

Constitution

Final draft

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Part One

Summary

The Council's Constitution

The Constitution of Horsham District Council sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are made efficiently, transparently and with accountability to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The first part of the Constitution is divided into 14 Articles which set out the rules governing the Council's business. Detailed procedures and protocols then form parts two to five.

What is in the Constitution?

Article 1 of the Constitution explains the purpose of the Constitution and commits the Council to exercise all its powers and duties in accordance with the law and this Constitution.

Articles 2–14 explain how the key parts of the Council operate. These are:

- Members of the Council (Article 2);
- Members of the public and the Council (Article 3);
- The meeting of Full Council (Article 4);
- Chairing the Council (Article 5);
- Overview and Scrutiny of decisions (Article 6);
- The Cabinet (Article 7);
- Regulatory and other committees (Article 8);
- Joint arrangements (Article 9);
- Statutory Officers (Article 10);
- Decision making (Article 11);
- Finance, contracts and legal matters (Article 12);
- Review and revision of the Constitution (Article 13);
- Suspension, interpretation and publication of the Constitution (Article 14).

How the Council operates

The Council is composed of 44 Councillors elected every four years. Councillors are democratically accountable to the residents of their ward. The overriding duty of Councillors is to the whole community but they have a special duty to the people in their ward, including those who did not vote for them.

All Councillors meet together as the Full Council. Meetings of the Full Council are open to the public. In those meetings they decide the Council's policy framework and set the budget each year. The Council is also responsible for appointing the Leader of the Council who then appoints a Cabinet where some Councillors, known as Cabinet Members, have responsibilities for a specific area of the Council's activities (a Cabinet portfolio). The Council's chosen form of governance is the Leader and Cabinet model.

Full Council also appoints committees, some of which are responsible for overseeing and reviewing the decisions of the Cabinet, while others discharge regulatory responsibilities or other functions which by law may not be discharged by the Cabinet, for example planning and licensing.

How decisions are made

The Cabinet is made up of the Leader and up to nine other Councillors (Cabinet members). The Leader has overall responsibility for Cabinet functions. The Leader may delegate such functions to the Cabinet as a whole, and to others within the limits set out by legislation. When key decisions (see Article 11.5) are to be discussed or made, these are published in the Forward Plan in so far as they can be anticipated. These key decisions are made at meetings of the Cabinet, which are open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the overall budget and policy framework set by full Council. If the Cabinet wishes to make a decision which is outside the budget or policy framework, the decision must be referred to the Full Council to decide.

Overview and Scrutiny

The Council has an Overview and Scrutiny Committee which may review and scrutinise the decisions of the Cabinet. It may make reports and recommendations to the Cabinet and to the Council as a whole on policies, budget and service delivery. It may involve non-councillors from the wider public sector, voluntary and community groups to help in its work. It can create Sub-Committees.

It monitors decisions of the Cabinet and can "call-in" a decision of the Cabinet which has been made but not yet implemented. It may recommend that the Cabinet reconsiders a decision. It may also be consulted by the Cabinet or the Council on forthcoming decisions or the development of policy.

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.

Part Two

The Articles

Article 1

The purposes of the constitution

1. Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution. Where there is a conflict between the Constitution and the law then the law prevails.

1.2 Purposes of the Constitution

The purposes of the Constitution are to:

- a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- b) support the active involvement of people in the process of decision-making;
- c) help Councillors represent people effectively;
- d) enable decisions to be taken efficiently and effectively;
- e) create a powerful and effective means of holding decision-makers to public account;
- f) ensure that no one will review or scrutinise a decision in which they have been directly involved;
- g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- h) provide a means of improving the delivery of services to the community;
- i) ensure the orderly conduct of District Council business.

1.3 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 this Constitution.

Throughout this Constitution use of words of gender (e.g. "he") include all other genders (e.g. "she"). Expressions in the singular shall include, where appropriate, the plural and vice versa.

Article 2

Members of the Council

2.1 Composition

The Council shall comprise 44 Members, otherwise called Councillors. One or more Councillors shall be elected by the voters of each ward.

2.2 Eligibility

There are regulations set out in the Local Government Act 1972 and the Local Government and Housing Act 1989 qualifying eligibility for people to stand for election as a Councillor.

2.3 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2015. The terms of office of Councillors shall start on the fourth day after being elected and shall finish on the fourth day after the date of the next regular election.

2.4 Roles and functions of all Councillors

All Councillors will:

- a) collectively be the ultimate policy-makers and carry out the functions set out in this constitution;
- b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- c) effectively represent the interest of their ward and of individual constituents;
- d) respond to enquiries and representations, fairly and impartially;
- e) participate in the governance of the Council;
- f) be available to represent the Council on other bodies; and
- g) maintain the highest standards of conduct and ethics.

2.5 Rights and Duties

2.5.1 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.

2.5.2 Before making public any confidential or exempt information without the consent of the Council or divulging information given in confidence to anyone other than a Councillor or officer entitled to know it, Councillors should consider the situation carefully and, if appropriate, seek guidance from the Monitoring Officer.

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

2.6 Conduct

Councillors will at all times observe the Members’ Code of Conduct set out in Part 5A of this Constitution.

2.7 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

Members of the public and the Council

Members of the public have certain rights and responsibilities in their dealings with the council. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints.

3.1 Voting and petitions

Members of the public on the electoral register in the Horsham district have the right to:

- a) Vote;
- b) Sign a petition to request a referendum for a different form of governance in accordance with the timetable as prescribed under legislation, and to vote in any local referendum in respect of an increase in the local authority's precept;
- c) Sign any other petition they wish to support.

3.2 Information

Members of the public have the right to:

- a) 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;
- b) attend meetings of the Cabinet except where confidential or exempt information is likely to be disclosed and that part of the meeting is therefore held in private;
- c) find out from the Forward Plan what key decisions will be taken by the Cabinet and when;
- d) see agendas, reports and background papers, and any records of decisions made by the Council, the Cabinet and Committees, except where confidential or exempt information is likely to be disclosed; and
- e) inspect the Council's accounts and make their views known to the external auditor.
- f) ask questions at Council meetings on matters relevant to the business of the meeting. Questions received by the Proper Officer that are not matters relevant to the agenda shall not be asked at the meeting of council but shall be responded to by the relevant cabinet member within 10 working days of receipt

3.3 Complaints

Members of the public have the right to complain to:

- a) the Council itself under its Complaints Scheme;
- b) the Ombudsman; (subject to having first made a complaint directly to the Council); or
- c) the Standards Committee about a breach of the Councillors' Code of Conduct.

3.4 Responsibilities of Members of the Public

Members of the public must not harass, be violent, abusive or threatening to Councillors or officers and must not damage anything owned by the Council, Councillors or officers.

Article 4

Full Council

4.1 The Council

The Full Council is a formal meeting which all 44 members are entitled to attend and to speak and vote. It provides a central forum for debate and gives the opportunity for Councillors and members of the public (subject to 3.2 above) to ask questions about the Council or matters affecting the Council.

Such a meeting is limited by law to take specific decisions. It is responsible for determination of the Council's Budget (specified at 4.3 below) and Policy Framework (specified at 4.2 below) and regulatory functions that are not the responsibility of the Cabinet. It will carry out some of its functions directly but others will be delegated to Committees or named officers through the officer scheme of delegation provided in part three of this constitution.

4.2 Policy Framework

The Policy Framework means the following three categories of plans and strategies:

Those required by law to be adopted by the Council, namely:

- a) Plans and strategies which together comprise the Development Plan;
- b) Crime and Disorder Reduction Strategy;
- c) Council's Corporate Plan;
- d) Statement of Licensing Policy.

Those which the Council has chosen to adopt as part of the Policy Framework, namely:

- e) The Council's Housing Strategy;
- f) Any plan or strategy required by law to be sent to a Minister of the Crown for approval.

4.3 Budget

Responsibility for the Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, determining the Council tax base, setting the Council tax level, decisions relating to the control of the Council's borrowing requirements, investments, the control of its capital expenditure and the setting of expenditure limits and the setting of limits on the transfer of funds from one part of a budget to another.

4.4 Functions of the full Council

Only the full Council will exercise the following functions:

- a) adopting the Constitution;
- b) changing the Constitution, other than mandatory changes required by law or immaterial changes, for example changing a job title

- c) approving or adopting material changes to the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- d) subject to the urgency procedure contained in the Access to Information Procedure Rules (as in Part 4 of this Constitution), making decisions about any matter where the Cabinet is proposing to make a decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- e) appointing and removing the Leader;
- f) determining which Committees and Policy Development Advisory Groups shall be established as standing committees, the terms of reference of each body, the number of members (voting and non-voting) that each consists of and making the necessary appointments to the bodies;
- g) appointing representatives to joint authorities, joint committees and other outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- h) adopting a scheme for members' allowances;
- i) changing the name of the Council's area;
- j) conferring the title of Honorary Alderman or Freeman of the District;
- k) confirming the appointment of the Head of Paid Service; Chief Finance Officer and designating the Monitoring Officer and the taking of any disciplinary action against these Officers and the designating of "Proper Officers";
- l) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- m) adopting a Code of Conduct for Members (Councillors);
- n) the making of Procedure Rules (except the Cabinet Procedure Rules) including in relation to Contracts and Finance;
- o) the delegation of non-cabinet functions to Committees and officers, subject to the right to amend the Delegation Scheme from time to time as may be required;
- p) all other matters which, by law, must be reserved to the decision of the Council as a whole;
- q) to consider reports on lawfulness and maladministration;
- r) to consider cabinet decisions referred from the Overview and Scrutiny Committee in respect of cabinet functions where decisions have not yet been implemented and the Committee considers the decisions may be contrary to the Budget or Policy Framework;
- s) to receive reports from the Leader or Cabinet on urgent decisions contrary to the Policy Framework;
- t) to take all decisions in respect of delegating non-cabinet functions to another local authority;
- u) to set the Council Tax base and the Council Tax;
- v) any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of The Local Authorities Functions and Responsibilities (England) Regulations, 2000 as amended;
- w) applications to the Secretary of State under Section 10 of the Representation of the People Act 2000 for an Order to proceed with pilot election arrangements.

4.4 Council Meetings

There are three types of Council meeting:

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

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

4.5 Responsibility for Functions

The Council will keep under review the responsibility for functions provided in Part 3 of this Constitution which sets out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

Article 5

Chairman of the Council

- 5.1** The Chairman and Vice-Chairman of the Council will be elected by the Council annually. The Chairman and in his absence the Vice-Chairman, will have the following responsibilities:
- a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
 - b) to preside over meetings of the Council so that its business is carried out efficiently and with regard to the rights of Councillors and the interests of the community
 - c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community; to promote public involvement in the Council's activities
 - d) to be the conscience of the Council
 - e) to attend or be represented at such civic and ceremonial functions as the Council and the Chairman determines appropriate
 - f) to determine any matter referred to the Chairman under the urgency provisions of the Access to Information Procedure Rules or the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution
 - g) to be consulted on any matter to which consultation with the Chairman of the Council is required under this Constitution; and
 - h) to act as an apolitical guardian of the interests of all the Members of the District Council.

Article 6

Overview and Scrutiny

The Council is required to arrange for the discharge of the Overview and Scrutiny function. The Overview and Scrutiny Committee should contribute to the review and development of policies and also hold the Cabinet to account for its decisions. Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local people. The Overview and Scrutiny Committee should not shy away from the need to challenge and question decisions and shall make constructive criticism.

6.1 The Overview and Scrutiny Committee

The Council has appointed an Overview and Scrutiny Committee which may appoint Sub-Committees which between them will:-

- a) review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council and any of its Committees;
- b) make reports or recommendations to the Cabinet or the Council in connection with the discharge of any functions;
- c) consider any matter which affects the Council's area or its residents; and
- d) exercise the right to 'call in' for reconsideration key and non-key decisions made but not yet implemented by the Cabinet.

6.2 Role and Scope of the Overview and Scrutiny Committee

6.2.1 The role of the Overview and Scrutiny Committee shall be:

- a) To assist in the strategic development of policy
- b) To review issues of local concern
- c) To review the policy of others within and outside the Council
- d) To call-in Cabinet decisions
- e) To scrutinise the Council's decision-making processes
- f) To monitor the internal and external delivery of services
- g) To review specific services
- h) To monitor and scrutinise the activities of outside bodies

6.2.2 The scope of the Overview and Scrutiny Committee shall be:

- a) any function of the Cabinet and
- b) any overview and scrutiny matter prescribed by legislation or regulation

6.3 Overview and Scrutiny Functions

6.3.2 Policy Development and Review

The Overview and Scrutiny Committee and its Sub-Committees may, subject to the procedure rules provided in part 4 of this constitution:

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

- b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- c) question members of the Cabinet and/or Committees and Chief Officers or their deputies from the Council about their views on issues and proposals affecting the area;
- d) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working; and
- e) consider the impact of policies to assess if they have made a difference.

6.3.3 Scrutiny

The Overview and Scrutiny Committee and its Sub-Committees may, subject to the procedure rules provided in part 4 of this constitution:

- a) review and scrutinise the decisions by and performance of the Cabinet and/or Committees and Council Officers in relation to individual decisions and over time;
- b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- c) question the Leader of the Council and members of the Cabinet not less than once in every twelve month period 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 project;
- d) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee or its Sub-Committees and local people about their activities and performance; and
- f) question and gather evidence from any person (with their consent).
- g) set up sub-committees to assist them in their work, the membership of which may include any member of the council (not being a member of the cabinet) and on a non-voting basis any other person who appears to the Overview and Scrutiny Committee to be able to assist them in their work.

6.4 Resources

The Overview and Scrutiny Committee will exercise overall responsibility for any budget allocated to the function.

6.5 Annual Report

The Overview and Scrutiny Committee will report annually to the full Council on the discharge of the overview and scrutiny function, including proposals for its future work programme.

Article 7

The Cabinet

The Cabinet is appointed by the Leader to carry out those Council's functions which are not the responsibility, by law, of any other part of the Council. Most decisions will be made by the Cabinet, rather than the full Council.

7.1 Form and Composition of the Cabinet

The Cabinet will consist of:-

- a) the Leader of the Council (the "Leader"); and
- b) at least two but not more than 9 Councillors appointed to the Cabinet by the Leader.

7.2 The Leader

- a) Election

The Leader will be a councillor elected to that position by Full Council. The Leader will hold office until:

- I. he resigns from the office; or
- II. he is disqualified from being a Councillor; or
- III. where the Council passes a resolution removing him from office.
- IV. subject to (i) to (iii) above, the first annual meeting after the next following ordinary election of Councillors
- V. in the event of any casual vacancy in the position of Leader, the Deputy Leader shall act in the Leader's place until the appointment of a new Leader by the Council.

- b) Role of the Leader

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

7.3 Deputy Leader

- a) Appointment

The Leader will designate one of the members of the Cabinet as Deputy Leader.

- b) Duties of the Deputy Leader

The Deputy Leader may exercise all the functions of the Leader where the Leader position is vacant or where the Leader is absent or is otherwise unable to act.

c) Removal from Office

The Leader may remove the Deputy Leader from office at any time.

7.4 Cabinet Members

Other Cabinet Members will be Councillors appointed by the Leader. Each Cabinet Member shall hold office until:

- a) they resign from that office; or
- b) they are removed from that office by the Leader by notice, a copy of which shall be supplied to the Head of Paid Service; or
- c) they cease to be a Councillor.

The Leader may at any time appoint a Cabinet Member to fill any vacancy.

7.5 Proceedings of the Cabinet

The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Part 4 of this Constitution.

7.6 Delegation of Functions

The Leader may personally exercise executive functions or otherwise make arrangements to delegate responsibility for their discharge as set out below, to:

- a) the Cabinet as a whole;
- b) a Committee of the Cabinet (comprising cabinet members only);
- c) an individual Cabinet Member;
- d) a joint committee;
- e) Another local Council or the executive of another local authority;
- f) A delegated Officer.

Part three of this constitution provides the scheme of delegation of functions.

7.9 Leader of the Opposition

The Council shall receive the nomination of the Leader (if any) of the largest minority group (if any) for the office of Leader of the Opposition. The Leader of the Opposition shall hold office until

- I. he resigns from the office; or
- II. he is disqualified from being a Councillor; or
- III. where the Council passes a resolution removing him from office.
- IV. subject to (i) to (iii) above, the first annual meeting after the next following ordinary election of councillors

7.10 Deputy Cabinet Members

Other Councillors, except for the Chairman or Vice-Chairman of the Council,, may, from time to time, be designated by the Leader as Deputy Cabinet Members. Such Councillors will not be a member of the Cabinet and will not participate in Cabinet decision making,

but may work closely with a Cabinet Member. A Deputy Cabinet Member who is also a Member of the Overview and Scrutiny Committee or Sub-Committees will need to declare an interest where an item of business arises at the Overview and Scrutiny Committee or Sub-Committee and in which they have had involvement in their role as a Deputy Cabinet Member.

A Deputy Cabinet Member may support the Cabinet Member through the delegation of tasks as agreed for his/her area of responsibility, including attending/chairing meetings; speaking/opening events; reading and commenting on papers; meeting officers; agreeing press releases/comments and carrying out interviews; and represent the Council on appropriate groups. A Deputy Cabinet Member will not, however, have any delegated functions, nor decision making powers, and will not be entitled to vote at Cabinet Meetings nor deputise for the Cabinet Member when the Cabinet Member is called to appear at the Overview and Scrutiny Committee or its Sub-Committees.

Article 8

Committees and other bodies

The Council will appoint committees and other bodies to undertake regulatory and other functions that are the responsibility of the Council but which do not have to be carried out by the full Council. Nominations will be made by group leaders in accordance with the Local Government (Committees and Political Groups) Regulations 1990. Subsequent (in-year) changes to membership will be delegated to group leaders in accordance those regulations.

8.1 Standing Committees

The following Standing Committees shall be formed annually to discharge the functions set out in Part three of this constitution. Political balance shall be applied unless a different provision is made by arrangements approved by the authority without any member of the authority voting against them.

- a) Audit Committee (7 Members)
- b) Planning Committee (North) (all ward members for the area of the committee), together with the Cabinet Member with responsibility for Development Management, and the Chairman of the Planning Committee (South)
- c) Planning Committee (South) (all ward members for the area of the committee), together with the Cabinet Member with responsibility for Development Management, and the Chairman of the Planning Committee (North)
- d) Licensing Committee (15 Members)
- e) Standards Committee (7 Members) (to include the Chairman of the Council, one member of the cabinet (but no more than one), two persons independent of the Council co-opted to assist the Committee in an advisory capacity only on standards matters (Independent Persons), two parish councillors co-opted to assist the committee in an advisory capacity only on parish matters (Parish Representatives). Advisory members will not be entitled to vote at meetings
- f) Governance Committee (9 Members) (to include the Chairman of the Council, the Chairman of the Overview and Scrutiny Committee and one member of the Cabinet (but no more than one)).

8.2 Other Committees and Bodies

The Council will appoint such other committees or bodies as it considers appropriate to exercise functions. Any committee appointed by the Council may at any time appoint additional sub-committees. Their terms of reference and delegation of powers to them shall be explicit and within the appointing committee's terms of reference.

The Council, in the case of Standing Committees or the parent committee in the case of sub-committees will, in the case of sub-committees, appoint the members to serve on the committee, sub-committee other body subject to the right of a political group within the meaning of the Local Government and Housing Act 1989 and any regulations made under

that Act to make nominations for those appointments at the meeting that makes the appointments before the appointments are made.

To discharge the functions set out in part three of this constitution *or* in the case of policy development advisory groups, part four, the Council will form:

- a) Employment Committee (the Leader of the Council, the Chairman of the Council and the Leader of the Opposition Group or their named substitute)
- b) The Overview and Scrutiny Committee (15 non-cabinet members and not including the Chairman of the Council) and in accordance with the provision set out in Part 4B.5
- c) One Policy Development Advisory Group per Cabinet Member (11 Members to include the Cabinet Member) (A variance in size (not exceeding 11) will be permitted by notification of group leaders and the subsequent assent of Annual Council)
- d) Henfield Commons Joint Committee (the councillors for the Henfield Ward, one councillor for the Bramber, Upper Beeding and Woodmancote Ward and three parish councillors from Henfield Parish Council).
- e) Census Joint Committee (2 members of the Cabinet)

Article 9

Joint arrangements

There are circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another Council.

9.1 Joint Arrangements

- a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not Cabinet functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- c) The Cabinet may appoint members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is a member for a ward contained within the area. Political balance requirements do not apply to such appointments.

9.2 Access to Information

The Access to Information Procedure Rules apply to joint arrangements. If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information rules will be the same as that applied to the Cabinet. If the Joint Committee contains members who are not on the Cabinet of any participating Council, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

9.3 Delegation to and from other local authorities

The Council can delegate non-cabinet functions to another local authority or, where those functions are the responsibility of the Cabinet of another local authority, to that Cabinet. The Cabinet can delegate executive functions to another local authority or the executive of another local Council as permitted by law. The decision whether or not to accept such a delegation from another local authority is reserved to the full Council.

9.4 Contracting Out

The Council (in respect of non-executive functions) and the Cabinet (in respect of 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.

Article 10

Statutory Officers

10.1 Statutory Officers

The Council will appoint persons for posts required by statute. The Head of Paid Service shall have responsibility to amend the functions and areas of responsibility of the Chief Officers as he considers necessary to deliver the Council's functions, vision and priorities. Such changes will be carried out in accordance with any relevant HR policies. The responsibilities of statutory officers are described in part three of this constitution.

10.2 Head of Paid Service, Chief Finance Officer and Monitoring Officer

The Council will designate the following posts as shown in the departmental structure shown in part X of this constitution:

- a) Head of Paid Service
- b) Chief Finance Officer
- c) Monitoring Officer

10.3 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 in Part 7 of this Constitution.

10.4 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

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

Article 11

Decision making

11.1 Responsibility for Decision Making

The Council will issue and keep up to date a record of which part of the Council or which 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.

11.2 Principles of Decision Making

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

- a) proportionality (i.e. the action must be proportionate to the desired outcome)
- b) due consultation and the taking of professional advice from officers
- c) respect for human rights
- d) a presumption in favour of openness
- e) clarity of aims and desired outcomes
- f) consideration of any alternative options, and,
- g) the giving of reasons for the decision and the proper recording of those reasons.

11.4 Decisions reserved to full Council

Only decisions relating to the functions listed in Article 4, and Part 3 (functions and responsibilities of the full Council) will be made by the full Council and will not be delegated. Subject to Article 4, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

11.5 Key decisions

A “key decision” means a Cabinet decision which is likely:

- a) To involve expenditure or savings of £250,000 or more as well as otherwise being significant having regard to the Council’s budget for the service or function to which the decision relates; or
- b) To be significant in terms of its effects on communities living or working in an area comprising two or more wards in the district.

In accordance with section 38 of the Local Government Act 2000, in determining the meaning of “significant” regard shall be had to any guidance for the time being issued by the Secretary of State.

The Cabinet may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules and the Cabinet Procedure Rules set out in Part 4 of this Constitution. Subject to Article 7, the Cabinet meeting will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

11.6 Considerations of the Overview and Scrutiny Committee

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

11.7 Decision Making by Committees and bodies established by the Council

Subject to Article 8, Council committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

Article 12

Finance, contracts and legal matters

12.1 Financial Management

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

12.2 Contracts

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

12.3 Legal Proceedings

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

The Monitoring Officer may authorise officers to appear in court on the Council's behalf.

12.4 Authentication of Documents

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

Any contract with a value exceeding £50,000 entered into on behalf of the Council shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must be signed by at least two officers of the Council or made under common seal of the Council attested by at least one officer if they exceed £50,000 in value.

In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:

- a) The Head of Paid Service;
- b) The Monitoring Officer;
- c) The Chief Finance Officer
- d) Any Chief Officer of the Council concerned with the matter to which the document relates; or,
- e) Any deputy chief officer authorised in writing by such Chief Officers or by the Monitoring Officer.

12.5 Common Seal of the Council

The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

12.6 Sealing and Execution of Documents

The common seal of the Council shall be affixed to a document only on the authority of:-

- a) a resolution of the Council
- b) a resolution of the Cabinet, a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal
- c) a decision by the Council, or by a Committee, Sub-Committee or officer exercising functions delegated by this constitution, to do anything where a document under the common seal is necessary or desirable as part of the action.

The affixing of the common seal shall be attested by the Head of Paid Service, Chief Finance Officer, Monitoring Officer, or such deputy chief officers duly nominated by them.

12.7 Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Head of Paid Service, Chief Finance Officer, Monitoring Officer, their nominated deputies, or a chief officer of the council. A record will be kept of the sealing of any document.

Article 13

Review and revision of the constitution

13.1 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Chief Finance Officer shall be responsible for keeping under review the Financial Procedure Rules set out in Part 4 of the Constitution. The making of necessary amendments and revisions as are required from time to time shall be recommended to the committee of the council identified in part three of this constitution. That committee shall recommend any amendments to the full council.

13.2 Protocol for Monitoring and Review of the Constitution by Monitoring Officer

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- a) Observe meetings of different parts of the Member and officer structure;
- b) Undertake an audit trail of a sample of decisions;
- c) Record and analyse issues raised with him by Members, officers, the public and other relevant stakeholders; and,
- d) Compare practices in this Council with those in comparable authorities, or national examples of best practice.

13.3 Changes to the Constitution

a) Approval

Subject to b) and c) below, changes to the Constitution will only be approved by the full Council upon the recommendation of the committee that discharges that function.

b) Minor Changes

If, in the reasonable opinion of the Monitoring Officer, a change is:

1. A minor variation; or
2. Required to be made to remove any inconsistency or ambiguity; or
3. Required to be made so as to put into effect any decision of the Council or its committees or the Leader and the Cabinet,
4. Where Part 7, Management Structure needs to be updated, the Monitoring Officer may make the necessary changes upon receipt of notification from the Chief Executive that he/she has made changes to that structure.

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect.

c) Legislative Change

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any

legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next committee meeting for noting.

Article 14

Suspension, interpretation and publication of the Constitution

14.1 Suspension of the Constitution

a) Limit to Suspension

The Articles of this Constitution may not be suspended. The Council Procedure Rules in Part 4 of this Constitution may be suspended by the full Council to the extent permitted within those Rules and the law.

b) Procedure to Suspend

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

14.2 Interpretation

The ruling of the Chairman of the Council (or other person presiding) 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 shall have regard to the purposes of this Constitution contained in Article 1.

14.3 Publication

Upon Members first being elected to the Council:

The Monitoring Officer will make available to each elected councillor a copy of this Constitution.

The Monitoring Officer will ensure that copies of the constitution are available for inspection at Council offices, and on the Council's website.

The Monitoring Officer will ensure that the Constitution is made widely available within the area and is updated as necessary.

Part Three

Responsibility for and delegation of functions

This scheme of delegation provides the necessary authority for those council bodies to discharge the functions as set out in the scheme. The functions in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) shall be discharged by this scheme of delegation.

a) Council functions

Council functions are those functions which, by law, are not to be the responsibility of the Cabinet. In some cases, such as adopting the Council's Budget or the Policy Framework, only the Full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee (formed by Article 8) or to an officer pursuant to this scheme of delegation.

b) Cabinet functions

All other functions are cabinet functions. Decisions on these functions will be taken by the Cabinet as a whole, or the Leader, a specific Cabinet Member, or an Officer. Key Decisions are reserved to the Cabinet meeting together in public, Operational and Administrative decisions shall be made by officers pursuant to this scheme of delegation, and Non-key, non-operational and administrative decisions shall be made by Cabinet Members individually. Non-key decisions are those decisions that are neither Key decisions nor operational and administrative decisions reserved to officers within the finance procedure rules set out in part 4 of this constitution.

c) Officer delegations

All operational and administrative functions that are not specifically reserved in this constitution to Council, the Cabinet, Cabinet Members individually or a Committee are delegated to Officers in accordance with the Officer Scheme of Delegation at section 3.4. Decisions that are operational and administrative are any decisions that are not Key or Non-Key within the financial and contractual procedure rules set out in part 4 of this Constitution.

3.1 Responsibility for Council functions

In addition to any functions set out elsewhere in this Constitution, including but not limited to the Articles of the Council and Council procedure rules, the full Council will:

1. Exercise the Council's functions in relating to parishes and parish councils under Part II of the Local Government & Rating Act 1997
2. Exercise of functions on the following electoral matters:-
 - a. Division of parliamentary constituencies and local government wards or electoral divisions into polling districts

- b. Approval of pilot schemes for local elections
 - c. Making recommendations to the Local Government Boundary Commission in ward boundary reviews, electoral division reviews and parliamentary constituency reviews
3. Appoint the Electoral Registration Officer and Returning Officer for Local Government Elections
 4. Delegate responsibility for other matters relating to elections set out in Part D of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) (Regulations) 2000 to the Returning Officer
 5. Make and amend the Constitution of the Council, Standing Orders, Standing Orders Relating to Contracts and Financial Regulations.
 6. Appoint the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer upon the recommendation of the Employment Committee
 7. Designate the roles of Monitoring Officer and the Section 151 Officer
 8. Delegate the appointment of other chief officers to the Employment Committee
 9. Delegate all other staffing matters, including the appointment of “proper officers” to the Head of Paid Service
 10. Approve the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer following the recommendation of such a dismissal by the Employment Committee of the Council appointed for that purpose.
 11. Determine the scheme of members allowances.
 12. Appoint the Committees and other bodies of the Council set out in Article 8
 13. Set out the functions of the committees of the council in this scheme of delegation.
 14. Agree the Budget, and the policies that form the policy framework described in Article 4.

3.2 Scheme of delegation of responsibilities to Committees of the Council

Article 8 establishes the Committees of the Council, this scheme allocates responsibilities to those Committees.

3.2.1 Audit Committee

- a) Oversee the implementation of the Accounts and Audit Regulations 2003/533 (as amended or replaced)
- b) Review the effectiveness of the Council's system of internal control and to consider quarterly internal audit reports and the main issues arising, seeking assurance that appropriate action has been taken as necessary.
- c) Review the effectiveness of the Council's system of internal audit and to consider the findings of such review
- d) Consider the Council's statement of accounts and to approve the same
- e) Consider the auditor's or Audit Commission's annual letter
- f) Monitor the effectiveness of the Council's financial regulations
- g) Monitor the effectiveness of the Council's risk management arrangements

- h) Approve the Annual Governance Statement, ensuring that this properly reflects the control environment, and to review actions required for improvement
- i) To consider the annual borrowing and lending parameters requested by the Director of Corporate Resources annually and to agree the Council's Treasury Management Strategy
- j) To consider such other matters referred to the Committee by the Chief Finance Officer or the Monitoring Officer.

3.2.2 Functions of the Planning Committees

- a) To discharge those functions falling within The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, regulations 2 and 3 and Schedule 1 Part A paragraphs 5-31, Part I paragraphs 46-47A and Schedule 2 paragraphs 16-18 and as may be amended.
- b) Those matters referred to in an agreement between South Downs National Park and Horsham District Council, having effect from 1 April 2011, shall be discharged by the Planning South Committee only.
- c) Determination of applications as follows:
 - i. applications made by or on behalf of, the Council
 - ii. where the application has been made by a Member or an officer or a member of their immediate family
 - iii. where a member of the relevant Planning Committee requests; such request to be in writing (to include e-mail) and received by the Development Manager within 35 days of the date of validation of the application
 - iv. where eight or more persons in different households or bodies make a written representation (to include email), which discloses a material planning consideration within the consultation period and is inconsistent with the Development Manager's recommendation;
 - v. any application that is defined as a departure application under the Town & Country Planning (Development Management Procedure)(England) Order 2015, where the recommendation of the Development Manager would represent a departure to the development plan
 - vi. where the Parish or Neighbourhood Council makes a written representation (to include email) which discloses a material planning consideration and is inconsistent with the Development Manager's recommendation, within the consultation period, and wishes to address the Planning Committee
 - vii. Where the Development Manager considers the application should be presented to the Development Management Committee for a decision

3.2.3 Functions of the Employment Committee

- a) Make recommendations to the Council on the appointment of the Chief Executive and Head of Paid Service, the Monitoring Officer and the Chief Finance (Section 151) Officer
- b) appoint chief officers 'Directors'
- c) Determine any matters relating to the discipline and grievances of the Chief Executive and Head of Paid Service, the Monitoring Officer, Chief Finance Officer (Section 151) and Directors having regard to the Council's discipline and grievance procedures, any statutory procedures and the views of the Standards Committee.

3.2.4 Functions of the Governance Committee

- a) To receive reports of the Monitoring Officer to amend the Constitution of the Council and make any consequent recommendation to the council
- b) To consider reports of the Monitoring Officer about governance, the Council's structure and procedures consequent to Article 13, clause 13.2 of this constitution
- d) Community Governance Reviews
- e) Electoral Reviews

3.2.5 Functions of the Licensing Committee

- a) Discharge the functions of the Council as a Licensing Authority under the Licensing Act 2003 and the Gambling Act 2005 (with the exception of any functions which are reserved to Council), and miscellaneous matters as set out in the Functions Regulations. The Licensing Committee shall discharge the functions of the Scrap Metal Dealers Act 2013 (Relevant Sub-Committee to be convened when appropriate to deal with contested applications and hearings.)

3.2.6 Functions of the Standards Committee

- a) Discharge the functions, save for matters reserved to the Monitoring Officer, set out in the Localism Act 2011 Chapter 7 and any regulations made under the Act.

3.2.7 Functions of the Henfield Commons Joint Committee

- a) The management of Henfield Common, Broadmere Common, Oreham Common and Tanyard Field open space.

3.2.8 Census Joint Committee

- a) to co-ordinate the procurement of information and communication technology hardware, software and associated services and the management and maintenance of the same for that purpose
- b) to provide strategic direction to the Board
- c) to agree the Programme
- d) to agree any modifications to the Programme
- e) to agree the Projects comprised within the Programme
- f) to monitor the implementation of the Programme
- g) to keep under review the workings of this Agreement and to propose (as appropriate) the creation of special purpose vehicles for the achievement of the Strategic Purposes including companies, formal partnerships or consortia, the expansion of joint working arrangements under the Agreement, to include other local authorities, the conclusion of contracts with other persons and the provision of services, supplies and works to other persons

3.3 Delegation of cabinet functions by the Leader of the Council

3.3.1 Cabinet members are responsible for the functions set out below and may make **non-key** decisions within their portfolio of responsibilities. Individual Cabinet Members may not make decisions reserved elsewhere by this Constitution, including, but not limited to Key Decisions (which are reserved to Cabinet collectively) and Operational and Administrative Decisions (which shall be made by Officers pursuant to this scheme of delegation, unless such officers seek a non-key decision pursuant to provision 3.4.20 below).

3.3.2 Functions of the Leader of the council

- a) Community leadership.
- b) Co-ordination of strategy and policy on behalf of the Cabinet and overall responsibility for performance.
- c) Overall responsibility for the development and proper functioning of partnerships with the public, private and voluntary sectors.
- d) Overall responsibility for the development, implementation and review of the Council's Sustainable Community Strategy under the Local Government Act 2000 Part I.
- e) Overall responsibility for information management including data protection, data security, documents and records retention, environmental information, freedom of information, reuse of public sector information.
- f) Overall responsibility for the development, implementation and review of the Council's Corporate Plan.
- g) Monitoring the implementation of and compliance with the Council's Corporate Plan.
- h) Overall responsibility for the standards and methods of delivery to the public of the Council's services and their improvement.

- i) Overall responsibility for organisational development and business transformation.
- j) Overall responsibility for strategic economic development.
- k) Provision of support and training to members of the Council.
- l) Overall responsibility for corporate health & safety.
- m) Overall responsibility for the Council's Communication, Consultations and Complaints Strategies and their development, implementation and review.
- n) Overall responsibility for the development, implementation and review of policies affecting Horsham Town and ensuring cross-cabinet liaison on such matters
- o) Any other executive functions not specifically delegated or foreseen under this scheme.

3.3.3 Functions of the Cabinet Member for Finance and Assets

- a) General supervision and control of the finances of the Council and the auditing of the Council's accounts.
- b) Overall responsibility for the production of the draft budget and jointly with the Cabinet, its proposal to the Council.
- c) Overall responsibility for the Council's insurances.
- d) The determination of requests for transfer of funds within budgets (virements) not exceeding £250,000
- e) The writing off of debts in excess of £50,000
- f) Overall responsibility for the administration of benefits.
- g) Overall responsibility for the development, implementation and review of policies for the procurement of services, supplies and works to the Council.
- h) Overall responsibility for the proper management of the Council's property assets including authorisation, subject to the key decision framework, of the acquisition, disposal and dealing with any property assets and the development, implementation and review of the Council's Asset Management Plan.
- i) Overall responsibility for the provision of facilities management to the Council's offices.
- j) Overall responsibility for risk management throughout the Council.
- k) The determination of applications for discretionary rate relief.
- l) Overall responsibility for the development, implementation and review of the Council's Information and Communication Technology Strategy and electronic government policies

3.3.4 Functions of the Cabinet member for housing and public protection

- a) Overall responsibility for the provision management and maintenance of the Council's retained housing stock.
- b) Overall responsibility for the discharge of the Council's functions relating to the homeless.
- c) Overall responsibility for the improvement of housing stock in the District; the Council's Community Link (Community Alarm) Service and the provision of associated financial assistance.
- d) Overall responsibility for the maintenance, protection, improvement and cleanliness of the natural and man-made environment with specific reference to pollution control.

- e) Overall responsibility for Council's functions relating to alcohol, gambling, public health, food safety and hygiene, health and safety at work, animal welfare, stray dogs, public safety, scrap metal dealings, motor salvage operators, caravan sites, street trading, shops and Sunday trading, water and sewerage, public conveniences, markets and registration plates not being the function of the Licensing Committee.

3.3.5 Functions of the Cabinet member for the local economy

- a) Overall responsibility for liaising with local businesses for the development of a strong local economy
- b) Overall responsibility for liaising with outside bodies regarding the development, implementation and review of policies for education and lifelong learning.
- c) Overall responsibility for the development, implementation and review of the Council's strategy for tourism.
- d) Overall responsibility for the development, implementation and review of the Council's strategy for on and off-street parking including the provision and management of the Council's car parks.
- e) Overall responsibility for the development, implementation and review of the Council's strategy for economic well-being.

3.3.6 Functions of the Cabinet member for waste, recycling and cleansing

- a) Overall responsibility for the development, implementation and review of the Council's policies and procedures for waste management, collection, recycling and disposal and associated education and enforcement.
- b) Overall responsibility for the development, implementation and review of the Council's environmental and sustainability policies and procedures.
- c) Overall responsibility for securing the development, implementation and review of the Council's policies and procedures for cleansing throughout the District.

3.3.6 Functions of the Cabinet member for leisure and culture

- a) Overall responsibility for the development, implementation and review of policies for the provision and promotion of leisure and recreational facilities and services.
- b) Overall responsibility for the development, implementation and review of policies for the provision and promotion of the arts, heritage and culture in the District.
- c) Overall responsibility for the development, implementation and review of policies for community facilities in the District.
- d) Overall responsibility for the development, implementation and review of policies for burial grounds and crematoria.

- e) Overall responsibility for the development, management and maintenance of the Council's open spaces.
- f) Overall responsibility for the development, implementation and review of the Council's grounds maintenance responsibilities

3.3.7 Functions of the Cabinet member for planning and development

- a) Overall responsibility for the development and review of policies for and included in the development plan and the preparation, review and alteration of the Local Development Framework and the shaping and implementation of regional planning policy.
- b) Overall responsibility for the development, implementation and review of the Council's strategic housing policies particularly those relating to affordable housing and housing investment programme and liaison with outside bodies.
- c) Overall responsibility for the development and review of the Council's policies for transport of all kinds.
- d) Overall responsibility for managing the relationship with utilities and infrastructure providers.
- e) Overall responsibility for the planning aspects of major developments not being the responsibility of the Planning Committees.
- f) Overall responsibility for development management not being the responsibility of the Planning Committees.
- g) Overall responsibility for building control.
- h) Overall responsibility for the development and implementation of a strategy for effective engagement with communities throughout the District.

3.3.8 Functions of the Cabinet member for community and wellbeing

- a) Overall responsibility for the development, implementation and review of the Council's Crime and Disorder Reduction Strategy.
- b) Overall responsibility for and championing the development, implementation and review of policies for social well-being including those relating to people, local community needs, community transport and community development.
- c) Overall responsibility for securing the improvement of the health of those who live or work in or resort to the District.
- d) The determination of applications for financial and other assistance including voluntary sector funding arrangements excluding applications for discretionary rate relief.
- e) Overall responsibility for working with voluntary sector organisations to promote and deliver the Council's priorities for the District's communities.
- f) Civil or wartime emergencies and business continuity.
- g) Overall responsibility for equality and diversity.

3.4 Scheme of delegation to officers

- 3.4.1 The authority for delegating functions to the Cabinet, Committees, and Officers is contained in Section 101 of the Local Government Act 1972 and section 14 of the Local Government Act 2000. The authority for the delegation of functions by the Licensing Committee is contained in Sub Section 10 (1) of the Licensing Act 2003. The delegations set out in this Constitution provide officers with the necessary authority to proceed from the date of delegation by this Constitution.
- 3.4.2 In the case of absence of an appropriate Cabinet Member, any requirement for an Officer to consult before carrying out any action or function shall be replaced by a requirement to consult with the Leader of the Council. In the case of absence by the Leader of the Council, any requirement for an Officer to consult before carrying out any action or function shall be replaced by a requirement to consult with the Deputy Leader of the Council.
- 3.4.3 Regarding the functions of the 'Proper Officer' and unless otherwise referred to in part 8, the Head of Paid Service or in their absence, the Monitoring Officer shall be appointed as the Proper Officer for the purposes of Section 270(3) of the Local Government Act 1972 and in relation to any other statute or matters indicated herein.
- 3.4.4 This scheme does not delegate to officers:
- a) any matter reserved to Full Council;
 - b) any matter which by law may not be delegated to an officer;
 - c) any matter expressly reserved to a committee by the Council's Standing Orders or Financial Regulations, or withdrawn from delegation by this scheme or by a committee;
 - d) any power to change fees, charges or concession policies;
 - e) any power to make a decision on permanent savings in a budget;
 - f) any power to make an order for the compulsory acquisition of land;
 - g) any power to acquire land in advance of requirements;
 - h) any power to confirm any order, or to issue or grant any permission, consent, licence or other determination, which is the subject of a statutory right of objection that has been duly exercised.

3.4.5 How delegations work

- a) Functions reserved by law to the full council may only be discharged by the full council.
- b) Functions reserved to the Cabinet by law may not be discharged by the full council.
- c) Key decisions may only be discharged by the Cabinet collectively.

- d) Officers discharge operational and administrative functions according to the procedure rules of this constitution.
- e) Individual Cabinet members may make non-key decisions consequent to the discharge of their responsibilities where no other limitation is provided by this constitution.

3.4.6 In respect of any matter falling within the parameters of this scheme, the Head of Paid Service may in writing make such detailed delegations to officers concerning functions and activities within a given area of responsibility as he considers appropriate. The Head of Paid Service may, in writing, delegate any function of the Council (or local choice function pursuant to the Functions and Responsibilities Regulations 2000) not the responsibility of the Cabinet) which has been delegated to the Head of Paid Service, and which is not otherwise delegated under this scheme, and he may vary in writing any delegation made under this scheme.

3.4.7 This scheme delegates powers and duties within broad functional descriptions. It includes powers and duties under all legislation, present and future, within those descriptions, and all powers and duties incidental to that legislation, as well as authorising the affixing of the Common Seal.

3.4.6 General Limitations

3.4.7 An officer, in exercising delegated powers, shall consult other appropriate officers and shall have regard to any advice received.

3.4.8 Any exercise of delegated powers shall be subject to any policy framework approved by the Council from time to time, including the Council's employment policies and disciplinary procedures, equal opportunities policies, and any service delivery policies; and shall be guided by relevant codes of conduct or protocols produced or adopted from time to time by the Council (including any Code or protocol which has been included within the Council's constitution) and the Corporate Plan.

3.4.9 Any exercise of delegated powers shall be subject to:

- a) any statutory restrictions
- b) the Council's Constitution including Financial procedure rules and Contract procedure rules

3.4.10 In exercising delegated powers, officers shall not go beyond the provision made in the revenue or capital budgets for their service, except to the extent permitted by the Financial Regulations or the Contract Standing Orders.

Successor posts

3.4.11 In the event that a post ceases to exist or where responsibilities are transferred to another post holder, temporarily or permanently, then the powers given by this Scheme of Delegation shall be exercisable by the officer in whose area of responsibility the power falls to be exercised.

Delegations to officers

- 3.4.13 This scheme delegates operational and administrative Cabinet and Council functions pursuant to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2000 No. 2853). Operational and Administrative functions are limited to such matters not provided for elsewhere by this constitution. The functions or activities described in this scheme and varied from time to time are hereby delegated to the officers in the posts named in Part 7.
- 3.4.14 Limitation of delegations - The powers delegated to officers under this scheme do not include any power to take a decision which is properly a matter for the Council, the Cabinet, a Cabinet Member or a committee or sub-committee and does not include the power to take a key decision. Officers are, in the context of this scheme, responsible for the management of their services, the provision of advice to the Council, Cabinet and Members, and the implementation of policies and decisions. A decision which an officer takes, under a delegation made by or under this scheme, must:
- a) implement a policy previously approved or decision previously taken, by the Council, the Cabinet, a Cabinet Member or a committee or sub-committee; or
 - b) facilitate, or be conducive or incidental to, the implementation of a policy or decision previously approved, or decision;
 - c) relate to the management of the human, material or financial resources made available for the functions for which the Council or Cabinet is responsible;

Further Provisions

- 3.4.15 An officer to whom a delegation has been made by, or in accordance with, this scheme may further delegate in writing all or any of their delegated functions to another officer (described by name and post), either fully or under the general supervision and control of the delegating officer. Delegations made under this subparagraph may be made across service boundaries.
- 3.4.16 This scheme of delegations shall be kept by the Monitoring Officer in accordance with section 100G of the Local Government Act 1972.
- 3.4.17 A delegation to an officer which existed at the date of the introduction of this scheme shall, to any extent that it remains unaltered by (and is not inconsistent with) any delegation (or variation to a delegation) made by or under this scheme, shall continue to have effect.
- 3.4.18 Where in respect of a given function or activity, no delegation is in effect, and an officer has a management responsibility in relation to the exercise of that function or activity, the exercise of any delegated authority necessary to carry out the function or activity effectively shall be deemed to have been delegated to that post holder.
- 3.4.19 All action taken under the terms of these delegations (and not falling within the description of an internal delegation in paragraph 1d above, or an individual delegation in paragraph 5.4a above) shall be properly documented in accordance with arrangements approved by the Monitoring Officer.

- 3.4.20 It shall always be open to a chief officer or service manager to consult the appropriate Cabinet Member, or Chairman of a Committee, on the exercise of a delegated function; or, not to exercise a delegated function but to refer the matter back to the Cabinet Member, Committee or the Council according to the function.
- 3.4.21 In this scheme, “officer” means the holder of any post to which a function or activity, or powers and duties in relation to such a function or activity, may be delegated.
- 3.4.22 Where a function or activity has been specifically delegated by or under this scheme to an officer, that function or activity shall not be exercised by another officer without the consent of the former, other than in circumstances of the death or incapacity of that officer or, in an emergency, where the officer to whom the delegation was made is absent or otherwise unavailable.
- 3.4.23 An authority delegated to officers includes management of the human and material resources made available for the service/portfolio areas and any function concerned; to the extent of that authority within the limitations of this scheme, and subject to any specific delegations made by or in accordance with this scheme to another officer.
- 3.4.24 In each case, a delegated authority excludes any determination of policy, any exception to policy, or of any budget by the officer concerned.

3.5 Statutory chief officers

Local Government Act 1972 and Local Government and Housing Act 1989

3.5.1 Head of Paid Service

1. Shall be the Electoral Registration Officer and Returning Officer for District Council Elections.
2. Within the overall resources allocated by the Council and in direct support of the Council's objectives, act on behalf of the Council on all matters including those which have been delegated to any other Officer provided that:
 - a. the Head of Paid Service may not exercise a power which is reserved by statute to another Officer;
 - b. before exercising the power of another Officer, the Chief Executive shall consult with that Officer if available;
 - c. the Chief Executive when exercising any powers may authorise the incurring of expenditure in an emergency even if there is no specific provision in the budget of the Council.
3. In consultation with the Leader or if absent the Deputy Leader, act in a case of emergency in respect of any matter affecting the Council/Cabinet respectively, subject to a report on the circumstances being made to the next Council/Cabinet meeting.
4. Be responsible for the overall organisational structure of the Council, including making any adjustments necessary to facilitate the delivery of the corporate plan.
5. Ensure the provision of professional advice to all parties in the decision-making process.
6. Together with the Monitoring Officer to be responsible for a system of record-keeping for all local authority decisions
7. Represent the Council on partnerships and other bodies
8. Be responsible for the health and safety of all employees of the District Council
9. Sign any document on behalf of the Council and to witness affixation of the Council's Common Seal to any document.
10. Be the Proper Officer of the Council, except where legislation or arrangements names another Officer.

3.5.2 Chief Finance Officer (Section 151 Officer)

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all operational and administrative matters relating to the discharge of the Council's functions relating to the following service delivery functions, unless that function has been specifically delegated to another Officer or elsewhere within this Constitution.
2. Exercise the proper administration of the Council's financial affairs under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988.
3. Be the Proper Officer under section 115 of the Local Government Act 1972.
4. Have responsibility for the overall management of the internal audit function in accordance with the Accounts and Audit Regulations 2003 (or any amending or substituted legislation, or legislation with a similar purpose or made for similar purposes).

5. Have responsibility for borrowing and lending within limits approved by the Council.
6. Make determinations on an annual basis relating to capital expenditure
7. Administer, subject to the Key Decision framework, the acquisition, re-use, appropriation and disposal of the Council's land and buildings, together with the granting or taking assignment or surrender of leases, tenancies, licences, easements, wayleaves and variations of rent of the Council's land and buildings and all consequent operational and administrative matters
8. The services of policy and performance, corporate communications, marketing, programme and project management, legal and democratic services and elections
9. Manage administration of complaints to the Council including issues of maladministration
10. Be responsible for the delivery of ICT services, information management, Freedom of Information requests and street naming and numbering and have overall responsibility for the Council's Information Management Systems.
11. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to an Executive function, and to the Council's external auditor if he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. When the report is completed the Chief Finance Officer shall send a copy to: (a) the current auditor of the Council's accounts; and, (b) each Member of the Council.

3.5.3 Monitoring Officer

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all operational and administrative matters relating to the discharge of the Council's functions relating to the following service delivery functions, unless that function has been specifically delegated to another Officer or elsewhere within this constitution.
2. In consultation with the Head of Paid Service/ relevant Director to authorise the institution, defence, withdrawal, compromise or any other action relating to claims or legal proceedings, civil or criminal (except in relation to prosecutions where the authorisation of prosecutions is expressly delegated to another Head of Service).
3. To authorise Officers of the Council to appear before Magistrates' Courts or County Courts and to settle on appropriate terms any litigation or claim taken by or against the Council.
4. To issue or serve statutory notices on behalf of the Council in relation to any of its functions.
5. To be the Proper Officer of the Council, except where legislation, or a delegation made by this constitution or under this scheme, names another officer; and to authorise the making and issue of any formal documents.
6. After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the full council or to the cabinet (according to the material function concerned), if he considers that any proposal, decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
7. Contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee

8. Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the council's affairs, and provide copies of any records or documents belonging to the council to the Standards Committee, for the purposes of investigation or determination of a complaint against a member.
9. The Monitoring Officer will conduct investigations into matters and carry out any other actions as directed by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee.
10. Together with the Head of Paid Service, ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
11. The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

3.6 Non-statutory chief officers and deputies

Local Government and Housing Act 1989

3.6.1 Director of Community Services

Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all operational and administrative matters relating to the discharge of the Council's functions relating to the following service delivery functions, unless that function has been specifically delegated to another Officer or elsewhere within this constitution:

Sports and leisure centres, sports and active lifestyles/ Health and Well-being, Environmental Health, Animal Welfare and Pest Control, CCTV, Community Safety, Community Development, Parking and Licensing, including issuing and ensuring compliance with licenses on whatsoever nature other than those licenses falling within the responsibility of another officer in accordance with this Scheme of Delegation to Officers.

3.6.2 Director of Planning, Economic Development and Property

Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all operational and administrative matters relating to the discharge of the Council's functions relating to the following service delivery functions, unless that function has been specifically delegated to another Officer or elsewhere within this constitution: Planning Policy, Development Management, Building Control, Housing Strategy and Economic Development and specifically:

- a) Administer, subject to the Key Decision framework, the acquisition, re-use, appropriation and disposal of the Council's land and buildings, together with the granting or taking assignment or surrender of leases, tenancies, licences, easements, wayleaves and variations of rent of the Council's land and buildings and all consequent operational and administrative matters.
- b) to exercise all the functions of the Council relating to town and country planning matters, including development management, **except for** those matters reserved to a committee in part three of this constitution
- c) Refer to full council if he is of the opinion that the relevant Planning Committee is minded to make a decision in which there are likely to be significant cost implications.

3.6.3 Deputy Chief Officers

The Deputy Chief Officers identified in Part 7 of this constitution shall, within the overall resources allocated by the Council and in direct support of the Council's objectives act on behalf of the Council on all operational and administrative matters relating to the discharge of Council and Cabinet functions relating to the functions for which they are responsible, unless that function has been specifically delegated to another Officer or elsewhere within this constitution.

Part four

Rules of procedure

4 Council procedure rules

4.1 Annual meeting of the council

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:

- a) elect a person to preside if the Chairman nor the Vice Chairman of the Council is not present;
- b) elect the Chairman of the Council;
- c) elect the Vice-Chairman of the Council;
- d) receive any announcements from the Chairman and/or the Chief Executive;
- e) at the first annual meeting following the ordinary election of councillors without debate elect the Leader;
- f) without debate, appoint the Overview and Scrutiny Committee, the Standards 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 of this Constitution);
- g) approve a programme of ordinary meetings of the Council for the year.

4.1.1 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- a) decide which committees to establish for the municipal year;
- b) decide the size and terms of reference for those committees;
- c) decide the allocation of seats to political groups in accordance with political balance rules; except upon the application of d) below
- d) a different provision is made by arrangements approved by the authority without any member of the authority voting against them

At the first ordinary meeting after the annual meeting in the year of the ordinary election of councillors, the Council meeting will make appointments to outside bodies *except where* appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

4.2 Ordinary meetings

Ordinary meetings of the Council will take place in accordance with the notice of meetings decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- a) elect a person to preside if the Chairman nor Vice-Chairman are not present;
- b) approve the minutes of the last meeting;
- c) receive any declarations of interest from Members;

- d) receive any announcements from the Chairman, Leader, members of the Cabinet or the Chief Executive;
- e) receive a report from the Leader or Cabinet Member and receive questions and answers on the report;
- f) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chairman are relevant to the business of the meeting;
- g) receive any petitions from the public in relation to matters which in the opinion of the Chairman are relevant to the Council's functions;
- h) consider recommendations from the Council's Committees (if any), for which the minutes of the relevant meeting of that committee shall be included with the summons;
- i) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- j) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committee;
- k) consider motions; and
- l) receive with questions from Members in accordance with Rule 4.20.

4.3 Extraordinary meetings

Calling of an extraordinary meeting

The Chief Executive may call Council meetings in addition to ordinary meetings and the following listed below may request the Chief Executive to call additional Council meetings:

- a) the Council by resolution;
- b) the Chairman of the Council;
- c) any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and he has refused to call a meeting or, within seven days of the presentation of the requisition, has failed to call a meeting.

4.3.1 The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting only and there shall be no consideration of previous minutes or reports from committees.

4.4 Time and Place of Meetings

The time and place of meetings will be determined by the Head of Paid Service and notified in the summons.

4.5 Duration of Meetings

At an ordinary meeting of the Council, when 3 hours have elapsed after the commencement of the meeting, the Chairman shall, at the conclusion of the debate on the item of business then under consideration, put the matter to the vote.

If there are other motions or recommendations on the agenda that remain to be dealt with, a motion may be moved to adjourn the meeting and reconvene it on a date and at a time

specified to deal with the remaining business. The vote will be taken on this motion without debate.

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

4.5 Notice of and summons to meetings

The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear days before a meeting, the Head of Paid Service will send a summons to every Member of the Council. 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.

4.6 Chairman of meeting

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

4.7 Quorum

The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chairman 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 Chairman. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.

Questions by the Public

4.8 General

4.8.1 Members of the public may ask questions of Members of the Cabinet or Committee Chairmen at ordinary meetings of the Council, subject to 4.2 (f)

4.8.3 Each speaker will be limited to two minutes in which to ask the question or questions. Subject to the Chairman's discretion, there will be an overall limit of 15 minutes for public questions, or a total of six questions, whichever is the greater.

4.9 Order of questions

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

4.10 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Proper Officer no later than 12.00 pm three working days before the day of the meeting. Each question must give the name and address of the questioner.

4.11 Number of questions

At any meeting no person may submit more than one question and no more than one question may be asked on behalf of an organisation.

4.12 Scope of questions

In addition to 4.2 (f) above, the Head of Paid Service may reject a question if it:

- a) is not about a matter for which the Council has a responsibility or which affects the District;
- b) is defamatory, frivolous or offensive;
- c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- d) requires the disclosure of confidential or exempt information.

4.13 Record of questions

The Head of Paid Service will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

4.14 Asking the question at the meeting

The Chairman will invite the questioner to put the question, as submitted, to the Councillor named in the notice.

4.15 Response to the question

The Member responding to a question may speak for no longer than 2 minutes unless the Chairman consents to a longer period.

4.16 Supplementary question

A questioner who has put a question may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds set out in Rule 4.12 above.

4.17 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 Councillor to whom it was to be put, will be dealt with by a written answer.

4.18 Reference of question to the Cabinet or a committee

Any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee. Once seconded, such a motion will be voted on without discussion.

4.19 Public speaking on agenda items

- a) Parish and neighbourhood councils in the District and members of the public may make a statement on any item on the agenda when the matter arises for debate and at the time appointed by the Chairman. Each speaker will be limited to two minutes in which to make representations. Unless the Chairman specifies otherwise, the total time for such representations by members of the public shall not exceed 12 minutes in respect of each item.
- b) Speakers shall give notice by not later than 12.00 two working days before the date of the meeting of their intention to speak.
- c) Where the item concerns a planning or licensing application the rule in Rule 4.19(a) is modified to allow parish or neighbourhood councils two minutes each, objectors two minutes each subject to an overall limit of six minutes, applicants and supporters two minutes each subject to an overall limit of six minutes.

4.20 Questions by Members

a) On reports of the Cabinet or committees

At a meeting of the Council, other than the Annual meeting, a Member of the Council may ask the Leader or the Chairman of a committee any question without notice upon an item of the report of the Cabinet or a committee when that item is being received or under consideration by the Council.

b) Questions on notice at full Council

Subject to Rule 4.21, a Member of the Council may ask:

- I. the Chairman
- II. the Leader
- III. a member of the Cabinet; or
- IV. the Chairman of any Committee or Sub-Committee,

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

4.21 Notice of questions

A member may ask a question under Rule 4.20 if either:

- a) they have given notice of the question in writing or by electronic mail no later than 12.00 pm 2 days before the day of the meeting to the Monitoring Officer; or
- b) the question relates to urgent matters, they have the consent of the Chairman or member to whom the question is to be put and the content of the question is given to the Head of Paid Service by 9.00am on the day of the meeting.

4.22 Order and form

- a) Questions of which notice has been given under Rule 4.20 will be dealt with in the order determined by the Chairman of the Council.
- b) Questions under Rule 4.20 must, in the opinion of the Chairman:
 - I. contain no expressions of opinion;
 - II. relate to matters on which the Council has or may determine a policy;
 - III. not relate to questions of fact.

Response

- c) An answer may take the form of:
 - I. a direct oral answer at the meeting;
 - II. where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - III. where the reply cannot conveniently be given orally, a written answer circulated within 10 working days to the questioner.

4.23 Supplementary question and statement in response by questioner

a) A Member asking a question under Rule 4.20 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

b) A Member asking a question or questions may make one statement in response to the answer or answers received and, unless the Chairman specifies otherwise, the time available to the questioner shall be limited to five minutes.

4.24 Length of Speeches

A Member asking a question under Rule 4.20 and a Member answering such a question may speak for no longer than 2 minutes unless the Chairman consents to a longer period.

4.25 Time Allowed for Questions at Council Meetings

- a) The time allowed for consideration of questions submitted under Rule 4.19 shall not, without the consent of the Council, exceed 30 minutes.
- b) At the conclusion of the answer to the question under consideration at the expiry of 30 minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chairman shall conclude the item.
- c) Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

4.26 Motions on Notice

a) Notice

Except for motions which can be moved without notice under Rule X, written notice of every motion, must be delivered to the Chief Executive not later than 5.00pm on the seventh working day before the Council meeting at which it is to be considered.

b) Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Chairman.

c) Scope

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

d) One Motion per Member

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Chairman.

e) Time Allowed for Motions

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed 30 minutes. At the conclusion of the speech being delivered at the expiry of 30 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Chairman shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- I. if the speech to be concluded is a speech proposing a motion, the Chairman shall allow the motion to be formally seconded (without comment);
- II. if the speech to be concluded is a speech moving an amendment, the Chairman shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise his right of reply; and
- III. otherwise, the Chairman shall allow the mover of the motion to exercise his right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

4.27 Motions without Notice

The following motions may be moved without notice:

- a) to appoint a Chairman of the meeting at which the motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer something to an appropriate body or individual, without further debate;
- e) to appoint a committee or member arising from an item on the summons for the meeting;
- f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- g) to withdraw a motion;
- h) to amend a motion, subject to the provisions of the Budget and Policy Framework Procedure Rules in relation to amendment of the Cabinet's proposals for the Council's Budget and Policy Framework;
- i) to proceed to the next business;
- j) that the question be now put;
- k) to adjourn a debate;
- l) to adjourn a meeting;
- m) to suspend a particular Council Procedure Rule;
- n) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- o) to not hear further a Member named under Rule 4.34(c) or to exclude them from the meeting under Rule 4.34(d); and
- p) to give the consent of the Council where its consent is required by this Constitution.

4.28 Rules of Debate

a) 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.

b) Right to require motion in writing

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

c) Secunder's speech

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

d) Content and length of speeches

- I. Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- II. A speech by the mover of a motion may not exceed five minutes without the consent of the Chairman.
- III. Subject to paragraph IV below, speeches by other Members may not exceed five minutes without the consent of the Chairman.
- IV. When the Council's annual budget is under discussion, the leader of each political group on the Council may speak for up to ten minutes or such longer period as the Chairman shall allow.

e) 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:

- I. to speak once on an amendment moved by another member
- II. to move a further amendment if the motion has been amended since he last spoke
- III. if his first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he spoke was carried)
- IV. in exercise of a right of reply
- V. on a point of order, and
- VI. by way of personal explanation.

f) Amendments to motions

- I. An amendment to a motion must be relevant to the motion and will either be:
- II. to refer the matter to an appropriate body or individual for consideration or reconsideration, without further debate;
- III. to leave out words;
- IV. to leave out words and insert or add others; or
- V. to insert or add words
- VI. as long as the effect of (I)-(IV) above is not to negate the motion.
- VII. 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.
- VIII. If an amendment is not carried, other amendments to the original motion may be moved.
- IX. 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.
- X. After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

g) Alteration of motion

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

h) Withdrawal of motion

A Member may withdraw a motion which 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.

i) Right of reply

- I. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- II. 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.
- III. The mover of the amendment has no right of reply to the debate on his amendment.

j) Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- I. to withdraw a motion;
- II. to amend a motion;
- III. to proceed to the next business;
- IV. that the question be now put;
- V. to adjourn a debate;
- VI. to adjourn a meeting;
- VII. to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- VIII. to not hear further a Member named under Rule 4.34(c) or to exclude them from the meeting under Rule 4.34(d).

k) Closure motions

- I. A Member may move, without comment, the following motions at the end of a speech of another Member;
- II. to proceed to the next business;
- III. that the question be now put;
- IV. to adjourn a debate; or
- V. to adjourn a meeting.
- VI. If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- VII. If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his motion to the vote.
- VIII. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion

to the vote without giving the mover of the original motion the right of reply.

l) Point of order

A point of order is a request from a member to the Chairman to rule on an alleged irregularity in the procedure of the meeting. A member may raise a point of order at any time. The Chairman 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 he considers it has been broken. The ruling of the Chairman on the matter will be final.

m) Personal explanation

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

4.29 State of the District Debate

a) Calling of debate

The Leader may call a state of the District debate annually on a date and in a form to be agreed with the Chairman.

b) Form of debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the District debate.

c) Chairing of debate

The debate will be chaired by the Chairman.

d) Results of debate

The results of the debate will be:

- I. disseminated as widely as possible within the community and to agencies and organisations in the area; and
- II. considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

4.30 Previous Decisions and Motions

a) 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 ten members.

b) 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 ten members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

4.31 Voting

a) Majority

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

b) Chairman's casting vote

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

c) Method of Voting

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

d) Recorded vote

If two 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.

e) 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.

f) Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of

the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

4.32 Minutes

a) Signing the minutes

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

b) No requirement to sign minutes of previous meeting at extraordinary meeting

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

c) Form of minutes

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

d) Record of Attendance

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

4.33 Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 4.35 (Disturbance by Public).

4.34 Members' Conduct

a) Speaking at meetings

When a Member speaks at full Council he/she must address the meeting through the Chairman. If more than one member signifies their intention to speak, the Chairman will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

b) Chairman speaking

When the Chairman speaks during a debate, any member speaking at the time must stop.

c) Member not to be heard further

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

d) Member to leave the meeting

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

e) General disturbance

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

4.35 Disturbance by Public

a) Removal of member of the public

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

b) Clearance of part of meeting room

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

4.36 Suspension and Amendment of Council Procedure Rules

a) Suspension

All of these Council Rules of Procedure except Rules 4.31(d) and 4.32(a) may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

b) Amendment

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

c) Application to Committees and Sub-Committees

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Cabinet, nor Policy Development Advisory Groups. Only Rules 4.5-4.7, 4.19, 4.26-4.36 apply to meetings of committees and sub-committees except that insofar as Rule 4.7 is concerned the quorum of a meeting shall be one quarter of the whole number of Members of that

meeting or three Members, whichever is the greater. Quorum applies to all bodies formed at the Annual Council meeting.

4a Cabinet procedure rules

4a. 1 Arrangements for the discharge of Cabinet functions

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

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

4a. 2 Delegation by the Leader

Following the annual meeting of the Council, the Monitoring Officer, at the direction of the Leader, will prepare a written record of any changes to the cabinet function delegations made by the Leader for inclusion in the Council's responsibility for functions and scheme of delegation at Part three of this Constitution. This will contain the following information about cabinet functions:

- a) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority
- b) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them
- c) the nature and extent of any delegation of cabinet functions to any other authority or any joint arrangements, and
- d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the role of the officer to whom the delegation is made.

4a. 3 Sub-delegation of executive functions

Clauses (a-c) provide authority

- a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for cabinet function, they may delegate further to an officer.
- b) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- c) Where cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

4a. 4 The Council's scheme of delegation and Cabinet functions

The Leader may amend the scheme of delegation relating to Cabinet functions at any time. In doing so the Leader will give written notice to the Monitoring Officer and to the

person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader. Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when he has served it on its Chairman.

4a. 5 Conflicts of Interest

Where the Leader or any Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

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

4a. 6 Cabinet meetings

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

4a. 7 Public or private meetings of the Cabinet

The Cabinet will hold its meetings in public, except in the circumstances set out in paragraphs (a) to (c) of Regulation 4(2) of the Local Authorities (Executive Arrangements) (meetings and Access to Information) (England) Regulations 2012. Briefly, these circumstances cover:

- a) confidential information;
- b) exempt information;
- c) advice of a political adviser or assistant; and
- d) disorderly conduct.

4a. 8 Quorum

The quorum for a meeting of the Cabinet shall be 3 including the Leader or Deputy Leader. The quorum for a meeting of a committee of the Cabinet shall be 3, including the Leader.

4a. 9 How are decisions to be taken by the Cabinet?

Decisions made by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution. Where cabinet decisions are delegated to a committee of the Cabinet, the rules applying to cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

4a. 10 Meetings of the Cabinet

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

4a. 11 At each meeting of the Cabinet the following business will be conducted:

- a) consideration of the minutes of the last meeting;
- b) declarations of interest, if any;
- c) matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- d) to receive questions from and provide answers 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 meeting, subject to an overall time limit of 15 minutes
- e) consideration of reports of the Leader and Cabinet Members
- f) consideration of reports from the Overview and Scrutiny Committee;
- g) 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.
- h) Review of the Forward Plan

4a. 12a Consultation

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

4a. 12b Reports on Key and Cabinet Member non-key decisions will detail the views of the Policy Development Advisory Group that considered the matter and will set out the details and outcome of any consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

4a. 13 Who can put items on the Cabinet agenda?

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

- a) Any member of the Cabinet may require the Monitoring Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- b) The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- c) In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be considered at which the matter will be considered.

4a. 14 Policy Development Advisory Groups

- a) The purpose of each Policy Development Advisory Group is to advise the relevant Cabinet Member on those functions (including all forthcoming key and non-key decisions) described in part 3 of this constitution
- b) A timetable of 6 Policy Development Advisory Group meetings per Group per year will be agreed and published at Annual Council
- c) Meetings of the group will be subject to a quorum of three (including the Cabinet Member)
- d) The Proper Officer will publish an agenda and notes for each meeting of Policy Development Advisory Groups on the council's website
- e) Visiting members may attend Policy Development Advisory Groups and may speak at the discretion of the Chairman
- f) A record of the views of Policy Development Advisory Groups will be created, subject to Part 4a 12b of this constitution

Sub-groups of policy development advisory groups

- g) Sub-groups of a Policy Development Advisory Group may be created from the membership of the Policy Development Advisory Group and with the assent of the group, duly noted by the Proper Officer
- h) Any sub-group created under provision g) will have a quorum of three
- i) Sub-groups will report to each meeting of the Policy Development Advisory Group.

4b Overview and scrutiny procedure rules

The Council shall have an Overview and Scrutiny Committee which may appoint such Sub-Committees as it considers appropriate from time to time. The Committee may appoint smaller groups to carry out detailed examination of particular topics for report back to them. Such groups may be appointed for a fixed period on the expiry of which they shall cease to exist. These shall be called ‘task and finish groups’.

4b. 1 Who may sit on Overview and Scrutiny Committees?

All Councillors, except members of the Cabinet and the Chairman of the Council, shall be eligible for appointment as members of the Overview and Scrutiny Committee or its Sub-Committees. However, no member may be involved in scrutinising a decision in which they have been directly involved.

4b. 2 Co-optees

The Overview and Scrutiny Committee and its Sub-Committees shall be entitled to appoint a maximum of six people as non-voting co-optees either as standing members of the Committee or on a time limited basis. The selection and nomination of co-opted members shall be in accordance with any protocol agreed by the Overview and Scrutiny Committee.

4b. 3 Meetings of the Overview and Scrutiny Committee and Scrutiny Sub-Committees

The Council may determine a cycle of meetings for the Overview and Scrutiny Committee. The Chairman, or if absent, the Vice-Chairman, may change the date or cancel meetings, or call additional meetings as they consider necessary to deal with the committee’s work programme. A meeting of the Overview and Scrutiny Committee and any of its Sub-Committees may be called by its Chairman (or if absent the Vice-Chairman) or by the Monitoring Officer, if either of them consider it necessary or appropriate.

4b. 4 Quorum

The quorum for the Overview and Scrutiny Committee or its sub-committees shall be one quarter of the membership or three members, whichever is the greater.

4b. 5 Chairman of the Overview and Scrutiny Committee

There shall be a Chairman and a Vice-Chairman of the Overview and Scrutiny Committee appointed annually at the first ordinary meeting of the Committee. Any Sub-Committee shall appoint a Chairman and a Vice-Chairman annually at the first ordinary meeting of that Sub –Committee.

The Overview and Scrutiny Chairman shall be elected from those members who are not of the majority group unless they are not available or otherwise unwilling to be nominated as Chairman. The Vice-chairman shall be from the majority group.

In the absence of a Chairman the Vice-Chairman shall exercise the powers of the Chairman.

The Chairman and the Vice-Chairman of the Overview and Scrutiny Committee shall be entitled to attend each Sub-Committee as an ex-officio member.

4b. 6 Work programme

The Overview and Scrutiny Committee and each of its Sub-Committees will, following consultation with the Chairman and Vice-Chairman of the Overview and Scrutiny Committee, set their own work programme and in doing so the wishes of members on that Committee who are not members of the largest political group on the Council shall be taken into account.

4b. 7 Agenda items

- a) Any member of the Overview and Scrutiny Committee or Sub-Committee who wants an item relevant to the functions of that Committee to be included on the agenda for the next available meeting shall be entitled to give notice of it to the Monitoring Officer. The Monitoring Officer shall be given seven days' notice of the item together with sufficient information to enable an officer to advise about the nature and purpose of the item.
- b) On receipt of such a request, so long as it is an appropriate matter to be considered, the Monitoring Officer will ensure that it is included on the next available agenda.
- c) The Overview and Scrutiny Committee and the Scrutiny Sub-Committees shall also respond, as soon as their work programme permits, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Cabinet or the Council shall consider the report of the Overview and Scrutiny Committee or Sub-Committees within two months of receiving it.

4b. 8 Policy review and development

- a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for policy development in so far as they relate to matters within their terms of reference.
- c) The Overview and Scrutiny Committee and the Sub-Committees will be afforded sufficient resources to hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may

pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

4b. 9 Reports from the Overview and Scrutiny Committee and Sub-Committees

- a) All formal reports from Sub-Committees will be reported to the Overview and Scrutiny Committee, before submission to the Cabinet or the Council, except in such circumstances where the agreement of the Chairman and Vice-Chairman of the Overview and Scrutiny Committee has been given.
- b) Once it has formed recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Monitoring Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- c) The Cabinet shall consider the report of the Overview and Scrutiny Committee within two months of it being submitted to the Proper Officer.

4b. 10 Making sure that Overview and Scrutiny reports are considered by the Cabinet

- a) The agenda for Cabinet meetings shall include an item entitled 'consideration of reports from the Overview and Scrutiny committee'. The reports of the Overview and Scrutiny Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the Cabinet within two months, the Cabinet will give an explanation of the reasons to the Chairman of the Overview and Scrutiny Committee as soon as practicable.
- b) The Overview and Scrutiny Committee and the Sub-Committees will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, it will be able to respond in the course of the Cabinet's consultation process in relation to any key decision.
- c) Where the Cabinet has delegated decision-making power to an individual member of the Cabinet, the Overview and Scrutiny Committee will submit a copy of its report to that Cabinet member for consideration. The Overview and Scrutiny Committee shall also give a copy at the same time to the Monitoring Officer. The Cabinet Member with delegated decision-making power must consider the report and respond in writing to the Overview and Scrutiny Committee within four weeks of receiving it. A copy of this written response shall be sent to the Monitoring Officer and the Leader. The Cabinet Member will also attend a future meeting of the Overview and Scrutiny Committee to present the response.

4b. 11 Rights of the Overview and Scrutiny Committee and Scrutiny Sub-Committees Members to documents

- a) In addition to their rights as Councillors, members of the Overview and Scrutiny Committee and its sub-Committees have the additional right to documents, and to

notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

- b) Nothing in 4b. 11 prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee and its sub-committees as appropriate depending on the particular matter under consideration.

4b. 12 Members and Officers giving account

The Overview and Scrutiny Committee and its sub-committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions, save for excluded matters. As well as reviewing documentation, in fulfilling the Overview and Scrutiny role, it may require any chief officer or deputy chief officer to attend before it under provisions a) to c) of this paragraph. The Overview and Scrutiny Committee shall require the Leader and each member of the Cabinet individually to attend before it no less than once in every twelve month period to explain the following matters within their portfolio:

- a) any particular decision or series of decisions;
- b) the extent to which the actions taken implement Council policy; and/or
- c) their performance

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

Where there are concerns about the appropriateness of the officer who should attend, the relevant chief officer shall discuss this with the Overview and Scrutiny Chairman or Vice Chairman with a view to achieving consensus.

Where any member or officer is required to attend the Overview and Scrutiny Committee or any of the Scrutiny Sub-Committees under this provision, the Chair of that Committee will inform the Monitoring Officer. The Monitoring Officer shall inform the member or officer, if necessary in writing, giving at least 7 working days' notice of the meeting at which they are required to attend (unless agreed otherwise). Any notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee.

Where the account to be given to the Overview and Scrutiny Committee or Scrutiny Sub-Committees will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee or Scrutiny Sub-Committees shall in consultation with the member or officer arrange an alternative date for attendance.

4b. 13 Attendance by others

The Overview and Scrutiny Committee or Scrutiny Sub-Committees may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish

to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

4b. 14 Call-in

The Overview and Scrutiny Committee may hear the 'call in' of decisions made by the Cabinet (which term shall also include a Joint Committee), or an individual member of the Cabinet, but not yet implemented. The purpose is to consider whether to recommend that a decision be reconsidered by the Cabinet. This is a power which should only be used in exceptional circumstances and cannot be used in respect of day-to-day management and operational decisions. Key Decisions and Cabinet Member Non-Key decisions shall be subject to this rule.

- a) When a decision is made by the Cabinet, or an individual member of the Cabinet with delegated responsibility to make a non-key decision, or under joint arrangements, notice of the decision shall be published, including by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. All Overview and Scrutiny members will be sent copies of the records of all such decisions, electronically, within the same timescale, by the person responsible for publishing the decision.
- b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the decision is called in under the provisions set out below.

Within that period:

- I. the Chairman or, if absent, the Vice-Chairman, of the Overview and Scrutiny Committee; or
- II. any five non-cabinet members of the Council

may give notice (an email from each member in b) individually will suffice)) requesting that the decision be called in and submit the notice to the Monitoring Officer. The notice should give reasons for the request for call-in in accordance with paragraph 4b. 15, having regard to the principles of decision making set out in Article 12 of this Constitution.

4b. 15 A notice invoking the call-in procedure must cite at least one of the following grounds in support of the request for call-in of a decision:

- a) inadequate consultation with stakeholders prior to decision;
- b) the absence of adequate evidence on which to base a decision;
- c) the decision would require a departure from or a change to, the agreed budget and policy framework;
- d) the action decided upon would not be proportionate to the desired outcome;

- e) the decision would be open to a human rights challenge;
- f) insufficient consideration of legal and financial advice; or
- g) the decision is not within the Cabinet's powers or terms of reference or within the portfolio of the Cabinet Member with delegated responsibility who took it.

4b. 16 On receipt of the notice the Monitoring Officer will, as soon as possible, seek the views of the Chairman, or if absent the Vice-Chairman, of the Overview and Scrutiny Committee.

4b. 17 The Chairman or Vice-Chairman to whom the request is referred will consider whether the request is reasonable according to 4b. 15 above. They will take account of whether a case has been made out for calling in the decision and whether delaying the implementation of the decision would be likely to cause significant damage to the Council's interests. They will have regard to the advice of the Monitoring Officer and Chief Finance Officer on this point.

4b. 18 If it is considered that the request for call-in is reasonable, the Monitoring Officer will convene a meeting of the Overview and Scrutiny Committee within 7 working days, after consulting the Chairman of the Committee about the date. The Committee will then proceed as in paragraph 4b. 20, below.

4b. 19 If the Chairman or Vice-Chairman to whom the request is referred consider that the request is unreasonable the decision will not be called in. The Monitoring Officer will submit a report to the next available meeting of the Overview and Scrutiny Committee giving details of the request and Chairman's/Vice-Chairman's reasons for refusing it.

4b. 20 Where the Overview and Scrutiny Committee considers a call-in request, the format of the meeting will be as follows:-

- a) after the Chairman opens the meeting the members who asked for the decision to be called in will be asked to explain their reasons for the request and what they feel should be reviewed;
- b) on matters of particular relevance to a particular ward, ward members who are not signatories to a call-in have the opportunity to make comments on the call-in at the meeting, such speeches not to exceed five minutes each. Ward members will take no further part in the discussion or vote. Ward members must register their request to speak by contacting the Monitoring Officer by 12 noon on the day prior to the relevant meeting of the committee;
- c) the relevant Cabinet Member (or Members if more than one is relevant) will then be invited to make any comments;
- d) the relevant Chief Officer or his representative will advise the Committee on the background and context of the decision and its importance to achieving Service priorities;

- e) Committee members will ask questions of members and officers in attendance;
- f) the Cabinet Member(s) will be invited to make any final comments on the matter.

4b. 21 The Overview and Scrutiny Committee, after considering the evidence presented to the meeting, will make one of the following resolutions:

- a) to take no further action, in which case the decision will take effect immediately;
- b) to refer the decision back to the decision-maker for reconsideration, setting out the nature of the Committee's concerns; the decision-maker must then re-consider the matter with a further 10 working days, taking into account the concerns of the Overview and Scrutiny Committee, before making a final decision;
- c) to refer the matter to full Council, in which case paragraph 23 below will apply.

4b. 22 If, following a request for call-in, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision maker or to full Council, the decision will take effect on the date of the relevant Committee meeting, or the expiry of that further 7 working day period, whichever is the earlier.

4b. 23 If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. If full Council does object, it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless those provisions apply, the Council shall refer any decision to which it objects back to the decision maker, together with its views on the decision. That decision maker shall choose whether to amend the decision before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a Cabinet meeting will be convened to reconsider it within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

4b. 24 If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

4b. 25 Exceptions

In order to ensure that call-in is not abused, nor gives rise to unreasonable delay, certain limitations are placed on its use. These are:

- a) that the Overview and Scrutiny Committee may only call-in a maximum of five decisions per year;

- b) that call-in can be invoked in respect of a decision only once;
- c) that call-in will not apply to day-to-day management and operational decisions taken by Officers and decisions made by officers as defined in the officer scheme of delegation .
- d) Only key and non-key decisions made by the Cabinet and Cabinet Members may be called in, subject to the limitations placed by urgency provisions

4b. 26 Call-in and Urgency

- a) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent.
- b) A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council or the public interest.
- c) The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision maker, the decision is an urgent one, and therefore not subject to call-in.
- d) The Chairman of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman of the Overview and Scrutiny Committee, the consent of the Chairman of the Council, or the Vice-Chairman of the Council's consent shall be required. In the absence of both the Chairman and Vice-Chairman of the Council, the Head of Paid Service or his nominee's consent shall be required.
- e) Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- f) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

4b. 27 Procedure at Overview and Scrutiny Committee meetings

The Overview and Scrutiny Committee and Scrutiny Sub-Committees shall consider the following business:

- a) minutes of the last meeting;
- b) declarations of interest;
- c) consideration of any matter referred to the Committee or Sub-Committee for a resolution in relation to call in of a decision;
- d) responses of the Cabinet to reports of the Overview and Scrutiny Committee;
- e) the business otherwise set out on the agenda for the meeting.
- f) In respect of the Overview and Scrutiny Committee, the work programme summary of all the bodies that form the overview and scrutiny function

4b. 28 The Overview and Scrutiny Committee or any of its sub-committees may ask persons to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:

- a) that the business be conducted fairly and all Members of the Committee or a Sub-Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- b) that those assisting by giving evidence be treated with respect and courtesy;
- c) that the business be conducted as efficiently as possible.

Following any investigation or review, the Committee or Sub-Committees shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

4b. 29 Matters within the remit of more than one Overview and Scrutiny body

Where a matter for consideration by the Overview and Scrutiny Committee or one of the Overview and Scrutiny Sub-Committees also falls within the remit of one or more other committees, the decision as to which committee will consider it will be resolved by the respective Chairmen or, if they fail to agree, the Chairman of the Overview and Scrutiny Committee.

4b.30 Scrutiny of Crime and Disorder Matters

The Overview and Scrutiny Committee is designated as the Council's Crime and Disorder Committee (in accordance with section 19 of the Police and Justice Act 2006) with responsibility for scrutinising crime and disorder and community safety matters. The Overview and Scrutiny Committee will delegate its function relating to scrutiny of crime and disorder matters to a Crime and Disorder Overview and Scrutiny Sub-Committee.

Any Member of the Council may give notice to the Monitoring Officer that they want an item which they consider to be a crime and disorder matter to be included on the agenda for discussion at the next meeting of that Sub-Committee.

On receipt of the request, the Monitoring Officer will ensure that the item is included on the next available agenda for consideration by that Sub-Committee.

If the Crime and Disorder Overview and Scrutiny Sub-Committee decides not to make a report or recommendation in relation to the matter, it must notify the Member who referred the matter of its decision and the reasons for it.

Where the Committee makes a report or recommendations it must, as it resolves appropriate:

- a) provide a copy of the report or recommendations to the Member who referred the matter to the Committee and

- b) provide a copy of the report or recommendations to such of:

the responsible authorities (within the meaning of Section 5 of the Crime and Disorder Act 1998); and

the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to co-operate under Section 5(2) of the Crime and Disorder Act 1998);

4b.31 Where the Crime and Disorder sub-committee makes a report or recommendations or provides a copy of a report or recommendations, the Committee must provide a copy of the report or recommendations to that body or person, That body or person shall:

- a) consider the report or recommendations;
- b) respond to the Committee indicating what (if any) action it proposes to take;
- c) have regard to the report or recommendations in exercising its functions.

4b.32 For the purpose of carrying out its functions under the Crime and Disorder (Overview and Scrutiny) Regulations, 2009, the sub-committee will meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions, no less than twice in every 12 month period.

4b.33 Where the Committee makes a report or recommendations to a responsible authority or to a co-operating person or body in accordance with section 19(8)(b) of the Police and Justice Act, 2006, the sub-committee shall review the responses received and monitor the action (if any) taken by the relevant authority, person or body in accordance with its powers under section 19(1) of the 2006 Act.

4d Budget and policy framework procedure rules

The framework for Cabinet decisions

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

4d. 1 Process for developing the policy framework

References in these Rules to the Policy Framework are to the plans and strategy required by law to be adopted by the Council and set out in Article 4. The Cabinet will be responsible for adopting all other significant policies.

- a) The Cabinet will publicise a Forward Plan timetable for making proposals to the Council for the adoption of any plan or strategy that forms part of the Policy Framework, and its arrangements for consultation after publication of initial proposals. The Chairman of the Overview and Scrutiny Committee will also be notified.
- b) At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses to the consultation.
- c) In its report to Council, the Cabinet will take into account any response from the Overview and Scrutiny Committee and any comments made by consultees.
- d) Once the Cabinet has approved a firm proposal, it will refer it in a timely manner to the Council
- e) If the Council has any objections or wishes to make amendments to a draft plan or strategy submitted to it by Cabinet then it must:
 - I. Inform the Leader of any objections and must give to instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy.
 - II. Where the Council gives such instructions, it must specify the period (of at least five working days beginning on the day after the date on which the Leader receives the instructions) within which the Leader may:
 - III. Submit to the Council for consideration a revision of the draft plan or strategy with the Cabinet's reasons for any amendments made; or
 - IV. Inform the Council of any disagreement that the Cabinet has with any of the Council's objections giving reasons for any such disagreement.
- f) When the period specified by the Council has expired, the Council must take into account any amendments made to the draft plan or strategy that are included in any revised submission; the Cabinet's reasons for those amendments; any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement.

4d. 2 Process for developing the budget

The Cabinet will follow the Financial Procedure Rules set out in Part 4 of the Constitution. In addition the following process shall apply to the development of the budget:

- a) Before 8 February in any financial year, the Cabinet shall submit to the Council for its consideration, in relation to the forthcoming 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.
- b) The Cabinet will publicise a Forward Plan timetable for making proposals to the Council for the adoption of the Budget and its arrangements for consultation after publication of initial proposals. The Chairman of the Overview and Scrutiny Committee will also be notified.
- c) At the end of the consultation period, the Cabinet will draw up firm proposals having taken into account responses to the consultation and any response from the Overview and Scrutiny Committee.
- d) Once the Cabinet has approved the firm proposals, it will refer them in a timely manner to the Council.
- e) If the Council in its consideration of the estimates and calculations that are required to approve a Budget has any objections it must:
 - I. Inform the Leader of such objections which it has to the Cabinet's submission and must give instructions requiring the Cabinet to reconsider, in the light of those objections, the budget and any supplementary information submitted to it
 - II. Where the Council gives such instructions it must specify the period (of at least five working days beginning on the day after the date on which the Leader receives the instructions) within which the Leader may:
 - III. Submit a revision of the estimates or amounts with the Cabinet's reasons for any amendments made for the Council to consider. or
 - IV. Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the reasons for any such disagreement.
- f) When the period specified by the Council has expired, the Council must take into account, when making its deliberations and calculations (whether originally or by way of substitute) or when issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, any amendments from the Cabinet that are included in any revised proposals; the reasons for

those amendments; any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement.

- g) Paragraph e) above shall not apply in relation to calculations or substitute calculations which the Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.
- h) In approving the Budget and Policy Framework, the Council will also specify the extent of the virement (the transfer of funds from one part of a budget to another) and degree of in-year changes to the policy framework which may be undertaken by the Cabinet in accordance with paragraphs 4d. 5 and 4d. 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

4d. 3 Decisions outside the budget or policy framework

Subject to the provisions of Cabinet, committees of the Cabinet, individual members of the Cabinet or any officers or joint arrangements discharging executive functions may only take decisions which in the opinion of the Monitoring Officer and/or the Chief Finance Officer 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 paragraph 4d. 3. If the decision is a matter of urgency the provisions in paragraph 4d. 4 shall apply.

4d. 4 Urgent decisions outside the budget or policy framework

If a decision is a matter of urgency, the Cabinet may take a decision which is contrary to the Council's Policy Framework or not in accordance with the Budget approved by full Council. However, the decision may only be taken:

- a) if it is not practical to convene a quorate meeting of the full Council; and if the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.
- b) The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Committee the consent of the Chairman of the Council will be required.
- c) Following the decision, the Cabinet must 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.

4d. 5 Transfer of funds from one part of a budget to another (virement)

Steps taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet or Officers or joint arrangements discharging executive functions to implement Council policy, shall not exceed those budgets allocated to each budget head. In the event that the transfer of funds across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Procedure Rules in Part 4 of this Constitution.

4d. 6 In-year changes to policy framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging executive functions must be in line with it. No changes to any policy or 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 in order to meet a budgetary constraint;
- b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration; or
- d) for which provision is made within the relevant budget or policy.

4d. 7 Call-in of decisions outside the budget or policy framework

- a) Where the Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- b) If the Monitoring Officer and/or the Chief Finance Officer concludes that such a decision would be a departure from the Policy Framework or Budget their report shall be made to the Cabinet with a copy to every Member of the Council regardless of whether the decision is delegated or not, the Cabinet must then meet to decide what action to take in respect of that report and to prepare a report to Council
- c) If the Monitoring Officer or the Chief Finance Officer conclude that such a decision was not a departure from the Policy Framework or Budget their report will be to the Overview and Scrutiny Committee.
- d) If the decision under paragraph 4d.7a has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 20 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of

the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. 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 Procedure Rules 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; or
- III. where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing Framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

4e Financial procedure rules

- 4e. 1** Section 151 of the Local Government Act 1972 states that “every authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”.

Financial Procedures provide the framework for managing the Council's financial affairs. Financial Procedures are supported by more detailed Financial Management Regulations, Standards and Policies which set out how the procedures will be implemented. These are available from the Chief Finance Officer or their deputy.

These procedures identify the financial responsibilities of the full Council, the Cabinet and officers.

To avoid the need for regular amendment due to changes in post:

- a) titles generic terms are included for officers as follows:
- b) The term, “Chief Finance Officer,” refers to the Section 151 Officer who is currently the Director of Corporate Resources.
- c) The term, “Chief Officers”, refers to the Council's Chief Executive and the Corporate Directors.
- d) The term, “Monitoring Officer”, is currently the Head of Legal and Democratic Services.
- e) The term, “Chief Internal Auditor”, refers to the Chief Audit Executive as defined by the Public Sector Internal Audit Standards.
- f) The term, “Service Manager” or “Head of Service” are interchangeable and apply to any officer, who is not a director, but directly reports to one of the directors or the Chief Executive, “deputy chief officer”.

- 4e. 2** To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.

- I. Good, sound financial management is a key element of Corporate Governance. This helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- II. Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.
- III. Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.

- IV. Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

Who do Financial Procedures apply to?

- 4e. 3** Financial Procedures apply to every member and officer of the Council and anyone acting on its behalf. Members and officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.
- 4e. 4** These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.
- 4e. 5** Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

Who is responsible for ensuring that they are applied?

- 4e. 6** Chief Officers and Service Managers are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by their staff and contractors providing services on the Council's behalf. They are also responsible for reporting to the Chief Finance Officer any known or suspected breaches of such Financial Procedures.
- 4e. 7** The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedures to the Council and/or to the Executive Members.
- 4e. 8** The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers and others acting on behalf of the Council are required to follow.
- 4e. 9** Any persons charged with the use or care of the Council's resources and assets should inform themselves of the Council's requirements under these Financial Procedure Rules. If any person is in any doubt about such obligations, they should seek advice.
- 4e. 10** Where any Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the principles of Best Value or the best interests of the Council, they shall raise the issue with the Chief Finance Officer who will, if considered necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

4e. 11 Financial management – role of council and the cabinet

a) The Council is responsible for:

- I. The adoption and revision of these Financial Procedure Rules;
- II. The determination of the Policy Framework and Budget within which the Cabinet works;
- III. Providing the Chief Finance Officer with sufficient staff, accommodation and other resources to carry out his or her duties; and
- IV. approving and monitoring compliance with the Council's overall framework of accountability and control.

b) The Cabinet is responsible for:

- I. controlling the Council's financial resources;
- II. proposing the Budget and Policy Framework to full Council; and
- III. for discharging cabinet functions in accordance with the Budget and Policy Framework.

4e. 12 The Role of the Chief Finance Officer

The Chief Finance Officer is accountable to the Chief Executive and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council This statutory responsibility cannot be overridden. These statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2011.

The Chief Finance Officer is the Council's professional adviser on financial matters and is responsible for:

- a) The proper administration of the Council's financial affairs.
- b) Maintaining a continuous review of Financial Procedures and submitting any additions or changes as necessary to the full Council for approval.
- c) Updating, and monitoring compliance with financial management standards.
- d) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- e) Providing training for Members and officers on Financial Procedures and Financial Management Standards.
- f) Determining accounting policies and ensuring that they are applied consistently.
- g) Determining accounting procedures and records of the Council.
- h) Reporting, where appropriate, breaches of the Financial Procedures to the Council and/or Cabinet.
- i) Preparing and monitoring the revenue budget, capital programme and Medium Term Financial Plan.
- j) Ensuring the provision of an effective Internal Audit Function.
- k) Ensuring the provision of an effective Treasury Management Function.

- l) Advising on risk management.
- m) Ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities.
- n) Ensuring the Council complies with the Public Sector Internal Audit Standards.
- o) Ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates.
- p) Ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term.
- q) Ensuring that the annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the UK: A Statement of Recommended Practice (SORP).
- r) Ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.
- s) Ensuring that proper professional practices, standards and ethics are adhered to.
- t) Acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located.
- u) The appointment of all finance staff and will be consulted on any proposal to create or delete a post requiring such a qualification for appointment.

Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council and to the External Auditors if the Council or one of its officers:

- I. Has made, or is about to make a decision which involves incurring expenditure which is unlawful.
- II. Has taken or is about to take, unlawful action which has resulted or would result in a loss or deficiency to the Council.
- III. Is about to make an unlawful entry in the Council's accounts.
- IV. The Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.
- V. The Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, to carry out the duties under section 114, as determined by the Chief Finance Officer.

The Chief Finance Officer

- VI. is required to approve all financial procedures, records, systems and accounts throughout the Council which are necessary to ensure that the tasks defined in these procedures are properly carried out. The Council will also ensure that the Chief Finance Officer is consulted and given the opportunity to advise upon all financial management arrangements and notes of detailed

advice and guidance on financial systems and procedures necessary to ensure a satisfactory standard of accuracy, reliability, probity and regularity.

- VII. shall be given access to any information as is necessary to comply with their statutory duties and with the requirements and instructions of the Council.
- VIII. shall be entitled to attend and report on financial matters directly to the Council, the Cabinet, and any committees or working groups the Council may establish.
- IX. shall be sent prior notice of all meetings of the Cabinet and all Council bodies together with full agendas and reports and shall have authority to attend all meetings and take part in the discussion if so desired

4e. 13 The Role of Chief Officers

Chief Officers are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with Council policy.

Chief Officers are responsible for:

- a) Ensuring that adequate and effective systems of internal control are operated to ensure the accuracy, legitimacy and proper processing of transactions and the management of activities, having regard to advice and guidance from the Chief Finance Officer.
- b) Ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.
- c) Consulting with the Chief Finance Officer in seeking approval regarding any matters which may affect the Council's finances materially, before any commitments are incurred.
- d) Consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.
- e) Informing immediately the Chief Finance Officer of failures of financial control resulting in additional expenditure or liability, or loss of income or assets.

Financial Planning

4e. 14 Strategic Planning

- a) The full Council is responsible for agreeing the Council's Budget and Policy Framework proposed by Cabinet.

- b) The preparation of the medium term financial plan is part of the strategic policy framework of the Council and aims to ensure that the Council's spending plans are prudent, affordable, and sustainable and reflect Council priorities.
- c) The full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Under the Constitution, the Monitoring Officer has a duty to advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.
- d) Chief Officers are responsible for the preparation and monitoring of service improvement plans within their service areas. Service improvement plans should align with Council values and priorities and be consistent with and based upon the budget allocated by the Council to the service.

4e. 15 Budget Preparation

The Cabinet, in consultation with the Chief Finance Officer is responsible for determining the general Budget strategy and issuing guidance to Members and Chief Officers on:

- a) Preparing a detailed revenue Budget for the following year
- b) Preparing the medium term financial plan for a period of no less than 3 years.
- c) Preparing the capital programme.
- d) The timetable for preparing and agreeing the Council's revenue and capital Budget.

The guidance will take account of:

- e) Council priorities as reflected in the Corporate Plan
- f) Spending pressures
- g) What future funding is available
- h) What level of reserves are available
- i) The affordability, sustainability and prudence of capital investment plans
- j) Legal requirements
- k) Value for money and other relevant government guidelines
- l) Other internal policy documents
- m) Cross-cutting or income growth issues (where relevant).

4e. 16 The Chief Finance Officer is responsible for ensuring budget process considers the full Council's policy framework.

4e. 17 The Chief Finance Officer is responsible for ensuring that a detailed revenue budget is prepared on an annual basis and a general revenue plan on a three yearly basis (medium term financial plan) for consideration by Cabinet before submission to full Council.

4e. 18 The Chief Finance Officer is responsible for ensuring a capital programme is prepared annually for consideration by Cabinet before submission to the full Council.

4e. 19 It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or the full Council on prudent levels of reserves for the Council.

4e. 20 Chief Officers are responsible for ensuring that budget estimates are prepared in accordance with guidance issued by Cabinet and reflect agreed service performance plans.

4e. 21 Budget Approval

- a) The full Council is responsible for agreeing the Council's Budget (including Prudential Indicators) and Policy Framework. The policy framework comprises of a number of statutory plans and strategies.
- b) The Council's revenue and capital budget will be proposed by the Cabinet, (on the advice of the Chief Finance Officer), and will be approved by the full Council.
- c) The full Council may amend the proposed budget or ask the Cabinet to reconsider it before approving it.

4e. 22 Budget Transfers

- a) During the year the Cabinet and Chief Officers may need to vary budgets to reflect changed service needs or priorities in order to deliver the budget policy framework within the financial limits set by the Council.
- b) The full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the Budget or Policy Framework. Decisions should be referred to the full council by the Monitoring Officer.
- c) The full Council is responsible for setting the level at which the Cabinet may reallocate budget funds.
- d) The full Council is responsible for agreeing procedures for carrying forward surpluses and deficits on budget headings at each financial year end.
- e) The following limits have been approved for the authorisation of budget transfers:

I. Chief Officers

- a) Up to £50,000, between any one budget head to another for which they are responsible during the financial year after notification to the Chief Finance Officer

- b) Up to £100,000, between any one budget head to another for which they are responsible during the financial year with written approval of the Chief Finance Officer.
- c) In total, up to a total of 5% of the directorate budget for which they are responsible in any one financial year.

II. Cabinet Member

Up to £250,000, between any one budget head to another for which they are responsible during the financial year with written approval of the Cabinet Member responsible for Finance.

III. Cabinet

Individual transfers between budget heads in excess of £250,000 following a joint report by the Chief Finance Officer and the responsible Chief Officer. The joint report must explain the implications in the current and coming financial year.

IV. Full Council

Any transfer which results in an excess of 5% of a directorate budget.

4e. 23 The Chief Finance Officer will use their delegated authority to authorise the release of funds from contingencies. It is the responsibility of the Chief Officers to:

- a) Notify the Chief Finance Officer of any budget transfer agreed under delegated powers as set out above;
- b) Give prior notice to budget holders of any budget transfer affecting their service area and provide an explanation of the reason for the budget transfer.

4e. 24 Council approval is required for any budget transfer, of whatever amount, where the proposed transfer will result in a change of policy, the introduction of a new Service or the termination of an existing Service.

4e. 25 A capital budget cannot be transferred to a revenue budget head.

4e. 26 Budget Monitoring and the Control of Income and Expenditure

The Chief Finance Officer is responsible for:

- a) Developing an effective framework of budgetary management and control.
- b) Providing appropriate financial information to enable budgets to be monitored effectively.
- c) Reporting to the Cabinet and the Overview and Scrutiny Committee, or its nominated Sub Committee, on the overall Council budget monitoring position on a quarterly basis.

- d) All payments to employees, Members and creditors.
- e) Maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- f) Advising Chief Officers on all taxation issues that affect the Council.
- g) Ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- h) Agreeing arrangements for the collection of income due to the Council.
- i) Agreeing banking, borrowing and other credit requirements e.g. leasing.
- j) Agreeing the write-off of bad debts in accordance with the Council's Debt Recovery Policy.

4e. 27 The Cabinet is responsible for approving contractual arrangements for any work for third parties or external bodies unless the responsible Chief Officer is authorised in this respect under the Scheme of Delegation in this Constitution.

It is the responsibility of Chief Officers to:

- a) Control income and expenditure within their service area.
- b) Monitor performance in conjunction with the budget taking account of financial information provided by the Chief Finance Officer.
- c) Report on spending variances within their own areas.
- d) Take any corrective action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

4e. 28 Reporting Council Spending at Year End

The Chief Finance Officer is responsible for:

- I. Publishing a timetable for the closure of the accounts annually
- II. Ensuring that the Council's annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom, CIPFA/LASAAC, the Accounts and Audit Regulations 2011 and any other relevant guidelines.

It is the responsibility of Chief Officers to ensure that arrangements are put in place each year to deliver the Council's closure timetable.

4e. 29 Use of Council Reserves

- a) The Chief Finance Officer is responsible for advising the Cabinet and/or the full Council on levels of reserves for the Council. The advice will be based upon an annual risk assessment of the prudent levels of reserves the Council should maintain.

- b) The Chief Finance Officer will manage the Council reserves in accordance with decisions taken by the Cabinet and full Council.

4e. 30 Risk management and control of resources

Risk Management

- a) It is essential that robust, integrated systems are developed and maintained for identifying, evaluating and managing all significant Strategic and Operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- b) The Audit Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management.
- c) The Chief Finance Officer is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council and for advising the Audit Committee on proper insurance cover for material risks where appropriate.
- d) The Chief Officers are responsible for reviewing strategic risks and reporting progress on the management of strategic risk to the Audit Committee.
- e) It is the responsibility of Chief Officers to ensure there are regular reviews of risk within their areas of responsibility having regard to advice from the Council's Corporate Risk Manager and other specialist officers (e.g. crime prevention, fire prevention, Health & Safety).

Internal Control

- f) Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- g) The Chief Internal Auditor is responsible for advising on effective systems of internal control. Effective systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should also ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.
- h) It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, value for money, effective use of resources and achieving their financial performance targets.

- i) The Council is required to provide an Annual Governance Statement in accordance with the Accounts and Audit Regulations 2011. As part of this statement, the Chief Executive and the Leader of the Council are required to comment on the effectiveness of the entire internal control environment within the Council as this is a key indicator of good governance.

4e. 31 Insurance

Insurance provision is a way of managing risk. The Chief Finance Officer is responsible for:

- I. Effecting insurances falling within the framework approved by the Cabinet and dealing with all claims in consultation with other Chief Officers where necessary.
- II. Reviewing, at least annually, all insurances in consultation with Chief Officers where necessary.

It is the responsibility of Chief Officers to:

- a) Advise the Chief Finance Officer of all new risks, properties, vehicles or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required.
- b) Notify the Chief Finance Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and shall provide such information and explanations required by the Chief Finance Officer or the Council's insurers
- c) Consult with the Monitoring Officer on the terms of any indemnity which they are requested to give on behalf of the Council.
- d) Ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

4e. 32 Audit Requirements

The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, and section 112 of the Local Government Finance Act 1988, which require that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2011 require that a, "relevant body must undertake an adequate and effective internal audit of its accounting records and of its systems of internal control" and must "at least once in each year conduct a review of the effectiveness of its internal audit."

The Chief Finance Officer, as determined by the Council, will ensure that the Council has appropriate arrangements in place to maintain an adequate and effective internal audit.

The strategy and terms of reference for Internal Audit are detailed in the Council's Internal Audit Charter which is approved and reviewed by the Accounts, Audit and Governance Committee.

An external auditor is appointed to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998. They are also required to follow the current Audit Code of Practice. The duties include reviewing the work of the internal auditors.

The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

The Chief Finance Officer is responsible for reporting to the Audit Committee and the Cabinet, where appropriate, the findings of these inspections and taking relevant action to implement recommendations and action required.

4e. 33 Preventing Fraud and Corruption

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Chief Finance Officer is responsible for the development maintenance and review of an anti-fraud and anti-bribery policy. It is the responsibility of Chief Officers to promote the Anti-fraud and Anti-corruption policy within their Service areas and ensure that all suspected irregularities are reported to the Chief Finance Officer. The Chief Internal Auditor will take whatever steps are considered necessary, on behalf of the Chief Finance Officer, to investigate and report upon the matter. Chief Officers are responsible for taking any appropriate action to prevent further loss and to secure records and documentation against removal or alteration.

4e. 34 Use of and Disposal of Assets

The Chief Finance Officer is responsible for issuing procedures to safeguard the use and disposal of Council assets. Chief Officers are responsible for ensuring that adequate and effective arrangements are in place for the care and custody all assets within their Service area and ensuring that assets are disposed of in accordance with procedures approved by the Chief Finance Officer.

4e. 35 Treasury Management

The Council has adopted the key recommendations of CIPFA's Treasury Management in the Public Service Code of Practice. Accordingly, the full Council is responsible for approving a Treasury Management Policy Statement, on an annual basis, stating the policies and objectives of its treasury management activities.

The full Council is also responsible for approving Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to

achieve those policies and objectives, and prescribing how it will manage and control those activities.

The Council will receive reports on its Treasury Management policies practices and activities, including as a minimum, an annual strategy and plan for the coming financial year at or before the start of each financial year and an annual report after its close, in the form prescribed in the TMPs.

The Council has delegated its responsibility for the implementation and monitoring of its Treasury Management policies and practices to the Audit Committee.

Responsibility for the execution and administration of its Treasury Management decisions, including decisions on borrowing, investment and financing, have been delegated to the Chief Finance Officer, who will act in accordance with the Council's policy statements and TMPs.

4e. 36 Banking

All arrangements concerning banking services, including the opening, closing and operation of the Council's bank accounts shall be made solely upon direction of the Chief Finance Officer.

The Chief Finance Officer is responsible for the reconciliation of the Council's bank accounts with the Council's financial accounts.

Chief Officers are responsible for ensuring that all banking arrangements determined by the Chief Finance Office are observed and to advise him or her of any changes in their Services that may require a change in these arrangements.

4e. 37 Income Collection

The Chief Finance Officer is responsible for approving all methods of income collection, records and systems.

The Council has a statutory responsibility to conform to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007 (as amended). Accordingly, the Cabinet is responsible for the approving the Council's Money Laundering Policy.

Responsibility for the implementation and administration of the Council's Money Laundering Policy has been delegated to the Chief Finance Officer who is responsible for nominating an officer (and deputy) to act as the Council's Money Laundering Reporting Officer.

Chief Officers are responsible for:

- a) Ensuring all income is held securely
- b) Ensuring for compliance with income and banking arrangements specified by the Chief Finance Officer
- c) In consultation with the Chief Finance Officer reviewing prices, fees and charges, at least annually.

4e. 38 External Funding

Chief Officers are responsible for ensuring that any bids for external funding are made in consultation with the Chief Finance Officer. Chief Officers must ensure that any project to be funded by external funding does not commence until proper approval has been obtained and the source of external funding confirmed.

The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Chief Officers are responsible for providing all necessary information to enable this to be achieved.

4e. 39 Debt Collection

The Cabinet is responsible for approving the Council's debt recovery policy. The Chief Finance Officer is responsible for maintaining records of debts and the implementation of the Council's debt recovery policy.

Chief Officers are responsible for:

- i. Ensuring effective systems are in place to allow sums due to the Council to be easily identified
- ii. Ensuring debtor accounts are raised accurately and promptly and that adequate records are maintained to support the raising of the debt and any recovery action taken.
- iii. Assisting in the collection of debt by providing any further information necessary to pursue the debt or monitoring debts on the Council's behalf as requested by the Chief Finance Officer.
- iv. Ensuring that the appropriate approval is obtained to write off debts

4e. 40 Partnerships

The Cabinet may form partnerships with other local, public, private, voluntary and community sector organisations. The Cabinet is responsible for approving any delegations of its powers, to address local needs.

The Council or the Cabinet can delegate its functions, including those relating to partnerships to officers. Details are set out in the Scheme of Delegation that forms part of this Constitution. Where its functions are delegated, the Cabinet remains accountable for them to the full Council.

The Head of Paid Service or the appropriate chief officer or officer nominated by the chief officer may represent the Council on partnership and external bodies, in accordance with the respective decisions of the Council and the Cabinet.

The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.

The Chief Finance Officer is responsible for ensuring that the accounting arrangements to be adopted relating to partnerships and joint ventures are

satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must also ensure that the risks have been fully appraised before agreements are entered into with external bodies.

Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

4f Contract procedure rules

(Contract Standing Orders)

- 4f. 1** These Contract Standing Orders establish the legal framework applicable to all commissioning and to the purchase of goods & services or construction works by the Council. These Procedure Rules should be seen as setting minimum requirements and standards. Where better value for the Council might be achieved by seeking more tenders or quotations this should be done. The Contract Standing Orders should be used in conjunction with the Horsham Procurement Code (found at the following link).
- 4f. 2** These Contract Standing Orders are made pursuant to the Local Government Act 1972. Nothing in these Contract Standing Orders shall prejudice the validity of any actions taken under any previous iteration.
- 4f. 3** Subject to paragraph 4f. 5 every contract made by or on behalf of the Council including its Cabinet and Cabinet Members shall comply with:-
- a) these Contract Standing Orders;
 - b) the Horsham Procurement Code;
 - c) the Council's Financial Regulations;
 - d) all relevant statutory provisions
 - e) European Union treaties and European Council directives;
 - f) the rules on State Aid;
 - g) any direction by the Council, the Cabinet, a Cabinet Member or Committee having appropriate allocated or delegated Council by part three of this constitution.
- 4f. 4** These Contract Standing Orders **shall not** apply or may be varied where :
- a) statute or subordinate legislation prescribes otherwise.

b) in accordance with the Horsham Procurement Code, the reasons for not complying with Contract Standing Orders have been recorded in a Procurement Exemption Form and approved in accordance with the sub-clauses below:-

- i. for contracts below £50,000; by the relevant Service Manager, the Monitoring Officer and the Chief Finance Officer.
- ii. for contracts of £50,000 and above; by the relevant Service Manager, the Monitoring Officer and the Chief Finance Officer in consultation with the relevant Cabinet Member;

Upon approval, a copy of the electronic Exemption Form should be emailed to the relevant Head of Service and the Procurement Team who will retain a record of the Form.

- 4f. 5** No exemption or variation to Contract Standing Orders can be made if the EU Procedure applies.
- 4f. 6** The estimated value of a contract for the purposes of these Contract Standing Orders shall be as detailed in the Horsham Procurement Code.
- 4f. 7** The Council's Project Management Methodology and Sourcing Strategy shall be held by the Chief Finance Officer and should be followed for all requirements for goods & services estimated to have a total contract value of £50,000 and above and for all works estimated to have a total contract value of £100,000 and above.

Authority to enter into contracts

- 4f. 8** In accordance with the Procurement Code, the Head of Paid Service, Chief Officers and deputy chief officers, have authority to accept tenders and enter into contracts to a total value of under £100,000.
- 4f. 9** Individual Cabinet Members can authorise the acceptance of tenders and the conclusion of contracts - 'non-key decisions' with a value between £100,000 and the key decision threshold. The Cabinet can authorise the acceptance of tenders and the conclusion of contracts with a value at and above the key decision threshold.
- 4f. 10** The authority to accept tenders and enter into contracts shall be documented as appropriate. Key and non-key decisions must be recorded on the report template.
- 4f. 11** The Council, Cabinet, Cabinet Member, or officer shall not accept tenders or enter into contracts for the specialist requirements detailed below without having complied with the additional provisions in the Horsham Procurement Code with regard to :
- Use of Consultants
 - Information Communication Technology
 - Purchases involving the use of financing and leasing

4f. 12 The Service Manager shall ensure a purchase order must be raised for all purchases via the Council's financial management system.

Contracts below £20,000

4f. 13 Where the estimated value or the amount of a proposed contract is below £20,000 and provision has been made in the Council's annual budget for such expenditure, the Service Manager concerned shall have the authority to enter into any such contract provided they are satisfied that the Council is receiving value for money.

4f. 14 The Council shall evaluate such contracts on the basis of the offer which:

- i. is the most economically advantageous to the Council based on the criteria outlined in the Horsham Procurement Code, or,
- ii. offers the lowest price.

Contract value of £20,000 and above and below £50,000 for goods and services or below £100,000 for works

4f. 15 For such contracts the relevant Service Manager must seek a minimum of three (3) written quotations in accordance with the provisions detailed in the Horsham Procurement Code.

4f. 16 The Council shall evaluate contracts on the basis of the offer which:

- i. is the most economically advantageous to the Council based on the criteria outlined in the Horsham Procurement Code, or,
- ii. offers the lowest price.

Contracts value of £50,000 and above for goods and services or £100,000 and above for works

4f. 17 The Council's Project Management Methodology should be followed.

4f. 18 The relevant Service Manager must follow a formal tender and contract award procedure in accordance with the provisions in the Horsham Procurement Code and where applicable the Public Contract Regulations 2015.

4f. 19 The Council shall evaluate contracts on the basis of the offer which:

- i. is the most economically advantageous to the Council based on the criteria outlined in the Horsham Procurement Code, or,
- ii. offers the lowest price.

Use of framework agreements

- 4f. 20** A Framework Agreement is a contract that has been officially tendered for by another local authority, public sector organisation, Purchasing Consortium, or central Government. The contract is awarded to one or more suppliers, and has provision for other named public sector bodies to use the contract without having to undertake their own tender process so long as these public bodies have been clearly identified in such publicity (advertising) that may be pertinent to a particular procurement exercise which led to the creation of the Framework Agreement.
- 4f. 21** The use of Framework Agreements is permitted for any value of contract but caution must be taken as the rules governing which bodies can use them, and the process for accessing them will vary from one Framework Agreement to another.

Contract formalities

- 4f. 22** All contracts must be concluded before the supply, service or construction work begins, except in exceptional circumstances only with the prior written consent of the Monitoring Officer and the Chief Finance Officer.
- 4f. 23** Every contract shall be in a format as approved by the Monitoring Officer and defined in the Horsham Procurement Code.
- 4f. 24** Subject to paragraphs 4f 17 - 19 every contract of £50,000 and above not required or intended to be made under seal shall be signed on behalf of the Council by two officers of the Council. These persons being the Monitoring Officer or their designated Deputy and one of the following: the Head of Paid Service, any Chief Officer or other officer authorised by the Head of Paid Service or under the Scheme of Delegation to Officers
- 4f. 25** Every contract which is a lease finance or lease purchase agreement shall be signed by both the Monitoring Officer and the Chief Finance Officer or their designated deputy.
- 4f. 26** Every contract required or intended to be made under seal shall be sealed on behalf of the Council by the Head of Paid Service, any Chief Officer, the Monitoring Officer or their designated deputies.
- 4f. 27** Every contract document shall bear its original date and not that ascribed by automatic updating means.

Contract management

- 4f. 28** No contract shall commence unless and until the procurement exercise and contract documents have been completed in accordance with these Contract Standing Orders and the Council's Financial Regulations.
- 4f. 29** All contracts shall be managed in accordance with the Council's contract management guidance.

Contracts register

4f. 30 Immediately upon completion of every procurement exercise of £5,000 and above, the relevant Service Manager shall complete and submit the Contracts Register e-form with the required details of the contract for publication in the Council's Contracts Register.

Community right to challenge

4f. 30 Receipt of an expression of interest in accordance with the Community Right to Challenge provisions must be considered by the Chief Finance Officer in accordance with the procedure detailed in the Horsham Procurement Code.

4f. 31 Any procurement exercise commencing as a result of a successful expression of interest or contract entered into as a 'Community Right to Challenge' shall be undertaken or completed in accordance with the provisions detailed in these Contract Standing Orders.

4g Access to information procedure rules

4g. 1 Scope

Subject to paragraph 4g. 2 below, these rules apply to all meetings of the Council, the Cabinet, the Overview and Scrutiny Committee and its Sub-Committees, the Standards Committee and Regulatory Committees (including the Audit Committee and Governance Committee) only (together called meetings).

Where the Standards Committee is convened to consider or review, as the case may be, an allegation that a member has contravened the Council's Code of Conduct for Members, the provisions set out in the Standards Committee's Procedure for Local Assessment of Complaints shall apply and the meeting and papers will not be open to the public

4g. 2 Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

4g. 3 Rights to attend meetings

- a) Members of the public may attend all meetings subject only to the exceptions in these Rules.
- b) If a member of the public or press interrupts the proceedings at any meeting the Chairman may warn him. If he continues the interruption and a warning has been given, the Chairman may order his removal from the meeting place.
- c) In the event of a general disturbance in any part of the meeting place open to the public, the Chairman may order that part to be cleared.
- d) If the Chairman considers the orderly dispatch of business impossible, he may without question adjourn the meeting.
- e) The above powers of the Chairman are in addition to any other power vested in him/her.

4g. 4 Notices of meeting

The Council will give at least five clear days' notice of any meeting referred to in 4g. 1 above by posting details of the meeting at its offices and on its website.

4g. 5 Access to Agenda and Reports before the meeting

The Members of the Overview and Scrutiny Committee and Scrutiny Sub-Committees shall be notified of the agenda and reports presented to the Cabinet including those containing exempt and/or confidential information.

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

4g. 6 Supply of Copies

The Council will make available to the public on its website the agenda and reports for the meetings specified in 1 above (save during any part of the meeting to which the public are excluded) the council will supply to any person on payment of a charge for postage and any other costs, copies of:

- a) any agenda and reports which are open to public inspection;
- b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- c) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with an item

4g. 7 Access to Minutes etc. after the meeting

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

- a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet and the Full Council, 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.

4g. 8 Background Papers

List of background papers

The Officer preparing a report will set out in such report a list of those documents (called background papers) relating to the subject matter of the report which in his 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), and in respect of executive reports, the advice of a political assistant if any.

4g. 9 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.

4g.10 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 made available to the public at the council offices and on its website.

Exclusion of Access of the Public to Meetings

4g. 11 Confidential information – requirement to exclude public

The public must be excluded from meetings or parts of 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.

4g. 12 Exempt information – discretion to exclude public

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

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.

4g. 13 Meaning of confidential information

Confidential information means information given to the Council by a Government Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order. And, in either case, the reference to the obligation of confidence is to be construed accordingly.

4g. 14 Meaning of exempt information

Category	Condition
1. Information relating to any individual.	Reports which relate to: <ul style="list-style-type: none">• employees, a former employee, job applicants• occupiers or former occupiers of council accommodation,• applicants or recipients or former recipients of any service provided by the council• applicants or recipients or former recipients of any financial assistance provided by the council

	<ul style="list-style-type: none"> protected informants in relation to civil matters.
2. Information which is likely to reveal the identity of an individual.	Reports where personal data could be revealed indirectly. Names, addresses or telephone numbers can identify individuals
3. Unless that information is required to be registered under: (a) the Companies Acts (as defined in section 2 of the Companies Act 2006); (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial & Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 2011, information relating to the financial or business affairs of any particular person (including the Council holding that information).	<p>Financial or business affairs are defined to include contemplated as well as past or current business activities</p> <ul style="list-style-type: none"> This exemption covers the financial or business affairs of the Council itself It covers the financial or business affairs of individuals and companies, charities etc. registered in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act) This covers reports about contracts and negotiations for the acquisition/disposal of property or supply of goods or services, the identity of the Council or any other person offering any particular tender for a contract for the supply of goods or services and the making of grants to external organisations
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council.	Labour relations means matters which may be the subject of a trade dispute under the Trade Union and Labour Relations Act 1992, such as pay and terms and conditions of employment. Employee means a person employed under a contract of service Office holder in relation to the Council, means the holder of any paid office appointments which are or may be made or confirmed by the Council or by any joint board on which the Council is represented or by any person who holds any such office or is an employee of the Council.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	This covers legal advice given by a professional legal adviser, i.e Legal Services or external solicitors and barristers. It applies where no litigation is contemplated or pending (e.g. general advice on non-contentious matters), as well as in connection with legal proceedings by or against the Council.
6. Information which reveals that the Council 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.	The wording of this exemption covers reports about proposed action under regulatory legislation such as planning, licensing and environmental health.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	The wording of this exemption covers reports about criminal investigations and prosecutions undertaken by the Council, and any actions which might be taken to prevent crime occurring. This would include information about a protected informant in relation to any criminal investigations.

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

4g. 15 Exclusion of access by the public to reports

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed. If the information is exempt information, the category of the exempt information must also be marked on the report.

The relevant body is requested in the agenda to confirm the action set out by resolution. Arrangements will be made to recall the press and public immediately should the motion to exclude not be passed. If the matter is considered in public, any related report will also become available to the public.

4g. 16 Application of Rules to the Cabinet

Rules 4g.1- 4g.15 apply to the Cabinet and its Committees (if any). If the Cabinet meets to take a key decision then it must also comply with Rules 4g.17 – 4g.20 unless Rule 21 (general exception) or Rule 4g.22 (special urgency) apply. A key decision is as defined in Article 11 of this Constitution.

Procedure before taking Key Decisions

4g. 17 Notice of Key Decision

Subject to Rule 4g. 21 (general exception) and Rule 4g. 22 (special urgency), a key decision may not be taken unless:

- a) a notice (called here a "Forward Plan Notice of Key Decision") has been published in connection with the matter in question;
- b) at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and
- c) the decision must be taken at a meeting of the Cabinet, and notice of the meeting has been given in accordance with Rule 4g.4 (notice of meetings).

4g. 18 Contents of Forward Plan Notice of Key Decision

The Forward Plan Notice of Key Decision will state that a key decision is to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:

- a) the matter in respect of which the decision is to be made;
- b) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its membership;
- c) the date on which, or the period within which, the decision is to be made;
- d) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- f) that other documents relevant to those matters may be submitted to the decision maker; and
- g) the procedure for requesting details of those documents (if any) as they become available.

4g. 19 Publication of the Notice of Key Decision

The Forward Plan Notice of Key Decision must be made available on request for inspection by the public at the offices of the council and on the council's website.

4g. 20 The Forward Plan Notice of key decisions

The Forward Plan Notice of Key Decision and a Notice of Private Meeting of Cabinet published by the Council set out not just details of specific key decisions, but also details of key decisions over a twelve month period including key decisions to be made by Cabinet, and 'non- key' individual Cabinet member decisions. In this constitution, such notices are together referred to as the "Forward Plan". The Forward Plan does not have to include exempt information and should not include confidential information.

4g. 21 General Exception

If a Notice of Key Decision has not been published, then subject to Rule 22 (special urgency), the decision may still be taken if:

- a) the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;
- b) the Chief Executive has informed the Chairman of the Overview and Scrutiny Committee, or in his absence the Vice-Chairman, in writing, or if there is no such person, each member of that committee in writing, by notice, of the matter about which the decision is to be made;
- c) the Chief Executive has made copies of that notice available to the public at the offices of the council on the council's website; and
- d) at least 5 clear days have elapsed since the Proper Officer complied with Rule 21 b)

As soon as reasonably practicable after the Proper Officer has complied with Rule 4g.21, he must make available at the council's offices and publish on the council's website the reasons why compliance with Rule 4g.17 is impractical.

4g. 22 Special Urgency

If by virtue of the date by which a key decision must be taken Rule 21 (general exception) cannot be followed, then the Key Decision can only be taken if the Proper Officer obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If the Chairman of the Overview and Scrutiny Committee is not available then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman of the Council will suffice.

As soon as reasonably practicable after the Proper Officer has obtained agreement he must make available at the Council's offices and publish on the Council's website a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

Report to Council

4g. 23 If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- a) the subject of a Notice of Key Decision; or
- b) the subject of the general exception procedure; or
- c) the subject of an agreement with the Chairman of the Overview and Scrutiny Committee, or the Chairman or Vice Chairman of the Council under Rule 4g.22;

it may require the Cabinet to submit a report to the Council within such reasonable time as the Overview and Scrutiny Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Cabinet believing that the decision was a key decision. The power to require a report rests with the Overview and Scrutiny Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman of the Overview and Scrutiny Committee or any 5 members of the Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

4g. 24 Cabinet's report to Council

Following receipt of a requisition under rule 4g. 23, the Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 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 member or body making the decision, and Leader of the Council is of the opinion that it was not a key decision the reasons for that opinion.

4g. 24 Quarterly reports on special urgency decisions

In any event the Leader of the Council will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 22 (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

4g. 25 Record of Decisions

After any meeting of the Cabinet or any of its Committees, whether held in public or in private, the Monitoring Officer or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting within 2 working days. The record will include:

- a) a record of the decision including the date it was made and the date by which any 'call-in' provision elapse
- b) a record of the reason for the decision;
- c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;

- d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- e) in respect of any declared conflict of interest, a note of dispensation granted by the Monitoring Officer.

4g. 26 Meetings of the Cabinet to be held in public

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

4g. 27 Notice of Private Meetings of the Cabinet

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

- a) At least 28 clear days before a private meeting, the decision-making body must:-
 - I. make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and
 - II. publish that notice on the Council's website.
- b) At least five clear days before a private meeting, the decision-making body must:-
 - I. make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
 - II. publish that notice on the Council's website.
- c) A notice under paragraph 4g. 27 must include:-
 - I. a statement of the reasons for the meeting to be held in private
 - II. details of any representations received by the decision-making body about why the meeting should be open to the public; and
 - III. a statement of its response to any such representations.
- d) Where the date by which a meeting must be held makes compliance with Rule 4g.27(b) impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:-
 - I. the Chairman of the Overview and Scrutiny Committee; or
 - II. if there is no such person, or if the Chairman of the relevant overview and scrutiny committee is unable to act, the Chairman of the Council; or

III. where there is no Chairman of either the relevant overview and scrutiny committee or of the Council, the Vice Chairman of the Council,

that the meeting is urgent and cannot reasonably be deferred

- e) As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph to hold a private meeting, it must
- I. make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
 - II. publish that notice on the Council's website.

4g. 28 Recording of Decisions and Delegations

- a) Key decisions will be recorded by the Cabinet report and a decision notice will be published on the council website in accordance with the Access to Information Procedure Rules.
- b) Non-key decisions will be recorded on the report template and decision notice issued by the Monitoring Officer which will be published on the council website in accordance with the Access to Information Procedure Rules.
- c) Any decision made by an Officer which would normally be taken by a Council body, or a Committee or Sub-committee but it has been delegated to an Officer either,
 - I. Under a specific express delegation, or
 - II. Under a general delegation set out in this constitution, a written record must be made of all Operational and administrative decisions,

must be recorded on the report template and decision notice issued by the Monitoring Officer which will be published on the council website in accordance with the Access to Information Procedure Rules.

- d) A record must be retained of all operational and administrative decisions made by Officers.
- e) Each service area must keep a record of all delegations that apply to that service area.

4g Officer employment procedure rules

1. Recruitment and appointment

a) Declarations

The Council shall 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, brother, sister, uncle, aunt, nephew or niece of an existing councillor or senior officer of the Council; or the partner of such persons. 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.

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.

2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a 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; and

c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

3. Appointment of Head of Paid Service and other statutory officers

The full Council will approve the appointment of the Chief Executive and Head of Paid Service, the Monitoring Officer and the Chief of Finance Officer (Section 151 Officer) following the recommendation of such appointments by the Employment Committee.

4. Appointment of Directors

- a) The Employment Committee will appoint Directors.

5. Other appointments

Appointment of officers below Director level is the responsibility of the Head of Paid Service or his nominee, and may not be made by councillors.

6. Disciplinary action

- a) Suspension. The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay.
- b) Dismissal. The Head of Paid Service, the Chief Finance Officer or the Monitoring Officer (a 'relevant officer') may not be dismissed by the Council unless the procedure set out in Schedule 3 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, as enabled here, be complied with.
- c) Dismissal of a relevant officer is a function of Full Council following consideration of the advice, views or recommendation of a Panel appointed for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council.
- d) The Panel referred to in c) will be formed of the Employment Committee (Article 8) and two independent persons appointed under section 28 (7) of the Localism Act 2011
- e) The Council must invite to the Panel such relevant Independent Persons in accordance with the following priority order
 - I. a relevant independent person who has been appointed by the Council and who is a local government elector in the Horsham District;
 - II. any other relevant independent person who has been appointed by the Council in the Horsham District;
 - III. a relevant independent person who has been appointed by another Council
- f) Should any Panel be required to be formed, the Council must form the Panel at least 20 working days before full Council holds its meeting at which full Council takes a vote on whether or not to approve dismissal, taking into account, in particular:
 - I. any advice, views or recommendations of the Panel
 - II. the conclusions of any investigation into the proposed dismissal; and
 - III. any representations from the relevant officer
- g) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration allowances or fees payable to that independent person in respect of that person's role as independent under the 2011 Act.

7. Dismissal

Councillors will not be involved in the dismissal of any officer below Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

Part five

Protocols and codes

5a. Members' Code of Conduct

Introduction and interpretation

This Code of Members' Conduct ('Code') is made under section 27(2) of the Localism Act 2011 and was adopted by Horsham District Council on 1 July 2012.

- 1(1) This Code applies to you as a member of Horsham District Council.
- 1(2) You should read this Code together with the general principles of public life referred to in section 28(1) of the Localism Act 2011 and set out in Part 5 of this Code.
- 1(3) It is your personal responsibility to comply with the provisions of this Code.
- 1(4) In this Code—
'meeting' means any meeting of—
(a) the authority;
(b) the executive of the authority;
(c) any of the authority's committees, or its executive's committees, sub-committees, joint committees, joint sub-committees or area committees;
(d) members formal or informal meetings with other members and/or with officers relating to the business of the authority.
'member' includes a co-opted member and an appointed member;
'register of member's interests' means the authority's register of member's pecuniary and other interests established and maintained by the authority's monitoring officer under section 29 of the Localism Act 2011;
'the authority' or 'your authority' means Horsham District Council.
- 1(5) If you need guidance on any aspect of this code you should seek it from your authority's monitoring officer or deputy monitoring officer.

Scope

- 2(1) Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you—
(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
(b) act, claim to act or give the impression you are acting as a representative of your authority,
and references to your official capacity are construed accordingly.
- 2(2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2(3) 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 in so far as it conflicts with any other lawful obligations to which that other body may be subject.

2(4) It is a criminal offence, without reasonable excuse, (a) to fail to notify the authority's monitoring officer of a disclosable pecuniary interest (as defined in paragraph 13(1) of this Code, (b) to fail to disclose such an interest at a meeting (where it is not registered or notified), (c) to fail to notify the monitoring officer of such an interest that is not on the register that you have disclosed at a meeting, (d) to take part in discussions or votes at meetings with such an interest, or (e) to take a decision where you have a disclosable pecuniary interest. It is also an offence to knowingly or recklessly provide false or misleading information to the authority's monitoring officer.

2(5) Any written allegation received by the authority that you have failed to comply with this Code will be dealt with by the authority under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code the authority has the right to have regard to this failure in deciding (a) whether to take action and (b) what action to take in relation to you.

General obligations

3(1) You must treat others with respect.

3(2) You must not—

- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in the Equality Act 2010);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

- 4 You must not—
- (a) 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 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*; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

** means the member should consult the Chief Executive (Head of the Paid Service), Director of Corporate Resources (Chief Finance Officer) or the Monitoring Officer before taking a decision on whether or not to disclose confidential information.*

- 6 You—
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your authority's chief finance officer; or
 - (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

- 7(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2

Personal and Prejudicial Interests

Personal interests

- 8(1) 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;
 - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- OR**
- (b) 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.
- 8(2) In sub-paragraph (1)(b), 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 sub-paragraph (1)(a)(i) or (ii).

Disclosure of Personal interests

- 9(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority described in paragraph 8 above and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 9(2) 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 8(1)(a)(i) or 8(1)(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.
- 9(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(iii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9(5) Where you have a personal interest but, by virtue of paragraph 16, 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.
- 9(6) Subject to paragraph 12(1)(b), 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.
- 9(7) In this paragraph 'executive decision' is to be construed in accordance with any regulations made by the Secretary of State under part 1A chapter 2 sections 9C - 9GC of the Local Government Act 2000 (as inserted by the Localism Act section 21 and schedule 2).

Prejudicial interests generally

- 10(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial 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.

10(2) You do not have a prejudicial interest in any business of the authority where that business—

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) 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;
 - (iii) 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;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

10(3) The determining of any approval, consent, licence, permission or registration as referred to in paragraph 10(2)(b) shall include the amendment, modification, or variation of any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject or the revoking of any approval, consent, licence, permission or registration.

Prejudicial interests arising in relation to overview and scrutiny committees

11 You also have a prejudicial interest 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 your authority's 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.

Effect of prejudicial interests on participation

12(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—

- (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

- (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

12(2) Where you have a prejudicial interest in any business of your authority, which is not a Disclosable Pecuniary Interest as described in paragraph 13 of this Code and defined in section 30 of the Localism Act 2011, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) 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.

Part 3

Disclosable Pecuniary Interests

Disclosable Pecuniary Interests

13(1) Subject to sub-paragraphs (2) and (3) you have a Disclosable Pecuniary Interest in any business of your authority (as defined by section 30 of the Localism Act 2011) in relation to you or your partner where it relates to or is likely to affect any of the

matters within the descriptions set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 SI 2012/1464.

- 13(2) In sub-paragraph (1) your partner means:
- (a) your spouse or civil partner;
 - (b) a person with whom you are living as husband and wife; or
 - (c) a person with whom you are living as if you were civil partners.
- 13(3) In sub-paragraph (2) any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.
- 13(4) A list of the descriptions of Disclosable Pecuniary Interests referred to in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 SI 2012/1464 is set out in Part 6 of this Code.
- 13(5) There are criminal offences in relation to action you may take or fail to take concerning Disclosable Pecuniary Interests which are outlined in paragraph 2(4) of this Code and more particularly defined in section 34 of the Localism Act 2011.

Disclosure of Disclosable Pecuniary Interests

- 14(1) Subject to sub-paragraph (2) where you have a Disclosable Pecuniary Interest in any business of your authority and you attend a meeting of your authority at which the business is considered you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration or when the interest becomes apparent.
- 14(2) Where you have a Disclosable Pecuniary Interest in any business of your authority you need only disclose to the meeting the existence and nature of the interest if the interest is not already registered on your register of member's interests.
- 14(3) If the Disclosable Pecuniary Interest is not already on your register of member's interests or the subject of a pending notification to the monitoring officer and is disclosed to the meeting you must notify the monitoring officer of the interest within 28 days of disclosure to the meeting.

Effect of Disclosable Pecuniary Interests on participation

- 15(1) Where you have a Disclosable Pecuniary Interest in any business of your authority:
- (a) you must not participate or participate further in any discussions of the matter at a meeting; or
 - (b) participate in any vote or further vote taken on the matter at the meeting; and
 - (c) must withdraw from the room or chamber where the meeting considering the matter is being held;

unless you have received a dispensation from the monitoring officer or the standards committee.

15(2) You may participate in any business of your authority 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.

Part 4

Registration of Members' Interests

Registration of members' interests

- 16(1) Subject to paragraph 17, 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),
- register in your authority's register of members' interests (maintained under section 29 of the Localism Act 2011) details of (i) your personal interests where they fall within a category mentioned in paragraph 8(1)(a) and (ii) your Disclosable Pecuniary Interests where they fall within a category in paragraph 13, by providing written notification to your authority's monitoring officer.
- 16(2) Subject to paragraph 17, you must, within 28 days of becoming aware of any new personal interest or Disclosable Pecuniary Interest or change to any personal interest or Disclosable Pecuniary Interest registered under paragraph (1), register details of that new personal interest or Disclosable Pecuniary Interest or change by providing written notification to your authority's monitoring officer.

- 16(3) You must within 28 days (beginning with the date of the disclosure at the meeting) provide written notification to your authority's monitoring officer of any Disclosable Pecuniary Interests disclosed at a meeting which is not already on the register or subject to a pending notification.
- 16(4) Any interests notified to the authority's monitoring officer will be included on the register of member's interests.
- 16(5) A copy of the register of member's interests will be available for public inspection and will be published on the authority's website.

Sensitive information

- 17(1) Where you consider that the information relating to any of your interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 16.
- 17(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- 17(3) In this Code, 'sensitive information' means information whose availability for inspection by the public could lead to you or a person connected with you being subject to violence or intimidation.
- 17(4) The published register may state you have a personal or disclosable pecuniary interest details of which have been withheld under section 32(2) of the Localism Act 2011.

Code of conduct dispensations

1. Applicability

The following arrangements for seeking dispensations from prohibitions on participation apply from the 1 July 2012. The statutory basis for the rules is to be found in the Localism Act 2011 sections 33 and 31(1) and (4).

The authority may on a written request made to the proper officer by a member or co-opted member of the authority grant a dispensation (a) relieving the member or co-opted member from either or both of the restrictions in section 31(4) of the Localism Act in cases described in the dispensation and/or (b) relieving the member or co-opted member from the restrictions in Paragraph 12 of the Code of Member's Conduct in cases described in the dispensation.

2. Existing dispensations

All dispensations granted before 1 July 2012 have ceased to apply.

3. New rules

The old rules for seeking dispensation under the Local Government Act 2000 are now replaced. In future, dispensations may only be granted by the Council's Monitoring Officer or Standards Committee acting on a written request from a member.

4. Legal criteria

4.1 If a member or co-opted member of the authority (a) is present at a meeting of the authority, or of any committee, sub-committee, joint committee of the authority (b) has a disclosable pecuniary interest and/or a prejudicial interest in any matter to be considered, or being considered at the meeting, and (c) is aware that the condition in paragraph (b) is met the member or co-opted member may not participate in the matter.

4.2 These rules apply:

4.2.1 to either or both of the prohibitions from participation set out in the Localism Act 2011 section 31(4) concerning the matter in which a member or co-opted member has a disclosable pecuniary interest; and

4.2.2 to prohibitions from participation concerning a matter in which a member or co-opted member has a prejudicial interest.

Section 31(4) of the Localism Act 2011 provides in relation to disclosable pecuniary interests:

"(4) The member or co-opted member may not -

(a) participate, or participate further, in any discussion of the matter at the meeting, or

(b) participate in any vote, or further vote, taken on the matter at the meeting

but this is subject to section 33"

Paragraph 12 (1) of the Code of Member's Conduct provides in relation to prejudicial interests:

"(1) Where you have a prejudicial interest in any business of your authority:

(a) you must withdraw from the room or chamber where a meeting considering the business is being held (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence; (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from your authority."

4.3 A dispensation can only be granted if after having had regard to all relevant circumstances the authority:

4.3.1 considers that without the dispensation the number of persons prohibited by section 31(4) from participation in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, or

4.3.2 considers that without the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business, or

- 4.3.3 considers that granting the dispensation is in the interests of persons living in the authority's area, or
- 4.3.4 if it is an authority to which Part IA of the Local Government Act 2000 applies and is operating executive arrangements considers that without the dispensation each member the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
- 4.3.5 considers that it is otherwise appropriate to grant a dispensation.

5. Development control

The political balance requirements have been disapplied to Development Control Committees and accordingly the criterion in paragraph 4.3.2 for dispensation does not apply to the consideration of development control matters.

6. Maximum period

A dispensation will specify the period for which it has effect and the period specified may not last for more than four years from the date of the giving of the dispensation.

7. When dispensation should never be given

A dispensation should never be given where:

- 7.1 A member is prohibited from voting on a matter at a meeting of an overview and scrutiny committee of the authority relating to a decision made by any body of which that person was a member at the time the decision was taken; OR
- 7.2 A member of the authority's executive is prohibited from exercising functions which are the responsibility of the executive and which would otherwise be discharged solely by that member.

8. How to apply for a dispensation

If a member wishes to seek dispensation to enable him or her to participate in the consideration of a matter from which he or she would be excluded by the provisions of section 31(4) of the Localism Act 2011 or the Code, he or she should write to or e-mail the Monitoring Officer a request for a dispensation explaining why it is desirable for a dispensation to be granted. At least fourteen working days' notice must be given before the dispensation is required to enable (a) consideration of the matter by the Monitoring Officer together with all necessary consultations to be undertaken or (b) at the absolute discretion of the Monitoring Officer the convening of a meeting of the Standards Committee or sub-committee set up by the Standards Committee to consider the matter.

9. Records

The Standards Committee will record the existence, duration and nature of any dispensation and the record is to be kept with the Register of Members' Interests.

5b Code of conduct for council employees

- 5b. 1 The public is entitled to expect the highest standards of conduct from all employees who work for the Council. This Code is produced in the light of the challenges that officers face in the new and more commercially oriented environment, including the use of various approaches to service delivery (commissioning). The Code applies to all Horsham District Council employees, temporary staff, consultants, contractors and partner representatives and anyone working on behalf of the Council (or individual service areas) in either a paid or voluntary basis.
- 5b. 2 Officers are expected to give the highest possible standard of service to the public, and to provide appropriate advice to councillors and fellow employees with impartiality. Officers will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Officers must report to the appropriate manager any impropriety or breach of procedure. Officers should refer to the Confidential Reporting Code (Whistle-Blowing Policy) for information about reporting breaches of policy & procedure.
- 5b. 3 The Committee on Standards in Public Life promote The Seven Principles of Public Life. The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Disclosure of information / confidentiality

- 5b. 4 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Council itself may decide to open other types of information. Officers must be aware of which information within the Council is open and which is not, and act accordingly.
- 5b. 5 Officers will, from time to time, be dealing with confidential matters. It is usually evident whether information is confidential or not. They should not use any information obtained in the course of their employment for personal gain or benefit, nor should pass it on to others unless required to do so by law or as directed by the appropriate manager. Any particular information

received by an officer from a councillor which is personal to that councillor and does not belong to the Council should not be divulged by them without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

- 5b. 6 Staffing, employment and organisational change issues relate to the internal operation and management of the council. These are confidential and there are existing policies and procedures to ensure that staff and their Trade Union representatives are consulted and engaged in dialogue on employment and organisational change issues. Speaking in public is not part of the procedure – this includes public meetings of the Council or its committees.

- 5b. 7 Similarly, discussion of employment matters outside the Council, for example press, social media, etc, is not part of the agreed procedure and policies.
- 5b. 8 A Media Protocol identifies which officers will speak directly to the press.

Political neutrality

- 5b. 9 Officers serve the Council as a whole. It follows that they must serve all councillors and not just those of any particular political group and must ensure that the individual rights of all councillors are respected. Officers must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.

Relationships

Councillors

- 5b. 10 Officers are responsible to the Council directly through their line manager. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Council's work. Mutual respect between officers and councillors is essential to good local government. Close personal familiarity between officers and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

The Local Community and Service Users

- 5b. 11 Officers should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

Contractors

- 5b. 12 All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded in accordance with the Council's Constitution, Contract Standing Orders, and Procurement Code on merit, by fair and genuine competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community shall be discriminated against.
- 5b. 13 If officers engage or supervise contractors or have any other

official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, they shall declare that relationship to the appropriate manager.

Inter Staff Relationships

- 5b. 14 Officers should be mindful of how personal relationships with colleagues might be perceived by fellow workers, members and third parties. Any potential conflicts of interest should be reported to the appropriate manager and officers should take the necessary steps to ensure that the personal relationship does not affect their duties and responsibilities.

Appointment and other employment matters

- 5b. 15 If officers are involved in appointments they should ensure that these are made on the basis of merit. It would be unlawful for an officer to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, officers should not be involved in an appointment where they are related to an applicant, or have a close personal or business relationship outside work with him or her.
- 5b. 16 Similarly, officers should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, or very close friend.

Outside commitments / other employment

- 5b. 17 Officers have conditions of service which require them to obtain written consent to undertake any outside employment. They should be clear about their contractual obligations and shall not take outside employment which conflicts with the Council's interests.
- 5b. 18 Any consent would normally take into account the additional time demands on their role with the Council and the potential for disruption or negative impact on their employment with the Council.
- 5b. 19 Officers should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.

Personal interests

- 5b. 20 Officers must declare to the appropriate manager, any nonfinancial interests that could conflict with the Council's interests (see paragraphs. x and x).
- 5b. 21 Officers must declare to the appropriate manager any financial

interests which could conflict with the Council's interests (see paragraphs. x and x).

- 5b. 22 Officers must declare to the appropriate manager any personal interests that could conflict with the Council's interests, (e.g., involvement with an organisation receiving grant aid from the Council, membership of another public body, involvement with an organisation or pressure group which may seek to influence the Council's policies, and membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct) (see paragraphs. x and x).

Equality issues

- 5b. 23 Officers should ensure that policies relating to equality issues as agreed by the Cabinet are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness.

Separation of roles during tendering (procurement code)

- 5b. 24 If Officers are involved in the tendering process and dealing with contractors they should be clear on the separation of client and contractor roles within the Council, where this applies. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 5b. 25 If officers are in contractor or client units they must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and subcontractors.
- 5b. 26 If officers are privy to confidential information on tenders or costs for either internal bidders or external contractors they should not disclose that information to any unauthorised party or organisation.
- 5b. 27 If officers are contemplating a management buy out (or other internal transfer service arrangements) they should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- 5b. 28 Officers should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

Corruption

- 5b. 29 Officers must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for them to demonstrate that any such rewards have not been corruptly obtained.

Use of financial resources

- 5b. 30 Officers must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

Hospitality and gifts

- 5b. 31 **Officers** should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. It should be properly authorised by the appropriate manager and recorded in the registers provided (see paragraphs. X and X)
- 5b. 32 Acceptance of moderate hospitality (e.g. a working lunch of a modest standard) is likely to be acceptable, but it is important to avoid any suggestion of improper influence. Any officer unclear about this should contact the appropriate manager. When hospitality has to be declined the officer should courteously but firmly informed of the procedures and standards operating within the Council.
- 5b. 33 It is possible that in the course of their duties officers might be offered gifts. The acceptance of such gifts by Council employees can easily lead to accusations of corruption. The general rule is that officers should refuse tactfully all offers of gifts from anyone who might provide work, goods or services to the Council or need some decision from the Council. The only exceptions are small gifts of a promotional nature given to a wide range of people, such as calendars, pens, diaries and minor articles of a similar nature for office use.
- 5b. 34 When receiving authorised hospitality officers should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- 5b. 35 Acceptance by officers of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the

hospitality is corporate rather than personal, where the Council gives consent in advance and where it is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment etc. are required, They should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

Sponsorship giving and receiving

- 5b. 36 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 5b. 37 Where the Council wishes to sponsor an event or service neither officers nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, officers should ensure that impartial advice is given and that there is no conflict of interest involved.

Failure to comply with the code

- 5b. 38 Breaches of any part of this Code of Conduct will be a disciplinary matter.
- 5b. 39 Some breaches of the Code, e.g. paragraphs x and x, could lead to a finding of maladministration against the Council.
- 5b. 40 Certain breaches, e.g. paragraphs x and x, could lead to criminal proceedings being brought against an officer.

Appropriate Manager

- 5b.41 In this Code where “appropriate manager” is referred to this shall mean the Line Manager, except where the officer concerned is a Line Manager, in which case it shall be their Director, and where the officer concerned is a Director, it shall be the Chief Executive.

Notes for general guidance

- 5b. 42 Please refer to the Council’s Confidential Reporting Code which

can be found at the following link.

Register of personal interests, hospitality and gifts and financial interests

- 5b. 43 The Council will hold a register for the proper recording of personal interests and of gifts and hospitality received as referred to throughout this document. These registers will be confidential but can be inspected, from time to time, by the Council's Monitoring Officer or Chief Internal Auditor.
- 5b. 44 Officers are required to declare a pecuniary interest in any contract and the Chief Executive will keep a record with particulars of any notice given by an officer of the Council under the Local Government Act 1972 Section 117 of a pecuniary (financial) interest in a contract and the record will be open during office hours for inspection by any member of the Council.

Planning applications

- 5b. 45 If an officer or anyone to whom they are related, has an interest in any planning application submitted to the Council they are required to disclose the fact in writing to the Head of Paid Service, with a copy to the Proper Officer, and to take no part in the consideration of any such application or in any connected processes.

5c Planning protocol

This Protocol takes into account the updated 'Seven Principles of Public Life' (the 'Nolan Principles'). These are selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It also takes into account the changes introduced by the Localism Act 2011 regarding codes of conduct & predetermination and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government in 2013.

Introduction

The purpose of the planning system is to regulate the development and use of land in the public interest. This Protocol explains the correct conduct and procedures to be followed by members to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. When dealing with planning matters, the role of a member **is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. Members are democratically accountable decision-takers who have been elected to provide and pursue policies. As such, they are entitled to be predisposed to make planning decisions in accordance with their political views and policies provided that they have considered all material considerations and have given fair consideration to relevant points raised.

When this Protocol applies

It applies to members at all times when they are involved in the planning process. This includes when taking part in the decision making meetings of the Council, in exercising any Planning function of the Council or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It equally applies to planning enforcement matters or site specific policy issues as it does to planning applications.

If members have any doubts about the application of this Protocol to their own circumstances, they should seek advice early from the Monitoring Officer or one of his staff and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

Members should always first comply with the rules in the Members' Code of Conduct. This includes rules on interest and Disclosable Pecuniary Interests (DPIs), other interests identified by the Council and the general rules giving effect to the seven (Nolan) principles of public life.

This Members' Planning Protocol seeks to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. Members not abiding by this Members' Planning Protocol may put the Council at risk of proceedings on the legality of the related decision or maladministration and themselves at risk of being named in

a report made to the Council. If the failure is also likely to be a breach of the interest provisions of Localism Act 2011, a complaint could also be made to the police to consider criminal proceedings.

2. Development Proposals and Personal Interests.

A member should:

- a) **Disclose** the existence and nature of any interest as required by the Council's Member's Code of Conduct.
- b) **Take into account** when approaching a decision that the Principle of Integrity is defined in terms that: " *Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships*".

It is therefore advisable that members not seek or accept any preferential treatment, or place themselves in a position that could lead the public to think they are receiving preferential treatment, because of their position as a councillor. This would include, where they have a disclosable or other personal conflict of interest in a proposal, using their position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.

Members are not prevented from seeking to explain and justify a proposal in which they may have a conflict of interest to an appropriate officer, in person or in writing, but that their role as a councillor may place additional limitations on them in representing the proposal in which they have a personal interest.

- c) **Notify the Monitoring Officer** where it is clear to them that they have disclosable pecuniary interest or other personal conflict of interest and note that:
 - I. where they can, they should send the notification no later than submission of that application.
 - II. the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers.
 - III. they must not get involved in the processing of the application.

3. Using Discretion in the Planning Process (natural justice, predisposition and predetermination).

Members should:

- a) **Not approach** the decision with a closed mind.
- b) **Be aware** that in their role as elected councillors they are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- c) **Keep** at the front of their mind that, when they come to make the decision, they:
 - I. are entitled to have and to have expressed their own views on the matter, provided they are prepared to reconsider their position in the light of all the evidence and arguments;
 - II. must keep an open mind and hear all of the evidence as well as the arguments from all sides;
 - III. are not required to cast aside views on planning policy they held when seeking election or otherwise acting as a member, in giving fair consideration to points raised;
 - IV. are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
 - V. are to come to a decision after giving what they feel is the right weight to those material considerations.
- d) **Be aware** that they can be biased where the Council is the landowner, developer or applicant if they have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through their significant personal involvement in preparing or advocating the proposal they will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).
- e) **Consider themselves** able to take part in the debate on a proposal when acting as part of a consultee body (where they are also a member of the parish council, for example, or both a district and county councillor), provided:
 - I. the proposal does not substantially effect the well-being or financial standing of the consultee body;
 - II. they make it clear to the consultee body that:
 - III. their views are expressed on the limited information before them only;
 - IV. they must reserve judgement and the independence to make up their own mind on each separate proposal, based on their overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and they hear all of the relevant information; and
 - V. they will not in any way commit themselves as to how they or others may vote when the proposal comes before the Committee.

- f) **Explain** that they do not intend to speak and vote as a member of the Committee because they will be perceived as having judged (or they reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- g) **Take** the opportunity to exercise their separate speaking rights as a Ward/Local Member (*where this is granted by the Council's standing orders or by the consent from the Chairman and Committee*) where they have represented their views or those of local electors and applied their discretion, but do not have a disclosable or other personal conflict of interest. Where they do they should:
 - I. advise the proper officer or Chairman that they wish to speak in this capacity before commencement of the item;
 - II. remove themselves from the seating area for members of the Committee for the duration of that item; and
 - III. ensure that their actions are recorded.

4. Contact with Applicants, Developers and Objectors.

Members should:

- a) Refer those who approach them for planning, procedural or technical advice to officers.
 - b) Not agree to any meeting with applicants, developers or groups of objectors where they can avoid it. Where they feel that a formal meeting would be useful in clarifying the issues, they should seek to arrange that meeting through a request to the Proper Officer to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the Council to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
 - c) Otherwise follow the Council's rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted and;
 - d) Report to the Proper Officer any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and their involvement in them, and ensure that this is recorded on the planning file.
7. Unless they have a disclosable or overriding other personal conflict of interest, they will not have correctly used their discretion or may have breached this Planning protocol by:
- a) listening or receiving viewpoints from residents or other interested parties;

- b) making comments to residents, interested parties, other members or appropriate officers (making clear that they must keep an open mind when it comes to making the decision);
- c) seeking information through appropriate channels; or
- d) being a vehicle for the expression of opinion of others in their role as a ward member.

8. Lobbying by Councillors.

Members should:

- a) Not become a member of or lead/represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is their intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make its decision.
- b) Feel able to join general interest groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals (such as the CPRE, Ramblers Association or a local civic society), but they should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- c) Not excessively lobby fellow councillors regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- d) Not decide or discuss how to vote on any application at any political group meeting, or lobby any other member to do so. Political Group Meetings should never dictate how members should vote on a planning issue.

9. Site Visits/Inspections.

Members should:

- a) **Try** to attend site visits organised by the Council where possible.
- b) Not request a site visit unless they feel it is strictly necessary because:
 - I. particular site factors are significant in terms of the weight attached to them relative to other factors or there is difficulty in assessing them in the absence of a site inspection
 - II. there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- c) Ensure that they report back to the Committee any information gained from the site visit that they feel would benefit all members of the Committee
- d) Ensure that they treat the site visit only as an opportunity to seek information and to observe the site.
- e) Ask officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

- f) Not hear representations from any other party at the site visit, with the exception of the ward members' comments which must focus only on site factors and site issues. Where members are approached by the applicant or a third party, advise them that they should make representations to the council and direct them to or inform the officer present.
- g) Not express opinions or views on the application at the site visit.
- h) Not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - I. they feel it is essential for them to visit the site other than through attending the official site visit,
 - II. they have first spoken to an appropriate Planning Development Officer about their intention to do so and why (which will be recorded on the file) and
 - III. they can ensure they will comply with these good practice rules on site visits.

10. Public Speaking at Meetings.

Members should:

- a) Not allow members of the public to communicate with them during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- b) Ensure that they comply with the Council's procedures in respect of public speaking.

11. Dealing with Officers.

Members should:

- a) Not put pressure on officers to put forward a particular recommendation. This does not however prevent them from asking questions or submitting their views to the appropriate officer which may be incorporated into any committee report.
- b) Recognise that officers are part of a management structure and so outside of any arranged meeting only discuss an application with a Head of Service or those officers who are authorised to deal with the proposal at a member level.
- c) Recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding

obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its members.

12. Decision Making.

Members should:

- a) Ensure that, if they request a proposal to go before the Committee rather than be determined through officer delegation, that their planning reasons are recorded and repeated in the report to the Committee.
- b) Come to meetings with an open mind and demonstrate that they are open-minded.
- c) Comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Local Development Plan unless material considerations indicate otherwise.
- d) Come to their decision only after due consideration of all of the information reasonably necessary upon which to base a decision. If they feel there is insufficient time to digest new information or that there is simply insufficient information before them, request that further information. If necessary, defer or refuse the application.
- e) Not vote on an application unless they have read and understood the relevant committee report and been present to hear the debate on it.
- f) Have noted the reasons for Committee's decision to defer any application and that this is in accordance with the Council's protocol on deferrals.
- g) Make sure that if they are proposing, seconding or supporting a decision contrary to officer recommendations or to the Local Development Plan that they clearly identify and understand the material planning considerations leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that in these circumstances the member may have to justify the resulting decision by giving evidence in the event of any challenge.

13. Training.

Members should:

- a) Not participate in decision making at meetings dealing with planning matters if they have not attended any mandatory planning training prescribed by the Council.
- b) Endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist them in carrying out their role properly and effectively.

- c) Participate in any annual review of a sample of planning decisions.

6. Scheme of Members' Allowances

1. Horsham District Council ("the Council"), in exercise of the powers conferred by Section 100 of the Local Government Act 2000 and The Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended), hereby makes the following scheme:

Citation and commencement

2. This Scheme may be cited as the Horsham District Council Members' Allowances Scheme, and shall have effect from 11 May 2015 and for subsequent years as amended by the insertion of substituted appendices in accordance with paragraph 12.

Definitions

3. In this scheme, "Co-optee" means a non-Councillor Member of the Council's Standards Committee; "Councillor" means a member of the Council who is an elected Councillor; "Member" means a Councillor or a Co-optee; "Regulations" means The Local Authorities (Members' Allowances) (England) Regulations 2003 (as may be amended) and "regulation" shall be construed accordingly; "year" means the 12 months ending with 31st March.

4. **Basic Allowance**

Subject to the provisions of this Scheme, for each year a basic allowance as set out in Appendix 1 to this scheme shall be paid to each Councillor.

5. **Special Responsibility Allowances**

- a) For each year a special responsibility allowance shall be paid to those Members who hold the special responsibilities in relation to the Council that are specified in Appendix 1.
- b) Where the members of the Council are divided into different political groups and a majority belongs to one of those groups, a special responsibility allowance shall be paid to at least one member who does not belong to the group to which the majority belongs.
- c) Subject to the provisions of this Scheme, the amount of each such allowance shall be the amount specified against that special responsibility in Appendix 1.

6. **Dependants' Carers' Allowance**

A Councillor shall be entitled to be paid a dependants' carers' allowance at the rate specified in Appendix 1 to enable him or her

to provide for the care of children, disabled or sick relatives whilst the Councillor is engaged on the duties set out in Appendix 3. Such an allowance shall not be paid in respect of carers who are parents, spouses, co-habitees or members of the same household as the Councillor.

7. Travelling and subsistence allowance

- a) A Member shall be entitled to be paid travelling and subsistence allowance at the rates specified in Appendix 2 in respect of travelling and subsistence undertaken in connection with or relating to the duties set out in Appendix 3.
- b) The rates for subsistence shall be reduced by a corresponding amount in respect of any meal provided free of charge by the Council or by a third party.
- c) The rates for subsistence shall be reduced to the actual cost of the meal if less than the allowance.
 - The following limitations apply on reimbursement of subsistence:
 - for breakfast an absence commencing before 0700
 - for lunch an absence commencing before 1100 and finishing after 1500
 - for tea an absence of more than four hours finishing after 1830
 - for evening meal an absence of more than four hours finishing after 2030
 - tea and evening meal allowances cannot be claimed on the same day.
- d) Light refreshments will be provided for Member meetings (as defined in the Council's calendar of meetings) that start at 5.00pm or later and are expected to last longer than 2 hours.

8. Co-optees' allowance

Subject to the provisions of this Scheme for each year a co-optees' allowance as set out in Appendix 1 shall be paid to Co-optees.

9. Suspension of a Member

- I. Where a Member is suspended from his or her responsibilities

or duties as a Member in accordance with Part III of the Local Government Act 2000 or regulations made thereunder the part of any allowance payable to him or her in respect of the period for which he or she is suspended or partially suspended shall be withheld by the Council.

- II. Where an allowance has already been made in respect of any period during which the Member concerned:
 - a) is suspended or partially suspended from their responsibilities as a Member in accordance with Part III of the Local Government Act 2000 or regulations made thereunder;
 - b) ceases to be a Member; or
 - c) is in any other way not entitled to receive an allowance in respect of that period

the Member shall repay to the Council such part of the allowance as relates to any such period.

10. **Election to forego allowances**

A Member may by notice in writing given to the Head of Paid Service elect to forego any part of his or her entitlement to an allowance under this scheme.

11. **Part-year entitlements**

- a) The provisions of this paragraph shall have effect to regulate the entitlements of a Member to an allowance where, in the course of a year, this Scheme is amended or that Member becomes, or ceases to be, a Member, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- b) If an amendment to this scheme changes the amount to which a Member is entitled then in relation to each of the periods:
 - I. beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
 - II. beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year, the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the

number of the days in the period bears to the number of days in the year.

- c) If an amendment to this Scheme changes the duties specified in this Scheme the entitlement to an allowance shall be to the payment of the amount of the allowance under the Scheme as it has effect when the duty is carried out.
- d) Where the term of office of a Member begins or ends otherwise than at the beginning or end of a year, the entitlement of that Member to allowances shall be to the payment of such part of the allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- e) Where this Scheme is amended as mentioned in paragraph (b), and the term of office of a Member does not subsist throughout the period mentioned in paragraph (b)(1), the entitlement of any such Councillor to an allowance shall be to the payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Member subsists bears to the number of days in that period.

12. **Claims and payments**

- a) Payments of basic, special responsibility and co-optees' allowances shall be payable monthly in arrears through the Council's payroll.
- b) Claims by Members in respect of dependants' carers' allowance and travelling and subsistence allowances should be made monthly and shall in any event be made by no later than 7 April next following the end of a year.
- c) Payments shall be made to each Member monthly in arrears.
- d) Where a payment of one-twelfth of the amount specified in this Scheme in respect of a basic allowance or a special responsibility allowance would result in the Member receiving more than the amount to which, by virtue of paragraph 11, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
- e) Where a Member is also a member of another Council within the meaning of Regulation 3(1) he or she shall not be entitled to receive allowances from more than one Council in respect of

the same duties.

13. **Claims and payments**

- a) The levels of the basic allowance, special responsibility allowance, dependants' carers' allowance and co-optees' allowance specified in this scheme shall be varied with effect from and in accordance with the same average percentage change in the levels of the Council's staff's remuneration.
- b) The travelling and subsistence allowance shall be the same as that for the Council's staff and shall alter accordingly.

Scheme of members' allowances appendix one

With effect from 11 May 2015

1. Basic allowance (Paragraph x)

The basic allowance payable to each Councillor shall from 11 May 2015 be £4768 per annum*.

2. Special Responsibility Allowances (Paragraph x)

The amounts of special responsibility allowances and the special responsibilities for which they shall be payable shall be per annum:

This revised scheme was approved by the Council on 9 September 2015 and has effect from 11th May 2015 and for subsequent years.

Allowance*	£ pa
Special Responsibility Allowances	
Leader of the Council (includes Cabinet Member Allowance)	12,000
Deputy Leader (includes Cabinet Member Allowance)	8,169
Leader of Minority Group (1/3 of allowance paid to Leader)	4,000
Cabinet Member	6,669
Chairman of Council	4,860
Vice-Chairman of Council (1/3 of allowance paid to Chairman)	1,620
Chairman of Overview and Scrutiny Committee	5,084
Vice-Chairman of Overview and Scrutiny Committee	2,313
Chairman of Development Management Committee	3,654
Vice-Chairman of Development Management Committee	1,221
Chairman of Accounts, Audit and Governance Committee	2,313
Chairman of Licensing Committee	2,313
Chairman of Personnel Committee	2,313
Chairman of Standards Committee	3,654
Chairman of Finance & Performance Sub-Committee	2,313
Chairman of Business Improvement Sub-Committee	2,313

* index linked in accordance with Paragraph X

3. Dependants' Carers' allowance (Paragraph x)

From 11 May 2015 the rate by way of reimbursement is equal to the Living Wage rate (£7.85 per hour or part thereof as at 9 September 2015) .

4. Co-optees' allowance (paragraph x)

From 11 May 2015 the rate payable to independent and parish council representatives on the Standards Committee shall be £1221 per annum.

Scheme of members' allowances appendix two

1. **Travelling (with effect from 11 May 2015)**

- a) Cars - the HMRC rate (45p per mile as at 11 May 2015)
- b) Motorcycles
 - Up to 249cc – 8p per mile
 - 250cc and above – 14.07p per mile
- c) Cycles – 20p per mile
- d) Use of public transport will be paid at the second class rail fare and/or bus.

2. **Subsistence**

Breakfast	£6.45
Lunch	£8.91
Tea	£3.53
Dinner	£11.03

Scheme of members' allowances appendix three

1. Statutory approved duties

(Regulation 8(1)(a) - (f))

- a) Attendance at a meeting of the Council or of any Committee or Sub-Committee of the Council or any other body to which the Council makes appointments or nominations or of any committee or sub-committee of such a body.
- b) Attendance at any other meeting the holding of which is authorised by the Council or a Committee or Sub-Committee of the Council or a Joint Committee of the Council and one or more other Authorities or a Sub-Committee of such a Joint Committee, provided that where the Council is divided into two or more political groups, it is a meeting to which the Members of at least two such groups have been invited.
- c) Attendance at a meeting of any association of authorities of which the Council is a member.
- d) Attendance at meetings of the Cabinet and of any committees appointed by the Cabinet.
- e) Duties in pursuance of any standing order requiring a Member or Members to be present while tender documents are opened.
- f) Duties in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises.

2. Other approved duties

(Regulation 8(1)(h))

- a) Any duties by Cabinet Members for the purpose of or in connection with the discharge of the functions of the Cabinet.
- b) Attendance at emergency planning courses at the Home Office Emergency Planning College.
- c) Duties in connection with emergency planning including training and attendance at rest centres
- d) Attendance at approved conferences.

- e) Attendance at approved seminars and training courses.
- f) Attendance at briefing meetings.
- g) Attendance at the offices to receive petitions.
- h) Attendance at meetings of advisory groups, sub- committees appointed by the Cabinet, Cabinet Members and the Overview and Scrutiny Committee.
- i) Attendance at liaison meetings with West Sussex County Council.
- j) Attendance at meetings of West Sussex County Joint Leaders Group.
- k) Consultation with constituents.

Part 7

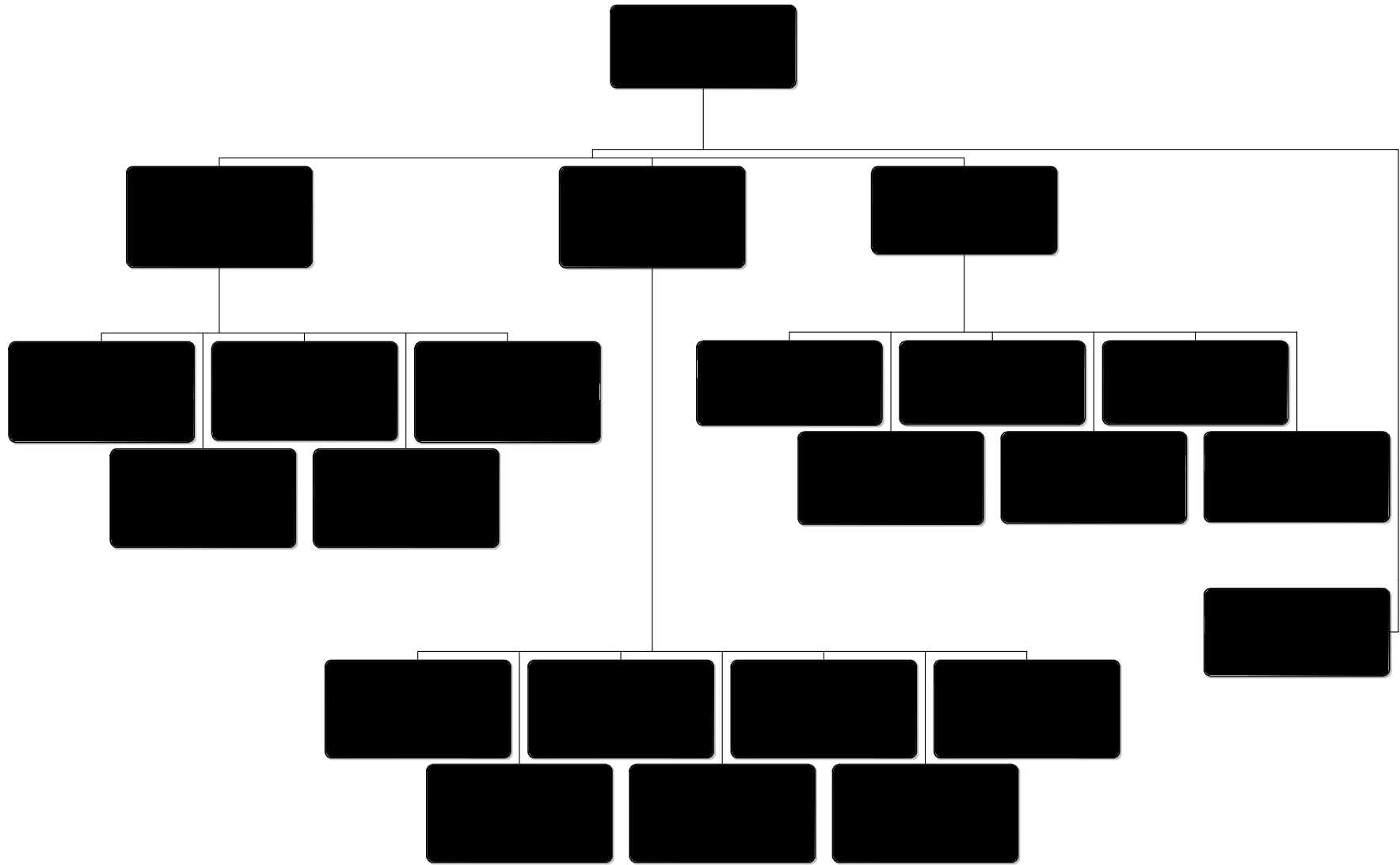
Management Structure

7.1 Introduction

The Council's officer management structure comprises the Chief Executive, three directorates, and twenty service units. The Council's Head of Paid Service, is ultimately responsible to the Council for the management of all staff. Each of the directorates is headed by a Director, and each of the service units is managed by a Service Manager. Directors report directly to the Head of Paid Service. Service Managers report to their Director or the Head of Paid Service.

7.2 Organisational Chart

The following is an organisational chart of the Council's officer management structure:



Part 8

Glossary of terms and schedule of proper officer designation

Glossary of terms and schedule of proper officer designations

Acts - The principle Acts that this constitution discharges are: Local Government Act, 1972, the Local Government and Housing Act 1989, the Local Government Act, 2000; the Planning and Compulsory Purchase Act 2004 the Local Government and Public Involvement in Health Act, 2007; and the Localism Act 2011.

Budget - means the Budget requirement of the Council (as provided for in the Local Government Finance Act 1992 or any re-enactment thereof), all the components of the Budget, such as Budgetary allocation to different services and projects, proposed taxation levels, council tax base, contingency funds ('reserves' and 'balances'), any plan or strategy for the control of the local authority's borrowing or capital expenditure including Treasury.

Cabinet – means between two and nine elected Council members appointed by the Leader and who, with the Leader, form the Cabinet. At Horsham District Council, the 'Executive' is the Cabinet.

Call-In – means the consideration by the Overview and Scrutiny Committee of a Cabinet key or cabinet member non-key decision made but not yet implemented, which may result in the recommendation that the decision be reconsidered by the person or persons who made that decision or that the decision be reviewed by full Council in accordance with Section 9F (2)(a) and (4) of the 2000 Act.

Chief Officer - (unless otherwise stated) the Head of the Paid Service, the Monitoring Officer and the Chief Finance Officer (also known as the section 151 officer) and any officer for whom the Head of the Paid Service is directly responsible, any officer who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to the Head of the Paid Service, excluding any persons whose duties are secretarial or clerical or are otherwise in the nature of support services, any officer who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to the council itself, or to any committee or sub-committee of a committee

Confidential – 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, or by virtue of any enactment, as defined in the Access to Information Procedure Rules.

Deputy Chief Officer - (unless otherwise stated) any officer who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to one or more of the above statutory or non-statutory Chief Officers, excluding any person whose duties are solely secretarial or clerical or are otherwise in the nature of support service.

Excluded matters – are found in the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012, Statutory Instrument 2012/1022.

Local Choice – the Council has a local choice whether to reserve some of functions specified in the 2000 Regulations as Cabinet Functions, or as Non-Cabinet Functions.

‘Key Decision’ – a decision that must be taken by the cabinet collectively as described in article X

Overview and Scrutiny Committee - the committee established in accordance with Section 9F of the 2000 Act

Policy Framework - all plans and strategies either (a) required by the 2000 Regulations to be approved by full Council (rather than by Cabinet) and (b) any Local Choice plans and strategies which the Council has chosen to be approved by full Council (rather than by Cabinet). Further details of the Policy Framework are set out in Article 4.

Political Balance - duty under section 15 of the 1989 Act, where the members of the Council are divided into different Political Groups, to appoint members to committees, sub-committees, and other bodies as described in this constitution, proportionally to the number of members of each Political Group.

Political Groups - as defined in the Local Government (Committees and Political Groups) Regulations 1990 or any statutory modification or re-enactment thereof.

Proper Officer - such officers as are designated ‘proper officer’ by law, a scheme of which is maintained by the Monitoring Officer herewith

Regulations - the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000

Regulatory Committee means a committee undertaking “quasi-judicial” functions of the Council (such as licensing and planning).

Working Day - excludes Saturday, Sunday and bank and public holidays.

Schedule of proper officer designations

Act	Purpose of Designation	Proper Officer
Local Government Act 1972		
Section 83	To witness, and to receive, declarations of acceptance of office	Head of Paid Service or Monitoring Officer
Section 84	To receive notices from members of resignation of office	Head of Paid Service
Section 87	To publish notice of vacancy	Head of Paid Service
Section 88	To convene, if necessary, a meeting of the Council when the office of Chairman is vacant	Head of Paid Service
Section 89	To receive notice by local government electors of a casual vacancy in the office of District Councillor	Head of Paid Service
Section 96	To receive from councillors notices of interests and to maintain a record of such disclosures	Monitoring Officer
Section 100B	To decide whether information is likely to be 'exempt' when coming before the council, cabinet or a committee	Monitoring Officer
Section 100C	To produce a written summary of proceedings taken by the council, cabinet or a committee	Head of Paid Service
Section 100D	To compile a list of background papers for a cabinet or committee report	Head of Paid Service
Section 100F	To decide if a requested document appears to	Monitoring Officer

	contain exempt information	
Section 115	To receive money due from officers	Chief Finance Officer
Section 146	To sign declarations and certificates with regard to securities	Chief Finance Officer
Section 191	To receive applications made by the Ordnance Survey office for assistance in determining boundaries	Head of Paid Service
Section 210	To exercise any power with respect to a charity exercisable by any officer of a former authority	Head of Paid Service
Section 225	To receive and retain any document deposited with the council for custody	Head of Paid Service
Section 228	To keep accounts open for inspection by any member of the authority	Chief Finance Officer
Section 229	To certify, for the purpose of any legal proceedings, photographic copies of documents	Monitoring Officer
Section 234	To authenticate notices, orders or other documents on behalf of the council	Monitoring Officer
Section 236	To send copies of confirmed bye-laws made by the Council to the County Council	Monitoring Officer
Section 238	To certify copies of bye-laws	Monitoring Officer
Schedule 12 (4)	To sign and send to all members of the council, the summons to attend meetings of the council	Head of Paid Service
Schedule 14 (25)	To certify resolutions under that paragraph for the purposes of legal	Head of Paid Service

	proceedings	
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Local Land Charges Act 1975

Local Land Charges Act 1975	To act as local registrar for the registration of local land charges and the issue of official certificates of search	Director of Planning, Economic Development and Property
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Representation of the People Act 1983

Section 24	To be the Acting Returning Officer for the conduct of Parliamentary elections	Head of Paid Service
Section 35	To be the Returning Officer for the conduct of local elections	Head of Paid Service
Section 67	To receive appointments of election agents	Head of Paid Service
Section 67	To publish a notice of election agents	Head of Paid Service

Local Government and Housing Act 1989

Section 2	To retain on deposit a list of politically restricted posts	Head of Paid Service
Section 4	Designation as the Head of Paid Service	Chief Executive
Section 5	Designation as the Monitoring Officer	Head of Legal and Democratic Services
Sections 9, 15, 16	To undertake all matters relating to the formal establishment of political	Head of Paid Service

	groups within the membership of the council	
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Local Authorities (Executive Arrangements) England Regulations 2012

Section 3	To produce a written statement of cabinet decisions made at meetings	Head of Paid Service
Section 5	To make available for inspection by the public a copy of written statements of cabinet decisions and associated reports	Head of Paid Service
Section 6	To make available for inspection a list of background papers	Head of Paid Service
Section 12	To publish key decisions of the Authority	Head of Paid Service

Part 9

Register of cabinet members

The register of cabinet members is maintained on the council's website.

