved.
- 34.18 To make modifications / amendments to the approved standard conditions of grant aid.
- 34.19 Following consultation with Director of Governance, Legal & HR , to institute any proceedings in any court or tribunal for an order under the Children Act 1989 and other associated children's legislation where it is considered appropriate to do so, and to appear on behalf of the Council in any court proceedings:
- 34.20 To pay allowances in respect of children being looked after by the Council in accordance with the scheme approved by the Council for the time being.
- 34.21 To give consents on behalf of the Council where necessary in the interests of children and young persons of whom the Council is in loco parentis.
- 34.22 To approve levels of and variations in fees where the Council has accepted responsibility for children, young persons, or adults attending establishments not maintained or assisted by the Council and alterations in charges for the maintenance of such residents.
- 34.23 To take such actions and decisions as may be required on behalf of the Council acting as an adoption agency.
- 34.24 To approve the reimbursement of or a contribution towards the legal expenses of prospective adopters reasonably incurred during the course of applications to adopt children in the care of the Council, where considered that the prospective adopter's application is in the best interests of the child.
- 34.25 To reduce or waive the charge of providing a home study report for prospective inter-country adopters.
- 34.26 To exercise the functions of the Council in relation to individual children boarded out under the Children Act 1989 and other Regulations.

## CHILDREN & LEARNING

- 34.27 To take such actions and decisions as are necessary to discharge the Council's duties to promote the welfare of individual children and young persons in the Council's care including (but not limited to):
- a. giving consent for medical, dental and other treatment, for the issue of passports; and for such other purposes as may be required from time to time;
  - b. appointing persons to review cases where children are kept in secure accommodation;
  - c. appointing an independent person to be a visitor to a particular child in the circumstances set out in paragraph 17 of Schedule 2 to the Children Act 1989 in accordance with the Definition of Independent Visitors (Children) Regulations 1991.
- 34.28 To have discretion to reduce or waive any charge in any particular case of exceptional hardship.
- 34.29 To administer boarding policies and fees.
- 34.30 To appoint such professional and technical support staff for the supply of children's activities as are deemed to be acceptable under the Children Act 1989 and to sign and issue written instruments of appointment.
- 34.31 Any function exercised on behalf of an NHS body relating to children.
- 34.32 To make such directions and to take such other steps as necessary or expedient to prevent a breakdown, or continuing breakdown, of discipline or governance at any school or suspend the financial delegation of any school in accordance with the Education Acts.
- 34.33 To exercise all functions under sections 10 to 17 inclusive and 20(9) of the Children Act 2004.
- 34.34 To write off bad debts (up to a limit of £5,000) owed to the Council, linked with, attributed to or associated with the discharge of the Council's Children's Services functions.
- 34.35 To exercise (following consultation with the Executive Director for Corporate Services where affecting the level of Council Tax) all the powers and duties exercisable by the Council under the legislation (which for the avoidance of doubt also includes regulations, orders, etc.)
- |                              |   |
|------------------------------|---|
| Mandatory Awards             | Discretionary Major and Minor Awards    |
| Special Discretionary Awards | Discretionary European Fees Only Awards |
| Study Awards                 | Disabled Students Allowances            |
- reserving only to the Council those functions precluded from delegation by legislation and referring to the relevant Appeals Panel any appeal that cannot be resolved.
- 34.36 To make modifications / amendments to the approved standard conditions of grant aid.

**35. HEAD OF EDUCATION**

- 35.1 Following consultation with the Local Education Authority Governors' Appointment Panel, to nominate LA governors.
- 35.2 To approve nominations of LA representatives to serve on College Governing Bodies.
- 35.3 Following consultation with the appropriate Governing Body, to short-list candidates for interview for appointment as head teacher.
- 35.4 To approve individual exceptions to the general principle of including the names and addresses of all governors in written information for parents.
- 35.5 To administer within budgetary provision any scheme of aid to pupils with outstanding ability in sport.
- 35.6 Following consultation with the relevant Cabinet Member, the Director for Governance, Legal & HR and the Executive Director for Corporate Services to amend the terms of reference and membership set for the Schools' Forum and Admissions Forum so far as may be necessary to give effect to any new Act, Regulation or Code of Practice.
- 35.7 To issue penalty notices for non-attendance at all Southampton schools in accordance with the Education (Penalty Notices) (England) Regulations 2004 as amended.
- 35.8 To provide financial assistance to community organisations hiring education facilities in the City in order to encourage dual use.
- 35.9 To determine all matters, decisions and appeals relating to school transport and following a consultation with a three person panel comprising senior officers.
- 35.10 Following consultation with the Executive Director for Corporate Services, to approve all staffing and insurance arrangements for the visits of Youth Bands Orchestras and Choirs.
- 35.11 In exceptional cases, to make available awards to pupils with musical talent who do not attend Southampton schools.
- 35.12 To approve, for music or performing arts courses, any college a Discretionary Award applicant wishes to attend.
- 35.13 To make suitable adjustments annually to the maximum grant available for uniform / dress allowances to pupils of secondary school age to take account of inflation.
- 35.14 Where a family is in receipt of relevant benefits to pay for all initial replacement clothing and incidental expenses while the child is at a boarding school, as long as the family's financial circumstances make them eligible.
- 35.15 To make the maximum clothing grant available to children at boarding schools with expensive clothing lists where families have a very low income, although not qualifying for relevant benefits.
- 35.16 To refer disputes with the governing bodies of schools to the Secretary of State under Section 495 of the Education Act 1996 and to apply to the Secretary of State for him to use his powers to prevent the unreasonable exercise of functions under Section 496 and to use his powers under Section 497 (General Default Powers) and 498 (Appointment of Governors) of the 1996 Act.
- 35.17 To permit playgroups to use any surplus school furniture or equipment as appropriate.
- 35.18 To review and amend the scale of grants for extra-curricular activities to pupils at non-maintained schools as necessary.

## CHILDREN & LEARNING

- 35.19 To approve educational arrangements with regard to swimming.
- 35.20 Following consultation with the relevant Cabinet Member, schools and governing bodies, to determine school term and holiday dates for future academic years
- 35.21 To appoint supervisors on buses where this is considered to be necessary to ensure the safety of children who are legally entitled to be transported to and from school.
- 35.22 To determine when supervision is necessary in motorcars and to arrange accordingly for pupils attending day schools.
- 35.23 To arrange with parents or private motorists for the transport of children who qualify for transport to ordinary or special schools and to pay mileage rates as set out in the Council's Home to School Transport Policy.
- 35.24 To arrange transport where this is justified by exceptional family circumstances or on medical grounds.
- 35.25 To accept a route other than the shortest available in cases where the shortest route could constitute a temporary danger to a pupil.
- 35.26 To vary the charge for privilege transport from time to time.
- 35.27 To approve additional payments in exceptional cases in respect of travel expenses incurred by pupils with special educational needs attending boarding schools.
- 35.28 To approve the payment of travelling expenses to parents of disabled children at residential special schools in cases of hardship where the frequency of visits per term for essential social reasons is in excess of the number of normally permitted visits.
- 35.29 To act in all cases relating to the placement of, or the provision of equipment for disabled children, with professional advice as to the appropriate form of action to be taken.
- 35.30 Following consultation with the relevant Cabinet Member to remove providers of nursery education who are failing to meet the national Code of Practice, or local conditions of funding, from the Directory of Registered Providers and where conditions of funding have been breached and cannot otherwise be remedied to the satisfaction of the Council, to seek the recovery of all or part of any nursery education grant paid to them.
- 35.31 Following consultation with the relevant Cabinet Member and Director of Governance, Legal & HR, to develop and agree an appropriate process for any decisions to remove nursery education providers from the Directory of Registered Providers with the Southampton Early Years Development and Childcare Partnership, including a right to appeal the decision to an Appeals Panel comprising the Chair of the Early Years and Development Childcare Partnership, the Early Years and Development Childcare Manager and an independent representative for providers (or their respective nominees). All appeals will be conducted in accordance with the agreed procedure.
- 35.32 To oversee arrangements for early years settings on the Directory of Registered Providers in respect of eligible pre-school children receiving their entitlement to early years education and for the annual review of the funding rate that will apply to each provider under the authority's early years funding formula.
- 35.33 To approve the data and inflation rates used in calculating school budget shares including numbers of special unit places.



## CHILDREN & LEARNING

- 35.34 To approve a catchment area, within the limits imposed by the Secretary of State from time to time, for each school on the Council's approved list, for travelling expenses to be paid within that area or adjacent to it in the light of school organisation changes.
- 35.35 Following consultation with the appropriate Governing Body, to raise or lower the admission limit for a school on a temporary basis.
- 35.36 To agree, following consultation with the Director of Governance, Legal & HR, the wording, form and content of any Statutory Notice for School Organisational Changes and the arrangements for their publication.
- 35.37 Following consultation with the Director of Governance, Legal & HR, to issue regulations relating to safety matters in educational establishments as the need arises and to secure appropriate monthly arrangements for the review of such safety matters.
- 35.38 To decline requests for the provision of school meals in school holidays.
- 35.39 To approve the granting of a free meal at a further education establishment to certain students enrolled on courses for the unemployed sponsored by the Council, in accordance with the current eligibility for free school meals.
- 35.40 Following consultation with the Executive Director for Corporate Services, to determine (raise or lower) charges for all types of school meals in accordance with the general policy of the Council on the School Meals Service.
- 35.41 To represent the interests of the Council through attendance at the Sub Regional Group on post 16 commissioning and to take all decisions required pursuant to membership on the group in relation to the exercise of statutory duties for the commissioning of learning and skills for children and young people.
- 35.42 To exercise all powers and duties granted or imposed under the Apprenticeship, Skills, Children and Learning Act 2009 and to do anything necessary to commission services as provided for in accordance with the Council's 16-19 obligations.
- 35.43 To formally sign off regeneration Delivery Plans and Funding Agreements with the appropriate Funding Agencies for all externally funded projects and programmes relating to equalities, cohesion, community safety and community involvement following consultation with the Executive Director for Corporate Services.
- 35.44 After consultation with the Executive Director for Corporate Services, to approve, cancel or amend funding agreements for learning providers in relation to post-16 learning.
- 35.45 To pay travelling allowances to eligible students at Further Education establishments on the basis of public transport season ticket costs.
- 35.46 To pay travelling allowances to students qualifying for transport who provide their own vehicles to travel to schools/colleges according to a scale to be determined and varied as required following consultation with the Executive Director for Corporate Services.
- 35.47 To implement in respect of further education students, where appropriate, any changes in transport regulations made which affect pupils aged 16-19 attending secondary schools and colleges.
- 35.48 To work with Post-16 learning providers to ensure that transport is not a barrier to participation in learning, and to implement activities and provide financial support where appropriate.

**36. HEAD OF SEND**

Currently no delegations.

**37. HEAD OF QUALITY ASSURANCE**

Currently no delegations.

### **38. DIRECTOR OF STRATEGY & PERFORMANCE**

- 38.1 To make amendments to the Council's equality policies in order to address evolving legal and performance requirements.
- 38.2 To lead on all policies relating to equalities, social cohesion and community engagement.
- 38.3 To be responsible for the completion and updating of the Policy Framework Plans following consultation with the Director of Governance, Legal & HR, and implementing the Council's Performance Management Framework.
- 38.4 To make minor and technical amendments to any Level 1 and Level 2 strategies, following consultation with the relevant Cabinet Member and Chief Executive, provided the amendments only make updates to data or actions based on latest evidence and performance and only following consultation with the Director for Governance, Legal & HR where such changes require amendment to the Council's Constitution.

**39. HEAD OF DATA, INTELLIGENCE & INSIGHT**

- 39.1 To design, develop, launch and / or commission research and customer insight activities.
- 39.2 To design, develop, launch and / or commission public consultation activities with approval of relevant chief officer and cabinet member.
- 39.3 The provision and sharing of data for research initiatives.
- 39.4 To approve changes, updated content and enhancements to the Southampton Data Observatory website and its associated technology and standards and similar initiatives.
- 39.5 To develop, update and publish the Joint Strategic Needs Assessment, Community Safety Strategic Needs Assessment, Pharmaceutical Needs Assessment and any other statutory needs assessment to inform future planning and commissioning of services and the reduction of inequalities, in agreement with the Director of Public Health and / or responsible Statutory Partnership Board.
- 39.6 Decisions relating to the collection, organisation, storage and analytical use of Council held data and the implementation of new technologies to support evidence-based decision making within the Council, adhering to all relevant policies and strategies, in consultation with the Head of IT and Data Protection Officer where necessary.
- 39.7 Decisions relating to the collection, preparation and completion of statutory data returns for the Council, in agreement with the responsible Director or Head of Service.

## STRATEGY & PERFORMANCE

### **40. HEAD OF COMMUNICATIONS**

- 40.1 To commission third parties to deliver media relations, social media, email and digital marketing and public engagement, to protect and enhance the Council's reputation and services, and in emergency warn and inform.
- 40.2 .In cases of urgency, and/or when an appropriate Member or officer is not available, to act as a spokesperson for the Council.
- 40.3 To commission suppliers to install and manage outdoor advertising assets subject to relevant planning and legal approvals.

**41. HEAD OF PROJECT AND CHANGE**

Currently no delegations.

## **Recording Officer Decisions**

### **DECISION MAKING AND DELEGATION**

#### **1. Background**

- 1.1 This document sets out the legal framework to decision making and establishes a system to document decisions taken under delegated authority.

#### **2. Types of Decisions**

- 2.1 The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions will need to exercise judgement in determining whether decisions are significant enough to require placing in the Forward Plan if they are Executive functions and/or formally recording. To assist in this process, decisions relating to Executive functions are defined as Key or Administrative. Key Decisions must be formally recorded in accordance with paragraph 7. Administrative Decisions although not required to be formally reported to the Proper Officer, must be recorded so as to provide an audit trail as referred to in paragraph 7.
- 2.2 In relation to non-Executive functions, officers should adopt a similar approach to formal recording to ensure transparency of decision-making. Whilst Scrutiny Panels cannot consider decisions of Regulatory Panels, such officer decisions can be challenged externally through the courts. A delegated decision form to record Council functions is referred to in paragraph 5.2.
- 2.3 A Key Decision is as defined in Article 12.

#### **3. The Process**

- 3.1 Before taking any decision, the authorised officer must take into account the principles of decision making set out in the Constitution
- 3.2 All proposed Key Decisions must be in the Council's Forward Plan which sets out matters to be considered by the authority over the following four months and is updated on a monthly basis. Officers proposing to make a Key Decision and needing to place an item on the Council's Forward Plan should complete the Forward Plan template and supply this to the Democratic Services Officer. This is available on the Council's intranet site. Key decisions must be published on the Forward Plan at least 28 clear days before the proposed decision date.
- 3.3 If it is impracticable to include the matter in the Forward Plan, then the officer must comply with the legal requirements relating to exceptional and urgent Executive decisions. These are laid out in full in the Access to Information Procedure Rules, Part 4 of the Council's Constitution. Officers will find the explanation of the constitutional and legal position set out in the Corporate Standards on Decision-Making.
- 3.4 If an officer is unable to give five clear days notice of a Key Decision that was not in the Forward Plan, s/he can take the decision only if the chair of the relevant Scrutiny Panel agreed that the decision is urgent and cannot reasonably be deferred. The full procedure is again set out in the Access to Information Procedure Rules and again laid out in the Corporate Standards on Decision-Making.



#### **4. Call-in**

- 4.1 Relevant decisions made by officers are subject to call-in by the relevant Scrutiny Panel and cannot be implemented until either the call-in period has expired or the Scrutiny Panel has made a decision regarding the call-in. The call-in procedure is set out in the Overview and Scrutiny Procedure Rules within the Constitution.

#### **5. Recording the Decision**

- 5.1 Officer Key Decisions are recorded in the same manner as Cabinet / Cabinet Member Key Decisions. The nominated Democratic Services Officer will produce a Decision Record in the same format as those relating to Cabinet decisions following the officer decision taking as advertised on the Forward Plan.
- 5.2 The Democratic Services Officer will maintain a record of all decisions referred to in paragraphs 5.1, including any report upon which each decision was made and subject to any requirement for confidentiality, will ensure that this decision is recorded by the Council. S/he will also ensure that the record of decisions is available for public inspection during all normal office hours and that the public has the right to copy or to be provided with a copy of any part of that record upon payment of a reasonable copying and administrative charge.

#### **6. Authorisation of Officers to exercise Delegated Powers**

- 6.1 The Officer Scheme of Delegation includes the power for officers to authorise other officers to exercise delegations that have been delegated to them under the Scheme. This must be to another officer or officers of suitable experience and seniority. Each Executive Director, Service Director and Head of Service will prepare a Scheme of Authorisation within 28 days of the Council's AGM when the Scheme of Delegation is approved, and revise it as appropriate during the year. It shall set out how decisions will be made in his/her area. This should establish which officers will be given authority to make decisions under the Chief Officer's delegated powers, and subject to which terms and conditions. The Scheme of Authorisation will be lodged with the Director of Legal & Business Services.
- 6.2 Whilst Executive Directors, **Service** Directors and Heads of Service may authorise other officers to take delegated decisions, the decision is still their responsibility, who will be accountable for the decision to authorise and the exercise of that authorisation.

#### **7. Referral**

- 7.1 Whilst this Scheme is designed to encourage officers to take responsibility for decisions, an officer may decide that a particular issue is such that it should be referred to the body from whom authority was delegated. Such a referral must take place where the proposed decision relating to Executive function is in conflict with the Council's Budget and Policy Framework.
- 7.2 The Executive may also direct an officer's delegated authority should not be exercised and that the matter should be referred to the Executive.
- 7.3 In relation to the exercise of non-Executive functions, the officer may decide to refer a particular issue to the Committee or sub-committee from whom it was delegated, or if none, arrange for an appropriate recommendation to be made to Full Council.

## 8. Giving Reasons

- 8.1 A matter of increasing significance in local authority decision-making is when reasons have to be given. Generally, giving reasons is an accepted 'best practice' principle of good administration. Case law suggests that the practice may be important in ensuring that controversial decisions are rooted in relevant considerations and with proper regard to available legal powers.

## 9. Accountability

- 9.1 Officers are accountable to the Council for any decision they make, and with the exception of decisions relating to non-Executive functions, may be required to report to, and answer questions from a Scrutiny Panel in respect of any Decision. Scrutiny Panel may also call in Key and Major Decisions before they are implemented and may recommend a course of action when the matter is to be reconsidered by the officer.

## 10. Consultation with Members

### 10.1 General Provisions

- a. Decisions made by officers under delegated powers fall into two principal categories, namely:
  - decisions delegated to officers in or following consultation with Cabinet Member (which may or may not be Key Decisions); and
  - other decisions delegated to officer (which are not required to be taken in or following consultation with Cabinet Members) and which may or may not be Key Decisions.
- b. Officers to whom decisions have been delegated have a duty to ensure that effective consultation takes place in accordance with the Constitution / the terms of the delegation.
- c. Every effort will be made to ensure that Members have a realistic time scale to respond to consultation and, where appropriate and reasonably practicable, this time scale will be sufficient to enable Members to consult with their constituents. Members will be informed of any time restrictions which may apply relating to the process of consultation, particularly where urgent action is needed in the Council's and/or the public interest.

### 10.2 Decisions by Officers following consultation with Cabinet Members

Officers to whom decision-making powers have been delegated, subject to consultation with Cabinet Members, will ensure that such consultation takes place.

### 10.3 Other Decisions delegated to officers

- a. Officers acting within the remit of their delegated powers will ensure that they identify, at an early stage, issues upon which Members should be consulted; and
- b. Officers will ensure that appropriate and timely consultation takes place and always with the Chief Financial Officer and the Director of Governance, Legal and HR (or their nominee).

### 10.4 Consultation with Cabinet Members

Officers will ensure that appropriate consultation is undertaken with Cabinet Members on issues relating to their Portfolios.

## **SCHEME FOR HANDLING PETITIONS**

### **1. Petitions**

The Council welcomes petitions and recognises that they are a way in which the people can let the Council know their concerns. All petitions must be submitted in accordance with this guidance and can be in electronic form created from the Council's website or on paper and sent to Democratic Services, Civic Centre, Civic Centre Road, Southampton SO14 7LY.

### **2. Content**

#### **2.1 Petitions submitted to the Council must:-**

- include a clear and concise statement covering the subject of the petition stating what action the petitioners wish the Council to take;
- should be accompanied by the name, address, and contact details of the petition organiser; and
- contain a minimum of 50 signatures of persons who live, work or study in the City and who support the petition.

### **3. Petition Organiser**

The Petition Organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the Petition Organiser will not be placed on the website. If the petition does not identify a Petition Organiser, the Council will contact signatories to the petition to agree who should act as the Petition Organiser.

### **4. Restrictions**

#### **4.1 A petition may be rejected should the Head ~~of Business Operations~~ of Service Support consider that the petition:-**

- contains intemperate, inflammatory, abusive or provocative language;
- is defamatory, frivolous, vexatious, discriminatory or otherwise offensive, or contains false statements;
- is too similar to another petition submitted within the last six months;
- discloses confidential or exempt information, including information protected by a court order or government department;
- discloses material which is otherwise commercially sensitive;
- contains names of individual citizens as the target of the petition, or provides information where they may be easily identified, e.g. officers or public bodies;
- contains advertising statements;
- refers to an issue which is currently the subject of a formal Council complaint, Local Government Ombudsman complaint or any legal proceedings;
- relates to the Council's Planning or Licensing functions as there are separate statutory processes in place for dealing with these matters;
- does not relate to an issue upon which the Council has powers or duties or on which it has shared delivery responsibilities; or
- has already been the subject of debate by Full Council within the last six months.

4.2 During politically sensitive periods, such as prior to an election or referendum, politically controversial material may need to be restricted.

4.3 If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, the Council will write to you to explain the reasons.

## 5. **On Receipt of a Petition**

5.1 An acknowledgement will be sent to the Petition Organiser within three working days of receiving the petition. It will let them know what the Council plans to do with the petition and when they can expect to hear from the Council again. It will also be published on the website.

5.2 If the Council can do what your petition asks for, the acknowledgement may confirm that the Council has taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate (over 1,500 signatures), or 750 signatures requiring referral to Overview & Scrutiny Management Committee, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, the Council will tell you the steps it plans to take. If more than one petition is received on the same subject matter within a 7 day period, if appropriate, they will be amalgamated which may trigger a Council debate as above.

5.3 If the petition relates to action currently being progressed by the Council and the petition triggers with a debate at Full Council or Overview & Scrutiny Management Committee, then the action will be suspended pending the debate, save in relation to statutory, contractual or other legal situations, where suspension would prejudice the Council's position.

5.4 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council Tax Banding and non-domestic rates, other procedures apply. These will take precedence.

5.5 The Council will not take action on any petition which it considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in its acknowledgement of the petition.

5.6 To ensure that people know what the Council is doing in response to the petitions received, the details of all the petitions submitted will be published on the website, except in cases where this would be inappropriate. Whenever possible the Council will also publish all correspondence relating to the petition (all personal details, except the name, will be removed).

## 6. **Council's Response to Petitions**

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

- taking the action requested in the petition
- considering the petition at a Council meeting
- holding an inquiry into the matter
- undertaking research into the matter

- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Council's Overview and Scrutiny Committee\*
- calling a referendum
- writing to the petition organiser setting out the Council's views about the request in the petition

\*Overview and Scrutiny Committees are committees of Councillors who are responsible for scrutinising the work of the Council - in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision makers to account.

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

6.3 If your petition is about something that a different Council is responsible for, the Council will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event the Council will always notify you of the action it has taken.

## 7. **Full Council debates**

7.1 If a petition contains more than 1,500 signatures, where time permits it will be debated by the full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Petition Organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors in accordance with Council Procedure Rules as contained. Where time does not permit a debate at Full Council, the matter will be referred to the appropriate decision-maker or relevant committee. If the petition is a matter relating specifically to the February budget resolution and cannot be deferred, the Mayor will use their discretion as to how the matter will be handled.

7.2 The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The Petition Organiser will receive written confirmation of this decision. This confirmation will also be published on the City Council's website.

## 8. **Non-Qualifying Petitions (fewer than 1,500 signatures)**

8.1 Should the petition contain at least 750 signatures, the relevant Cabinet Member or Executive Director will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. The petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior Council officer to

explain progress on an issue, or to explain the advice given to Councillors to enable them to make a particular decision.

- 8.2 Petitioners should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition - for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting Democratic Services up to three working days before the meeting.
- 8.3 A petition with a minimum of 50 signatures will be treated as one to which a response in accordance with the Scheme is to be made. Petitions with fewer signatories may still be submitted, but the Council will have greater flexibility in responding to the issues these petitions raise.

## 9. **E-petitions**

- 9.1 The Council welcomes e-petitions which are created and submitted through the [website](#). E-petitions must follow the same guidelines as paper petitions. The Petition Organiser will need to provide the Council with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for three months, but you can choose a shorter or longer timeframe, up to a maximum of six months.
- 9.2 Individuals signing an e-petition will receive by email a link to that part of the City Councils' website where the response to the petition will be displayed. The Council regrets that it cannot respond by post or other means other than posting information on the website to all the signatories of paper petitions other than the promoters and organisers.
- 9.3 Should the Council feel that it cannot publish a petition for some reason the Petition Organiser will be contacted with an explanation and given the opportunity to amend and resubmit the petition. If the Petition Organiser does not resubmit within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.