

**D R A F T**

**CONSTITUTION DOCUMENTS**



## CONTENTS

PART	CONTENTS	PAGE
<b>1</b>	<b>Summary and Explanation</b>	<b>5</b>
<b>2</b>	<b>The Constitution and how the Council operates</b>	<b>11</b>
	About the Constitution	12
	- Changing and updating the Constitution	13
	How the Council Operates	15
	- Roles, rights and duties of Councillors	16
	- Decision making structure of the Council	
	- Key Decisions	19
	The Public's Rights	22
<b>3</b>	<b>Responsibility for Functions</b>	<b>25</b>
Section 1	Introduction to Responsibility for Functions	26
	- How delegation works	
	- General powers for Executive Directors and Heads of Service	
Section 2	Executive Functions	33
	- Introduction to executive functions	
	- About the Leader and Cabinet	
Section 3	Scheme of Delegation – Executive Matters	36
	- Cabinet Portfolio Responsibilities	
	- Service Responsibilities	
Section 4	Scheme of Delegation – Non-Executive Matters (Council Responsibilities)	55
Section 5	Role of the Council (Council Functions)	70
Section 6	Roles and Responsibilities of Council Decision-Making Committees	72
	Terms of Reference:	
	- Licensing, Audit and General Purposes Committee	
	- Development Management Committee	
Section 7	Overview and Scrutiny Committee – Terms of Reference	79
Section 8	Policy and Project Advisory Board – Terms of Reference	85
Section 9	Rushmoor Development Partnership and Housing Company – Governance Arrangements	88
Section 10	Councillor Role Descriptions - Special Responsibility Roles	92
Section 11	Roles of Officers	97
	- Functions of Statutory Officers	
Section 12	Proper Officers	102
Section 13	Provisions and Responsibilities for Joint Arrangements	111
<b>4</b>	<b>Procedure Rules</b>	
1	Standing Orders for the Regulation of Business	114
2	Access to Information Procedure Rules	144
	- Arrangements for Urgency and Exceptions	
3	Public Speaking Procedure Rules	160
4	Cabinet Procedure Rules	164
5	Overview and Scrutiny Procedure Rules	168

PART	CONTENTS	PAGE
	6 Licensing Sub-Committee (Alcohol and Entertainments) Hearings Protocol and Procedure	180
	7 Standards Hearing Procedure Rules	188
	8 Budget and Policy Framework	193
	9 Financial Procedure Rules	198
	10 Contract Standing Orders	222
	11 Officer Employment Procedure Rules	248
	12 Petitions Scheme	256
<b>5</b>	<b>Codes and Protocols</b>	
	1 Code of Conduct for Councillors	261
	- Guidance for using Social Media	271
	2 Members Planning Code of Good Practice	275
	3 Protocol for Member/Officer Relations	283
	4 Protocol for Public Community Meetings	287
	5 Selection of Mayor and Deputy Mayor	291
	6 Mayoral Protocol	293
	7 Appointment of Honorary Aldermen	302
	8 Officer Code of Conduct	303
	9 Code of Corporate Governance	312
	10 Anti-Fraud, Bribery and Corruption Policy	313
	11 ICT Acceptable Use Policy	319
	12 Members Learning and Development Policy	328
<b>6</b>	<b>Members' Allowances Scheme</b>	
	Members' Allowances Scheme	333

## **PART 1**

### **Summary and Explanation**



# **PART 1**

## **Summary and Explanation**

### **The Constitution**

This Constitution is intended to facilitate council business. It explains how the Council operates, how decisions are made and who has the power to take which decisions. It sets out the procedures, codes and protocols to be followed to ensure that decisions are made efficiently, transparently and with accountability to local people.

The Council has agreed this Constitution, which combines all the governance provisions it is required by law to adopt, together with its Standing Orders for the Regulation of Business which set out how it conducts its meetings. These documents together provide the framework within which the Council operates.

**Part 1** is a brief summary of what is contained in the Constitution and definitions.

**Part 2** is an introduction to the main aspects of political governance at the Council and how the Council works.

**Part 3** is the Responsibility for Functions, which explains who within the Council has powers to exercise various powers and duties. The terms of reference for member level bodies, committees and panels are also found in this section.

**Part 4** contains the Standing Orders and other rules and procedures to be followed by the Council to ensure that its decisions and actions are legal, financially sound and carried out in accordance with the policy frameworks.

**Part 5** includes the Code of Conduct for Councillors, and other codes and protocols, which set out the high standards of conduct that are expected of Members and officers in their Council business.

**Part 6** is the Members Allowances Scheme, which sets out the scheme of payment to elected Members.

## Definitions

Definition	Meaning
Authorised Officer	Officers within the Corporate Leadership Team and Corporate Managers who are individually responsible and accountable for the exercise of delegated functions for their areas of service
Cabinet	The Leader and the Cabinet members who are appointed by the Leader.
Cabinet Member	An elected member appointed to the Cabinet by the Leader.
Cabinet work programme	The forward plan containing the particulars of key decisions and other matters to be published in advance, as required by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 (as amended).
Cabinet portfolio	A function or collection of functions of the Council allocated by the Leader to a Cabinet member.
Call-in	The exercise of the right by the Overview and Scrutiny Committee to review the proposed exercise of a function of the Executive before it may take effect.
Chairman of a Committee	Includes the vice-chairman of a committee to act on his or her behalf or acting in his or her absence.
Confidential	Matters not be made public by law or information a government department has given to the Council upon terms which forbid the disclosure of the information to the public.
Constitution	The collection of documents called the Constitution approved by the Council for the purposes of Section 37 of the Local Government Act 2000.
Corporate Leadership Team	Comprises the Chief Executive, Executive Directors and Heads of Service.
Decision-making body	The full Council, the Cabinet, Cabinet Portfolio Holder, Development Management Committee, Licensing, Audit and General Purposes Committee and officers under delegated powers.
Document	Any report or background papers other than that only in draft form, taken into consideration in relation to a decision by a decision-making body.



the Executive	The Cabinet and individual Cabinet members and officers in so far as they discharge Executive functions.
Executive arrangements	The description of the political structure of the Council described in Part 2, paragraph 3.3.
Executive functions	All those functions of the Council which are not non-Executive functions as set out in Part 3 of the Constitution (Part 3, Section 2, paragraph 2.1).
Exempt Information	Information as defined in the Local Government Act 1972 and includes personal details of staff or clients, legal actions, financial and business affairs of individuals or companies.
Key decisions	Those executive decisions which are likely to result in significant expenditure or savings or to have significant effects on communities living or working in two or more wards of the Borough. See full definition in Part 2, paragraph 3.12).
Leader of the Council	The person appointed by the Council in accordance with Standing Order 5 (1).
Meeting	A formal meeting of the Council or committee, the agenda and papers for which are published under the Local Government Act 1972.
Member	In relation to the Council, means an elected member of Rushmoor Borough Council In relation to any committee, means a person appointed as a member of that committee or nominated substitute.
Municipal Year	The year starting with the Annual Council Meeting in May and ending with the Annual Council Meeting the following year.
Overview and Scrutiny	A committee appointed by the Council whose functions include holding to account the Executive.
Policy Framework	Functions which are reserved to the Council for determination defined in Part 3 – Section 4 (4.1).
Programme	A set of projects or activities co-ordinated together with a long-term aim.
Proper Officer	Officer appointed to discharge specific statutory provisions (Part 3, Section 12).

Report	The final document on which the Council, the Cabinet, a Cabinet member, a committee or officers under delegated powers take a decision or agree a proposed decision. It does not include draft reports.
Scheme of Delegation	The part of the Constitution, within the Responsibility for Functions, specifying the delegation by the Council of its executive and non-executive functions (Part 3 – Sections 3 - 6).
Task and Finish Group	A time-limited small cross-party group of members, without decision making powers to examine or develop proposals.
Ward Member	A member who was elected to, and represents, an electoral ward within the Borough.
Working Day	Any day which is not a weekend or a bank holiday.
Working Group (often a Standing Group)	A group of members working together on an ongoing basis to examine, monitor or develop proposals or services without decision making powers.
Writing	Includes the use of electronic means.

## PART 2

### The Constitution and how the Council operates

Para.	Section Title	Page
1	About the Constitution – Changing and updating the Constitution	12 13
2	How the Council Operates – Roles, rights and duties of Councillors – Decision making structure of the Council – Key Decisions	15 16 17 19
3	The Public's Rights	22

## **About the Constitution**

### **1.1 Status of the Constitution**

This Constitution is the Constitution of the Council within the meaning of Section 37 of the Local Government Act 2000. Further copies may be obtained on request to the Head of Democracy, Strategy and Partnerships and the Constitution is available on the Council's website ([www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)).

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

### **1.2 Aims and purpose**

The aims and purpose of the Constitution are to

- (a) explain how the Council works;
- (b) provide a framework within which the Council can establish and deliver its priorities, and provide clear leadership to the community in partnership with residents, businesses and other organisations;
- (c) support the active involvement of the public in the process of local decision-making;
- (d) help councillors represent their constituents more effectively;
- (e) enable decisions to be taken efficiently and effectively;
- (f) set out the Executive arrangements which separate the roles of the Executive, Overview and Scrutiny Committee and non-executive committees in a way which is easily understood;
- (g) provide a means of holding decision-makers to public account; and
- (h) ensure that those responsible for decision-making are clearly identifiable and that they explain the reasons for decisions.

### **1.3 Interpreting the Constitution**

Where questions about the Constitution or the interpretation of it arises, they will normally be addressed by the Monitoring Officer, or Deputy Monitoring Officer. In interpreting the Constitution, the Monitoring Officer, will have regard to the aims and purpose set out in paragraph 1.2.

At Council meetings, the Mayor's interpretation of Standing Orders will be final (Standing Order No. 23). In all other matters related to the interpretation of the Constitution, the decision of the Monitoring Officer will be final.

If the Constitution has no procedures for a meeting, or if there is a gap in the procedures for a meeting, the Chairman will decide what to do. The Chairman must take account of the aims and purpose set out in paragraph 1.2.

#### **1.4 Duty to Monitor and Review the Constitution**

The Monitoring Officer, supported by the Deputy Monitoring Officers, will monitor and review the operation of the Constitution and may recommend changes.

The Licensing, Audit and General Purposes Committee will monitor and review the operation of the Constitution, particularly in respect of financial procedures and protocols as set out in the Committee's terms of reference in Part 3.

#### **1.5 Changes to Constitution**

##### Minor and operational changes

The Head of Democracy, Strategy and Partnerships may update the Constitution to correct clerical errors, or to make operational changes, for example, to make updates because of changes in officer or Member designations (responsibilities/role titles etc.), or to reflect changes in legislation which are required to be applied.

The Council has been given temporary powers to hold remote or 'virtual' meetings for the purposes of council decision making, and updates to the Constitution to incorporate powers and provisions for such meetings shall also be made by the Head of Democracy, Strategy and Partnerships.

##### Executive Matters

The Head of Democracy, Strategy and Partnerships can also make changes to executive matters related to responsibilities and arrangements for Cabinet portfolios, and delegations to Cabinet Members to reflect the wishes of the Leader. For any changes, a record of the decisions will be published.

##### Other Changes

Apart from changes to Part 3 in relation to executive matters, which will be discharged by the Leader/Cabinet, changes to the Constitution other than minor changes will be agreed by the Council after considering a report from the Licensing, Audit and General Purposes Committee or the Monitoring Officer or Head of Paid Service.

#### **1.6 Changing governance arrangements**

The Council may, by resolution, change the form of its executive arrangements or change to a different permitted model of governance. The Council may choose to hold a referendum in that event.

## **1.7 Suspending the Constitution**

The Rules and Procedures in Part 4 of this Constitution may be suspended by the Council or other decision-making body, to the extent permitted within those rules and the law. The extent and duration of suspension will be proportionate to the result to be achieved, taking account the purposes of the Constitution set out in paragraph 1.2.

No other Parts of the Constitution may be suspended.

## **1.8 Publishing the Constitution**

The Head of Democracy, Strategy and Partnerships will make sure that each Member of the Council has access to the Constitution as soon as possible after his or her acceptance of office.

Copies will be made available at the Council's offices and on the Council's website.

## **How the Council Operates**

### **2. Councillors**

#### **2.1 Terms of office**

There are 39 elected councillors. Each Councillor is elected to represent an area in the Borough, called a ward, normally for a period of 4 years. There are thirteen wards in the Borough. Council elections are usually held for one-third of the available seats every year on the first Thursday in May (except in the year when there is a County Council election), although by-elections may arise from time to time to fill any casual vacancy. These elections use the first past the post system. Only eligible persons, as defined by electoral law, will be permitted to hold the office of Councillor.

Generally, the terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the ordinary election of councillors four years later.

#### **2.2 Roles and Functions of all Councillors**

The key roles of councillors are to

- (a) collectively be responsible for setting the Council's overall policies, including the budget and statutory and strategic plans;
- (b) support the council to achieve its objectives;
- (c) act as community leaders;
- (d) contribute to good governance of the local area and actively encourage community participation and the involvement of residents in decision-making;
- (e) represent people in their wards and bring their views into the Council's decision-making process, balancing different interests;
- (f) deal with casework for people in their wards and act as an advocate for constituents in resolving concerns or grievances;
- (g) attend Council and committee meetings;
- (h) collectively elect the Leader;
- (i) represent the Council on other bodies; and
- (j) maintain the highest standards of conduct.

## **2.3 Rights and duties of councillors**

The Council will give councillors the information and resources they need to do their jobs, as far as the law allows.

Councillors must always observe the Code of Conduct for Councillors, Members Planning Code of Good Practice, Protocol for Member/Officer relations and the ICT Acceptable Use Policy set out in Part 5 of this Constitution.

Councillors will not make any information public if it is confidential or exempt, without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor or employee entitled to know it.

## **2.4 Allowances**

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

## **3. Governance of the Council**

### **3.1 Decision-making structure**

The decision-making structure of the Council is set out in **Figure 1** at the end of this section below.

### **3.2 Council**

This is when all councillors meet together. The Council will provide the focus for decision on major items of policy. There are three types of Council meetings: annual meetings, ordinary meetings and special/extraordinary meetings. The Council meeting will follow the Standing Orders for the Regulation of Business set out in Part 4 of this Constitution.

The Council has a number of roles which are set out in Part 3 (Section 5) of this Constitution. These include:

- agreeing the Council's overall budget and policies (which are known as the budget and policy framework)
- electing the Leader of the Council
- appointing Committees of the Council
- confirming who will be the Chief Executive, Chief Finance Officer (Section 151 Officer) and Monitoring Officer

Proposals that go against the budget or policy framework must normally be agreed by Council. But there is a procedure for urgent decisions outside the budget and policy framework (see Part 4 – Budget and Policy Framework).



### 3.3 **Leader and Cabinet**

The Council has adopted executive arrangements in the form of a Leader and Cabinet. The following parts of the Constitution constitute the executive arrangements:

- Part 3 – Responsibility for Functions
- Part 4 – Cabinet Procedure Rules
- Part 4 – Overview and Scrutiny Procedure Rules
- Part 4 – Access to Information Procedure Rules

The Cabinet is made up of the Leader, together with the Deputy Leader and five other councillors who are appointed by the Leader. Each Member holds the brief for a portfolio of services (See Part 3 – Section 3).

The Cabinet is responsible for making decisions about the day to day running of council services, developing the budget and making recommendations to the Council on major items of policy. A full list of matters that are the responsibility of the Cabinet is set out in Part 3 – Section 3.

Decisions made by the Cabinet must be in line with the Council's overall policies and budget and the Cabinet Procedure Rules set out in Part 4. A forward work programme for the Cabinet is published on the Council's website.

### 3.4 **Policy and Project Advisory Board**

A Policy and Project Advisory Board supports the Cabinet and the Council in the development of policies and projects that will help to deliver the Council's priorities. The role of the Policy and Project Advisory Board is set out in Part 3 of this Constitution.

The Policy and Project Advisory Board may commission task and finish groups to consider policy issues in greater depth and to make recommendations.

### 3.5 **Overview and Scrutiny**

The Council has one Overview and Scrutiny Committee.

The Council also appoints three non-executive Members to the Joint Scrutiny Committee of the North Hampshire Community Safety Partnership (Hart District Council/Basingstoke & Deane Borough Council and Rushmoor Borough Council).

The Overview and Scrutiny Committee can review decisions made, or planned to be made, by the Cabinet (executive decisions), and has a role to monitor the Council's performance against its targets and hold other public service providers to account. The terms of reference for the Committee are set out in Part 3 – Role of the Overview and Scrutiny Committee. The Committee will follow the committee's procedure rules, as set out in Part 4 of this Constitution when considering any matter.

The Overview and Scrutiny Committee sets a programme of work and appoints standing groups and task and finish groups to support the delivery of this.

### **3.6 Regulatory Committees**

The Council has two regulatory Committees that deal with quasi-judicial and other non-executive matters. The Development Management Committee has responsibility for the Council's planning functions, and the Licensing, Audit and General Purposes Committee is responsible for governance, audit and other regulatory matters.

### **3.7 Rushmoor Development Partnership**

The Council has established the Rushmoor Development Partnership to support the delivery of the Council's Regeneration Programme, which is 50:50 controlled by the Council and its Investment Partner. The governance arrangements are set out in Part 3.

### **3.8 Rushmoor Homes Limited**

The Council is establishing a Housing Company 'Rushmoor Homes Limited' to enable the Council to participate directly in the provision of housing, which will be set up and governed as a Wholly Owned Company (WOC) with the Council holding 100% of the shares. The governance arrangements are set out in Part 3.

### **3.9 Access to Information**

Meetings and papers relating to the full Council, the Cabinet and Committees are open to the public, and documents are available on the Council's website except where 'exempt' or 'confidential' items are discussed.

#### Virtual Meetings

Councils have been given temporary powers to hold decision-making meetings remotely as 'virtual meetings' when accompanied by a live stream for public viewing. The Council is currently using these powers and developing relating protocols and provisions. Details to view a live stream are published on the Council's website, on the relevant committee's webpage.

### **3.10 Decision Making**

The Council will keep a record of what part of the Council, or which officer, has responsibility for particular types of decisions, which is set out in Part 3 – Responsibility for Functions.

The types of decision are:

- (a) Decisions reserved to the full Council (see Part 3 – Section 5).
- (b) Non-executive decisions which are not to be the responsibility of the Cabinet such as those that relate to Licensing and Development Management (see

Part 3 – Sections 4 and 6).

- (c) Local choice decisions where it is up to the Council to determine whether they are the responsibility of the Cabinet and Leader, the Council or an officer.
- (d) Executive decisions which are the responsibility of the Cabinet and Leader. This comprises all decisions which are not the responsibility of any other part of the Council whether by law or under the Council's Constitution (see Part 3 – Sections 2 and 3).
- (e) Statutory Officer decisions which are taken by officers appointed directly through statutory provisions (see Part 3, Section 11).
- (f) Key decisions (see definition in paragraph 3.12 below, and Part 4 – Access to Information Procedure Rules).

### 3.11 Principles of Decision Making

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

- proportionality (i.e. the action must be proportionate to the desired outcome)
- due consultation and the taking of professional advice from officers;
- to take into consideration financial, legal, equalities and risk implications
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- clarity of aims and desired outcomes;
- account being taken of relevant considerations and options; and
- an explanation of the reasons for a decision

Decisions taken by the Council, the Cabinet, cabinet members, committees and certain decisions taken by officers, including key decisions will be recorded in accordance with the Access to Information Procedure Rules in Part 4.

### 3.12 Key Decisions

A key decision means an Executive Decision (taken by the Cabinet, cabinet sub-committee, cabinet member or officer) which is likely to

- result in the Council incurring expenditure or making savings which are significant in as much as they will have a material effect on the level of council tax or balances or contingencies in relation to the Council's overall budget; or
- be significant in terms of its effect on communities living or working in an area comprising two or more wards within the Borough.

Expenditure or savings of £100,000 is considered to be significant for the purposes of recording key decisions. However, for the acquisition or disposal of property or leases the threshold for key decisions is £250,000.

A decision taker may make a key decision only in accordance with the requirements of the Access to Information Procedure Rules set out in Part 4 of this Constitution.

### **3.13 Joint Arrangements, delegation to and from other local authorities, and contracting out**

In order to promote the economic, social or environmental well-being of the area, the Council or the Cabinet may: -

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

The Council has a number of joint arrangements in place for the delivery of services including (e.g. CCTV, community safety partnership, building control services). The provisions for joint arrangements, delegation of arrangements to other local authorities and contracting out are set out in Part 3 Responsibility for Functions.

### **3.14 Mayoralty**

Each year, the Council elects a Mayor and Deputy Mayor for the Borough from amongst the elected Members of the Council. The Mayor is the first citizen and the Queen's representative in the Borough. A Mayoral Protocol is included in Part 5 of the Constitution.

The key responsibilities of the Mayor are to

- (a) act as the civic head of the Borough;
- (b) uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary at Council meetings;
- (c) preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interest of the community;
- (d) ensure that the Council meeting provides an opportunity for debate on matters of concern to the local community;
- (e) ensure that the Council meetings provides a forum at which Members who are not part of the Cabinet are able to hold the Cabinet to account;
- (f) promote the interests and reputation of the Council and the Borough both inside and outside the area and to act as an ambassador for both; and
- (g) undertake civic, ceremonial and community-based functions and to promote the Council in the local community, acting at all times in an inclusive and non-partisan manner.

#### Restrictions

- In accordance with the provisions of the Local Government Act 2000, neither the Mayor or the Deputy Mayor of the Borough can be a Member of the Cabinet.
- During his or her mayoral year, the Mayor shall not hold the position of Chairman of any of the Council's committees or the Policy and Project Advisory Board.

### **3.15 The Council's Staff and Management Structure**

The Council employs officers to give advice, implement and take decisions under delegation arrangements and manage the day-to-day delivery of its services. The Chief Executive, two Executive Directors, and seven Heads of Service comprise the 'Corporate Leadership Team' (CLT). This team provides strategic advice to the Council, coordinates Council activity to the best effect and ensures high standards of performance.

### **3.16 Financial Management**

Each year the Council sets an annual revenue budget and capital programme which indicates how it is going to spend the money which it has available to it. The Council spends money in a number of different ways to provide services in accordance with its powers and duties. These include employment of staff, maintaining premises, contracting with others to provide services and insuring itself and its property.

To help the Council exercise its statutory financial responsibilities, safeguard its finances and assets and ensure the proper record keeping and reporting of its accounts, the Council has Financial Procedure Rules and Risk Management Procedures which it must follow. The Financial Procedure Rules are set out in Part 4 of the Constitution.

### **3.17 Contracts**

The Council spends a large proportion of its budget on procuring services, works and goods from other people. To ensure that the Council is protected when it enters into contracts and also that it acts fairly and secures best value from the use of budget the Council has Contract Procedure Rules which can be found in Part 4 of the Constitution.

### **3.18 Legal Proceedings, Authentication of Documents and Affixing the Common Seal of the Council**

There are occasions when the Council needs to institute legal proceedings against other people in the exercise of its powers and duties and also to defend itself against actions taken by others. The Corporate Manager - Legal Services is empowered to institute and defend legal proceedings on behalf of the Council and to represent it in court and at tribunals (Part 3 – Section 1).

The Chief Executive, Executive Directors and the Corporate Manager – Legal Services are empowered to witness or authenticate documents and to affix the Common Seal of the Council to deeds in accordance with Standing Order 24 (Part 4 – Standing Orders for the Regulation of Business).

## **The Public's Rights**

### **4.1 Introduction**

The public's rights to information and to participate in the decision-making process are explained in more detail in the Access to Information Procedure Rules and Public Speaking Procedure Rules in Part 4 of this Constitution. In summary residents have the following rights:

### **4.2 Voting and Petitions**

People on the electoral roll for the Borough have the right to vote at local elections if they are registered and to contact elected Members about matters of concern to them.

Residents also have the right to petition the Council and to petition to request a referendum on a mayoral form of Executive decision making.

Petitions shall be dealt with in accordance with the Council's Petitions Scheme in Part 4 of the Constitution. However, petitions related to planning and licensing applications, or other quasi-judicial matters where there is already an existing right of appeal, such as council tax banding and non-domestic rates will be dealt with outside of this Scheme in accordance with existing provisions. All petitions related to planning applications shall be reported to the Council's Development Management Committee.

### **4.3 Information**

Residents have the right to

- attend meetings of the Council, the Cabinet and committees except for items of business where confidential or exempt information is likely to be disclosed and the item is therefore considered in private;
- see the Cabinet Work Programme which sets out what key and 'in private' decisions will be taken by the Cabinet and when;
- see reports and background papers and any records of decisions made by the Council, the Cabinet and committees;
- see the Register of Members' Interests
- inspect the Council's accounts and make their views known to the external auditor;
- exercise their right to seek information in accordance with the provisions of the Freedom of Information Act 2000; and
- Obtain a copy of the Constitution

Members of the public are welcome to attend any meetings of the Council that are open to the public, except for any part that contains exempt or confidential information.

Dates of meetings and related agendas and reports are listed and published on the Council's website at [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk) and the Modern.gov App.

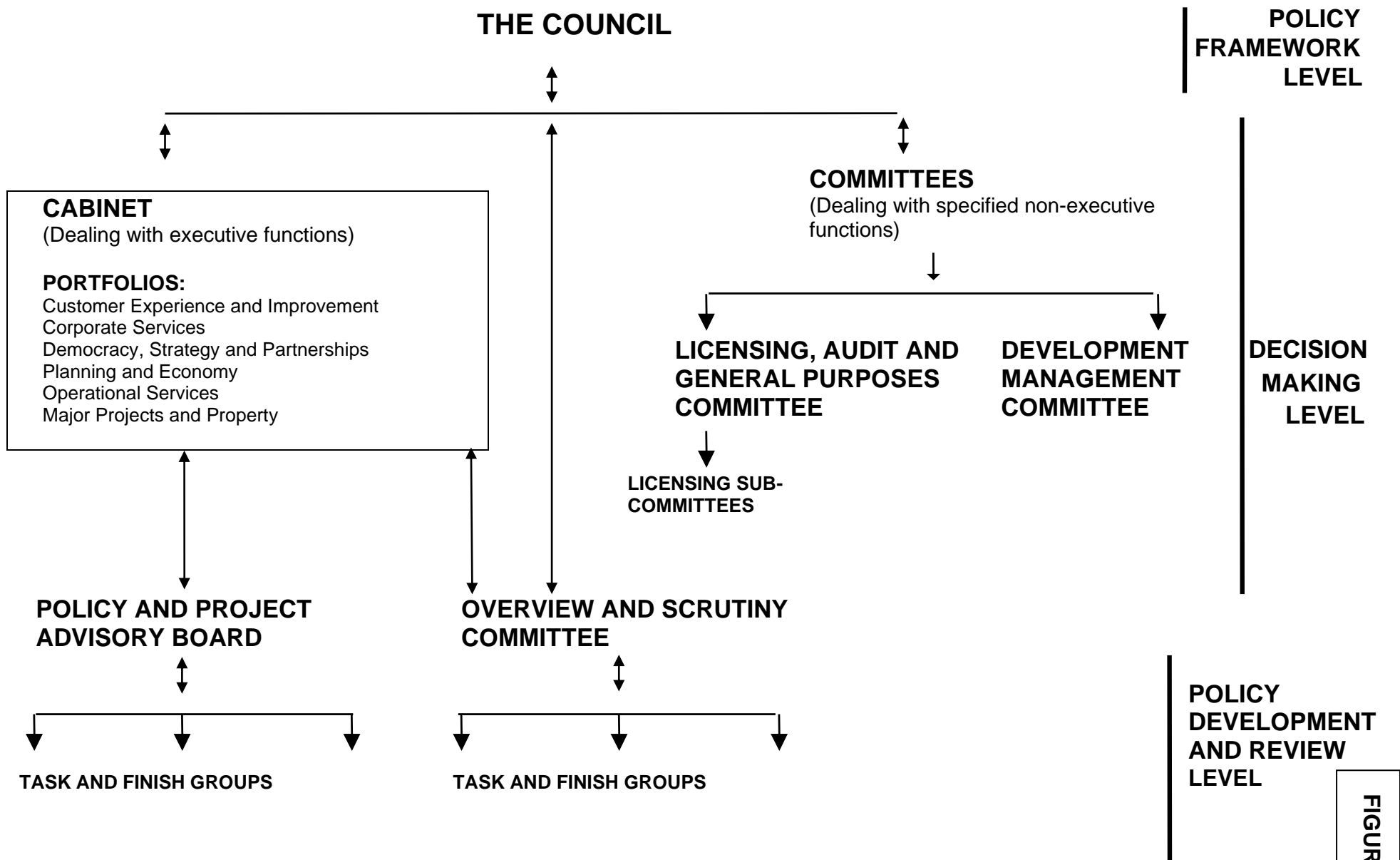
#### **4.4 Participation**

Residents can ask questions or address meetings of the Cabinet and Committees and to participate in the work of the Overview and Scrutiny Committee and Policy and Project Advisory Board, where appropriate, in accordance with the Public Speaking Procedure Rules (in Part 4) and individual arrangements made by Committees.

#### **4.5 Complaints**

Members of the public have the right to complain to:

- the Council itself under its complaints scheme;
- the Local Government Ombudsman after using the Council's own complaints scheme; and
- the Monitoring Officer about a breach of the "Code of Conduct for Councillors", as set out in Part 5 of this Constitution.



**FIGURE 1**



## PART 3

### Responsibility for Functions

Section	Section Title	Page
1	Introduction to Responsibility for Functions <ul style="list-style-type: none"><li>• How delegation works</li><li>• General powers for Executive Directors and Heads of Service</li></ul>	26
2	Executive Functions <ul style="list-style-type: none"><li>• Introduction to executive functions</li><li>• About the Leader, Cabinet, Portfolios, Shadow Portfolios and Cabinet Champions</li></ul>	33
3	Scheme of Delegation – Executive Matters <ul style="list-style-type: none"><li>• Cabinet Portfolio responsibilities</li><li>• Head of Service Responsibilities</li></ul>	36
4	Scheme of Delegation – Non-Executive Matters (council responsibilities) <ul style="list-style-type: none"><li>• Description of budget and policy framework</li></ul>	55
5	Role of the Council (Council Functions)	70
6	Role and Responsibilities of Council Decision Making Bodies Terms of Reference: <ul style="list-style-type: none"><li>• Licensing, Audit and General Purposes Committee</li><li>• Development Management Committee</li></ul>	72
7	Overview and Scrutiny Committee – Terms of Reference	79
8	Policy and Project Advisory Board – Terms of Reference	85
9	Rushmoor Development Partnership (RDP) and Rushmoor Homes Limited – Governance Arrangements	88
10	Councillor Role Descriptions – Special Responsibility Roles	92
11	Roles of Officers <ul style="list-style-type: none"><li>• Functions of Statutory Officers</li></ul>	97
12	Proper Officers	102
13	Provisions and Responsibilities for Joint Arrangements	111

## SECTION 1: INTRODUCTION TO RESPONSIBILITY FOR FUNCTIONS

### 1.1 Introduction

This part of the Constitution explains who is responsible for the various functions of the Council.

The law divides a Council's functions into the following categories:

- Council functions – these must not be the responsibility of the Leader and Cabinet. In some cases, such as adopting the Council's Budget or Policy Framework, only the full Council may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee or officer.
- Local choice functions – it is up to the Council to determine whether these are the responsibility of the Council or the Leader and Cabinet.
- Executive responsibilities – these must be the responsibility of the Leader. As set out in paragraph 2.1 below, the Leader may delegate responsibility for these functions to the Cabinet, individual Cabinet Members or officers.

Council responsibilities are set out in Section 4. Any responsibilities not listed in Section 4, including all local choice responsibilities, will be executive responsibilities.

### 1.2 Summary of Council responsibilities and executive responsibilities

Council responsibilities (non - executive functions)	Executive responsibilities
Budget and Policy Framework (Part 3, Section 4, para 4.1)	Everything else
Regulatory work – for example development management and licensing functions	
Specific electoral and electoral registration matters	
Collective terms and conditions for staff other than pay (which is NJC)	
All of the other matters in Section 4 (para. 4.9)	

### 1.3 Delegation of responsibilities

The Council delegates many of its responsibilities to committees of the Council and officers, and the Leader delegates responsibilities to the Cabinet, Cabinet Members and officers. Details of delegation arrangements are set out in Sections 3 to 6. The Council and the Leader cannot delegate to each other.

## 1.4 How delegation works

### (1) Delegation by the Council and the Leader

The Council and Leader can at any time take back responsibilities they have delegated, and delegation to officers shall be without prejudice to the rights and powers of the Cabinet and Committees, as appropriate, at any time, to decide upon any matter that falls within their responsibilities.

### (2) Authorised Officers

Officers to whom powers are delegated are "Authorised Officers". Heads of Service, Corporate Managers and Executive Directors are authorised officers for their areas of responsibility.

Authorised officers, and those officers who manage them, will exercise such powers granted by this Constitution or by the Council, the Cabinet or a Committee. Authorised officers each have a power of sub-delegating those powers to a nominated officer or officers to such extent as they shall determine, but the officer granting the sub-delegation shall remain responsible for any decision taken by the nominated officer. The Authorised Officer shall keep a record in writing of such arrangements.

An Authorised Officer may decide not to exercise a delegated authority and to refer a decision to the appropriate committee, portfolio holder or the Cabinet for determination.

#### Absence of Authorised Officer

In the absence of an Authorised Officer, powers and functions shall be exercised by one or more assistants designated in accordance with standing instructions previously issued by the Authorised Officer concerned. Where powers are delegated to a Head of Service, such powers may be exercised by the Chief Executive or an Executive Director on his or her behalf.

When an Authorised Officer post is vacant, delegated functions, including the power to designate assistants, shall be exercisable in all respects either

- by the officer who is temporarily appointed to carry out the duties and responsibilities normally associated with that Authorised Officer post; or
- if no such temporary appointment has been made, by the Chief Executive or an Executive Director.

### (3) General requirements for powers exercised under delegation arrangements

In exercising delegated powers, officers shall comply with the following:

- all relevant statutory requirements

- the provisions of this Constitution including the Council's Standing Orders, Financial Procedure Rules, Contract Standing Orders and Access to Information Procedure Rules
- the approved plans, policies and decisions of the Council, Cabinet and Committees and shall not depart from this without specific approval from the relevant body concerned
- the revenue and capital budgets of the Council, subject to any variation permitted by the Council's Financial Procedure Rules
- the Council's Health and Safety policy for Council employees and premises

As part of delegated decision-making, consultation should be carried out with appropriate officers and the relevant Executive Director or the Chief Executive should be kept informed on any key or other significant decisions.

Records of decisions made under delegation arrangements must be made in accordance with the provisions in the Access to Information Procedure Rules (Part 4 of the Constitution).

**(4) Emergency Out of Hours Service**

Powers delegated to the Head of Operational Services shall be exercised by duty officers, in accordance with agreed authorisations, to carry out the Out of Hours Service and other emergency arrangements.

**(5) When Officers and Individual Members should not use their delegated powers**

Where powers are delegated by the Cabinet and Committees in this Constitution, an officer or individual Member (as the decision maker) shall refer the matter to the Cabinet or appropriate Committee for decision in the following circumstances:

- The decision raises new questions of principle or policy
- The officer or the Member has an interest in the matter

**(6) Delegated powers exercised by individual members**

Where responsibilities are exercised by individual Members, directly or as consultees with authorised officers, the following arrangements shall apply in making a decision:

- In the absence of the Chairman of a Committee, the Vice-Chairman
- In the absence of a Cabinet Member, the Leader of the Council or in his/her absence the Deputy Leader
- In the absence of the Leader, the Deputy Leader
- In the absence of the Mayor, the Deputy Mayor

## 1.5 General powers for Executive Directors and Heads of Service

The Chief Executive, Executive Directors, Heads of Service and Corporate Managers are authorised by the Council to

- (1) take all routine and day-to-day operational service decisions within agreed policies provided they are met from within overall approved budgets in relation to the services for which they are responsible, subject to any other requirements imposed by the Constitution (e.g. Financial Procedure Rules, Contract Procedure Rules);
- (2) take all decisions necessary to implement the contents of any approved Policy Framework plans, in relation to the services for which they are responsible, provided they are within agreed budgets;
- (3) act under all current or new legislation and Council plans, policies, guidelines and procedures relating to their services and functions managed, operated and controlled by them and shall have the authority to vary or change their services in consultation with the Corporate Leadership Team;
- (4) authorise expenditure within approved revenue or capital budgets, or within the limits on variations provided for in the Financial Procedure Rules;
- (5) initiate procurement, accept quotations and tenders, access framework agreements, and sign contracts for the procurement of services, supplies and works subject to the requirements of Contract Standing Orders;
- (6) authorise employees of the Council to enter any land and premises for the purposes of any investigation, inspection or any statutory powers of the Council related to their area of service;
- (7) determine charges for the use of relevant services and events not covered by the annual review of fees and charges;
- (8) authorise their officers for the purpose of issuing notices under any legislation within the purview of the Council e.g. fixed penalty notices, penalty charge notices and abatement notices;
- (9) authorise their officers to obtain warrants authorising entry to property under the provisions of any legislation within the purview of the Council;
- (10) authorise their officers to appear in Legal Proceedings e.g. a Magistrates' Court to represent the Council, in consultation with the Corporate Manager – Legal Services;
- (11) issue simple cautions in respect of offences under legislation enforced by the Council or the appropriate Committee, following consultation with the

appropriate Cabinet Portfolio Holder or Chairman of Committee and the Corporate Manager – Legal Services;

- (12) signing documents and serving statutory or other notices on behalf of the Council;

#### Staffing

- (13) make decisions on staffing issues including recruitment to posts within their service, and issues in relation to working practices, performance, overtime and attendance on training courses within approved staffing budgets;
- (14) discipline and dismiss employees, subject to consultation with HR and in line with approved policies;
- (15) transfer or second employees subject to consultation with the Corporate Leadership Team; and
- (16) approve the payment of more than one increment in accordance with criteria in the Council's Pay and Reward Policy.

#### Legal Proceedings

The Corporate Manager – Legal Services is empowered in respect of legal proceedings to:

- (1) defend, conclude and settle all legal proceedings either issued or advised of pursuant to a pre action protocol against the Council and to institute, conclude or settle any legal proceedings authorised by the Cabinet or a Committee;
- (2) institute, conclude or settle any civil proceedings for debt or damages due to the Council and to institute any proceedings for the recovery of land or take other injunctive relief;
- (3) where urgent action is required in any instances not coming within the arrangements for urgency and exceptions set out in the Appendix to the Access to Information Procedure Rules in Part 4 of the Constitution, or where he or she deems it appropriate, to institute any proceedings in consultation with the appropriate Cabinet Member or Chairman, including the service of any necessary statutory notice (including an enforcement notice and a stop notice), provided that the reason for the urgency and the decision taken shall be reported to the next meeting of the Cabinet or the appropriate Committee and, if a Court Hearing is necessary prior to consideration by the relevant body, the appropriate Cabinet Member or Chairman shall be informed of the action taken;
- (4) prosecute for failure to reply to Requisitions for Information regarding the ownership of premises served under planning and building control or other Local Government (Miscellaneous Provisions) Act 1976 powers;

- (5) prosecute for offences relating to contravention of any byelaws provided that, on the conclusion of the case, the Cabinet relevant Committee is informed of the action taken and the result thereof; and
- (6) after consultation with the relevant Head of Service to prosecute in the Magistrates' Court or the Crown Court for any other criminal offence with the Council's statutory or agency responsibilities

The Council's Chief Executive is empowered in respect of all general powers set out in paragraph 1.5 above.

The Council's Chief Executive, Monitoring Officer, Section 151 Officer and Corporate Manager – Legal Services are authorised to give contract certificates under the Local Government (Contracts) Act 1997 upon receipt of an indemnity from the Council.

#### **1.6 Consulting Cabinet Members and Chairmen of Committees**

The Chief Executive, Executive Directors and Heads of Service will take decisions in relation to the day-to day running of the Council's services. However, arrangements will be made to ensure briefings with Committee Chairmen, the Leader and/or the relevant Cabinet Members, Cabinet Champions and Shadow Cabinet Members on matters relating to their portfolio, responsibilities or shadow portfolio as appropriate.

Committee Chairmen and Cabinet Members will be consulted as part of decision-making processes where appropriate, and Portfolio Holders shall be consulted on any key decisions taken under delegation arrangements.

#### **1.7 Interpreting the rules on delegation**

When a responsibility is delegated in the Constitution, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated). Functions, matters, powers, authorisations, delegations, duties and responsibilities within this Scheme shall be construed in broad terms and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.

#### **1.8 Responsibilities are carried out on behalf of the Council**

All responsibilities are carried out on behalf of the Council and in the Council's name.

Section 26 of the Health and Safety at Work etc. Act 1974 allows local authorities to indemnify inspectors appointed under that Act under specified circumstances. It is the policy of this authority to indemnify inspectors appointed under that Act against the whole of any damages and costs or expenses which may be involved, if the authority is satisfied that the inspector honestly believed that the act complained of was within their powers and that their duty as an inspector entitled them to do it, providing the inspector was not wilfully acting against instructions.

## 1.9 **Matters of Urgency**

Arrangements for urgency and exceptions are set out in the Appendix to the Access to Information Procedure Rules in Part 4 of the Constitution.



## **SECTION 2: EXECUTIVE FUNCTIONS**

### **2.1 Introduction**

Functions will be ‘executive’ functions unless the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended say otherwise, or as otherwise indicated in this Constitution.

Pursuant to Section 15 of the Local Government Act 2000, the Leader may discharge any functions and exercise any powers which are the responsibility of the Executive. The Leader may also arrange for the discharge of any of those functions by the following: -

- (i) The Cabinet
- (ii) A member of the Cabinet
- (iii) A committee of the Cabinet
- (iv) An officer
- (v) Another Council
- (vi) Another organisation under joint arrangements

### **2.2 Need to act within the budget and policy framework**

Executive responsibilities must be carried out within the Council’s budget and policy framework. Proposals that go against the budget or policy framework must normally be agreed by Council. However, there is a procedure for urgent decisions outside the budget and policy framework (Part 4 - Budget and Policy Framework para. 4).

### **2.3 Need to follow the Constitution**

Executive responsibilities must be carried out in a way that follows the Constitution. Special attention should be paid to the Financial Procedure Rules, Contract Procedure Rules and Access to Information Rules (see Part 4 of the Constitution).

## **ABOUT THE LEADER AND CABINET**

### **2.4 Membership of the Cabinet**

At Rushmoor Borough Council, the Cabinet consists of the Leader, Deputy Leader, and five other elected councillors. The Leader is appointed by Council. The Leader appoints the Deputy Leader and Cabinet Members (Portfolio Holders). The Cabinet will normally comprise Members of the majority Political Group, unless agreed otherwise by the Council. Members of the Cabinet cannot be the Mayor or Deputy Mayor or a member of the Overview and Scrutiny Committee.

## **2.5 Term of Office of Leader**

The Leader will be a councillor elected to that position by the Council for the term of office agreed by the Council. The Leader will hold office until he or she:

- resigns from the office; or
- is no longer a councillor; or
- is removed from office by resolution of the Council (and the leader may not be removed from office except by such resolution); or
- has completed the term of office agreed by the Council.

On discontinuance of his or her appointment, he or she shall also cease to be Chairman of the Cabinet.

In the event of there being a vacancy in the office of Leader, the Council shall elect a new Leader at its next ordinary meeting.

If the Council passes a resolution to remove the Leader, a new Leader shall be elected at the meeting at which the Leader is removed from office or at a subsequent meeting of the Council.

## **2.6 Deputy Leader**

The Deputy Leader is appointed by the Leader. The Deputy Leader holds that office for as long as the Leader wants him or her to hold that position.

If the Leader is unable to act, the Deputy Leader may carry out the Leader's statutory functions (for example of appointing or removing Cabinet Members) but does not assume the position of Leader. If the Leader ceases to be the Leader, the Deputy Leader may act in his or her place until a new Leader is appointed by the full Council.

## **2.7 Term of Office of Cabinet Members**

Other Cabinet Members shall hold office at the discretion of the Leader unless they resign from office or they are no longer councillors.

## **2.8 Cabinet Meetings**

The Cabinet takes decisions collectively at Cabinet meetings. Cabinet Meetings follow the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## **2.9 Delegation by the Cabinet**

The Cabinet can delegate any of its functions to a committee of the Cabinet or officer of the Council.

When taking a decision, the Cabinet may expressly delegate more specific operational decisions to one (or a group of) Cabinet portfolio holders.

#### **2.10 Cabinet Portfolios**

Each Cabinet Member has responsibility for a range of Council activities, which are called Portfolios. These are determined by the Leader.

Details about current Portfolio responsibilities can be found in Appendix 1 of Section 3 (Scheme of Delegation – Executive Matters).

Cabinet Members can make decisions individually for their Portfolio area in accordance with the arrangements set out in the Cabinet and Leader's Scheme of Delegation in Section 3. However, these decisions must be in accordance with the budget and plans in the Policy Framework, all of which have been agreed by the full Council.

Areas of responsibility that are not allocated to a Cabinet Member in the schedule of portfolio responsibilities or the Cabinet and Leader's Scheme of Delegation, may be allocated to a Cabinet Member by the Leader.

#### **2.11 Shadow Portfolios**

Shadow Portfolio Holders may be appointed by the Leader of the primary Opposition Group to shadow, or mirror, the positions of the Cabinet Portfolio Holders and their areas of defined responsibility.

Shadow Portfolio Holders are responsible for familiarising themselves with the specialist areas of the Council's work within the Portfolio area they shadow, and to support the effective challenge and scrutiny of the Cabinet and relevant Portfolio Holder.

#### **2.12 Cabinet Champions**

The Cabinet may also appoint up to three Cabinet Champions each year to lead on specific projects, which would not normally fall within one of the Portfolios. Cabinet Champions must have a work programme which reflects the priorities set out in the Council Business Plan and is approved by the Leader.

Cabinet Champions will report annually to the Cabinet. The Overview and Scrutiny Committee may also require Cabinet Champions to attend the Committee to report on progress and activities against planned work.

## **SECTION 3: SCHEME OF DELEGATION FOR EXECUTIVE MATTERS**

### **3.1 Introduction**

Under this Constitution, some executive decisions must be agreed by the Cabinet collectively, and some by the Leader and individual Cabinet Portfolio Holders.

All other executive functions except the functions in paragraph's 3.3 to 3.9 are delegated to the officers in the senior management structure (see paragraph 3.10).

### **3.2 Current Portfolio Arrangements**

The current arrangements for the allocation of portfolio responsibilities by the Leader to Members of the Cabinet is set out at **Appendix 1** to this Section.

A summary of the current portfolios is set out below:

- Leader
- Deputy Leader and Portfolio Holder for Customer Experience and Improvement
- Corporate Services
- Democracy, Strategy and Partnerships
- Planning and Economy
- Operational Services
- Major Projects and Property

### **3.3 Matters reserved to the Leader**

The Leader shall be responsible for the following functions:

1. To provide overall political leadership to the Council by leading on the strategic direction and key priorities.
2. To lead the Cabinet in its work to develop the Council's budget and policy framework for consideration by the Council.
3. To lead the process of developing links and partnerships both inside and outside of the Borough, with partners, stakeholders and other interested organisations.
4. To be the lead political spokesperson for the Council and represent the Council in the community and in negotiations with partners and other stakeholders.

5. To appoint a Deputy Leader from amongst the Cabinet.
6. To appoint a Cabinet of not fewer than three and not more than ten councillors (including the Leader).
7. To allocate areas of responsibility to each member of the Cabinet to be known as Portfolios.
8. To notify the Chief Executive of the allocation of portfolio responsibilities so that the information can be published as part of the Council's Constitution.
9. To chair meetings of the Cabinet and ensure the efficient despatch of business consistent with the Council's policies and strategies.
10. To decide the arrangements for the discharge of Portfolio responsibilities in the case of a Portfolio Holder vacancy or period of absence.
11. Where the Leader judges it to be the most suitable course of action, to require any decision proposed by one or more Portfolio Holder to be taken by the Cabinet.
12. To sign off the Annual Governance Statement, following consideration by the Licensing, Audit and General Purposes Committee.

#### **3.4 Matters reserved to the Deputy Leader of the Council**

In addition to Portfolio responsibilities, to deputise in the Leader's absence.

#### **3.5 Matters reserved to the Cabinet**

The following decisions must be agreed collectively by the Cabinet:

1. Recommending to the Council the budget and policy framework (see Section 4, Para. 4.1)
2. Recommending to the Council the medium-term financial strategy
3. Recommending to the Council extra spending outside the budget
4. Approval of updates to policies and strategies that form part of the budget and policy framework that make no changes to the major provisions within the policy

5. Approval of corporate strategies, policies and organisational programmes (and updates) prepared within the overarching budget and policy framework agreed by the Council
6. Approval of any matters where it is proposed to make a significant change to any public service provided by the Council or where initial consultation with Cabinet Members indicates that referral to the Cabinet should take place.

### **Finance**

7. Approval for transfers between cost centres greater than £50,000 that are consistent with the policy framework (virements)
8. Approval for supplementary estimates greater than £50,000 that are consistent with the policy framework
9. Profiling variations (i.e. transfers of expenditure between financial years that do not increase or decrease the total sum) to the Capital Programme greater than £50,000 but not more than 10% of the total capital scheme budget

### **Land and Property**

10. Approval of the annual Commercial Property Strategy and amendments.
11. Approval for:
  - a) grant and renewal of occupational leases of property at open market value of more than £200,000 per annum.
  - b) grant of ground leases at an open market value of a rental greater than the value of £100,000 per annum or over a capital premium payment of £250,000.
  - c) restructure of ground leases at an open market value of a rental greater than the value of £100,000 per annum or over a capital premium payment of £250,000.
  - d) the disposal of the freehold in land at an open market value over £100,000.
  - e) the disposal of property or leases for less than market value subject to an independent valuer's report and where the undervalue does not exceed that set out in relevant legislation.
  - f) the acquisition of freeholds or assets with a consideration or premium over £500,000

- g) the acquisition of property or leases for more than 20% above the value determined by the independent valuer, and where the overvalue is more than £100,000.
- h) the acquisition of leases with a rental value over £250,000 per year
- i) Making Compulsory Purchase Orders and agreeing the statement of reasons

### **Grants and rent relief**

- 12. To agree the policy on the allocation of grants or financial relief
- 13. Agreeing applications for grants or rent or rate relief, outside of the policy agreed by the Cabinet.

### **Planning**

- 14. Adoption and revocation of Supplementary Planning Guidance (SPG) and Supplementary Planning Documents (SPDs).
- 15. Designations of conservation areas.
- 16. Approval of early stage Local Plan documents at 'Issues and Options' and 'Preferred Approach' stage.
- 17. Strategy Proposals for Rushmoor Local Plan and Neighbourhood Plans.
- 18. Agreeing the approach to the Local Development Scheme and timetable for the preparation of the Local Plan.
- 19. Response to a neighbouring district's Local Plan Consultation, or those in a shared strategic market housing area, where the Portfolio Holder or Leader wishes the Cabinet to respond due to the significance of implications for Rushmoor.
- 20. Confirming, where there have been objections, Article 4 Directions which restrict the scope of permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

## **Other**

21. Receiving periodic financial, risk and performance management monitoring reports (including revenue budget and capital programme monitoring and treasury management and investment strategy updates) and agreeing appropriate action.
22. Receiving scrutiny recommendations and re-considering decisions of the Cabinet which have been referred back from the Overview and Scrutiny Committee following the call-in of a Cabinet decision.
23. To receive recommendations from the Policy and Project Advisory Board and to agree implementation as appropriate.
24. Agreeing the policy for setting fees and charges for services, and the Annual Review of Fees and Charges (to the extent that the budget has not set fees and charges).
25. Agreeing agency agreements with other local authorities for delivery of services and amendments to agreements.
26. Making a Public Spaces Protection Order.
27. Reports of urgency decisions.
28. Establishing and making appointments to Cabinet Working Groups.
29. Matters that the statutory officers of the Council place on the agenda.

### **3.6 Matters reserved to Individual Cabinet Portfolio Holders**

There is a power of delegation to Cabinet Members set out below. These delegations may be varied at any time by the Leader giving written notice to the Chief Executive, or in his/her absence to the Head of Democracy, Strategy and Partnerships. Such changes shall not take effect until the relevant officer has received the written notice.

In the absence of any Cabinet Member, the Leader or Deputy Leader may exercise the functions delegated to that Cabinet Member under this scheme of delegation.



### 3.7 Role of Individual Cabinet Portfolio Holders

1. Portfolio Holders will provide political leadership and accountability for the services and functions within the scope of their portfolios (areas of responsibility). This will include representing the Council on certain outside organisations and partnership bodies linked to their executive portfolio responsibilities.
2. Cabinet Members will be expected to advise on priorities and support the development of clear, affordable policies and strategies for services which are consistent with the objectives of the Council, and to take the lead at Cabinet meetings on matters related to the portfolio.
3. Portfolio Holders should have a clear understanding and knowledge of their portfolios and portfolio performance, liaising with Heads of Service and service managers. They should work with, and take account of, recommendations from the Policy and Project Advisory Board and be accountable to the Overview and Scrutiny Committee for the portfolio, attending meetings when required.

### 3.8 Delegated Responsibilities - all Cabinet Portfolio Holders

Within their respective areas of responsibility, all Cabinet Portfolio Holders are authorised to make decisions on the following matters:

#### **Consultations**

- (a) To agree responses to official consultation documents published by the Government, Local Government Association, public organisations, councils or other bodies, related to policy issues covered by the Portfolio. The **exceptions** to this are:
  - Full Council shall respond to consultation documents which raise very significant policy issues directly relating to the Council's policy framework or the whole of the Borough.
  - Heads of Service are authorised to respond to consultations concerning detailed professional or technical aspects of the Council's functions.
  - The Cabinet will agree consultation response to neighbouring Local Plan consultations where the Portfolio Holder or Leader wishes the Cabinet to respond due to the significance of implications for Rushmoor.
- (b) To approve the undertaking of public consultation into possible policy developments or options for action

## Policies and Service Plans

- (c) To approve annual reports of services, or service plans where requested by a member of the Corporate Leadership Team.
- (d) To agree minor updates to existing corporate strategies or corporate policies, which were originally agreed by the Cabinet

## Planning

- (e) To authorise a Head of Service/the Executive Head of Regeneration & Property to apply for planning permission (approval to submit a planning application) or advertisement consent.

**Note:** A Cabinet Member is not permitted to take part in a decision (vote) on an item at the Development Management Committee on which they have authorised the Head of Service to seek planning permission.

## Financial Matters

- (f) To agree to apply for funding (seeking financial contributions from other organisations/funding pots)
- (g) Consultee to approval of virements and supplementary estimates above £20,000 but not exceeding £50,000

### 3.9 Delegations to Specific Cabinet Portfolio Holders

This table sets out the delegations to individual Cabinet Members to undertake functions on behalf of the authority.

	<b>PORTFOLIO HOLDER FOR PLANNING AND ECONOMY Planning Matters</b>
(a)	To agree amendments to the Local Development Scheme (fundamental changes to be approved by Cabinet)
(b)	Confirming, where there have not been objections, Article 4 Directions which restrict the scope of permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995 (as amended)
(c)	Agreeing use of right to buy capital receipts

	<b>PORTFOLIO HOLDER FOR MAJOR PROJECTS AND PROPERTY Property Matters</b>
(d)	To authorise the disposal of small areas of amenity land deemed surplus to requirements at an open market value subject to that value not exceeding £50,000 and to no objection from ward Councillors or the Chief Finance Officer
(e)	Granting of awards for Rent Relief within the agreed policy up to but not exceeding the maximum level permitted in the relevant policy
	<b>PORTFOLIO HOLDER FOR CORPORATE SERVICES Business Rates Relief</b>
(e)	Granting of Discretionary Rate Relief within the agreed policy up to but not exceeding the maximum level permitted in the relevant policy
(f)	Granting of Applications for Section 49 Remission of non-domestic rates on the grounds of hardship up to but not exceeding the maximum level permitted in the relevant policy
	<b>PORTFOLIO HOLDER FOR DEMOCRACY, STRATEGY AND PARTNERSHIPS Grants and rent relief</b>
(h)	Awarding grants from Farnborough Airport Environmental Fund and other grants from external funds up to the maximum level permitted in the relevant policy
(i)	Signing off spending from ward budgets up to but not exceeding the approved budgetary limit per ward.
(j)	Awarding Grants from the Rushmoor Community Fund and other community grants made available by the Council up to the maximum level permitted in the relevant policy
	<b>PORTFOLIO HOLDER FOR OPERATIONAL SERVICES</b>
(k)	Powers to approve the scale of taxi fares
(l)	Determining taxi sharing scheme

### 3.10 **Delegation of Executive Functions to Officers**

All executive functions except the ones in paragraphs 3.3 to 3.9 above are delegated to officers in the Corporate Leadership Team and to Corporate Managers in relation to the services for which they are responsible. A structure chart setting out the service responsibilities is set out in **Appendix 2** to this Section.

Heads of Service, Corporate Managers, Executive Directors and the Chief Executive, as set out in Appendix 2, are 'Authorised Officers' and can authorise officers they line manage or other officers with the relevant skills and responsibilities to undertake delegated functions. Authorised officers will remain responsible and accountable for the exercise of the delegated functions.

An Authorised Officer is responsible for a function where

- They (or an officer who reports to them) have budgetary or management responsibility for it; and
- The Constitution or the law does not require it to be carried out by someone else.

Before taking a key decision, the Authorised Officer shall first consult with the relevant Portfolio Holder.

In accordance with the Access to Information Procedure Rules (Part 4), records of certain decisions made by officers under delegated powers must be published on the Council's website, as soon as reasonably practicable.

### 3.11 **Responsibilities not covered by these rules**

If a responsibility is not reserved to the Cabinet and no one has budgetary and management responsibility for it, the Leader will arrange for it to be carried out by the Cabinet or an officer.

## APPENDIX 1

### CABINET PORTFOLIO RESPONSIBILITIES

#### Leader of the Council

1. Overall responsibility for the political direction in the development of the Council Business Plan and strategic objectives.

#### Customer Experience and Improvement Portfolio

1. ICE Transformation Programme and modernisation and improvement projects.
2. Corporate communications and branding.
3. Customer experience and the Customer Services Unit.
4. Customer intelligence and insight.
5. IT Services, Digital Strategy, Website Strategy and infrastructure.
6. Council facilities, office accommodation and equipment, co-location projects, management of meeting rooms, the civic suite and catering.

#### Corporate Services Portfolio

1. Financial administration, Audit and insurance including borrowing and investments, treasury management, council tax, rate relief and risk management.
2. Procurement.
3. Policy matters related to revenues and benefits.
4. Human Resources and Payroll including policy matters related to HR, staffing, work place health and safety, and organisational learning and development.
5. Legal Services and Land Charges.
6. GDPR, data protection and freedom of information.

## **Democracy, Strategy & Partnerships Portfolio**

1. Administration of the Council, the Constitution, Member and mayoral support and learning and development.
2. Electoral services and democratic and community engagement including arrangements for community groups and forums e.g. senior citizens forums, and strategic partnerships e.g. Rushmoor Partners Network.
3. Corporate planning, policy and performance management including data collection and analysis.
4. International links.
5. Community development including activities to tackle deprivation, improve cohesion, community and ward grants, the Good Causes Lottery and supporting educational improvement.
6. Health and wellbeing and functions in relation to health education and local and national initiatives and campaigns as appropriate.
7. Civil emergency plans and procedures.
8. Strategy and plans relating to climate change.

## **Planning and Economy Portfolio**

1. Strategic housing matters including Housing and Homelessness Strategy.
2. Planning Policy and Conservation including the Rushmoor Local Plan, neighbourhood plans, non-statutory development plans and policies, planning and transportation policy proposals, development of green infrastructure and SANGS.
3. Building Control and Development Management including schemes for historic buildings, enforcement action and dangerous buildings and structures.
4. Management of town centres and town centre strategies, including street scene, entertainment venues e.g. Princes Hall and co-ordinating management of town centre events.
5. Local economy including supporting skills and employment opportunities, the promotion of the Borough for economic and social benefit, and matters related to arts, tourism, cultural and special events in the Borough.

### **Operational Services Portfolio**

1. Community Safety matters including CCTV, anti-social behaviour and supporting people.
2. Statutory housing, housing options and private sector housing including temporary accommodation, housing register, condition of private sector housing, houses in multiple occupation, renewal grants and home energy.
3. Environmental Health including pollution and environmental control, fixed penalty notices, abandoned vehicles, health and safety, food safety, taxis, travellers, cemeteries and crematorium, waste collection and disposal, land drainage, control of dogs and licensing policy matters.
4. Contracts for Operational Services managed by the Council including waste and recycling, street cleansing, grounds maintenance, public conveniences and leisure services.
5. Enforcement and Operational Parking including Council car parks, parking charges, on-street parking controls and residents' parking schemes.
6. Leisure and recreation including parks and open spaces, leisure centres, playgrounds and community halls.
7. Rushmoor markets and car boot sales.

### **Major Projects and Property Portfolio**

1. Regenerating Rushmoor Programme.
2. Management of the Council's property portfolio and estates including acquisition of new property assets, maintenance of assets, estate management policies, leases, lettings and landlord's responsibilities.
3. Delivery of Major Capital Projects within the Borough e.g. Centre for Health, Southwood Country Park.
4. Highways and Infrastructure including traffic regulation orders, and highways capital schemes, transport policy and road safety.

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**SERVICE RESPONSIBILITIES****HEAD OF OPERATIONAL SERVICES****Community Safety**

CCTV

Tackling crime, disorder and anti-social behaviour

Safer North Hampshire and supporting people

Neighbourhood Watch

**Contracts Management**

Leisure services

Parks and grounds maintenance

Waste and recycling

Public conveniences

**Crematorium and cemeteries****Leisure and Recreation**

Playgrounds

Community halls and leisure centres

Allotments and Rushmoor in Bloom

**Environmental Health**

Control of dogs

Abandoned vehicles

Air quality, pollution, vapour recovery, contaminated land and environmental damage  
land drainage

Nuisance complaints – industrial, noise, odour, rubbish

Travellers

**Food Health and Safety**

Food hygiene, food safety standards and food premises inspections

Infectious diseases

Health and Safety – Corporate and Commercial Premises

**Housing**

Private sector housing and private sector grants and home energy

Houses in Multiple Occupation (HMOs)

Homelessness and temporary accommodation

Housing advice and options

Housing register and allocation scheme

Registered social landlords and affordable housing providers

**Licensing**

Premises and club licences

Gaming machine licences

Lotteries licences

Temporary event licences

Sex shop licensing

Licensing of taxis and private hire vehicles

Animal welfare and licences

**Enforcement and Operational Parking**

Council car parks and on-street parking

Parking charges

Parking enforcement

Residents' parking schemes

## **HEAD OF ECONOMY, PLANNING AND STRATEGIC HOUSING**

### **Development Management**

Planning applications  
Planning enforcement  
Pre-application discussions

### **Building Control**

Building control applications  
Condition of residential premises - dangerous structures, repairs, fire precautions, utilities and demolitions  
Safety at Sports Grounds

### **Planning Policy and Conservation**

Rushmoor Local Plan  
Local development plans and policies  
Town Centre and Regeneration Strategy and Policy  
Green Infrastructure Strategy, SANGS and Projects  
Listed Buildings  
Heritage based regeneration  
Tree preservation orders  
Ecological surveys, biodiversity and nature conservation

### **Strategic Housing**

Housing Strategy  
Affordable Housing funding and delivery  
Housing Company

### **Local Economy**

Town centre management, town centre events and street scene  
Princes Hall  
Supporting skills and employment

## **EXECUTIVE HEAD OF REGENERATION AND PROPERTY**

### **Regeneration Programme**

#### **Property and Estate Management**

Management of the Council's land and property portfolio, including commercial property  
Property acquisitions, lettings, leases, and disposals  
Landlord's responsibilities including grant and termination of tenancies  
Maintenance, repairs and improvements to Council property  
Wayleaves and easements

### **Capital Projects**

#### **Highways and Infrastructure**

Traffic regulation orders  
Temporary road closures  
Highways schemes  
Car parking improvements and maintenance  
Aldershot and Farnborough markets and car boot sales

## **EXECUTIVE HEAD OF FINANCE AND SECTION 151 OFFICER**

### **Local Taxation**

Council tax collection  
Business Rates

### **Benefits**

Council Tax support assessment and discounts  
Housing benefit claims  
Council tax support fraud investigations

### **Treasury Management**

### **Accounting and Budgeting**

Budget preparation, including developing and setting a financial and budget strategy  
Budget monitoring  
Financial accounts  
The implementation, administration and development of the financial management system

### **Risk Management**

### **Internal Audit**

### **Procurement**

### **Insurance Policies**

## **HEAD OF CUSTOMER EXPERIENCE**

### **Customer Experience and Improvement**

Transformation and modernisation programme

### **Customer Services Unit**

Taking payments for services

### **Customer Intelligence and Insight**

### **Communications**

Website and website strategy  
Corporate communications and media relations  
Marketing and advertising  
Design and branding  
Arena magazine  
Consultations

## **HEAD OF DEMOCRACY, STRATEGY AND PARTNERSHIPS**

### **Democratic and Partnership Support**

Committee administration

Administration for community partnerships and community events

Members learning and development

Mayoral support and civic events

### **Elections and Electoral Registration**

Elections

Electoral registration

### **Strategy and Performance**

Council Business Plan and programme management

Performance management

Policy and strategy support to the Council and partners

Data analysis

Emergency planning

### **Community Development**

Deprivation

Community cohesion and integration

Neighbourhood development, including support for vulnerable children and young people

Voluntary sector support

International links

Rushmoor community lottery

### **Community Projects**

Healthy lifestyle projects

Sports clubs and facilities

Physical activity initiatives

Community leisure projects

## **HEAD OF IT, PROJECTS AND FACILITIES**

### **IT**

IT Services and systems administration

ICT and digital strategy

Geographical Information Services (GIS)

Website infrastructure

### **Facilities Management for the Council Offices**

Co-location

### **IT Projects and Programme Management**

### **CORPORATE MANAGER – LEGAL SERVICES**

#### **Legal**

Legal Services

Land Charges

GDPR, Data Protection and Freedom of Information requests

### **CORPORATE MANAGER – PEOPLE**

#### **Human Resources**

HR Matters

Payroll

Organisational learning and development


### **CHIEF EXECUTIVE AND EXECUTIVE DIRECTORS**

In the absence or otherwise of a Head of Service or Corporate Manager, all matters listed in the service responsibilities above.

Any other matters as directed by the Leader or Cabinet.

**Rushmoor  
Corporate Leadership  
Team**

**Chief Executive**

 - Executive Team

**Executive Director**

**Executive Director  
Deputy CEx & Monitoring Officer**

**Executive  
Head of  
Regeneration  
& Property**

**Head of  
Customer  
Experience**

**Head of IT,  
Projects &  
Facilities**

**Executive  
Head of  
Finance  
(S151)**

**Head of  
Economy,  
Planning &  
Strategic  
Housing**

**Head of  
Operational  
Services**

**Head of  
Democracy,  
Strategy &  
Partnerships**

**Corporate  
Manager -  
People**

**Corporate  
Manager  
– Legal  
Services**

Human Resources  
Learning and Development  
Payroll

Capital Projects  
Highways and Infrastructure  
Property and Estates  
Regeneration Programme

Customer Experience & Improvement  
Customer Intelligence & Insight  
CSU  
Website Strategy  
Communications  
Branding  
Media relations

Co-location  
Facilities  
IT & Digital  
Projects  
Website Infrastructure

Benefits  
Finance, Audit & Insurance  
Procurement  
Revenues  
Risk Management (SRO)

Building Control  
Development Management  
Economic Development  
Town Centres, Culture & Events  
Planning Policy  
Skills  
Strategic Housing

Community Safety (inc. CCTV)  
Contracts  
Bereavement Services  
Enforcement & Operational Parking  
Environmental Health  
Housing Options  
Leisure  
Licensing  
Private Sector Housing

Community Development  
Elections  
Council/ Cabinet/ Scrutiny Administration  
Partnerships  
Strategy & Performance  
Neighbourhood Renewal

Deputy Monitoring Officer  
Legal  
GDPR (DPO)  
Land Charges

## **SECTION 4: COUNCIL RESPONSIBILITIES (NON-EXECUTIVE MATTERS)**

Council Responsibilities are set out in this section in paragraphs 4.1 to 4.9, which also shows who carries them out. These matters are not to be the responsibility of the Leader and the Cabinet.

Anything not listed in this section, or in Section 5 and 6 (which set out the role of the Council and its Committees) is an executive responsibility.

Legislation referred to in this section includes any amendments, re-enactments, consolidating legislation or subordinate legislation and regulations.

### **4.1. Budget and Policy Framework**

The Council has responsibility for the Budget and Policy Framework:

#### Description of responsibility:

The budget, including decisions to allocate money to services and projects, set up contingency funds, set the Council Tax base, set the Council Tax, control the Council's borrowing requirement, control capital spending, set a limit on the amount that can be transferred between cost centres and agree the treasury management strategy.

The policy framework, which comprises:

- (a) the plans and strategies that are required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and regulations proposed under the Local Government Act 2000 to be adopted by the Council:
  - The Council Business Plan
  - Budget and Medium-Term Financial Strategy
  - Treasury Management Strategy
  - Housing and Homelessness Strategy
  - Rushmoor Local Plan and other Development Plan Documents
  - Plans and alterations which together comprise the Development Plan
  - Licensing and Gambling Policy Statements
- (b) those plans and strategies which are overarching borough wide or council wide, with medium to long-term timescales (more than two years) which, for example, establish the council's financial strategies, and policies for housing, environment, economy, community safety and corporate governance.

### **4.2. Planning Matters**

#### Description of Responsibility:

- All the responsibilities in Para A and column (1) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended),
- the duty to deal with complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003

- the power to preserve trees under the Sections 197 to 214D of the Town and Country Planning Act 1990 (as amended), the Town and Country Planning (Tree Preservation) (England) Regulations 2012; and
- the power to authorise the stopping up or diversion of rights of way under Section 257 of the Town and Country Planning Act 1990.

Delegation Arrangements:

- (1) The full Council is responsible for approving the Draft Submission Local Plan, the adoption of the Rushmoor Local Plan, Development Plan Documents and Neighbourhood Plans.
- (2) The Development Management Committee is responsible for the discharge of the Council's functions relating to town and country planning and development management. The decision-making responsibilities of the Development Management Committee are set out in Section 6 (Functions of the Development Management Committee).

Delegation to the Head of Economy, Planning & Strategic Housing:

- (3) The Head of Economy, Planning & Strategic Housing is authorised to exercise and discharge the provision of the full range of development management services in accordance with all statutory and other requirements of a Local Planning Authority under the Town and Country Planning Acts including:
  - (1) the power to accept, administer, process (including requiring the submission of more information), publicise, decline (where the regulations allow) to determine, and to determine all applications<sup>1 2</sup>, which includes all planning applications<sup>3</sup>, and applications for reserved matters approval, advertisement consent, listed building consent and conservation area consent submitted to the Council, **except** an application:
    - (a) which is for 25 or more new dwellings;
    - (b) which is contrary to the provisions of an approved or draft development plan or adopted planning policy approved by the Council, and which is recommended for approval;

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<sup>1</sup> But not to refuse an application unless it is in consultation with the Chairman.

<sup>2</sup> But not to grant an application where material planning objections have been received from third parties or consultees unless it is in consultation with the Chairman.

<sup>3</sup> But not to grant permission for a major application (a major application is defined by the Office of the Deputy Prime Minister in the Development Control Statistical Return as a development that comprises 10 or more dwellings (or where the number of dwellings is not given the site area is more than 0.5ha). For all other uses a major application is defined as one where the floorspace to be built is 1,000sq.m or more, or where the site area is 1ha or more) unless it is in consultation with the Chairman.



- (c) which any Councillor requests, setting out good material planning reasons in *writing* to the Head of Economy, Planning and Strategic Housing, within 21 days of the circulation of details of the application, should be the subject of consideration by the Development Management Committee and the referral to the Committee is agreed by the Chairman;
  - (d) submitted by or on behalf of a Councillor (or his/her spouse, partner or other immediate family member) or by any member of the Council's staff (or his/her spouse, partner or other immediate family member);
  - (e) submitted by or on behalf of the Council for its own developments; and
  - (f) which the Head of Economy, Planning and Strategic Housing considers should be presented to Committee for decision including, for example, those developments that in his/her opinion are potentially controversial, likely to be of significant public interest, or which may have a significant impact on the Borough or its environment.
- (2) Powers to administer and determine applications for hazardous substances consent under the Planning (Hazardous Substances) Act 1990, and related powers.
  - (3) Powers to determine applications for approval of details submitted pursuant to conditions, or requests for confirmation of compliance with conditions, imposed on planning and other permissions; and to approve or reject submissions required by Section 106 Planning Obligations.
  - (4) Powers to respond, in consultation with the Chairman (or Portfolio Holder as appropriate), to consultations from Government departments, Crown Agencies, statutory undertakers, Hampshire County Council and adjoining local planning authorities.
  - (5) Powers to determine applications for Lawful Development Certificates under Section 191 and 192 of the Town and Country Planning Act 1990.
  - (6) Powers to determine, in consultation with the Chairman, all applications for Prior Approval and Notification.
  - (7) Powers to authorise the Corporate Manager – Legal Services to issue breach of condition notices, enforcement notices and stop notices under the Town and Country Planning Act 1990.
  - (8) Powers to confirm in circumstances where, in the opinion of the Head of Economy, Planning & Strategic Housing, a breach of planning control gives rise to no material significance or harm, that the Council will take no further action in that regard.
  - (9) Powers to sign and serve Planning Contravention Notices under the Town and Country Planning Act 1990, and Requisitions for Information under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and Section 1719(c) and 330 of the Town and Country Planning Act 1990.
  - (10) Powers to instruct the Corporate Manager – Legal Services to the Council to commence and pursue prosecutions with respect to any contravention/offence under the Town and Country Planning Acts.

- (11) Powers to instruct the Corporate Manager – Legal Services with respect to any matter related to Section 106 Planning Obligations under the Town and Country Planning Act 1990, including any matter necessary to protect the Council's or public interest in the granting of permission pursuant to either a decision of the Development Management Committee or under delegated powers.
- (12) Powers in respect of trees to
  - 1) make a Tree Preservation Order;
  - 2) confirm any Tree Preservation Order;
  - 3) vary and revoke any Tree Preservation Order
  - 4) authorise the issuing and serving of Tree Replacement Notices
  - 5) determine applications to fell or carry out works to trees that are the subject of a tree preservation order; and
  - 6) determine Notices of Intent to carry out works to tree within a conservation area”.
- (13) Authority to exercise all the Council's functions with respect to 'screening' and 'scoping' opinions under the Town and Country Planning Acts and the Town and County Planning (Environmental Impact Assessment) Regulations.
- (14) Powers to determine the Council's case to be presented at appeals including the decision whether to appoint consultants to act upon the Council's behalf or to submit claims for costs against an appellant.
- (15) Powers to appoint and authorise officers to exercise the powers of entry under the Town and Country Planning Acts.
- (16) Powers to determine whether to proceed with a complaint relating to high hedges.
- (17) Powers to determine a complaint on high hedges, in consultation with the Chairman of the Development Management Committee.
- (18) Powers to serve a remedial notice in respect of high hedges in consultation with the Corporate Manager – Legal Services.
- (19) To exercise all the Council's functions with respect to 'Habitats Regulations Assessments' under the Conservation (Natural Habitats etc) Regulations 1994 and the Habitats Directive 1992 (Para 17).

#### **4.3 Licensing of alcohol, entertainment and late-night refreshment**

##### Description of Responsibility

- 4.3.1 All the responsibilities in the Licensing Act 2003 and any regulations or orders made under that Act.

##### Delegation Arrangements

- 4.3.2 Except for the functions listed below, the Head of Operational Services is delegated all relevant authorities to grant, vary, transfer, suspend, revoke and refuse licences, permits and registrations and to impose conditions on such permissions in respect of the licensing and registration responsibilities in para 4.3.1.

<b>Function</b>	<b>Carried out by</b>
To agree the Licensing Policy	Council
To appoint a Licensing Sub-Committee (Alcohol and Entertainments) to discharge the functions below	Licensing, Audit and General Purposes Committee
In the case of a police objection to (a)-(d) below, determination of <ul style="list-style-type: none"> <li>(a) Application for personal licence</li> <li>(b) Application to vary designated premises supervisor</li> <li>(c) Application for transfer of premises licence</li> <li>(d) Application for interim authorities</li> </ul>	Licensing Sub-Committee (Alcohol and Entertainments)
Application for personal licence with unspent convictions	Licensing Sub-Committee (Alcohol and Entertainments)
Application to review premises licence/club premises certificate	Licensing Sub-Committee (Alcohol and Entertainments)
Determination of a police or Environmental Health objection to a standard temporary event notice	Licensing Sub-Committee (Alcohol and Entertainments)
If a relevant representation is made to (a) – (c) below, determination of <ul style="list-style-type: none"> <li>(a) Application for premises licence/club premises certificate</li> <li>(b) Application for provisional statement</li> </ul>	Licensing Sub-Committee (Alcohol and Entertainments)

(c) Application to vary premises licence/club premises certificate (other than applications for minor variations)	
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#### 4.4 Licensing of gambling

##### Description of Responsibility

- 4.4.1 All the responsibilities in the Gambling Act 2005 and any regulations or orders made under that Act.

##### Delegation Arrangements

- 4.4.2 Except for the functions listed below, the Head of Operational Services is delegated all relevant authorities to grant, vary, transfer, suspend, revoke and refuse licences, permits and registrations and to impose conditions on such permissions in respect of the licensing and registration responsibilities in para 4.4.1.

Function	Carried out by
To agree the Licensing Policy	Council
To appoint a Licensing Sub-Committee (Alcohol and Entertainments) to discharge the functions below	Licensing, Audit and General Purposes Committee
If a relevant representation is made to (a) – (c) below, determination of  (a) Application for a premises licence  (b) Application for a variation to a premises licence  (c) Application for a provisional transfer	Licensing Sub-Committee (Alcohol and Entertainments)
Application for a transfer of a premises licence in the case of a representation from the Commission.	Licensing Sub-Committee (Alcohol and Entertainments)

Application for a provisional statement in the case of a relevant representation	Licensing Sub-Committee (Alcohol and Entertainments)
Review of a premises licence	Licensing Sub-Committee (Alcohol and Entertainments)
Application for club gaming/club machine permits in the case of a relevant objection	Licensing Sub-Committee (Alcohol and Entertainments)
Cancellation of club gaming/club machine permits	Licensing Sub-Committee (Alcohol and Entertainments)
Decision to give a counter notice to a temporary use notice in the case of a relevant representation	Licensing Sub-Committee (Alcohol and Entertainments)

#### 4.5 **Taxi and private hire licensing and associated licensing arrangements**

##### Description of Responsibility

- 4.5.1 All the taxi and private hire and other vehicle licensing responsibilities in Paragraph B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

These are powers to license taxi and private hire vehicles, drivers and operators.

##### Delegation Arrangements

- 4.5.2 The Head of Operational Services is delegated all relevant authorities to grant, vary, transfer, suspend, revoke and refuse licenses, permits and registrations and to impose conditions on such permissions in respect of the licensing and registration responsibilities in para 4.5.1.

#### 4.6. **Other licensing and registration functions**

##### Description of Responsibility

- 4.6.1 All the responsibilities in Paragraph B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, with the exception of the Licensing Act 2003, Gambling Act 2005 and taxi and private hire and other vehicle licensing.

These functions relate to the following licensing and registration powers:

- To issue licences authorising the use of land as a caravan site
- To license the use of moveable dwellings and camping sites

- To register pool promoters
- To grant track betting licences and to license inter-track betting schemes
- To grant permits in respect of premises with amusement machines or where amusements with prizes are provided
- To register societies wishing to promote lotteries
- To issue cinema and cinema club licences
- To issue entertainments licences
- To license sex shops and sex cinemas
- To license performances of hypnotism
- To register premises for acupuncture, tattooing, ear piercing and electrolysis
- To license pleasure boats and pleasure vessels
- To license market and street trading
- To issue street trading consents
- To register and license premises for the preparation of food
- To license scrap metal dealers and register motor salvage operators
- To license premises for the breeding of dogs
- To license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business
- To license zoos and dangerous wild animals
- To license knackers' yards
- To license persons to collect for charitable and other causes
- To grant consent for the operation of a loudspeaker
- To approve food premises in accordance with EC regulation 853/2004
- To issue licences to retailers carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods
- Power to approve dispatch or purification centres
- To register food business premises

### Delegation Arrangements

- 4.6.2 Except for the functions listed below, the Head of Operational Services is delegated all relevant authorities to grant, vary, transfer, suspend, revoke and refuse licences, permits and registrations and to impose conditions on such permissions in respect of the licensing and registration functions in para 4.6.1.

### Full Council Responsibilities:

To agree the statement of Licensing Policy

### Responsibilities of the Licensing, Audit and General Purposes Committee:

To appoint a Licensing Sub-Committee to:

- deal with licensing applications where such applications have a substantial impact on the area or there are significant objections; or
- where the Head of Operational Services considers it inappropriate to exercise his/her delegated powers

## **4.7 Health and Safety at Work**

### Description of Responsibility

All the responsibilities in Paragraph C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

These are Functions under any of the relevant statutory provisions within the meaning of Part 1 (health, safety and welfare in connection with work and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

### Delegation Arrangements

All powers and responsibilities are delegated to the Head of Operational Services.

## **4.8 Smoke-Free Premises**

### Description of Responsibility

All the responsibilities in the Health Act 2006 and Smoke-free (Premises and Enforcement) Regulations 2006.

Functions to enforce Chapter 1 of the 2006 Act, with powers to authorise officers, issue fixed penalty notices and powers to transfer enforcement functions to another enforcement authority.

### Delegation Arrangements

Powers and responsibilities are delegated to the Head of Operational Services.

#### 4.9 Other Council Responsibilities

Other matters which are not to be the responsibility of the Cabinet and Leader are set out in the table below. This incorporates 'Local Choice Functions' which the Council has decided shall be non-executive matters.

This list is anything else that must be non-executive. Matters that are delegated to the Licensing, Audit and General Purposes Committee or Development Management Committee will appear in their Terms of Reference in Section 6.

	<b>Responsibility</b>	<b>Legislation</b>	<b>Carried out by</b>
1.	Power to make Standing Orders	Local Government Act 1972, Section 106 and paragraph 42 of Schedule 12	Council
2.	Power to make standing orders as to contracts	Local Government Act 1972, Section 135	Council
3.	Power to appoint staff and determine their terms and conditions	Local Government and Housing Act 1989 and Regulations	In accordance with the provisions set out in the Officer Employment Rules in Part 4
4.	Duty to designate Head of Paid Service and provide resources	Local Government and Housing Act, Section 4	Council (recommendation made by LAGP)
5.	Duty to designate Monitoring Officer and Section 151 Chief Finance Officer	Local Government and Housing Act, Section 5	Council (recommendation made by LAGP)
6.	Duty to provide staff and resources to a person nominated by the Monitoring Officer	Local Government Act 2000, Section 82	Council
7.	Power to appoint proper officers	Local Government Act 1972, Section 270 (3)	Chief Executive



8.	Duty to make arrangements for proper administration of financial affairs	Local Government Act 1972, Section 151	Section 151 Chief Finance Officer
9	Duty to approve the Authority's Statement of Accounts	The Accounts and Audit Regulations 1996	Licensing, Audit and General Purposes Committee
10.	Functions related to pensions	Regulations under Section 7,12 or 24 of the Superannuation Act 1972	Licensing, Audit and General Purposes Committee
11.	Power to change the name of the Borough	Local Government Act 1972, Section 74	Council
12.	Power to confer the title of honorary alderman or to admit an honorary freeman	Local Government Act 1972, Section 249	Council
13.	Powers and functions relating to community governance reviews, including power to undertake a review, as listed in Paragraph E of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Local Government and Public Involvement in Health Act 2007.	Council
14.	Power to make payments or provide benefits in cases of maladministration, etc.	Local Government Act 2000, Section 92	Chief Executive or Section 151 Officer
15.	The making, amendment, revocation or re-enactment of any byelaws	Any statutory provision	Council

16.	The promotion, opposition to or amendment of local or personal Bills	Local Government Act 1972, Section 239	Council
17.	Appointment of Elected Members to vacancies on Outside Bodies arising during the Municipal Year		Head of Democracy, Strategy & Partnerships

## Elections

	<b>Responsibility</b>	<b>Legislation</b>	<b>Carried out by</b>
18.	Duty to appoint an electoral registration officer and returning officer for local government elections	Representation of the People Act 1983, Section 8(2) and 35	Council
19.	Powers to provide the officers the electoral registration officer needs	Representation of the People Act 1983, Section 52(4)	Head of Paid Service
20.	Duty to divide constituency into polling districts	Representation of the People Act 1983, Section 18	Council
21.	Power to divide electoral divisions into polling districts at local government elections	Representation of the People Act 1983, Section 31	Council
22.	Powers in respect of holding elections	Representation of the People Act 1983, Section 39(4)	Returning Officer
23.	Power to pay electoral registration officer's expenses	Representation of the People Act 1983, Section 54	Head of Democracy, Strategy and Partnerships

24.	Duty to declare vacancy in office	Local Government Act 1972, Section 86	Returning Officer
25.	Duty to give notice of a casual vacancy	Local Government Act 1972, Section 87	Returning Officer
26.	Power to make proposals for pilot schemes for local elections	Representation of the People Act 2000, Section 10	Licensing, Audit and General Purposes Committee
27.	Duty to consult on change of scheme for elections	Local Government and Public Involvement in Health Act 2007, Sections 33(2), 38(2) and 40(2)	Head of Democracy, Strategy and Partnerships
28.	Duties relating to certain publicity in relation to electoral matters	Local Government and Public Involvement in Health Act 2007, Sections 35, 41 and 52	Head of Democracy, Strategy and Partnerships
29.	Duties relating to notice to Electoral Commission	Local Government and Public Involvement in Health Act 2007, Section 53	Head of Democracy, Strategy and Partnerships
30.	Functions relating to change of name of an electoral area	Local Government and Public Involvement in Health Act 2007, Section 59	Head of Democracy, Strategy and Partnerships

**Regulatory Matters:**

	<b>Responsibility</b>	<b>Legislation</b>	<b>Carried out by</b>
31.	To exercise powers to protect the rights of the public to use and enjoy highways	Section 130 of the Highways Act 1980	Executive Head of Regeneration & Property  Head of Operational Services

32.	Powers to grant permission for provision of objects, services, amenities, recreation and refreshment facilities on the highway and related powers	Section 115 of the Highways Act 1980	Head of Operational Services  Executive Head of Regeneration & Property
33.	To exercise powers adopted by the Council under the Hampshire Act 1983	s.4 (relating to the registration of hairdressers and barbers and premises occupied by them) s.8 (relating to the control of stray dogs) s.9 (relating to the seizure of horses).	Head of Operational Services
34.	Appointments and authorisations of officers	Food Safety Act 1990,  Health and Safety at Work Act, 1974	Head of Operational Services
35.	Power to issue a closing order to takeaway food shop	Local Government (Miscellaneous Provisions) Act 1989	Head of Operational Services
36.	Powers to protect important hedgerows	The Hedgerows Regulations 1997	Head of Economy, Planning and Strategic Housing
37.	Power to transfer non-executive functions to another local authority, or decision to accept such a delegation from another local authority	Local Government Act 1972	Council
38.	Power to make an order identifying a place as designated public place for the purpose of police powers in relation to alcohol consumption	Criminal Justice and Police Act 2001	Licensing, Audit and General Purposes Committee



## **SECTION 5: ROLE OF THE COUNCIL**

### **5. COUNCIL FUNCTIONS**

The Council is the primary decision-making body of the Council and as such is responsible for the exercise of functions that are Council responsibilities.

Only the Council will exercise the following functions:

- appointing the Leader of the Council;
- electing the Mayor and Deputy Mayor of the Borough;
- approving or adopting the Council's Policy Framework and the Budget, including the Capital Programme and the setting of the Council Tax (see section 4.1);
- adopting and approving changes to the Constitution (see Part 2, para 1.5);
- subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function where the decision maker is intending to make a decision which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the budget;
- approving changes to any plan, policy or strategy which forms part of the Council's Policy Framework unless there are no changes to the major provisions within the policy;
- agreeing and/or amending the roles and responsibilities of Committees, deciding on their composition and making appointments to them;
- appointing the Chairman and Vice-Chairman of the Development Management Committee and the Licensing, Audit and General Purposes Committee at the Annual Council Meeting;
- appointing the Chairmen of the Overview and Scrutiny Committee and Policy and Project Advisory Board;
- approving the annual Pay Policy Statement;
- approving any application to the Secretary of State in respect of any Housing Land Transfer;
- approving the Annual Budget, Business Plan and Investment in relation to the Rushmoor Development Partnership and Rushmoor Homes Ltd;
- adopting a scheme for Members' Allowances following the receipt of the advice of an Independent Remuneration Panel;

- changing the name of the area;
- conferring the title of Honorary Alderman or Honorary Freeman;
- making an order to give effect to recommendations made in a community governance review;
- decision to dismiss the Head of Paid Service, Monitoring Officer or Section 151 Officer (following consideration by an Independent Panel);
- making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- determining local choice functions which the Council decides should be undertaken by itself or by a Committee rather than the Cabinet; and
- all other matters which, by law, must be reserved to the Council.

## **SECTION 6: ROLES AND RESPONSIBILITIES OF COUNCIL DECISION MAKING BODIES**

### **6.1 COMMITTEES OF THE COUNCIL**

In order to undertake its functions in a more efficient way, the Council establishes committees to which it delegates authority to oversee and make decisions relating to non-executive responsibilities.

The seats on committees are allocated in accordance with the rules on political proportionality and the party-political groups are responsible for nominating councillors from their groups to fill the seats.

The next part describes the committees that the Council has established and delegated authority for decision making.

### **6.2 LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE**

The Licensing, Audit and General Purposes Committee is responsible for the following functions:

#### **General Powers**

1. To make appointments of council representatives to Outside Bodies or joint committees of two or more authorities (or to any committee or sub-committee of such a body) and the revocation of any such appointment to a body.
2. To consider and make recommendations to the full Council in relation to the following matters:
  - Amendments to the Council's Standing Orders
  - Conferring the title of honorary alderman or to admit an honorary freeman
  - The making, amendment, revocation or re-enactment of byelaws under any statutory provision
  - Matters related to the name and status of areas
  - Terms under which a Community Governance Review shall be carried out (Sections 81-82 Local Government and Public Involvement in Health Act 2007)
  - The promotion, opposition to or amendment of local or personal Bills (Section 239 of the Local Government Act 1972)
  - Dividing the constituency into polling districts (Section 18, Representation of the People Act, 1983)
  - Dividing electoral divisions into polling districts at local government elections (Section 31 of the Representation of the People Act, 1983)



3. To exercise the Council's functions relating to local government pensions, etc (regulations under Section 7,12 or 24 of the Superannuation Act 1972).
4. Power to make an order identifying a place as a public place for the purposes of police powers to deal with street drinking (Criminal Justice and Police Act 2001).
5. To exercise the Council's powers in relation to the following elections and electoral registration functions:
  - Confirming the appointment of the person designated as the Council's electoral registration officer and returning officer for local government elections
  - To make proposals for pilot schemes for local elections

### **Governance Risk and Control**

7. To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
8. To approve the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
9. To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
10. To monitor the effective development and operation of risk management in the Council.
11. To monitor progress in addressing risk-related issues reported to the Committee.
12. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
13. To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
14. To monitor the counter-fraud strategy, actions and resources.
15. To review the governance and assurance arrangements for significant partnerships or collaborations.

### **Internal Audit**

16. To approve the internal audit charter.

17. To review the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
18. To approve significant changes to the risk-based internal audit plan and resource requirements.
19. To make appropriate enquiries of both management and the Executive Head of Finance to determine if there are any inappropriate scope or resource limitations, in respect of carrying out internal audit work.
20. To consider reports on internal audit's performance during the year including:
  - a. Key findings, issues of concern and action in hand as a result of internal audit work
  - b. Regular reports on the results of the Quality Assurance and Improvement Plan and any non-compliance with Public Sector Internal Audit Standards (PSIAS).
21. To consider annual internal audit reports, including;
  - a. The statement on the level of conformance with PSIAS
  - b. The Quality and Assurance Improvement Plan
  - c. The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion.
22. To receive summaries of any specific internal reports as requested.
23. To receive reports outlining the action taken where the Executive Head of Finance has concluded that management has accepted a level of risk that may be unacceptable to the Council or there are concerns about progress with the implementation of agreed actions.
24. To provide internal audit unfettered access to the Committee Chairman, including the opportunity for a private meeting with the Committee.

#### **External Audit**

25. To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by the Public Sector Audit Appointments (PSAA).
26. To consider the external auditor's annual audit letter, annual audit results report and other relevant reports.
27. To consider the scope and depth of external audit work and ensure it provides value for money.

28. To commission work from internal and external audit.

### **Financial Reporting**

29. To approve the annual Statement of Accounts and consider whether appropriate accounting policies have been followed and whether any concerns arising from the financial statement or from the audit need to be brought to the attention of the Council.
30. To consider the external auditor's report to those charged with governance on any issues arising from the audit of the accounts.

### **Accountability arrangements**

31. To undertake appropriate training in respect of its governance and audit role.
32. To carry out an annual self-assessment in relation to the effectiveness of the Committee in meeting its purpose.
33. Where considered appropriate, to report to Council on any issues concerning the effectiveness of the arrangements in place for governance, risk, and internal control frameworks.

### **Licensing Powers**

34. Responsibility for the licensing functions of the Council:
- Functions under the Licensing Act 2003 (see Section 4, Paragraph 4.3 for delegation arrangements)
  - Functions under the Gambling Act 2005 (see Section 4, Paragraph 4.4 for delegation arrangements)
  - Taxis, private hire and other vehicles (see Section 4, Paragraph 4.5 for delegation arrangements)
  - All other licensing and registration functions including for caravan sites, food premises registration, animal licensing, charities and street collection permits, street trading consents and scrap metal dealers (see Section 4, Paragraph 4.6 for delegation arrangements)
35. Responsibility for functions and powers relating to smoke free legislation and the Health Act 2006 (see Section 4, Paragraph 4.8 for delegation arrangements).
36. Responsibility for Health and Safety at work (see Section 4, Paragraph 4.7 for delegation arrangements).

**As a Local Choice matter, these are now planned to be Executive matters:**

- ~~40. Responsibility for functions relating to contaminated land pursuant to Part IIA of the Environmental Protection Act, 1990 and subordinate legislation under that Part.~~
- ~~41. Responsibility for the discharge of functions relating to the control of pollution or the management of air quality under the Pollution Prevention and Control Act, 1999, Part IV of the Environment Act, 1995, Part I of the Environmental Protection Act, 1990 and the Clean Air Act, 1993.~~
- ~~42. Responsibility for the discharge of any function relating to:~~
- ~~• the service of an abatement notice in respect of a statutory nuisance (Section 80(1) of the Environmental Protection Act, 1990)~~
  - ~~• the inspection of the Borough to detect any statutory nuisance (Section 79 of the Environmental Protection Act, 1990)~~
  - ~~• the investigation of any complaint as to the existence of a statutory nuisance (Section 79 of the Environmental Protection Act, 1990)~~
37. Responsibility for the powers in sections 4, 8 and 9 of the Hampshire Act, 1983:-
- s.4 (relating to the registration of hairdressers and barbers and premises occupied by them)
  - s.8 (relating to the control of stray dogs)
  - s.9 (relating to the seizure of horses).

**Standards and Members' Code of Conduct Responsibilities**

38. To promote and maintain high standards of conduct by councillors and co-opted members of the Council as set out in the Councillors Code of Conduct.
39. To advise the Council on the adoption or revision of the Members' Code of Conduct.
40. To monitor the operation of the Members' Code of Conduct.
- ~~41. To advise, train or arrange to train councillors and Co-opted Members on matters relating to interests set out in the Members' Code of Conduct (Member Development Group).~~
42. To make and implement arrangements for dealing with complaints in accordance with the Localism Act, 2011 and any subsequent regulations and guidance.

43. To deal with matters relating to the appointment and activities of the Independent Person(s) within the provision of the Localism Act 2011 and any subsequent regulations and guidance.
44. To grant dispensations to councillors and co-opted members from requirements relating to interests set out in the Code of Conduct.

### **Ombudsman**

45. To keep under review Ombudsman investigations and consider their outcomes where appropriate.

## **6.3 LICENSING SUB-COMMITTEE**

The Licensing, Audit and General Purposes Committee appoints a Licensing Sub-Committee.

The membership is five Members, politically balanced, drawn from the Licensing, Audit and General Purposes Committee.

The terms of reference are:

- (i) to deal with licensing applications where such applications have a substantial impact on the area or there are significant objections; or
- (ii) to consider and determine licensing matters where the Head of Operational Services considers it inappropriate to exercise his/her delegated powers

## **6.4 LICENSING SUB-COMMITTEE (ALCOHOL AND ENTERTAINMENTS)**

The Licensing, Audit and General Purposes Committee appoints a Licensing Sub-Committee (Alcohol and Entertainments).

The membership of the Sub-Committee is three councillors appointed by the Head of Democracy, Strategy and Partnerships drawn from the Licensing, Audit and General Purposes Committee on a rotational basis.

Terms of reference:

- (i) To consider and determine licence applications made under the Licensing Act 2003 and Gambling Act 2005 in accordance with the Scheme of Delegation set out in Part 3, Section 4, paragraphs 4.3 and 4.4

The rules and procedures for the Sub-Committee, including the arrangements for appointments to the Sub-Committee, are set out in Part 4 of the Constitution 'Licensing Sub-Committee (Alcohol and Entertainments) Hearings Protocol and Procedure Rules'.

## **6.5. DEVELOPMENT MANAGEMENT COMMITTEE**

The Development Management Committee is responsible for the discharge of the Council's functions in respect of the necessary statutory provisions in relation to all town planning matters concerning the control of development and regulation and use of land under the provisions of the Town and Country Planning Act, 1990 (as amended), Town and Country Planning (Control of Advertisements) Regulations 1992, the Planning (Listed Building and Conservation Areas) Act 1990, Planning and Compensation Act 2004 and any associated or related Acts, legislation, regulations and provisions.

While many matters are delegated to Head of Economy, Planning and Strategic Housing (see Section 4.2 (3)), the following matters must be decided by the Development Management Committee:

### **Planning Applications**

1. Deciding planning applications for 25 or more new dwellings
2. Deciding a planning application which is contrary to the provisions of an approved or draft development plan or adopted planning policy approved by the Council and which is recommended for approval
3. Deciding planning applications which any councillor requests, setting out good material planning reasons in writing to the Chairman of the Development Management Committee, within 21 days of the circulation of details of the application should be the subject of consideration by the Development Management Committee and the referral to the Committee is agreed by the Chairman, in consultation with the Head of Economy, Planning and Strategic Housing and/or Corporate Planning Manager.
4. Deciding planning applications submitted by or on behalf of a councillor (or his/her spouse, partner or other immediate family member) or by any member of the Council's staff (or his/her spouse, partner or other immediate family member)
5. Deciding planning applications submitted by or on behalf of the Council for its own developments
6. Deciding planning applications which the Head of Economy, Planning and Strategic Housing considers should be presented to Committee for decision including for example, those developments that in his or her opinion are potentially controversial, likely to be of significant public interest, or which may have a significant impact on the Borough or its environment

## **SECTION 7: TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY COMMITTEE**

### **Overview and Scrutiny Committee**

7.1 The Council has one Overview and Scrutiny Committee. This Committee is also the Council's designated crime and disorder committee under Section 19 of the Police and Justice Act 2006.

### **7.2 Composition**

The arrangements with respect to the composition of the Overview and Scrutiny Committee will be as follows:

- The Committee will have a maximum of eleven non-executive councillors, and in accordance with the provisions of the Local Government Housing Act 1989, will reflect the political balance of the Council.
- The Committee will be able to appoint up to two Vice-Chairmen, drawn from those councillors serving on the Committee, to lead on specific projects and to chair task and finish groups. The Chairman will be appointed at the Annual Meeting of the Council for the ensuing year.
- Cabinet Members will be expected to attend the Committee, and task and finish groups appointed by the Committee, when invited, to contribute on matters that relate to their portfolio.
- The Committee will be able to co-opt external representatives or appoint advisers, as it sees fit in a non-voting capacity.

Membership of both the Overview and Scrutiny Committee and the Policy and Project Advisory Board does not inevitably create a conflict of interest. Councillors and co-optees may not be involved in scrutinising a decision in which they have been involved directly.

### **7.3 Terms of Reference**

The general terms of reference of the Overview and Scrutiny Committee are set out below:

- to perform all overview and scrutiny functions on behalf of the Council;
- to appoint such formal sub-committees and informal task and finish groups as it considers appropriate to fulfil those overview and scrutiny functions;
- to approve the overview and scrutiny work programme so as to ensure that the Committee's time is effectively and efficiently utilised;

- to undertake investigations into such matters relating to the Council's functions and powers as:
  - may be referred by the Council, Committees, the Cabinet, or the Leader; or
  - the Committee may consider appropriate; or
  - have been referred to the Committee pursuant to the "call-in" procedure set out in the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution. (These can be decisions taken by the Cabinet, a Cabinet Member, key decisions taken by an officer or under joint arrangements);
- to monitor and review the performance of the Council and services against relevant performance indicators and adopted plans;
- to review and/or scrutinise decisions proposed to be made (pre-decision scrutiny) or actions taken in connection with the discharge of any of the Council's functions;
- to review existing policy and strategy with a view to securing continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness;
- to make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
- to review and/or scrutinise any matter affecting the area or its inhabitants;
- to discuss initiatives put forward for consideration by individual members of the Committee and any relevant 'call-for-action' in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution; and
- to consider petitions referred to the Overview and Scrutiny Committee in accordance with provisions set out in the Petition Scheme set out in Part 4 of this Constitution.

#### **7.4 Specific Functions**

##### Scrutiny

The Overview and Scrutiny Committee may:

- review and scrutinise the decisions made by the Cabinet and officers both in relation to individual decisions and decisions on on-going issues;



- question Cabinet Members and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects; or in relation to the portfolios of the Leader or of lead councillors.
- make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process;
- review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to report on their activities and performance;
- question and gather evidence from any person (with their consent) and require information from partner organisations; and
- use innovative ways to scrutinise matters of concern; the issue being investigated should be matched to the most appropriate process.

### Performance Management and Review

The Overview and Scrutiny Committee will make arrangements to:

- review and scrutinise the performance of the Council in relation to its policy and budgetary objectives, performance targets and/or particular service areas;
- undertake performance reviews of the Council's functions as appropriate and prepare appropriate reports for the Cabinet and the Council;
- monitor and review the outcomes of performance and process reviews and make further recommendations where necessary; and
- consider the policy implications arising from reviews for other functions and services.

### Policy Review

The Overview and Scrutiny Committee may:

- conduct research and community and other consultations as part of carrying out reviews of existing policies and strategies;
- question Cabinet Members, Committee Chairmen and chief officers about their views on issues and proposals affecting the area; and

- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

## **7.5 Powers**

The Overview and Scrutiny Committee can:

- Submit reports and make recommendations to the Cabinet or Council on anything the Council is responsible for or anything that affects the Borough or its residents
- Consider decisions that have been called in and ask for them to be looked at again
- Monitor the Cabinet's work programme and call for reports on items that are coming up
- Require Senior Officers (see table), and Cabinet Members to attend meetings and answer questions
- Hold public inquiries
- Invite people to meetings and gather evidence from them
- Establish standing and task and finish groups to do work and make recommendations

## **7.6 Meetings**

There shall normally be seven scheduled meetings of the Overview and Scrutiny Committee in each year. Additional meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee may be called by the Chairman, by one-third of the voting members of the Committee or by the Head of Democracy, Strategy and Partnerships.

The Committee shall meet to review or scrutinise matters in connection with the discharge by the responsible authorities of their crime and disorder functions at least once in a twelve-month period.

## **7.7 Quorum**

The quorum for the Overview and Scrutiny Committee shall be 50% of the voting members of the Committee (at least six Members).

## **7.8 Absence of Chairman**

In the absence from a meeting of the Chairman and Vice-Chairman, a Chairman for that meeting will be appointed.

## **7.9 Vacancies**

On a vacancy arising, the Committee will be asked to fill the vacancy at its next meeting.

## **7.10 Annual Report**

The Overview and Scrutiny Committee shall report annually to the full Council on the outcomes of its work for the year.

## **7.11 Work Programme**

The Overview and Scrutiny Committee will be responsible for setting its own work programme and shall take into account the wishes of councillors who are not members of the largest political group on the Council.

The Committee's work programme should be guided by the Council's agreed priorities as set out in the Council Business Plan or long-term vision.

The overall work programme should take account of:

- Whether the proposed work furthers corporate priorities
- The likelihood of something significant or valuable coming from the work
- The importance of the issue for users and the public generally
- Whether there is evidence of user dissatisfaction with the service
- Issues raised through audit or inspections
- Whether there is a high level of budgetary commitment to the service
- Public interest covered in the local media

The Committee should adopt a project management approach to any in-depth review of existing Council policy:

- Consider setting up a task and finish group
- Identify a Lead Member for the Review
- Agree terms of reference and objectives for the work
- Agree a project plan to include timescales, who will participate, how evidence will be collected, the key issues/question to be addressed.
- Preparation of a final report with recommendations

A Joint Meeting between the Chairmen and Vice-Chairmen of the Overview and Scrutiny Committee and the Policy and Project Advisory Board will be held at least annually to co-ordinate work programmes between the two bodies and to avoid duplication.

## **7.12 Task and Finish Groups**

The Overview and Scrutiny Committee will have responsibility for establishing such task and finish groups as it considers necessary to assist it in discharging its functions. The terms of reference and working arrangements for each task and finish Group will be determined by the Committee.

Task and finish groups should be reviewed annually and be time-limited.

The Vice-Chairmen of the Overview and Scrutiny Committee will normally chair task and finish groups and lead specific projects.

All Members, whether or not they are members of the Committee, may be appointed to a task and finish group.

#### **7.13 Proceedings of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee's proceedings for carrying out scrutiny, making formal reports and Call-in is set out in the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution.

#### **7.14 Progress Meetings**

The Chairman and Vice-Chairmen of the Overview and Scrutiny Committee, together with cross-party representatives will meet regularly between meetings to develop, manage and update the Board's work programme, plan agendas and co-ordinate task and finish groups.

## **SECTION 8: TERMS OF REFERENCE OF POLICY AND PROJECT ADVISORY BOARD**

### **Policy and Project Advisory Board**

- 8.1 The Council will appoint a Policy and Project Advisory Board to act as source of policy and project advice to the Cabinet and the Council. The main role of the Board is to advise the Cabinet about the formulation and development of policies and projects that will help deliver Council Plan priorities. The Board will be advisory in nature and will not have any substantive decision-making powers delegated to it.

### **Composition**

- 8.2 The arrangements with respect to the composition of the Policy and Project Advisory Board will be as follows:
- The Board will have a maximum of eleven non-executive councillors and, in accordance with the provisions of the Local Government Housing Act 1989, will reflect the political balance of the Council.
  - The Board will be able to appoint up to two Vice-Chairmen, drawn from those councillors serving on the Board, to lead on specific projects and to chair task and finish groups. The Chairman will be appointed at the Annual Meeting of the Council for the ensuing year.
  - Cabinet Members will be expected to attend the Board and task and finish groups appointed by the Board, as appropriate, to contribute on matters that relate to their portfolio.
  - The Board will be able to co-opt external representatives or appoint advisers as it sees fit in a non-voting capacity.

Membership of both the Policy and Project Advisory Board and the Overview and Scrutiny Committee does not inevitably create a conflict of interest. As a rule, councillors should not be involved in scrutinising a decision in which they have been involved directly, but the Board is advisory and it remains the responsibility of the Cabinet to formally take and implement decisions.

### **8.3 Terms of Reference**

The general terms of reference of the Policy and Project Advisory Board are:

- to assist and advise the Cabinet in the development of Policy Framework issues
- to undertake research, consultation and reviews for the purpose of advising the Cabinet on the delivery of priorities in the Council Plan (usually through the task and finish groups)

- to advise the Cabinet at an early stage in respect of the formulation and development of policies and projects that will help to deliver Council Plan priorities
- to assist the Cabinet in reaching decisions on specific issues
- to assist and advise the Cabinet on budget preparation
- to develop and maintain a work programme ensuring that there is efficient use of time

The powers of the Policy and Project Advisory Board are:

- to require the Leader and/or portfolio holders and senior officers to attend meetings to answer questions
- to question and gather evidence from any person (with their consent)
- to co-opt expert individuals on a non-voting basis to assist the Board's work
- to set up task and finish groups to look at specific issues relating to the delivery of the Council Plan or other significant priorities in order to inform decision making by the Cabinet.

#### **8.4 Meetings**

The Policy and Project Advisory Board shall have six scheduled meetings annually. Additional meetings may be called as and when required. A Board meeting may be called by the Chairman, by one-third of the voting Members of the Board or by the Head of Democracy, Strategy and Partnerships.

All meetings of the Policy and Project Advisory Board shall be open to the public to attend except where the item under discussion is considered exempt under Schedule 12A of the Local Government Act 1972 or is confidential under Section 100A of the Local Government Act 1972.

The Chairman will preside at meetings of the Board. In the absence of the Chairman, a Vice-Chairman will take the chair.

#### **8.5 Quorum**

The quorum for the Policy and Project Advisory Board shall be 50% of the voting members of the Board (at least six Members).

#### **8.6 Absence of Chairman**

In the absence from a meeting of the Chairman and Vice-Chairman, a Chairman for that meeting will be appointed.

#### **8.7 Vacancies**

On a vacancy arising, the Board will be asked to fill the vacancy at its next meeting.

## **8.8 Work Programme**

The Policy and Project Advisory Board will be responsible for setting its own work programme and shall take into account the wishes of councillors who are not Members of the largest political group on the Council.

The Board's work programme should be guided by the Council's agreed priorities as set out in the Council Business Plan or long-term vision.

A Joint Meeting between the Chairmen and Vice-Chairmen of the Policy and Project Advisory Board and the Overview and Scrutiny Committee will be held at least annually to co-ordinate work programmes and avoid duplication.

## **8.9 Task and Finish Groups**

The Policy and Project Advisory Board will have responsibility for establishing such task and finish groups as it considers necessary to assist it in discharging its functions. The terms of reference and working arrangements for each task and finish group will be determined by the Board.

Task and finish groups should be reviewed annually and be time-limited.

The Vice-Chairmen of the Policy and Project Advisory Board will chair task and finish groups and lead specific projects.

All Members, whether or not they are members of the Board, may be appointed to a task and finish group.

## **8.10 Progress Meetings**

The Chairman and Vice-Chairmen of the Policy and Project Advisory Board, together with cross-party representatives, will meet regularly between meetings to develop, manage and update the Board's work programme, plan agendas and co-ordinate task and finish groups.

## **SECTION 9: GOVERNANCE ARRANGEMENTS FOR RUSHMOOR DEVELOPMENT PARTNERSHIP AND RUSHMOOR HOMES LIMITED**

### **Rushmoor Development Partnership**

- 9.1 The Council has established the Rushmoor Development Partnership LLP (RDP) with Hill Investments Partnership Limited (HIPL) to support the delivery of elements of the Regenerating Rushmoor Programme. This is underpinned by a formal Members Agreement and Business Plan.

### **RDP Operating Structure**

- 9.2 The Rushmoor Development Partnership is 50:50 controlled by the Council and Hill Investment Partnerships. The Council's Chief Executive is authorised to act as shareholder on behalf of the Council. The LLP is not a public sector body for public procurement or accounting purposes.

### **Rushmoor Development Partnership Board**

- 9.3 The RDP Board exercises strategic oversight of the Rushmoor Development Partnership; all major decisions are made by the Board. The RDP Board comprises three Directors from HIPL and three representatives from Rushmoor. Both partners (the Council and HIPL) have an equal say in decision making and governance processes. Each partner has one vote each in decision-making. If there is disagreement, then no decision is made. If any matters under disagreement are not able to be resolved within a fixed period, then this enters a deadlock process where the matter is escalated to the Council's Chief Executive and the equivalent HIPL Senior Officer for resolution with the support of experts or specialists as appropriate e.g. in the event of a disagreement over construction costs or land values. This process, in effect, removes the matter from the RDP and back into the Council's usual dispute resolution procedures.

The Council's representatives on the Rushmoor Development Partnership (RDP) Board are as follows:

- Leader of the Council
- Major Projects & Property Portfolio Holder
- Executive Director

### **Investment Team**

- 9.4 The Investment Team is responsible for the day to day management, development and delivery of project plans for development sites, and the delivery of partnership business in accordance with the RDP Business Plan and as the RDP Board may determine. The Council's representatives on the RDP Investment Team are as follows:

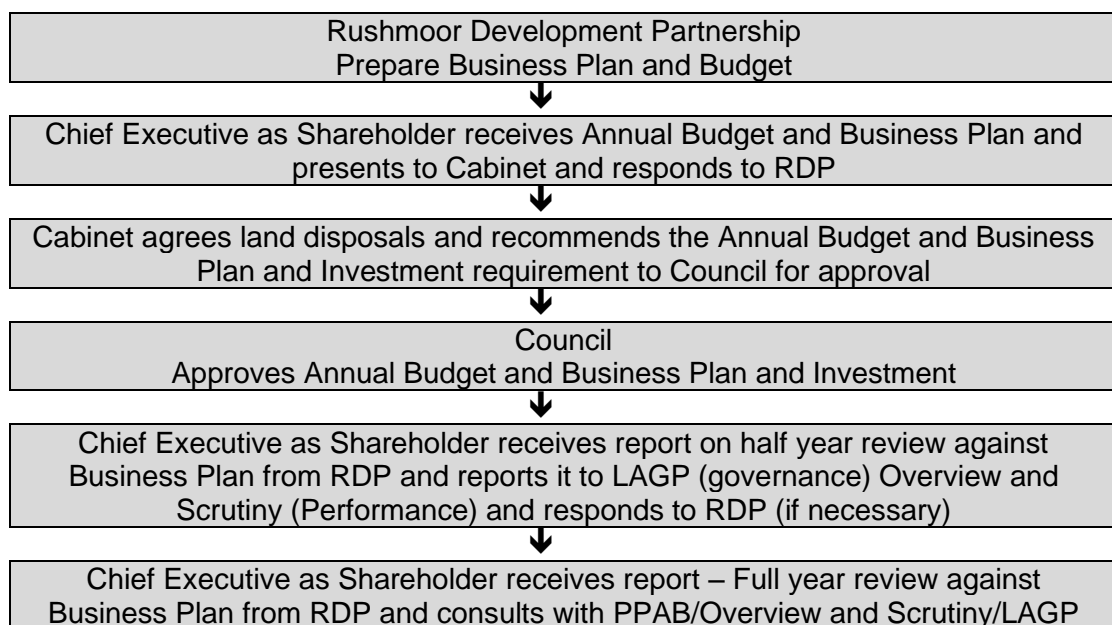


- Executive Head of Regeneration & Property
- Regeneration Delivery Manager
- Project Accountant, Financial Services

### Monitoring the Rushmoor Development Partnership

- 9.5 The RDP will report on a six-monthly basis to the Council's Shareholder, the Chief Executive. The Chief Executive will enable consideration of an appropriate progress report by the Council's Overview and Scrutiny Committee. Governance matters will be considered by the Licensing, Audit and General Purposes Committee. The process is set out below:

#### Annual Cycle of RDP/Council Governance and Approvals



### Site Development Process and Associated Land Transfer

- 9.7 The RDP's site development process as set out in the business plan is summarised as follows: -

- (1) Portfolio of council land sites agreed by the Council.
- (2) A project plan and accompanying financial appraisal and costings are developed by the Investment Team and agreed by the RDP Board
- (3) HIPL provides funding and supporting resources to obtain a planning consent
- (4) The Project Plan sets out the planning strategy delivery, budget and development appraisal to be agreed by the RDP Board.
- (5) Planning consent obtained.
- (6) The Council transfers each site into the RDP at an agreed value and time.
- (7) RDP Board decides to develop or (where required to cross subsidise the programme) sell all or part of a site.
- (8) In the case of RDP development, a project cash flow model is prepared identifying the peak equity required from each partner. This includes the timing of payments and financial returns, plus any development debt finance required.

- (9) The Council has the opportunity to provide funding at this stage.
- (10) The RDP Board agrees the funding commitments and subsequent construction agreements and monitoring arrangements.
- (11) An Operational Group will be established to oversee and scrutinise the construction programme through to practical completion. This group will report to the RDP Board on budget, risks and progress during the delivery phase together with matters such as sales values on the private units or land sales.

#### 9.8 Summary of Council Responsibilities within the above process:

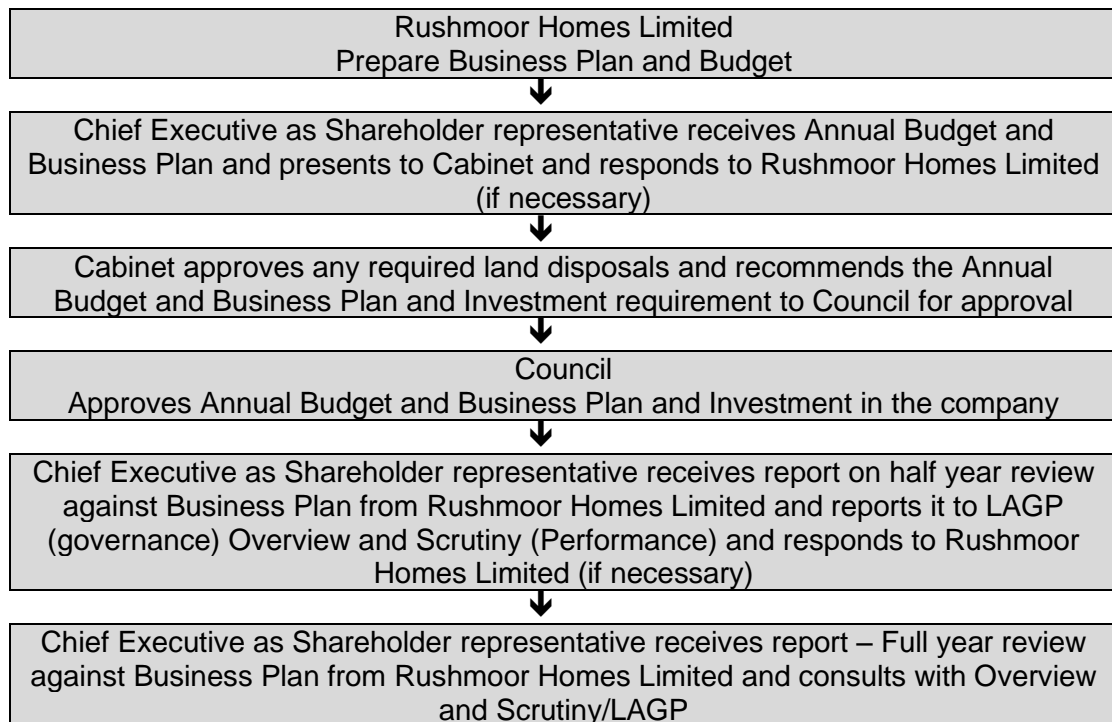
- The inclusion of the portfolio of sites for consideration (Council decision)
- Transfer of land and the value of the land at transfer (Cabinet decision)
- Whether to make a loan or other financial arrangement with the RDP (Council decision)

Should the Council undertake to provide any loan facility to the RDP it would need to be considered alongside criteria set out in the Council's Annual Treasury Management Strategy and Annual Non-Treasury Investment Strategy and the Annual Capital Strategy.

### **RUSHMOOR HOMES LIMITED**

- 9.9 The Council has established a wholly owned company limited by shares, 'Rushmoor Homes Limited', to allow the Council to participate directly in the housing market and increase housing supply by providing quality homes for rent in the Borough.
- 9.10 Rushmoor Borough Council is the sole shareholder of Rushmoor Homes Ltd and owns 100% of the company, which is underpinned by a formal shareholder agreement, a funding agreement, Articles and Memorandum of Association and a Business Plan.
- 9.11 The Licensing, Audit and General Purposes Committee is responsible for appointing Directors of the Board of the housing company. Following the incorporation, the Council's representatives on the Rushmoor Homes Company Board of Directors will be:
  - Deputy Leader of the Council
  - Leader of the Labour Group
  - Portfolio Holder for Corporate Services
- 9.12 The Governance arrangements for the Company are set out in the Articles of Association, however, because it is a Company wholly owned by the Council, there are additional governance arrangements. A summary of the arrangements is set out below:

### Annual Cycle of Rushmoor Homes/Council Governance



### Site Development Process and Associated Land Transfer

9.13 The Rushmoor Homes site development process as set out in the business plan is summarised as follows:

- (1) Portfolio of potential council land sites agreed by the Council
- (2) An option appraisal is developed by the Housing Investment Team for the Council
- (3) The Council Shareholder considers options and determines best course of action for the Council and if appropriate offers to Housing Company
- (4) Housing Company Board considers site and Project Plan setting out the planning strategy delivery, budget, development appraisal and development finance requirement to be agreed
- (5) Depending on basis of land transfer which is subject to BCA from the Option Appraisal Planning disposal to be agreed by Cabinet unless already delegated
- (6) The Council transfers each site into Rushmoor Homes at an agreed value and time together with associated development financing
- (7) The Rushmoor Homes Board agrees the construction agreements, warranties and monitoring arrangements.

9.14 An Operational Group is being established to oversee and scrutinise the construction programme through to practical completion. This Group will report to the Rushmoor Homes Board on budget, risks and progress during the delivery phase, together with matters such as rental values and lettings.

## **SECTION 10: COUNCILLOR ROLE DESCRIPTIONS – SPECIAL RESPONSIBILITY ROLES**

### **Introduction**

Councillors have a range of key roles and duties. All elected councillors have a responsibility for the good governance of the local authority, to act as community leaders and to be a link and a point of mediation between the local authority and the community.

The key roles and duties of all councillors are set out in Part 2, paragraph 2.2,

Some councillors hold a ‘special responsibility role’ for which an additional allowance is payable as set out in the Members Allowances Scheme in Part 6 of the Constitution.

#### **(1) Leader of the Council**

The responsibilities of the Leader of the Council are set out in Part 3, Section 3, paragraph 3.3 (Scheme of Delegation for Executive Matters)

The main roles of the Leader of the Council are to:

- provide overall political leadership for the Council in relation to the co-ordination and delivery of Council policies, strategies and services
- lead the Cabinet in its work to develop the policy framework and budget and to deliver services to the local community;
- lead the process of developing links and partnerships both inside and outside of the Borough with partners, stakeholders, citizens and other interested organisations; and
- to be the lead political spokesperson for the Council and represent the Council in the community and in negotiations with partners and other stakeholders.

#### **(2) Cabinet Portfolio Holders**

The role and powers of Cabinet Portfolio Holders are set out in Part 3, Section 3, paragraphs 3.7 to 3.9 (Scheme of Delegation for Executive Matters).

Cabinet Portfolio Holders assume responsibility and provide political leadership and accountability for a portfolio of services and functions of the Council delegated to the Cabinet. This includes, taking decisions on specific matters as set out in the Scheme of Delegation, acting as a lead and spokesperson inside and outside of the Council for the portfolio, and attending meetings of the Overview and Scrutiny Committee and Policy and Project Advisory Board as required.

Collectively, through the Cabinet, Cabinet Portfolio Holders contribute to the development and implementation of the Council's priorities, budget and policy framework and services to the local community.

**(3) Chairmen of Committees**

The key roles and responsibilities of Chairmen of Committees are to:

- chair meetings of the Committee and provide leadership in its functions and working arrangements;
- where set out in the Scheme of Delegation, act as consultee in decisions delegated by the Committee;
- ensure that the work of the Committee is co-ordinated with other decision-making bodies and is in accordance within the policy framework;
- be responsible for presenting the Committee's proposals and decisions to the Council and the community;
- secure effective working relations between the Committee and the officers and the local community; and
- participate in relevant training and development events.

**(4) Chairman of the Overview and Scrutiny Committee**

The key roles and responsibilities of the Chairman of the Overview and Scrutiny Committee are to:

- lead the overview and scrutiny process effectively;
- chair meetings of the Overview and Scrutiny Committee and provide leadership and strategic direction in its working arrangements;
- develop the Committee's internal and external influence;
- be fully aware of the Cabinet Work Programme so that the Committee is able to consider relevant issues and carry out pre-decision scrutiny;
- be the formal link between the Committee and the Cabinet and ensure that any issues referred to the Committee by the Cabinet or Council are properly considered;
- in conjunction with the Lead Officer, lead the development of the Committee's work programme, and the co-ordination of the Committee's task and finish groups. Ensure progress is monitored and that tasks are progressing satisfactorily;

- ensure that clear terms of reference and timescales are set for task and finish groups appointed by the Committee;
- attend and chair Progress Group meetings;
- present the Committee's reports and recommendations to the Council, Cabinet or other decision-making body in respect of any work carried out by the Committee;
- develop and promote the role and impact of the Committee through effective working relationships with the Cabinet, other councillors and officers and the local community;
- develop stakeholder and partner involvement in the Committee's work;
- ensure that he/she has knowledge and understanding of the Council's responsibilities and processes related to work covered by the Committee;
- ensure that mechanisms to support the Committee are working effectively and that the requirements of the Committee are met;
- participate in relevant training and development events; and
- act as a consultee in urgent key decisions being considered by the Cabinet which have not been included in the Cabinet Work Programme.

**(5) Vice-Chairmen of the Overview and Scrutiny Committee**

The key roles and responsibilities of the Vice-Chairmen of the Overview and Scrutiny Committee are to:

- assist the Chairman in leading the overview and scrutiny process effectively;
- deputise for the Chairman in his/her absence;
- assist the Chairman in leading the development, management and monitoring of the Committee's work programme and the co-ordination of task and finish groups appointed by the Committee;
- be fully aware of the Cabinet Work Programme so that the Committee is able to consider relevant issues and carry out pre-decision scrutiny;
- attend Progress Group meetings with the Chairman, representatives from the Committee and senior officers to assist agenda planning and enable discussion to inform effective scrutiny;

- chair task and finish groups appointed by the Overview and Scrutiny Committee;
- assist the Chairman of the Overview and Scrutiny Committee to ensure that clear terms of reference and timescales are set for task and finish groups;
- present reports of task and finish groups to the Overview and Scrutiny Committee;
- support the Chairman in preparing and presenting reports from the Overview and Scrutiny Committee to the Council and the Cabinet;
- assist the Chairman to develop and promote the role and impact of the Committee through effective working relationships with the Cabinet, other councillors, officers and the local community;
- participate in relevant training and development events; and
- ensure that he/she has knowledge and understanding of the Council's responsibilities and processes related to work areas which are the subject of reviews by task and finish groups.

**(6) Chairman of Policy and Project Advisory Board**

The key roles and responsibilities of the Chairman of the Policy and Project Advisory Board are to:

- lead the work of the Policy and Project Advisory Board;
- chair meetings of the Policy and Project Advisory Board;
- Advise the Cabinet and Overview and Scrutiny Committee on the work of the Policy and Project Advisory Board, as required;
- in conjunction with the Lead Officer, lead the delivery of the Board's work programme and the co-ordination of the Board's Project Working Groups. Ensure progress is monitored and that tasks are progressing satisfactorily;
- ensure that clear terms of reference and timescales are set for each working group appointed by the Board;
- attend Progress Group meetings with senior officers and keep up to date on key issues in respect of council priorities, policies and projects;
- ensure that proposals for new or revised priorities or policies are well informed and that Council policies are widely understood and promoted positively;

- present Board reports and recommendations to the Cabinet, Overview and Scrutiny Committee and Council;
- participate in relevant training and development events;
- ensure that he/she has knowledge and understanding of the Council's responsibilities and processes related to the work covered by the Board; and
- promote the role of the Board through effective working relationships with the Cabinet, other councillors, officers and the local community.

**(7) Vice-Chairmen of Policy and Project Advisory Board**

The key roles and responsibilities of the Vice-Chairmen of the Policy and Advisory Board are to:

- assist the Chairman in leading the work of the Policy and Project Advisory Board;
- deputise for the Chairman in his/her absence;
- chair working groups appointed by the Board;
- ensure working groups appointed by the Board have clear terms of reference and timescales;
- lead on projects which are part of the Board's programme of work;
- present reports to the Board on behalf of working groups or projects he/she is leading;
- assist the Chairman in leading the development, management and monitoring of the Board's work programme and the co-ordination of task and finish groups appointed by the Board;
- attend Progress Group meetings with senior officers and keep up to date on key issues in respect of council priorities, policies and projects;
- participate in relevant training and development events;
- ensure that he/she has knowledge and understanding of the Council's responsibilities and processes related to work areas which are the subject of working groups or special projects; and
- promote the role of the Board through effective working relationships with the Cabinet, other councillors, officers and the local community.



## SECTION 11: ROLES OF OFFICERS

### Management Structure

#### General

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

The responsibilities of all senior managers are shown in the senior management structure that appears in the **Appendix** at the end of this section.

#### 11.1 Chief Executive

The Chief Executive of the Council will have the following key functions and responsibilities: -

- To be responsible to councillors for the efficient leadership and management of the Council's paid service (including overall managerial responsibility for all officers).
- To be accountable for ensuring that the Council's services are provided and monitored in a cost-effective manner, achieving best value from expenditure and with effective systems of internal audit and control.
- To establish and maintain effective and enduring operational processes and relationships with councillors to ensure that the political decision-making process takes place in an informed and integrated manner.

Powers of the Chief Executive (in addition to the proper officer responsibilities in Section 12. See also Head of Paid Service paragraphs 11.3 below)

#### Staffing

1. To establish or re-organise staffing structures and arrangements in accordance with the policies established by the Cabinet for the delivery of services including:
  - to create a new permanent post
  - to appoint a temporary Head of Service (other than statutory chief officers)
  - to appoint a temporary statutory or non-statutory chief officer subject to consultation with the Portfolio Holder for Corporate Services, the Chairman of the Licensing, Audit and General Purposes Committee and Group Leaders
  - to appoint a Deputy Chief Executive
  - to designate Deputy Monitoring Officer
  - to re-grade posts subject to the Job Evaluation process
  - to make changes to designations

- to fill a post by promotion or transfer (subject to consultation with the Portfolio Holder for Corporate Services and the Leader for decisions related to the posts of Chief Executive, Executive Director, Section 151 Officer or Monitoring Officer
  - to decide not to advertise a vacancy externally or to fill a vacancy through restricted competition.
2. To make decisions related to the terms and conditions of staff in accordance with the policies and schemes established by the Council, including
- to sign on behalf of the Council all terms and conditions of employment relating to appointment of staff
  - to terminate employment during probationary periods
  - to approve honoraria, merit increments and market supplements
3. To appoint, discipline, suspend and dismiss staff in accordance with provisions in the Officer Employment Procedure Rules
4. In consultation with the Portfolio Holder for Corporate Services to apply the Council's early retirement/redundancy scheme if costs can be contained within the Budget

#### **HR Policies**

5. To approve updates to Human Resources Policies in consultation with the Portfolio Holder for Corporate Services

#### **Assets of Community Value**

6. To act as the Senior Officer responsible for review of a decision to list a property or land on the list of Assets of Community Value or for compensation decisions made under the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012, including the administration of procedures for review set out in Schedule 2 to the Regulations.

#### **Anti-Social Behaviour**

7. Approval of Dispersal Orders under section 30 of the Anti-Social Behavior Act 2003
8. Signing Anti-Social Behaviour Orders as a joint signatory with the Police superintendent

### Unacceptable Behaviour

9. Review of a decision to restrict a complainant's access to the Council's offices in accordance with the provisions in the policy on Unacceptable Behaviour

### Civil Emergencies

10. To exercise powers under section 138 of the Local Government Act 1972 in the event of a civil emergency or disaster and may authorise another officer to exercise these powers on their behalf

## 11.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Head of Paid Service, the Monitoring Officer and the Section 151 Chief Finance Officer are the Statutory Officers of the Council. The Council will designate the following officers as shown -

Post	Designation
Chief Executive	Head of Paid Service
Executive Director	Monitoring Officer
Executive Head of Finance	Section 151 Chief Finance Officer

### Restrictions

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

## 11.3 Functions of the Head of Paid Service

The Head of Paid Service will: -

- determine and publicise a description of the management structure of the Council and the deployment of officers (copy attached to this section).
- report to the Council on the manner in which the discharge of the Council's functions is co-ordinated; the numbers and grades of officers required for the discharge of functions and the organisation of officers;

## 11.3 Functions of the Monitoring Officer

In respect of the Council's Constitution and decision-making structure, the Monitoring Officer will

- after consulting with the Head of Paid Service and Chief Finance Officer, report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give

rise to unlawfulness or if any decision or omission has given rise to maladministration; such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- contribute to the promotion and maintenance of high standards of councillor conduct.
- Investigate matters related to councillor conduct and make reports or recommendations in respect of them to the Licensing, Audit and General Purposes Committee.
- consult the Independent Person before the outcome of any complaint is determined.
- advise whether Cabinet decisions are in accordance with the budget and policy framework.
- contribute to corporate management and provide professional advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.
- Consider applications for, and grant dispensations to individual members under section 33 of the Localism Act 2011 to allow them to take part in a meeting from which they would otherwise be precluded.

In support to the Monitoring Officer, the Head of Democracy, Strategy and Partnerships will:

- maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- 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.
- maintain the system of record keeping for the Council's decisions
- seek to ensure that the Council's decision-making works within the provisions of the Constitution

#### **11.4 Monitoring Officer's right to information**

##### **(a) Information for investigations**

In any investigation the Monitoring Officer will have unqualified access to information from the Council and its officers.

##### **(b) Reports to councillors**

The Monitoring Officer has the right to see all reports to councillors

### 11.5 **Functions of the Section 151 Chief Finance Officer**

In respect of the Council's Constitution and decision-making structure, the Chief Finance Officer will

- after consulting with the Head of Paid Service and the Monitoring Officer, report to the full Council or to the Cabinet in relation to an executive function and to the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- be responsible for the administration of the financial affairs of the Council.
- contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- provide financial information to the media, members of the public and the community.

### 11.6 **Duty to provide sufficient resources to the Monitoring and Section 151 Officers**

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

### 11.7 **Duty to tell Monitoring and Section 151 Officer about procedural or constitutional issues**

Executive Directors and Heads of Service must alert the Monitoring Officer and Chief Finance Officer to issues of concern as soon as they come up. These will include legality, probity, vires and constitutional issues.

If the finance or contract rules have been broken, or if decisions have been taken by people who are not allowed to take them, the Monitoring Officer and the Chief Finance Officer must be told in writing.

### 11.8 **Employment**

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

## SECTION 12: PROPER OFFICERS

### 1. APPOINTMENT OF PROPER OFFICERS

Proper officers are designated by the Council for the functions listed below as required by various statutory provisions.

### 2. PROPER OFFICER RESPONSIBILITIES

“Proper Officer” means the officer designated below by the Council for the purpose of this Scheme, or in the absence of such designation, the arrangements in relation to “authorised officers” in Part 3, Section 1.4 shall apply.

LEGISLATION	RESPONSIBILITY	PROPER OFFICER
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#### Public Health Act 1936

Section 85(2)	Serving a notice requiring action to deal with verminous articles	Head of Operational Services
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#### Local Government Act 1972

Section 83	To witness and receive declarations of acceptance of office by the Mayor, Deputy Mayor and Councillors.	Chief Executive
Section 84	To accept written notice of resignations from persons holding office as Mayor, Deputy Mayor or Councillor.	Chief Executive
Section 88 (2)	Convening meetings of the Council to fill casual vacancy in office of Mayor.	Head of Democracy, Strategy & Partnerships
Section 89 (1)(b)	Receipt of notice from electors requiring election to fill casual vacancy on Council.	Chief Executive
Section 100 (B)(2)	Exclusion from public inspection of those reports (or parts) likely to be taken in absence of public.	Head of Democracy, Strategy & Partnerships
Section 100 (B)(7)(c)	Making available to the Press other documents already supplied to Members.	Head of Democracy, Strategy & Partnerships

Section 100 (C)(2)	To make a written summary in lieu of confidential minutes.	Head of Democracy, Strategy & Partnerships
Section 100 (D)(1)(a)	Listing background papers to a report	Authorised Officer responsible for the report
Section 100 (D)(5)(a)	To Identify background papers on which a report is based which have been relied on in preparing the report.	Authorised Officer responsible for the report
Section 100 (F)(2)	To identify documents not open to inspection by councillors under Section 100 (F)(1).	Corporate Manager – Legal Services
Section 115 (2)	Person to whom all officers shall pay monies received by them and due to the local authority.	Executive Head of Finance
Section 146 (1)(a)	Statutory declarations in relation to securities on change of name of authority.	Executive Head of Finance
Section 151	To be responsible for the proper administration of the financial affairs of the Council.	Executive Head of Finance
Section 191	To receive notices from Ordnance Survey in relation to ascertaining or locating Local Authority boundaries.	Head of IT, Projects and Facilities
Section 223	Authorisation (appearance by persons in legal proceedings)	Corporate Manager – Legal Services
Section 225 (1)	To receive and give receipt for any document required to be formally deposited.	Chief Executive
Section 228	To make arrangements for the Inspection of documents and minutes	Head of Democracy, Strategy & Partnerships
Section 229 (5)	To certify photographic copies of documents for use in legal proceedings.	Corporate Manager – Legal Services

Section 234 (1) & (2)	<p>To sign formal notices, orders or other documents made or issued by the Council other than those under seal and other than those specifically delegated to another officer:</p> <p>Any document relating to electoral registration or any Parliamentary or Local Election.</p> <p>All documents or categories of document for which provision is not made in relation to any other officer.</p> <p>Any document authorising the payment or receipt of any sum of money.</p> <p>The granting or refusal of planning permission, and any other documents or notice relating to building control or planning.</p> <p>Any document relating to housing, including notices pursuant to relevant statutory provisions.</p> <p>Any document relating to environmental or public health including notices pursuant to relevant statutory provisions.</p> <p>Any document relating to a matter which is, or is likely to be, legally contentious or any statutory notice (including enforcement or stop notices) where specific provision is not made elsewhere in this scheme.</p> <p>Any document of a category not specifically referred to above.</p>	<p>Chief Executive</p> <p>Corporate Manager – Legal Services</p> <p>Executive Head of Finance</p> <p>Corporate Planning Manager or Head of Economy, Planning &amp; Strategic Housing</p> <p>Head of Economy, Planning &amp; Strategic Housing and Head of Operational services</p> <p>Head of Operational Services</p> <p>Corporate Manager – Legal Services</p> <p>The Authorised Officer responsible for the service in question, or in default thereof, the Corporate Manager – Legal Services</p>
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Section 236 (10)	To send copies of all byelaws made by the Council to the County Council.	Corporate Manager – Legal Services
Section 238	To certify a printed copies of Council byelaws.	Corporate Manager – Legal Services
Schedule 6 para. 1	Deputy to electoral registration officer.	Head of Democracy, Strategy & Partnerships
Schedule 12 para. 4(2)(b)	To issue and serve summons to meetings of the Council.	Head of Democracy, Strategy & Partnerships
Schedule 12, para. 4(3)	To receive formal notification from councillors requesting that a summons be sent to an alternative address.	Head of Democracy, Strategy & Partnerships
Schedule 14, Para. 25(7)	Certification of copy resolutions under Para. 25 of Schedule 14 of the Local Government Act, 1972.	Head of Democracy, Strategy & Partnerships

### **Local Government (Miscellaneous Provisions) Act 1976**

Section 41	To certify copy resolutions, orders, reports, minutes, records of executive decisions and copy instruments appointing officers to perform certain functions	Head of Democracy, Strategy & Partnerships
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### **Representation of the People Act 1983**

Section 8	To act as Registration Officer for the registration of Parliamentary and Local Government Electors.	Chief Executive
Section 28	To act as Acting Returning Officer at Parliamentary Elections.	Chief Executive
Section 35	To act as Returning Officer for the election of Councillors of the Borough.	Chief Executive

**Building Act 1984**

Section 61	To authorise access to any works being carried out to repair, reconstruct or alter a drain	Head of Economy, Planning & Strategic Housing
Section 78	To take emergency action in relation to dangerous buildings and structures.	Head of Economy, Planning & Strategic Housing

**Local Government Finance Act, 1988**

Sections 114, 115 and 115A	Responsibility for Chief Financial Officer Reports.	Executive Head of Finance
Sections 116	Notification to auditor of date, time and place of meeting to consider Section 114 report and of decision of such meeting.	Chief Executive

**Local Government and Housing Act, 1989**

Section 2(4)	Keeping the list of politically restricted posts	Corporate Manager - People
Section 4	Head of Paid Service	Chief Executive
Section 5	Monitoring Officer	Executive Director
Section 15 to 17	Allocating seats on committees	Head of Democracy, Strategy and Partnerships
Section 18	To implement a scheme of councillors' allowances	Head of Democracy, Strategy and Partnerships

**Local Government (Committees and Political Groups) Regulations 1990**

All Sections	Dealing with membership of political groups, political balance on committees and nominations by political groups	Head of Democracy, Strategy and Partnerships
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**Food Safety Act 1990**

Section 5	All functions required of an authorised officer	Head of Operational Services
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**Party Wall etc. Act 1996**

Section 10 (8)	To select a third surveyor, if required, during a neighbour dispute about building projects.	Head of Economy, Planning & Strategic Housing
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**Crime and Disorder Act 1998**

	To ensure compliance with the provisions of the Crime and Disorder Act in relation to the prevention of crime and disorder.	Chief Executive
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**Local Government Act 2000**

Section 81	Establish and maintain a Register of Interests.	Monitoring Officer
Chapter 4	Dealing with changing governance arrangements	Head of Democracy, Strategy & Partnerships
Section 99 & 100	Councillors allowances and having regard to all relevant regulations including the Local Authorities (Members Allowances) (England) Regulations 2003	Head of Democracy, Strategy & Partnerships

**The Local Authorities (Referendums) (Petitions and Directions) Regulations 2000**

Regulation 34	Publishing the verification number of local government electors for the purpose of petitions under the Local Government Act 2000.	Head of Democracy, Strategy & Partnerships
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**Freedom of Information Act 2000**

36	Application of exemption from disclosure.	Corporate Manager – Legal Services
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**Local Authorities (Model Code of Conduct) (England) Order 2001**

Schedule 1 Paragraph 17	Establish and maintain a Register of Gifts and Hospitality received by Members.	Corporate Manager – Legal Services
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**Local Authorities (Standing Orders) (England) Regulations 2001**

Schedule 1 (Part II)	Giving notice of appointments and dismissals of officers to the Cabinet in accordance with the Regulations	Corporate Manager - People
Schedule 3	Provisions relating to disciplinary action	Corporate Manager - People

**Regulation of Investigatory Powers Act (RIPA) 2000**

27, 28 and 29	<p>Designation of officers empowered to grant authorisation for the carrying out of directed surveillance and authorise the use of covert human intelligent sources under Sections 27, 28 and 29 of the Act.</p> <p>Officers empowered to authorise surveillance are specified in Appendix B to the Council's Corporate Surveillance Policy.</p>	Corporate Manager – Legal Services
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**Proceeds of Crime Act 2002**

	To meet the Council's obligations in relation to the Proceeds of Crime Act	Executive Head of Finance
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**Anti-Social Behaviour Act 2003**

Section 30	Approval for Dispersal Orders	Chief Executive
Section 40	Closure of Noisy Premises	Head of Operational Services

**Localism Act 2011 – Assets of Community Value**

Section 87	Maintaining the list of Assets of Community Value, notifying owners and occupiers of listings and receipts of notices and publicising the possible sale of an asset	Corporate Manager – Legal Services
Section 90	Decision on whether or not to include a property or land on the list of Assets of Community Value	Head of Democracy, Strategy and Partnerships
	Review of a decision to register a property or land on the list of Assets of Community Value or for compensation	Chief Executive

**Local Authorities (Executive Arrangements) Meetings and Access to Information (England) Regulations 2012**

Regulation 2 and 15	<p>To identify as background papers those documents which disclose any facts or matters on which a report or an important part of a report is based and were relied on to a material extent in preparing the report</p> <p>To compile a list of background papers to a report</p>	Any Executive Director or Head of Service
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Regulation 7	Access to agenda and connected reports for public meetings of the executive	Head of Democracy, Strategy & Partnerships
Regulation 9-11	Publicity and procedure in connection with key decisions	Head of Democracy, Strategy & Partnerships
Regulation 12	Recording of executive decisions made at meetings	Head of Democracy, Strategy & Partnerships
Regulation 13	Recording of executive decisions made by individuals	Head of Democracy, Strategy & Partnerships
Regulation 14	Inspection of documents following executive decisions	Head of Democracy, Strategy & Partnerships
Regulation 20	To determine whether any document or part of a document contains or may contain confidential or exempt information	Corporate Manager – Legal Services

### **SECTION 13: PROVISIONS AND RESPONSIBILITIES FOR JOINT ARRANGEMENTS**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions (which are not executive functions) in any of the participating authorities or 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 executive functions. Such arrangements may involve the appointment of a joint committee with these other local authorities
  - (c) Except as set out below, the Cabinet may only appoint Cabinet Members to a joint committee and those members need not reflect the political composition of the Council as a whole.
  - (d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
    - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population; in such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
    - the joint committee is between a county council and a single district council and relates to functions of the executive of the county council; in such cases, the executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.
- In both of these cases the political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in Part 3 of this Constitution.
  - (f) The Access to Information Rules in Part 4 of this Constitution apply. The following arrangements will apply:
    - if all the members of a joint committee are members of the executive in each of the participating authorities, then its access to information regime is the same as that applied to the executive.
    - if the joint committee contains members who are not on the executive of any participating authority, then the access to information rules in Part VA of the Local Government Act, 1972 will apply.

## **Delegation To and from other Local Authorities**

Delegation arrangements between the Council and other local authorities are as follows:

- The Council may authorise the discharge of (Sec 101 Local Government Act 1972) non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

## **Contracting Out**

The Council and the Cabinet, with regard to their respective 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.



## PART 4

### Procedure Rules

Section	Procedures	Page
1	Standing Orders for the Regulation of Business	114
2	Access to Information Procedure Rules	144
3	Public Speaking Procedure Rules	160
4	Cabinet Procedure Rules	164
5	Overview and Scrutiny Procedure Rules	168
6	Licensing Hearings	180
7	Standards Hearings	188
8	Budget and Policy Framework	193
9	Financial Procedure Rules	198
10	Contract Procedure Rules	222
11	Officer Employment Procedure Rules	248
12	Petitions Scheme	256

## **STANDING ORDERS FOR THE REGULATION OF BUSINESS**

### **INTRODUCTION**

The Council Procedure Rules (known as Standing Orders) set out the rules of debate and procedure for the conduct of meetings of the Council, including where necessary their application to committees, sub-committees and other bodies.

The Standing Orders are:

1. Meetings of the Council
2. Order of Business – Annual Meeting
3. Appointment of Relevant Bodies
4. The Cabinet and Other Bodies
5. Election of Chairmen and Vice-Chairmen
6. Order of Business – Ordinary Meetings
7. Minutes
8. Questions
9. Notices of Motion
10. Reports of Relevant Bodies
11. Voting
12. Motions and Amendments which may be moved without notice
13. Rules of Debate for Council Meetings
14. Quorum
15. Closure and Adjournment of Meetings
16. Motions Affecting Persons Employed by the Council
17. Disorderly Conduct
18. Disturbance by Members of the Public
19. Recission of Preceding Resolution
20. Confidentiality of Certain Business

21. Petitions
22. Deputations and Memorials
23. Interpretation of Standing Orders
24. Sealing of Documents
25. Authentication of Documents for Legal Proceedings
26. Standing Orders to Apply to Relevant Bodies
27. Meetings of Relevant Bodies
28. Sub-Committees
29. Variation and Revocation of Standing Orders
30. Suspension of Standing Orders
31. Standing Orders to be given to Members

Where the term “relevant body” is mentioned under the Standing Orders it relates to the Cabinet, committees, sub-committees or Policy and Project Advisory Board and this item shall be construed as appropriate.

The Council Procedure Rules contain some mandatory standing orders and other standing orders to reflect local custom and practice. Mandatory standing orders are also reflected in the other Procedure Rules set out in this Constitution.

Members and officers shall comply with these Standing Orders at all times.

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## MEETINGS OF THE COUNCIL

### Annual Meeting

1. (1) 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 out-going councillors. The meeting shall normally be held on a Tuesday as near as possible to 20th day of May in each year, unless the Mayor, in consultation with the Chief Executive and Head of Democracy, Strategy and Partnerships ~~tic Services~~ determines otherwise.

### Ordinary Meetings

- (2) In addition to the Annual Meeting of the Council and any meetings convened by the Mayor or by Members of the Council, meetings for the transaction of general business shall be set out in a calendar by the Head of Democracy, Strategy and Partnerships ~~tic Services~~ to ensure the effective transaction of business.

### Time of Meetings

- (3) Meetings of the Council shall be held at seven o'clock in the evening, unless the Mayor, in consultation with the Head of Democracy, Strategy and Partnerships ~~tic Services~~, determines otherwise.

### Extraordinary Meetings

- (4) An Extraordinary Meeting may be called by the Head of Democracy, Strategy and Partnerships ~~tic Services~~ at the request of:
  - (a) the Council by resolution
  - (b) the Mayor
  - (c) any five Members of the Council by notice which has been signed by those Members and specifies the business proposed to be transacted.

### Notice of and Summons to Meetings

- (5) The Head of Democracy, Strategy and Partnerships ~~tic Services~~ will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Head of Democracy, Strategy and Partnerships ~~tic Services~~ will send a summons signed by him or her to every Member of the Council, ~~or leave it at the Member's usual place of residence~~. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

## ORDER OF BUSINESS – ANNUAL MEETING

2. (1) The order of business of the Annual Meeting of the Council shall normally be to:
- (a) elect the Mayor and Deputy Mayor of the Borough;
  - (b) approve the minutes of the last meeting;
  - (c) receive any announcements from the Mayor and/or the Chief Executive;
  - (d) appoint the Leader of the Council;
  - (e) note the appointment of the Deputy Leader and other Members appointed to the Cabinet by the Leader;
  - ~~(f)~~ appoint to the Committees and the Policy and Project Advisory Board ~~(including chairmen and vice-chairmen)~~ as appropriate;
  - ~~(f)~~(g) appoint the Chairman and Vice-Chairman of the Development Management Committee and Licensing, Audit and General Purposes Committee, and the Chairman of the Overview and Scrutiny Committee and the Policy and Project Advisory Board; and
  - ~~(g)~~(h) consider any other business set out in the summons.

## APPOINTMENT OF RELEVANT BODIES

3. (1) The Council shall at the Annual Meeting appoint the relevant bodies specified in Standing Order 4 and shall determine the composition of the voting Members of each relevant body, and may at any time appoint such other relevant bodies as are necessary to carry out the work of the Council but, subject to any statutory provision in that behalf:
- (a) shall not give effect to the appointment of any Member of a relevant body so as to hold office later than the next Annual Meeting of the Council;
  - (b) may at any time dissolve a relevant body; and
  - (c) may suspend a Member from membership of a relevant body for a specified period.
- (2) Where the Members of the Council are divided into political groups, the Council shall, at the Annual Meeting and at such other times as

appropriate, review the allocation of seats on relevant bodies between the political groups.

- (3) The Head of Democracy, Strategy and Partnerships ~~the Services~~ shall set out in a report to the Council the allocation of seats to political groups in accordance with the requirements of the Local Government and Housing Act, 1989 and the Local Government Act, 2000, upon which the Council shall determine the allocation of seats accordingly.
- (4) Subject to Standing Orders 3 (2) and (3) and Standing Order 4 (7), the Council shall make appointments to relevant bodies so as to give effect to the wishes of the political groups as appropriate.
- (5) The arrangements to secure political balance and the provisions set out in Standing Orders 3, 4 and 27 shall be undertaken in accordance with the provisions of the Local Government and Housing Act, 1989 or any subsequent amending legislation, and Regulations made thereunder from time to time by the Secretary of State.
- (6) For the purpose of these Standing Orders, the term 'political group' means two or more Councillors who wish to be treated as a political group for the purposes of the provisions of the Local Government and Housing Act, 1989 or any subsequent amending legislation, and regulations made thereunder from time to time by the Secretary of State.

## THE CABINET AND OTHER BODIES

### Membership

4. (1) The decision making structure of the Council shall consist of the bodies set out below, together with a Leader and Cabinet. The Council shall appoint the Members of each of the relevant bodies, which shall not exceed the number of Members specified below:

Relevant Body	Maximum Number of Voting Members
Development Management Committee	11
Licensing, Audit and General Purposes Committee	11
Overview and Scrutiny Committee	11
Policy and Project Advisory Board	11

- (2) The Council shall appoint standing deputies to the Development Management Committee Licensing, Audit and General Purposes Committee, Overview and Scrutiny Committee and Policy and Project Advisory Board, in accordance with the provisions for the

appointment of standing deputies contained in Appendix 1 to these Standing Orders.

~~(3) The military authorities may nominate a representative to serve on the Development Management Committee as a co-opted Member to assist in the consideration of the business of the Committee, but shall not be entitled to vote thereon. The Council shall make the appointment at the Annual Meeting or such other full Council meeting as appropriate.~~

~~(4)~~(3) The Member of the Cabinet with responsibility for matters relating to planning policy ~~(the Environment portfolio)~~ shall be an ex officio Member of the Development Management Committee PROVIDED that the Member shall only be entitled to vote if appointed with full voting rights in accordance with the political balance arrangements.

~~(5)~~(4) The Overview and Scrutiny Committee and the Policy and Project Advisory Board may appoint such non-voting Members and advisers as they consider fit.

### **Vacancies in Membership**

~~(6)~~(5) If any Member shall be absent from three consecutive meetings of a Committee or the Policy and Project Advisory Board, he or she shall cease to be a Member thereof, unless he or she shall, in the opinion of the Committee or Board, show reasonable grounds for his or her absence. ~~there from.~~

~~(7)~~(6) On a vacancy arising on the Licensing, Audit and General Purposes Committee or the Development Management Committee, the Head of Democracy, Strategy and Partnerships Services shall give notice thereof in the summons calling the next Council meeting, so as to enable the Council to fill such vacancy.

~~(8)~~(7) On a vacancy arising on the Overview and Scrutiny Committee or the Policy and Project Advisory Board, such vacancy shall be filled by the appropriate Leader of a Political Group where it falls within that Group. In all cases the appointment shall be reported on the Agenda of the following meeting of the body. Where the vacancy is not part of the allocation of a political group, it shall be filled by the Council Head of Democracy, Strategy and Partnerships.

## **APPOINTMENT OF CHAIRMEN AND VICE-CHAIRMEN**

### **Appointment of Leader of the Council**

5. (1) The Leader of the Council shall be appointed at the Annual Meeting of the Council. On a vacancy arising, or at the end of the Municipal Year, the Head of Democracy, Strategy and Partnerships Services shall seek nominations from Members and give notice in the summons calling the next Council meeting so as to enable the

Council to fill such vacancy. The Leader of the Council shall Chair meetings of the Cabinet and references to Chairman in these Standing Orders shall be construed accordingly.

### **Appointment of Chairmen and Vice-Chairmen**

- (2) Chairmen and Vice-Chairmen of the Development Management and Licensing, Audit and General Purposes Committees shall be appointed at the Annual Meeting of the Council for the ensuing year.

Chairmen of the Overview and Scrutiny Committee and the Policy and Project Advisory Board shall also be appointed at the Annual Council Meeting.

Vice-Chairmen of the Overview and Scrutiny Committee and the Policy and Project Advisory Board shall be appointed at the first meeting of the appropriate Committee/Board in each Municipal Year.

On a vacancy arising, the appropriate Committee or Board will be asked to fill the vacancy at its next meeting. In the absence from a meeting of the Chairman and Vice-Chairmen, a Chairman for that meeting shall be appointed.

### **Chairman of Meeting**

- (3) Any power or duty of the Mayor or a chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

## **ORDER OF BUSINESS – ORDINARY MEETINGS**

6. (1) The order of business at every meeting of the Council shall normally be to:
- (a) choose a person to preside if the Mayor and Deputy Mayor are absent;
  - (b) deal with any business required by statute to be done before any other business;
  - (c) approve as a correct record and sign the Minutes of the last meeting of the Council. No motion or discussion shall be allowed on the Minutes except as to their accuracy and any objection on that ground must be made by motion;
  - (d) deal with any business expressly required by statute to be done;
  - (e) receive any Mayor's announcements;



- (f) dispose of business (if any) remaining from the last meeting;
- (g) answer questions asked under Standing Order 8;
- (h) authorise the sealing of documents;
- (i) receive any petitions submitted under Standing Order 21;
- (i) consider motions in the order in which notice has been received;
- (j) receive and consider matters for decision submitted by relevant bodies;
- (k) consider matters for debate raised by the relevant bodies;
- (l) answer questions for the Cabinet in accordance with the agreed procedure;
- (m) receive Reports submitted by the Cabinet, Licensing, Audit and General Purposes Committee and Development Management Committee and answer questions asked under Standing Order 8 (2);
- (n) other business, if any, specified in the Summons; and
- (o) receive Reports submitted by the Overview and Scrutiny Committee and the Policy and Project Advisory Board.

#### **Variation of Order of Business**

- (2) Business falling under Items (a), (b) or (c) of Standing Order 6 (1), shall not be displaced, but, subject thereto, the foregoing order of business may be varied by:
  - (a) the Mayor at his or her discretion; or
  - (b) resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

#### **Mayor-Elect and Deputy Mayor-Elect**

- (3) The Licensing, Audit and General Purposes Committee shall recommend to the Council a Mayor-Elect and a Deputy Mayor-Elect at least one month before the end of the Municipal Year.

## **MINUTES**

### **Approval of Minutes**

7. (1) The Mayor shall put the question that the Minutes before the meeting be approved as a correct record.

### **Minutes not to be discussed**

- (2) No discussion shall take place upon the Minutes, except upon their accuracy, and any question of the accuracy shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Mayor shall sign the Minutes.

### **Extraordinary Meetings**

- (3) The Council shall approve as a correct record the Minutes of the proceedings of an Extraordinary Meeting of the Council called under Standing Order 1(4) at the next following Ordinary Meeting of the Council and they shall be signed by the Mayor.

## **QUESTIONS BY MEMBERS**

### **Questions for the Cabinet**

8. (1) A Member of the Council may ask a Cabinet Member any question upon any matter dealt with under the executive arrangements, in accordance with the procedure contained in Appendix 2 to these Standing Orders.

### **Questions relating to Reports**

- (2) A Member of the Council may ask a Committee Chairman or a Cabinet Member any question upon an item in the Report of a relevant body (Standing Order 6(1)(m)) when that item is under consideration by the Council.

### **Questions relating to other matters**

- (3) A Member of the Council may:
- (a) if ten clear working days' notice in writing has been given to the Head of Democracy, Strategy and Partnerships Services, ask the Mayor, the Chairman of the Licensing, Audit and General Purposes Committee, the Chairman of the Development Management Committee or a Cabinet Member any question on any matter in relation to which the Council has powers or duties or which affects the Borough, PROVIDED that the number of questions permitted to be asked shall be limited to three for each political group or

Member, in the case that the Member is not part of a political group.

### **Urgent Questions**

- (b) with the permission of the Mayor, put to him or her or a Chairman or Cabinet Member any question relating to urgent business, of which such notice has not been given; but a copy of any such question shall, if possible, be delivered to the Head of Democracy, Strategy and Partnerships ~~the~~ Services not later than five o'clock in the afternoon of the day of the meeting.

### **Length of Questions**

- (4) No question asked under 3 (a) or (b) above shall exceed ~~fifty~~100 words in length including any document appended thereto.

### **Answers not to be discussed**

- (5) No speech or discussion shall, without the consent of the Council, be allowed on any question so put, or on any answer thereto.

### **Forms of Answer**

- (6) An answer may take the form of:-
  - (a) a direct oral answer; or
  - (b) where the desired information is contained in a publication of the Council, a reference to that publication; or
  - (c) where the reply to the question cannot conveniently be given orally, a written answer circulated to Members of the Council; or
  - (d) a reference to the fact that the question relates to a confidential matter and as such can only be answered when the Council has resolved to exclude the public.

### **Questions to the Chairman of the Overview and Scrutiny Committee**

- (7) A Member of the Council may ask the Chairman of the Overview and Scrutiny Committee any question on a matter relating to the Committee's responsibilities during consideration of the Annual Report of the Overview and Scrutiny Committee to the Council, in accordance with the procedure contained in Appendix 3 to these Standing Orders.

## NOTICES OF MOTION

### Notice to be in writing

9. (1) Notice of every motion, other than a motion which under Standing Order 12 may be moved without notice, shall be given in writing or sent electronically including the name of the Member or Members of the Council giving the notice, and delivered, at least ten clear days before the meeting to which it relates, to at the office of the Head of Democracy, Strategy and Partnerships Services by whom it shall be dated.

### Inclusion of Motions in Summons

- (2) The Head of Democracy, Strategy and Partnerships Services shall set out in the Summons for the appropriate meeting of the Council, the motions of which notice has been duly given in the order in which they have been received, unless the Member giving notice of the motion shall have ~~in writing~~ withdrawn it or indicated that he or she proposes to move it at a later meeting.

### Motions not moved considered withdrawn

- (3) If a motion thus set out in the Summons be not moved either by a Member who gave notice thereof or by another Member on his or her behalf it shall, unless postponed by consent of the Council, as appropriate, be treated as withdrawn and shall not be moved without fresh notice.

### Motions referred to a Relevant Body

- (4) Where a motion has been included in the Summons and moved and seconded, the Mayor may direct that it be referred to the relevant body and not further debated at that meeting of the Council.
- (5) ~~The recommendations, A motion – upon a motion, shall then be considered~~ by a relevant body shall be submitted with a recommendation for decision to the ~~by the~~ Cabinet or a Committee or, if appropriate, to the Council. ~~, as appropriate, prior to being resubmitted to the Council as a recommendation.~~

### Motions Submitted

- (6) The number of new motions permitted to be considered at each meeting of the Council shall be limited to one per political group or one per Member, in the case that a Member is not part of a political group.

- ~~(7)~~ Every motion shall be relevant to some matter in relation to which the Council has powers or duties.

### **Length and Content of Motions**

- ~~(7)~~(8) No motion, other than a motion which may be moved without notice under Standing Order 12, shall exceed 100 words in length including any document appended thereto.

- (9) A Motion should be expressed in positive terms to either adopt a certain course of action, carry out some act or to declare a particular view.

- ~~(8)~~(10) Each Motion shall be considered by the Chief Executive and Head of Democracy, Strategy and Partnerships prior to inclusion on an agenda to ensure that the provisions of these Standing Orders and any other legislation and/or guidance, have been met.

## **REPORTS OF RELEVANT BODIES**

### **Submission and Form of Reports**

10. (1) As soon as is practicable following a meeting of a relevant body, it shall submit a Report to the Council. Relevant bodies shall, as appropriate:
- (a) submit proposals containing recommendations which require approval by the Council;
  - (b) submit Reports which relate to matters of information or to decisions taken; and
  - (c) submit items for debate on which the Council's views are sought.

### **Transfer of Matters Contained in Reports**

- (2) At a meeting of the Council, any Member, immediately following the relevant page of a Report of the Cabinet or Committee being called over, may move that an item contained in the Report be discussed at the meeting and, upon being seconded, any such motion shall be put to the meeting without discussion, PROVIDED that the proposer may, when putting his motion, indicate briefly his or her reasons for so moving and the Chairman or Cabinet Member may respond thereto.

### **Reports not to be discussed**

- (3) No discussion (other than a question asked or answered in accordance with Standing Order 8) shall take place upon any

matter contained or referred to in a Report of a relevant body submitted under Standing Order 10(1)(b) above.

## **VOTING**

### **Majority**

11. (1) 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 is put. The mode of voting at meetings of the Council shall be by show of hands or, if there is no dissent, by the affirmation of the meeting.

### **Mayor to have casting vote**

- (2) In the event of an equality of votes, the Mayor, or in the case of a relevant body, the Chairman, shall have a casting vote, whether or not he or she ~~has~~ already voted. If the Mayor or Chairman declines to give a casting vote the proposition shall not be carried.

### **Right to have vote recorded**

- (3) Where any Member requests it, immediately after the vote is taken, his or her vote will be so recorded in the minutes to show whether he or she voted for or against the question or abstained from voting.

### **Recorded Votes**

- (4) On the requisition of any Member of the Council made before the vote is taken, the voting on any question shall be recorded so as to show whether each Member present gave his or her vote for or against that question or abstained from voting.
- (5) A recorded vote shall be taken on any decision relating to the budget or council tax.

### **Appointments**

- (6) Where there are more than two persons nominated for any position to be filled by the Council or relevant body, and of the votes given there is not an overall majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken and so on until a majority of votes is given in favour of one person.

## **MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE**

12. The following motions and amendments may be moved without notice:-

- (a) appointment of a Chairman of the meeting at which the motion is made;
- (b) motions relating to the accuracy of the Minutes;
- (c) that an item of business specified in the Summons has precedence;
- (d) remission to a relevant body;
- (e) appointment of a relevant body ~~Committee~~ or members thereof, occasioned by an item mentioned in the Summons to the meeting;
- (f) adoption of Recommendations of the relevant bodies or Officers and any consequent resolutions;
- (g) that leave be given to withdraw a motion;
- (h) extending the time limit for speeches;
- (i) amendments to motions;
- (j) that the Council proceed to the next business;
- (k) that the question be now put;
- (l) that the debate be now adjourned;
- (m) that the Council do now adjourn;
- (n) authorising the sealing of documents;
- (o) suspending Standing Orders, in accordance with Standing Order 29;
- (p) motion under Section 100A of the Local Government Act, 1972 to exclude the public;
- (q) that a Member named under Standing Order 17 be not further heard or do leave the meeting;
- (r) inviting a Member to remain where he or she has a pecuniary interest;
- (s) giving consent of the Council where the consent of the Council is required by these Standing Orders;
- (t) continuing the sitting under Standing Order 15(1);
- (u) to debate a matter contained in the Report of a relevant body in accordance with Standing Order 10(2).

## **RULES OF DEBATE FOR COUNCIL MEETINGS**

### **Form of Motions and Amendments**

13. (1) A motion or amendment shall not be discussed unless it has been proposed and seconded, and unless notice has already been given in accordance with Standing Order 9 it shall, if required by the Mayor, be put into writing and handed to the Mayor before it is further discussed or put to the Meeting.

### **Seconders's Speech**

- (2) A Member when seconding a motion or amendment may, if he or she then declares his or her intention to do so, reserve his or her speech until a later period of the debate.

### **Members to stand while speaking and form of reference to other Members**

- (3) A Member when speaking shall stand and address the Mayor. If two or more Members rise, the Mayor shall call on one to speak; the other or others shall then sit. While a Member is speaking the other Members shall remain seated, unless rising to a point of order or in personal explanation. Members should be referred to by their titles of "Mayor", "Deputy Mayor", "Chairman" or "Councillor" as appropriate.

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

- (4) A Member shall direct his or her speech to the question under discussion or to a personal explanation or to a point of order. No speech shall exceed five minutes except by consent of the Council.

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

- (5) A Member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:-
- (a) to speak once on an amendment moved by another Member;
  - (b) if the motion has been amended since he or she last spoke, to move a further amendment;
  - (c) if his or her first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which he or she spoke was carried;
  - (d) in exercise of a right of reply given by paragraph (11) or (13) of this Standing Order;
  - (e) on a point of order;



- (f) by way of personal explanation.

### **Form of Amendments to Motions**

- (6) (a) An amendment shall be relevant to the motion and shall either:-
  - (i) refer a subject of debate to a relevant body for consideration or re-consideration;
  - (ii) leave out words;
  - (iii) leave out words and insert or add others; or
  - (iv) insert or add words;but such omission, insertion or addition of words shall not have the effect of negating the motion before the Council.
- (b) Subject to Standing Order 13(6)(a), any amendment to a recommendation on a Notice of Motion shall incorporate a specific reference to the Notice of Motion submitted for consideration.

### **Amendments to be disposed of singly**

- (7) Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of PROVIDED that the Mayor may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.

### **Subsequent Amendments**

- (8) If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

### **Alteration of Motion**

- (9) With the consent of the Council, a Member may:
  - (a) alter a motion of which he or she has given notice; or
  - (b) with the further consent of his seconder, alter a motion which he or she has moved;

if (in either case) the alteration is one which could be made as an amendment thereto.

### **Withdrawal of Motions and Amendments**

- (10) A motion or amendment may be withdrawn by the mover with the consent of his or her seconder and of the Council, which shall be signified without discussion, and no Member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

### **Right of Reply**

- (11) The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment, and shall not otherwise speak on the amendment. The mover of the amendment shall have no right of reply to the debate on his or her amendment.

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

- (12) When a motion is under debate no other motion shall be moved except the following:
- (a) to amend the motion;
  - (b) to adjourn the meeting;
  - (c) to adjourn the debate;
  - (d) to proceed to the next business;
  - (e) that the question be now put;
  - (f) that a Member be not further heard;
  - (g) by the Mayor under Standing Order 17(2) that a Member do leave the meeting;
  - (h) a motion under Section 100A of the Local Government Act, 1972 to exclude the public.

### **Motions for adjournment, closure etc.**

- (13) A Member may move without comment at the conclusion of a speech of another Member, "That the Council proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the Council do now adjourn", on the seconding of which the Mayor shall proceed as follows:

- (a) on a motion to proceed to the next business: unless in his or her opinion the matter before the meeting has been insufficiently discussed, he or she shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to next business;
- (b) on a motion that the question be now put: unless in his or her opinion the matter before the meeting has been insufficiently discussed, he or she shall first put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion his or her right of reply under paragraph (11) of this Standing Order before putting his or her motion to the vote; and
- (c) on a motion to adjourn the debate or the meeting: if in his or her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion he or she shall put the adjournment motion to the vote without giving the mover of the original motion his or her right of reply on that occasion.

#### **Points of order or personal explanations**

- (14) A Member may rise on a point of order or in personal explanation, and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a Standing Order or statutory provision and the Member shall specify the Standing Order or statutory provision and the way which he or she considers it has been broken. A personal explanation shall be confined to some material part of a former speech by him or her which may appear to have been misunderstood in the present debate.

#### **Ruling of Mayor to be final**

- (15) The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

#### **Members not to impute unworthy motives**

- (16) No Member shall impute to another Member dishonest or unworthy motives, or use offensive or unbecoming words, or be guilty of tedious repetition.

#### **Protest not to be entered on Minutes**

- (17) No protest or expression of dissent, other than as a record of votes, shall be entered upon the Minutes of the Council.

#### **Respect for Chair**

- (18) Whenever the Mayor rises during a debate a Member then standing shall resume his or her seat and the Council shall be silent.

### **QUORUM**

14. (1) Subject to the provisions of Paragraph 45 of Schedule 12 of the Local Government Act, 1972, no business shall be transacted at a meeting of the Council unless at least one-third of the whole number of Members of the Council are present.
- (2) If during any meeting of the Council the Mayor, after counting the number of Members present, declares that there is not a quorum present the meeting shall stand adjourned.

### **CLOSURE AND ADJOURNMENT OF MEETINGS**

15. (1) No opposed business (i.e. business which any Member wishes to debate) shall be taken at an Ordinary Meeting of the Council after eleven o'clock in the evening, except the business then under consideration and as hereinafter provided. At the conclusion of the business then under consideration, the Mayor shall call over the business remaining to be transacted and any opposed business, including the remainder of a Report of the relevant body if then under discussion, shall stand adjourned unless the Council resolve, on a motion which shall be put without debate, to continue the sitting either for a particular item or items on the agenda or for all the remaining business.
- (2) When a meeting is adjourned pursuant to any provision contained in these Standing Orders (except in accordance with Standing Orders 17 (2) or (3)) then the consideration of all business not transacted shall be adjourned to a day and time to be fixed by the Mayor or, if he or she does not fix a day and time, to the next Ordinary Meeting of the Council. Notice of an adjourned meeting shall be given to each Member by the Head of Democracy, Strategy and Partnerships ~~the Services~~ and such notice shall specify the business remaining to be transacted, but it shall not be necessary to send with such notice a further copy of any minutes and/or reports already circulated.

### **MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

16. If any question arises at a meeting of the Council, or of a relevant body, as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council or relevant body, as the case may be, has decided whether or not the power of exclusion of the public under Section 100A of the Local Government Act, 1972 shall be exercised.

## **DISORDERLY CONDUCT**

### **Naming a Member**

17. (1) If at a meeting any Member of the Council, in the opinion of the Mayor notified to the Council, misconduct himself or herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, the Mayor or any other Member may move "That the Member named be not further heard", and the motion if seconded shall be put and determined without discussion.

### **Removal of disorderly Member**

- (2) If the Member named continues his or her misconduct after a motion under Standing Order 17 (1) has been carried the Mayor shall:

EITHER move "That the Member named do leave the Meeting" (in which case the motion shall be put and determined without seconding or discussion);

OR adjourn the meeting of the Council for such a period as the Mayor shall consider expedient.

### **Adjournment in case of disorder**

- (3) In the event of general disturbance, which in the opinion of the Mayor renders the due and orderly dispatch of business impossible, the Mayor in addition to any other power vested in him or her may, without the question being put, adjourn the meeting of the Council for such period as considered expedient.

## **DISTURBANCE BY MEMBERS OF THE PUBLIC**

18. If a member of the public interrupts the proceedings at any meeting the Mayor shall warn him or her. If he or she continues the interruption the Mayor shall order his or her removal from the Council Chamber. In case of general disturbance in any part of the Chamber open to the public the Mayor shall order that part to be cleared.

## **RESCISSION OF PRECEDING RESOLUTION**

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

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

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

- (2) A motion or amendment in similar terms to one that has been rejected at a meeting of the Council in the previous six months cannot be moved unless the notice of motion or amendment is signed by at least six Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### **Recommendation of Relevant Body**

- (3) Standing Orders 19 (1) and (2) shall not apply to motions moved in pursuance of a recommendation of a relevant body.

## **CONFIDENTIALITY OF CERTAIN BUSINESS**

20. Where a relevant body shall have resolved to exclude the public from a meeting pursuant to Section 100A(2) or (4) of the Local Government Act, 1972, a Member of the Council who attends the meeting shall not, without permission of the relevant body, disclose any matter dealt with or discussed in the absence of the public until the matter has been reported to the Council and is not subject to any stipulation that the matter shall continue to be regarded as exempt or confidential; or until the matter has been communicated to the media Press by or with the authority of the relevant body.

## **PETITIONS**

21. Where a petition is submitted to the Council in accordance with the Council's Petitions Scheme, and has at least 1000 eligible signatures, the subject matter of the petition shall be reported to the next Ordinary Meeting of the Council, allowing at least ten working days' notice. The petition organiser shall be given the opportunity to present their petition to the Council and a maximum of ten minutes shall be permitted for this. Members of the Council shall not be permitted to ask questions of the petition organiser. The Council will then consider its response to the petition.

## **DEPUTATIONS AND MEMORIALS**

### **Deputations to the Council**

22. (1) A deputation may be received by the Council, according to the wishes expressed by the deputation; but no such deputation shall be received unless five clear days' notice of the intended deputation and of its objects shall have been received by the Head of Democracy, Strategy and Partnerships Services; and then only by leave of the Council.

## Reception of Deputations

- (2) Two persons may address the Council, but the first speaker's address shall not exceed ten minutes and the second speaker's address shall not exceed five minutes. The duration of any address shall include the time taken to read a memorial which may be presented by the deputation. Following the address, Members of the Council shall not be permitted to ask questions of the deputation, except at the discretion of the Chairman.

The Scheme for Public Speaking at meetings of relevant bodies is contained in Part 4 of the Council's Constitution.

## Memorials

- (3) A copy of a memorial which a deputation wishes to present to the Council or to a relevant body, shall be delivered to the Head of Democracy, Strategy and Partnerships Services at least five clear days prior to the meeting at which the deputation desires to be received. The purpose of any such memorial shall be circulated by the Head of Democracy, Strategy and Partnerships Services to the Members of the Council or the relevant body concerned, unless the Mayor or, as the case may be, Chairman directs otherwise.

## Urgent Memorials

- (4) A memorial on any subject which the Mayor may deem to be urgent shall be brought before the next meeting of the Council or a relevant body, whichever may first be sitting; or he or she may, if he or she deems it necessary, direct the Head of Democracy, Strategy and Partnerships Services to Summon a Special Meeting, either of the Council or of a relevant body to deal with the matter.

## INTERPRETATION OF STANDING ORDERS

23. The ruling of the Mayor or, as appropriate, the Chairman of a relevant body as to the construction or application of any of these Standing Orders, or as to any proceedings of the Council or a relevant body, shall not be challenged.

## SEALING OF DOCUMENTS

### Custody of Seal

24. (1) The Common Seal of the Council shall be kept in a safe place in the custody of the ~~Solicitor to the Council~~ Corporate Manager - Legal Services.

### **Authorised use of Seal**

- (2) The Common Seal of the Council shall be affixed to any document authorised by a resolution of the Council, the Cabinet or a Committee to which the Council have delegated their powers in this behalf or through powers and duties delegated in the Council's Constitution.

### **Attestation of Seal**

- (3) The Seal shall be attested by either the Chief Executive, Executive Director or the Corporate Manager – Legal Services Solicitor to the Council and an entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by a person who has attested the Seal.

### **AUTHENTICATION OF DOCUMENTS FOR LEGAL PROCEEDINGS**

25. Where any document will be a necessary step in legal proceedings on behalf of the Council it shall be signed by the Corporate Manager – Legal Services Solicitor to the Council or the Head of Democracy, Strategy and Partnerships ~~tie Services~~ where appropriate unless any enactment otherwise requires or authorises, or the Council give the necessary authority to some other person for the purpose of such proceedings.

### **STANDING ORDERS TO APPLY TO RELEVANT BODIES**

26. The Standing Order of the Council headed "Rules of Debate" (except those parts which relate to standing and to speaking more than once) shall, with any necessary modification, apply to meetings of relevant bodies.

### **MEETINGS OF RELEVANT BODIES**

#### **Convening of Meetings**

27. (1) A relevant body shall hold meetings at such times as may be required and may adjourn such meetings as may be thought proper. Special meetings of a relevant body shall be summoned by the Head of Democracy, Strategy and Partnerships ~~tie Services~~ at the request of the Chairman or any three Members of the relevant body.

#### **Discussion of additional items**

- (2) No additional item of business not already included on the agenda for a meeting of a relevant body shall be raised unless the Chairman is satisfied that the matter is one of urgency. Urgent



matters which Members propose to raise shall be notified to the Chairman or to the Head of Democracy, Strategy and Partnerships ~~tic Services~~ not later than noon on the day of the meeting (unless relating to an emergency arising after that time).

### **Minutes**

- (3) Minutes of the proceedings of a relevant body shall be recorded in a Minute Book kept for that purpose and shall be signed by the Chairman at the same or following meeting.

### **Quorum**

- (4) Except where authorised by Statute or ordered by the Council, business shall not be transacted at a meeting of a relevant body unless at least one half of the whole number of voting Members are present.

~~(5) In the case of the Cabinet, the Quorum shall be five voting Members.~~

### **Voting**

- (6) Voting at a meeting of a relevant body shall be by a show of hands PROVIDED that immediately after the vote is taken any Member may require that his or her vote for the question or against the question or whether he or she abstained from voting shall be recorded in the Minutes.

### **Mover of Motion may attend meeting**

- (7) A Member of the Council who has moved a motion which has been referred to a relevant body shall have notice of the meeting at which it is proposed to consider the motion. He or she shall have the right to attend the meeting and if he or she attends shall have an opportunity to explain the motion.

### **Attendance of Members**

- (8) No Member of the Council shall attend a meeting of a relevant body, except as a member of the public, unless:-
- (a) he or she is a Member of the relevant body; or
  - (b) he or she is entitled to be present at such meeting by virtue of any provisions contained in these Standing Orders; or
  - (c) he or she is invited by the relevant body to be present at such meeting.

but that any Member of the Council shall have the right to ask the relevant body to address the meeting on an item of business included on the agenda.

- (9) Members of the Council attending, as members of the public, meetings of the Cabinet, Committees or Policy and Project Advisory Board of which they are not Members, shall be entitled to remain, during the consideration of business where the press and public are excluded.
- (10) When the Cabinet is holding informal discussions on future policy issues, other Members of the Council shall not be entitled to be present unless invited.

### **Public Participation**

- (11) Members of the public may address or ask questions of relevant bodies in accordance with the Public Speaking Procedure Rules in Part 4 of this Constitution.

### **SUB-COMMITTEES APPOINTED BY COMMITTEES**

#### **Consent of Council required Arrangements**

- 28. (1) Any Sub-Committees established by a Committee shall be appointed in accordance with the political balance arrangements agreed by the Council and the Committee shall give effect to the appointments proposed by the appropriate political groups.

### **Chairman to be Ex Officio Member**

- (2) The Chairman of a Committee shall be an ex officio Member of every Sub-Committee appointed by that Committee, unless he or she signifies to the Committee that he or she does not wish to serve PROVIDED that he or she may not vote at a meeting of a Sub-Committee of which he or she is not a voting Member.

### **Co-opted Members**

- (3) A Sub-Committee may appoint such non-voting Members and advisers as it considers fit.

### **VARIATION AND REVOCATION OF STANDING ORDERS**

#### **Motions to amend Standing Orders**

- 29. (1) Any motion to add to, vary or revoke these Standing Orders shall, when proposed and seconded, stand adjourned without discussion to the next ~~Ordinary~~ Meeting of the Council.

### **SUSPENSION OF STANDING ORDERS**

30. (1) Subject to Paragraph (2) of this Standing Order, any of the preceding Standing Orders may be suspended so far as regards any business at the meeting where its suspension is moved.
- (2) A motion to suspend Standing Orders shall not be moved without notice (i.e. under Standing Order 12) unless there shall be present at least one-half of the whole number of the Members of the Council.

### **STANDING ORDERS TO BE GIVEN TO MEMBERS**

31. A copy of these Standing Orders and of such statutory provisions as regulate the proceedings and business of the Council, shall be made available to each Member of the Council by the Head of Democracy, Strategy and Partnerships ~~the Services~~ upon delivery to him of the Member's Declaration of Acceptance of Office on the Member being first elected to the Council.

## APPENDIX 1

### **SCHEME FOR THE APPOINTMENT OF STANDING DEPUTIES ~~TO THE DEVELOPMENT MANAGEMENT COMMITTEE~~**

#### **1. Introduction**

~~The Scheme for Standing Deputies to the Development Management Committee allows for the attendance at the Development Management Committee of a standing deputy where a regularly appointed Member cannot be present~~

The Scheme for Standing Deputies applies to the Development Management Committee, Licensing, Audit and General Purposes Committee, Overview and Scrutiny Committee and the Policy and Project Advisory Board. It allows for the attendance of a standing deputy where a regularly appointed Member cannot be present

#### **2. Scheme**

The arrangements for the Scheme for Standing Deputies ~~to the Development Management Committee~~ are as follows:

- (1) Each political group, which is allocated seats on the Development Management Committee, Licensing, Audit and General Purposes Committee, Overview and Scrutiny Committee and Policy and Project Advisory Board may nominate one standing deputy to attend the Committee on occasions when an appointed Member cannot be present. The appointment of standing deputies will usually take place at the Annual Meeting of the Council when the committee membership is decided.
- (2) Members appointed as standing deputies are in the same position in terms of responsibilities and duties as any other member of the committee, for example, in relation to the declaration of any interests they might have, and will be able to exercise full voting rights.
- (3) Standing deputies may attend meetings in that capacity only where the ordinary councillor will be absent for the whole of the meeting and must declare at the beginning of the meeting which councillor they are substituting for.

**APPENDIX 1**

- (4) If a standing deputy is present at a meeting at which the Member whom he or she is replacing turns up during the course of proceedings, the original member should be required to withdraw from participation at the meeting.
- (5) A standing deputy shall be advised of a Member's absence either directly by the Member who is unable to attend, or by the Committee Administrator on notification of an advance apology by 5pm on the day of the meeting at the latest.
- (6) The names of those councillors appointed as standing deputies shall be published on ~~the development management committee~~ agendas alongside the ordinary committee membership.

## **SCHEME FOR QUESTIONS TO THE CABINET AT FULL COUNCIL**

### **OVERVIEW**

The purpose of the Scheme for Cabinet Questions at full Council is to enable any Member of the Council to ask a Member of the Cabinet a question on any item dealt with under the executive arrangements. Questions can relate to any function not dealt with elsewhere in the decision-making structure (e.g. committees) or which affects the Borough.

A period of 15 minutes will be allocated for questions to Cabinet Members

### **PROCESS**

Questions must be tabled in accordance with the process set out below.

Members asking questions will be able to ask a maximum of one supplementary question relating to the same subject.

- (1) Members may submit questions up until 4.00 p.m. on the day before the Council meeting to the Head of Democracy, Strategy and Partnerships in the following form:
  - a full question identifying the Cabinet Member who will be asked
  - questions should be submitted in writing (including e-mail)
- (2) Members may submit more than one question but a second or subsequent question will be permitted once those Members submitting questions have had a chance to ask their first question.
- (3) The Head of Democracy, Strategy and Partnerships will prepare a list of tabled questions/topic areas in the order in which they have been received.
- (4) The appropriate Cabinet Member(s) will be advised of the subject area/question that will be asked at the meeting.
- (5) In consultation with the Mayor, the tabled questions will be put into their final order (taking account of any Member who has submitted more than one question)
- (6) At the meeting, the Mayor will conduct the question session in the usual way, allowing a supplementary question where appropriate.
- (7) The 15 minutes session will only be extended if there are tabled questions still to be dealt with and at the discretion of the Mayor. There will be no supplementary questions in such circumstances.
- (8) The Mayor's ruling in respect of the conduct of questions to the Cabinet will be final.

## **APPENDIX 3**

### **SCHEME FOR THE ANNUAL REPORT OF THE OVERVIEW AND SCRUTINY COMMITTEE TO COUNCIL**

#### **OVERVIEW**

The main features of the procedure are:

- The Chairman of the Overview and Scrutiny Committee, or nominated spokesperson, shall introduce the Annual Report of the Overview and Scrutiny Committee to the Council (a maximum of 5 minutes for the presentation shall be permitted).
- A period of 15 minutes will be allocated for questions on the Report. Questions must be tabled in accordance with the process set out below.
- Members asking questions will be able to ask a maximum of one supplementary question relating to the same subject.

#### **PROCESS FOR QUESTION TIME**

Any Member of the Council may ask a question on an item included in the Annual Report, subject to written notice.

The process for question time shall be as follows:

- (1) Members will be able to submit questions up until 4.00 p.m. on the day before the Council meeting to the Head of Democracy, Strategy and Partnerships in the following form:
  - a full question which identifies the item to which the question relates
  - questions should be submitted in writing (including e-mail)
- (2) Members may submit more than one question but a second or subsequent question will only be permitted once other Members submitting questions have had a chance to ask their first question.
- (3) The Chairman or nominated spokesperson will be advised in advance of the question that will be asked at the meeting.
- (4) In consultation with the Mayor, the tabled questions will be put into their final order (taking account of any Member who has submitted more than one question).
- (5) At the meeting the Mayor will conduct the question session in the usual way, allowing a supplementary question where appropriate.
- (6) The Mayor's ruling in respect of the conduct of questions will be final.

## **2. ACCESS TO INFORMATION PROCEDURE RULES**

### **1. INTRODUCTION AND SCOPE**

- 1.1 The Council's Access to Information Procedure Rules can be regarded as a written summary of the public rights in relation to;
- Notice of council meetings;
  - Attendance at council meetings;
  - Inspection of documents;
  - Information about decisions planned to be made by the Council;
  - Records of decisions that have been made by the Council; and
  - Access to recorded information held by the Council under the Freedom of Information Act.
- 1.2 These rules also set out the additional rights of access to documents by elected Members of the Council.
- 1.3 Part 1 of this document applies to all meetings of the full Council, the Cabinet, Committees and Policy and Project Advisory Board, which are open to the public.
- 1.4 Part 2 of this document sets out the additional provisions that relate to Cabinet decision making, including key decisions.
- 1.5 Part 3 sets out the types of decisions recorded by officers.
- 1.6 Part 4 sets out additional provisions that relate to Members' access to documents and Part 5 outlines the general rights of access to information under the Freedom of Information Act 2000.
- 1.7 These provisions do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

## **PART 1 – SUMMARY OF PUBLIC RIGHTS RELATED TO COUNCIL MEETINGS**

### **2. Access to documents**

- 2.1 Documents related to council meetings will normally be published on the Council's website and are available for inspection at the Council Offices, Farnborough Road, Farnborough (Telephone (01252) 398398) between the hours of 8.30 am and 5.00 pm (4.30 pm Fridays) on weekdays (not Saturdays).
- 2.2 By Act of Parliament, or Statutory Instrument, or pursuant to the Standing Orders of either House of Parliament, documents may be required to be deposited with an appointed officer. A person interested in any such document may inspect it. Requests should be made to the Head of Democracy, Strategy and Partnerships.



### 3. Rights to attend, report and film meetings

- 3.1 Members of the public may attend all meetings subject to the exceptions set out in paragraph 9 below.
- 3.2 The Council will provide reasonable facilities for any member of the public to report on the proceedings of all meetings that are open to the public. Members of the public are permitted to film, audio record, take photographs, make a webcast of the meeting (broadcast the meeting on the internet) and use social media provided that those activities do not disrupt the conduct of the meeting.
- 3.3 At meetings attended by the public, the Chairman may remind that filming and recording is permitted, however filming and photography should not be directed towards or be focussed on the members of the public attending the meeting.
- 3.4 The person presiding at a meeting may order that filming, photography or recording must stop if it is being disruptive to the conduct of the meeting or is being directed towards members of the public.

### 4. Notice of meetings

- 4.1 The Council will give at least five working days' notice (excluding weekends and bank holidays) of any principal meetings of the Council by posting details on the Council's website and at the Council Offices, Farnborough Road, Farnborough (the designated office). ~~In addition, notice of meetings will be published on the Council's website.~~

### 5. Access to agenda and reports before the meeting

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Head of Democracy, Strategy and Partnerships shall make each such report available to the public as soon as the report is completed and sent to Members of the Council. Copies of agendas and reports will also be available to view on the Council's website.

### 6. Supply of copies

- 6.1 The Council will supply copies of:
  - any agenda and reports which are open to public inspection;
  - any further statements or particulars necessary to indicate the nature of the items in the agenda; and

- if the Head of Democracy, Strategy and Partnerships thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

- 6.2 No fee is charged for inspecting any of the documents referred to in this statement. A fee may be charged by the Council for any copies or extracts from a document at its standard rate, which is reviewed periodically.
- 6.3 Minutes will be available when finalised and printed, even if they have not yet been formally approved at a subsequent meeting.
- 6.4 A reasonable number of copies of agenda and reports must be made available for the public present at a meeting. Agendas and reports must also be available on request to the media.

## **7. Access to minutes and agendas after the meeting**

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

- the minutes of the meeting (or records of decisions taken, together with reasons, for all meetings of the Cabinet) excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- 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;
- the agenda for the meeting; and
- reports relating to items when the meeting was open to the public.

## **8. Background papers listed in reports**

- 8.1 The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- 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 9) and in respect of executive reports containing the advice of a political adviser.

## 8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## 9. Exclusion of public access to meetings

### Confidential information – requirement to exclude public

- 9.1 The public must be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed. Confidential information means information given to the Council by a Government Department on terms that forbid its public disclosure or information which cannot be disclosed publicly by Court Order.

### Exempt information – discretion to exclude public

- 9.2 The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed.

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

Category	Conditions/Interpretation
1. Information relating to any individual	This means any individual person and relates back to the Data Protection Act 1998.
2. Information which is likely to reveal the identity of an individual	This also relates to the Data Protection Act.
3. Information relating to the financial or business affairs of any particular person (including the Authority holding that information)	<p>The 'financial or business affairs' include past, present and contemplated activities.</p> <p>Information within paragraph 3 is not exempt if it is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Act 1965 – 1978, the Building Societies Act 1986 or the Charities Act 1993 as such information will be in the public domain in any event.</p>

<p><b>4.</b> Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>‘Employee’ means a person employed under a contract of service with the Council and would therefore include a consultant or a temporary member of staff employed through an agency or a company.</p> <p>‘Labour relations matters’ means any matters which may be the subject of a trade dispute within the meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute.</p>
<p><b>5.</b> Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	
<p><b>6.</b> Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p>Information is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made</p>
<p><b>7.</b> Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	

- 9.3 Information which falls within any of the paragraphs 1 to 7 above is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- 9.4 The regulations also specifically provide that information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

**Exclusion of access by the public to reports**

- 9.5 If, in the opinion of the Head of Democracy, Strategy and Partnerships, certain reports relate to items during which, in accordance with Rule 9, the meeting is likely to be closed to members of the public, the Council may exclude access by the public to the relevant documents. Such reports will be marked “not for publication” together with the category of information likely to be disclosed.

**PART 2 – ADDITIONAL PROVISIONS RELATED TO EXECUTIVE (CABINET) DECISION MAKING**

The following provisions are in addition to the rules set out in Part 1.

**10. Cabinet work programme**

- 10.1 The Head of Democracy, Strategy and Partnerships shall publish a Work Programme for the Cabinet, which will be available at the Council Offices and published on the Council's website. The Work Programme will include future executive matters to be decided by the Cabinet including notice of items to be considered in private and notice of key decisions (see below).

**11. Notice of Items to be considered in private**

- 11.1 The Council will give 28 days notice of any Cabinet meeting, or part of a Cabinet Meeting, at which a report(s) will be considered in private. The notice will be published as part of the Cabinet's work programme, which will be published on the Council's website and will be available at the Council Offices. The notice will set out the title or topic of the Report(s) to be considered in private and the reasons for the public to be excluded.
- 11.2 Further notice of any matters to be considered in private will be given at least five clear days before the meeting, as part of the Cabinet agenda. The notice will include the reasons for the public to be excluded, and details of any representations received about why the meeting should be open to the public, and a statement of response to any such representations.

**12. Notice of Key Decisions (see Constitution Part 2 para 3.12)**

- 12.1 The Council will give 28 days' notice of any Key Decisions to be taken by the Cabinet, a Cabinet sub-committee, Member of the Cabinet or Officer under delegation arrangements. The Notice will be published as part of the Cabinet's work programme, which will be published on the Council's website and will be available at the Council Offices.
- 12.2 The Notice will include details of the decision to be made, name or title of the decision making body or person, date of decision or period which it will be

made, documents submitted to the decision making for consideration, address of where copies of documents can be obtained and information that other documents may be submitted to the decision maker and the procedure for requesting copies of them.

**13. Notice requirements in respect of decisions by Individual Members of the Cabinet**

13.1 Where an individual Member of the Cabinet receives a report which he or she intends to take into account in making any decision, then he or she will not make the decision until at least five clear days after receipt of that report.

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

**14. Notice of Cabinet meetings to be published on the Council's website**

Notice of Cabinet meetings, and every report for Cabinet decision, will be published on the Council's website at least five clear days before the meeting, or where the meeting is convened at shorter notice, at the time that the meeting is convened. Background Papers listed at the end of Cabinet reports shall be published on the Council's website five clear working days before the meeting.

**15. Records of Cabinet decisions made at meetings**

The Head of Democracy, Strategy and Partnerships shall produce a written record of all executive decisions, including key decisions, made at a Cabinet meeting or any Cabinet Sub-Committee. The record shall include a statement of the reasons for each decision, details of any alternative options considered and rejected and any interests declared or dispensations granted. The Head of Democracy, Strategy and Partnerships shall determine the form of the record, but this can be the minutes of the meeting.

**16. Publication of records of decisions made at Cabinet meetings**

All decision notices related to Cabinet Meetings shall be available for public inspection at the Council's offices and published on the Council's website as soon as reasonably practicable, and normally within three days of a decision being made.

**17. Retention of records of executive decisions including Key Decisions**

A copy of any report or part report relevant to a key decision will be open to inspection by the public for six years from the date the decision was made. Documents containing confidential or exempt information or the advice of a political adviser need not be disclosed. If a document is not disclosed because it contains exempt information, the Head of Democracy, Strategy and Partnerships will prepare a statement. The statement will describe the

category of exempt information and will be open to inspection for six years from the date of the meeting.

**18. General exception and special urgency**

In the case that a key decision, or matter to be considered in private, is urgent and cannot reasonably be deferred, provisions are in place to enable the decision to be taken, subject to certain conditions. A schedule of the permitted arrangements for general exception and special urgency is set out in the Appendix to these rules.

**PART 3 – RECORDS OF DECISIONS MADE BY AN INDIVIDUAL MEMBER OR OFFICER**

**19. Records of Executive Decisions made by individual Cabinet Members**

A written record shall be produced of any executive decisions, including key decisions, made by individual Cabinet Members, which will be published on the Council's website. For each decision, the record shall cover the date made, reasons for the decision, details of any alternative options considered and rejected, and any interests declared or dispensations granted.

**20. Records of Decisions made by Officers**

The requirement to publish records of decisions made by officers relates to both executive and non-executive matters.

The Council will publish records of significant decisions made by officers under delegated powers as set out below:

- Key decisions (Part 2, para 3.12)
- One-off decisions delegated to an officer at a Cabinet or Committee meeting
- Decisions delegated to an officer to be taken in consultation with a Cabinet Member or Chairman
- Decisions relating to significant property and asset management matters where the purchase, disposal, refurbishment, maintenance or repair is above £100,000, and for leases with a rental value over £100,000 per year.
- Matters which are the subject of urgent action
- Decisions which grant permissions or licenses (including planning/building control/listed buildings)

However, this shall not include:

- Administrative decisions taken as a result of day-to-day operation of the service
- Decisions where whole or part of the record contains confidential or exempt information

21. Records of decisions made by officers under paragraph 20 above will be published on the Council's website, as soon as reasonably practicable, after the decision is made. For each decision, the record shall include the date of the decision, details of the decision including the reasons and, where appropriate, details of any alternative options considered and rejected and any interests declared or dispensations granted.
22. In line with principles of good governance, Heads of Service shall also keep records of other operational decisions taken by them to provide an appropriate audit trail and clear evidence of decisions taken.

#### **PART 4 – ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS BY MEMBERS**

##### **23. Material relating to executive decisions**

All Members will be entitled to inspect any document relating to business previously decided by the Cabinet, a Cabinet Member or officer under the Scheme of Delegation for Executive Matters, unless it contains exempt information.

However, exempt documents are required to be available if the information falls within paragraphs (3) or (6) of paragraph 9.2 above, except to the extent that the information relates to any terms proposed, or to be proposed, by or to the Council in the course of negotiations for a contract.

##### **24. Material relating to Key Decisions**

All Members will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless Access to Information Rule 22 above applies.

##### **25. Rights to access documents – Overview and Scrutiny Committee**

Subject to Access to Information Rule 25 below, Members of the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet, or any committee of the Cabinet, and:

- (a) contains material relating to any business transacted at a meeting of the Cabinet or its committees; or
- (c) Relates to any decision taken by an individual Member of the Cabinet, or officer in accordance with executive arrangements; or
- (d) contains exempt or confidential information when it is relevant to an action or decision it is ~~they are~~ reviewing or scrutinising, or intends s to scrutinise; when officers are aware of the existence of relevant exempt or confidential documents they will be required to advise the Overview and Scrutiny Committee of their existence.



The Overview and Scrutiny Committee has a right to request information, relevant to the exercise of its functions, from the responsible authorities. The identification of individuals, except where essential, or information that would prejudice the operation(s) of the responsible authorities is not included in this provision.

**26. Limit on rights**

The Overview and Scrutiny Committee will not be entitled to any document that is in draft form.

**27. When the Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not treated as being a key decision, the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. This report must include details of the decision, and the reasons for the opinion that the decision was not a key decision. The power to require a report rests with the Overview and Scrutiny Committee, but is also delegated to the appropriate Lead Officer who shall require such a report on behalf of the Committee when so requested by the chairman or any five Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Committee.

**28. Nature of rights**

These rights of a member are additional to any other right that he or she may have.

**29. Cabinet's report to Council**

Where the Cabinet is required to prepare a report for submission to the Council, it shall be made to the next available meeting. However, if the next meeting of the Council is within fourteen days of receipt of the written notice, or the resolution of the Overview and Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision and, if the Leader of the Council is of the opinion that it was not a key decision, the reasons for that opinion.

**30. Reports on special urgency decisions**

The Leader of the Council will report on executive decisions taken in the circumstances set out in Access to Information Rule 18 (special urgency) through the Cabinet's Reports to Council.

**31. Attendance at meetings which are closed to the public**

All Members of the Cabinet will be served notice of all private meetings of committees of the Cabinet, whether or not they are Members of that committee.

Members other than Cabinet Members will not be entitled to attend private meetings of the Cabinet and its committees, unless invited to do so by the Leader of the Council or the chairman of the appropriate committee.

The Head of Paid Service, the Executive Head of Finance and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Head of Democracy, Strategy and Partnerships has been given reasonable notice that a meeting is to take place and the appropriate notice served.

## **PART 5 – GENERAL RIGHTS OF ACCESS TO INFORMATION – THE FREEDOM OF INFORMATION ACT 2000**

### **32. Rushmoor's Publication Scheme**

The Freedom of Information Act gives a general right of access to all types of recorded information held by the Council. Any person who makes a request to the Council for information must be informed whether the Council holds that information, and subject to exemptions, must be supplied with that information.

The Council's Publication Scheme details most of the Council's published material and can be accessed on the Council's website at [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

The Scheme is a guide to the information routinely published by the Council. It is not a list of the actual publications, since this will change as new material is published but rather it is a description of the classes or types of information published. It does not include information that the Council holds, but which is produced by third parties.

With a few exceptions, all of the Council's publications can be downloaded from the Rushmoor website. They are also available in hard copy from the Council's offices. ~~If you have difficulty in finding what you are looking for~~ The Freedom of Information Governance Officer may be contacted for further information at:

Rushmoor Borough Council  
Council Offices  
Farnborough Road, Farnborough  
Hants GU14 7JU  
Tel 01252 398399

### **33. Requests for Information not Included in the Publication Scheme**

Requests for information under the Freedom of Information Act, which have not already been published in the Scheme, must be made in writing (including email) and sent to the Council's Freedom of Information Officer. The Council may charge for providing the information requested.

34. **Information not to be published under the Scheme**

A great deal of the information that the Council holds is personal and private to individuals (which includes our employees or former employees) and will not be published. The individual concerned, however, may be able to obtain that information from the Council's Data Protection Officer by making a separate application under the Data Protection Act.

Further guidance on information that is exempt from publication is included, by class of information, within the Publication Scheme. Examples include:

- Work in progress (draft reports, for example) need not be disclosed
- Information subject to a data-sharing protocol
- commercially sensitive information which, if released, would not be in the public interest.

35. **Byelaws**

A copy of any byelaws made by the Council are open to inspection by the public, and any person may purchase a copy. Requests relating to the Council's byelaws should be made to the Corporate Manager – Legal Services. ~~Solicitor to the Council~~.

**APPENDIX****ARRANGEMENTS FOR URGENCY AND EXCEPTIONS**

The following table sets out the provisions for dealing with exceptions and urgent matters, where there is a clear need for urgency and where it has not been possible to meet the expected normal timescales for notice and publication of agendas and reports.

	<b>Circumstance</b>	<b>Provisions</b>
1.	As a matter of urgency, a decision is required before the Cabinet or a Committee next meets and the matter in question has not been delegated.	<p><b>For non-key decisions:</b></p> <p>The Chief Executive, or appropriate Executive Director or Head of Service, shall have power to act in consultation with the Leader of the Council and appropriate Cabinet Member or appropriate Chairman.</p> <p>(Prior to the decision, consultation discussion should take place with the Executive Leadership Team and legal services as necessary).</p> <p>Following the decision, a Record of Decision Form to be completed, and published on the Council's website (unless exempt).</p> <p>The decision taken and the reason for the urgency shall be reported to the next meeting of the Cabinet or the appropriate Committee.</p> <p><b>For key decisions:</b></p> <p>The Chief Executive, or appropriate Executive Director or Head of Service, shall have power to act in consultation with the Leader of the Council and appropriate Cabinet Member.</p> <p><b>In addition</b>, the provisions in either paragraph 2 or 3 below must be applied depending on the timescales for the decision.</p> <p>(Prior to the decision, consultation discussion should take place with the Executive Leadership Team)</p>

2.	<p>A <b>key decision</b> must be decided by the Cabinet, a Cabinet Member or Officer within 28 days - but allowing five clear working days' notice.</p>	<ol style="list-style-type: none"> <li>1. The decision may only be made when the Chairman of the Overview and Scrutiny Committee has been <b>informed by notice, in writing</b>, of the matter about which the decision is to be made, and the reasons why 28 days' notice cannot be given.</li> <li>2. Notice of the key decision to be published on the website, and giving reasons why 28 days' notice could not be given.</li> </ol> <p><b>For key decisions made by an Officer or Cabinet Member:</b></p> <ol style="list-style-type: none"> <li>3. Following the decision, a Record of Decision Form to be completed, and published on the website (unless exempt)</li> <li>4. A report to the Cabinet to be prepared seeking confirmation of the action taken.</li> </ol>
3.	<p>A <b>key decision</b> must be decided by the Cabinet, a Cabinet Member or Officer urgently with less than five clear working days' notice</p>	<ol style="list-style-type: none"> <li>1. The decision may only be made with the <b>agreement</b> of the Chairman of the Overview and Scrutiny Committee that the meeting/matter is urgent and cannot reasonably be deferred. If the Committee Chairman is unable to act, the Mayor's agreement must be sought, and if he/she is unable to act, the Deputy Mayor's approval should be sought.</li> <li>2. Following agreement, a notice of the key decision is to be published on the website and giving reasons why the decision is urgent and cannot reasonably be deferred.</li> </ol> <p><b>For key decisions made by an Officer or Cabinet Member</b></p> <ol style="list-style-type: none"> <li>3. Following the decision, a Record of Decision Form to be completed, and published on the website (unless exempt)</li> <li>4. A report to the Cabinet to be prepared seeking confirmation of the action taken.</li> </ol>

4.	A matter must be decided urgently by the Cabinet, <b>in private</b> , within 28 days and cannot reasonably be deferred.	<ol style="list-style-type: none"> <li>1. The meeting can only be held in private with the <b>agreement</b> of the Chairman of the Overview and Scrutiny Committee that the meeting/matter is urgent and cannot reasonably be deferred. If the Committee Chairman is unable to act, the Mayor's agreement must be sought, and if he/she is unable to act, the Deputy Mayor's approval should be sought.</li> <li>2. Following agreement, a notice must be published on the website with the reasons why the meeting is urgent and cannot reasonably be deferred.</li> </ol>
5.	Any Urgent Business to be raised <b>at a Cabinet or Committee Meeting</b> (but excluding key decisions or matters to be decided by the Cabinet in private).	<p>Urgent matters proposed to be raised at a meeting should be notified to the Head of Democracy, Strategy and Partnership no later than noon on the day of the meeting.</p> <p>For an urgent item to be added to the agenda, the Chairman's approval must be sought, and the reason for the urgency must be recorded in the minutes of the meeting.</p>

**NOTES:****(1) Civil Emergencies**

The Chief Executive has powers under section 138 of the Local Government Act 1972 in the event of a civil emergency or disaster and may authorise another officer to exercise these powers on his/her behalf

**(2) Key Decisions**

Key decisions are 'executive decisions', which are likely to:

- result in the Council incurring expenditure or making savings which are significant in as much as they will have a material effect on the level of Council tax or balances or contingencies in relation to the Council's overall budget; or
- be significant in terms of its effects on communities living or working on an area comprising two or more wards within the Borough.

Expenditure or savings of £100,000 is considered to be significant for the purposes of recording key decisions. However, for the acquisition or disposal of property or leases the threshold for key decisions is £250,000.

A decision taker may make a key decision only in accordance with the requirements of the Access to Information Procedure Rules set out in Part 4 of this Constitution.

**(3) Call-in**

Call-in procedures shall not apply where an executive decision taken by the Cabinet, a Cabinet Member or officer is urgent i.e. if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. Provisions for this are set out in Para. 19 of the Overview and Scrutiny Procedure Rules.

**(4) Urgent Decisions outside of the Budget and Policy Framework**

In accordance with the Budget and Policy Framework in Part 4, the Cabinet, Cabinet Members or officers may take a decision which is outside of the budget or policy framework if it is urgent or not practical to convene a quorate meeting of the Council.

The following provisions apply:

- Agreement needed from the Chairman of the Overview and Scrutiny Committee (OSC) that the decision is a matter of urgency
- The record of the decision to state the reason why it was not practical to convene a quorate meeting and confirming the Chairman of the OSC's agreement
- Following the decision, the decision taker to provide a full report to the next available Council meeting explaining why the decision was taken, why it was urgent, and why it was not practical to arrange a meeting of the Council.

### **3. PUBLIC SPEAKING PROCEDURE RULES**

#### **1. INTRODUCTION**

- 1.1 The Council's Public Speaking Procedure Rules enable people to address the people that make local decisions about the way things are done, or to put forward ideas for the future.
- 1.2 With the exception of the Development Management Committee, which has its own Public Participation Scheme (overleaf), this scheme applies to the following meetings, and is intended to be flexible within this framework.
  - Cabinet
  - Licensing, Audit and General Purposes Committee
  - Overview and Scrutiny Committee
  - Policy and Project Advisory Board

#### **2. Who can use the Scheme?**

- 2.1 The Scheme is available to
  - anyone who lives or works within the area of Rushmoor
  - the owner of a business or a property which is located within the Borough
  - a representative of any local group or organisation, which is associated with and operates within the Borough.

#### **3. Requirement to give Advance Notice**

- 3.1 Members of the public wishing to speak at a meeting must give advance notice to the Head of Democracy, Strategy and Partnerships or meeting administrator as appropriate, not later than 5 p.m. two working days before the meeting. Notice can be given by telephone, or in writing by email or letter.
- 3.2 The notice should describe the form of the submission, the appropriate meeting and the questions (if appropriate). In addition, details will need to be given of the individual who will make the presentation.

#### **4. Content**

- 4.1 A representation can be made about a matter on the agenda, or in relation to any matter that affects the Borough.
- 4.2 Some matters will fall outside of the scheme, in particular –
  - Allegations against individual Councillors or officers
  - Representations in relation to any legal action taken by, or against, the Council
  - Representations in relation to an individual's circumstances, whether they be other residents, Councillors or Members of staff.



## **5. During the Meeting**

- 5.1 A speaker will be allowed a maximum of 5 minutes to address the meeting, which may be extended to 10 minutes with the agreement of the Chairman. However, if there are multiple speakers who wish to address the meeting on the same issue, arrangements will be made to facilitate a joint case. The Head of Democracy, Strategy and Partnerships in consultation with the Chairman will have the final say on the numbers of speakers at the meeting.
- 5.2 Members of the Cabinet/Committee/Board will be permitted to ask questions of the presenter.
- 5.2 Where a response is required to a statement or question, a reply shall be given in writing if it cannot be dealt with at the meeting.

## **SCHEME FOR PUBLIC SPEAKING AT DEVELOPMENT MANAGEMENT COMMITTEE**

### **6. Requirement to give Advance Notice**

- 6.1 Those who wish to speak to the Development Management Committee on a planning application, must register by contacting the Head of Democracy, Strategy and Partnerships or the meeting administrator in writing by email or post no earlier than five working days before the Committee meeting (usually from 9am on the Wednesday, a week preceding the meeting) and no later than 5pm on the last working day before the relevant meeting (usually the Tuesday immediately before the meeting).

### **7. Content of Advance Notice**

- 7.1 The meeting administrator must be informed of:
- The application on which it is proposed to speak
  - The full name, address and telephone number of the proposed speaker
  - Whether the speaker is in favour or against the application
  - Whether the speaker represents anyone else
  - Whether the speaker wishes their details to be passed on to any other caller with a similar view.
- 7.2 A member of the public will only be able to speak once this information is properly registered. Speaking to a Planning Officer or telephoning the Council will not be sufficient to register a wish to speak to the Committee. All requests to speak must be made in writing direct to the Meeting Administrator.

### **8. Eligibility to Speak**

- 8.1 The procedure allows for one person only to speak against the recommendation and one only in support. To qualify to speak, the person must have already submitted written comments on the planning application and these must have been received by the Council by the publicised closing date for comments. Requests to speak will be dealt with on a “first come, first served” basis. Therefore, if someone has already asked to speak, and someone else wishes to do likewise, they will not be able to do

so. Provided that the person registered to speak gives their consent, further requests to speak will be passed on, to facilitate a joint case to be made in appropriate circumstances.

- 8.2 A person will only be allowed to speak if the planning application to which they refer is scheduled to be determined at that particular meeting of the Development Management Committee. The opportunity to speak does not apply to any other matters that might be on the Committee agenda.
- 8.3 With the exception of planning applicants or their agents, all requests to speak will only be accepted from local government electors for the Borough of Rushmoor and *bona fide* representatives of groups and organisations working or represented locally and recognised as such by the Council.

## 9. At the Meeting

- 9.1 Speakers will be advised to read the officer's report on the application before deciding to make representations to the Committee, so that they understand what is being proposed. The report is available on the Council's website and at the Council Offices at least five clear working days before the meeting. It is also recommended that the speaker checks with the meeting administrator before the Committee meeting as to whether any late amendments to the application have been made.
- 9.2 Once registered, speakers must make themselves known to one of the meeting administrators at least fifteen minutes before the start of the meeting so that their attendance can be recorded. Meetings usually start at 7pm. Speakers arriving late after the meeting has started will not be allowed to speak.
- 9.3 Each person speaking to the Committee will be allowed a maximum period of three minutes in which to speak. The speaker may not ask questions nor will they be questioned, unless the Chairman considers that there are matters which are not raised in the officer's report. If the speaker represents others, apart from their household, they will need to bring with them documentary evidence that these people have agreed to representations being made on their behalf. This may take the form of a signed letter or other similar authorisation. This must be given to the meeting administrator before the meeting starts.
- 9.4 The three-minute time limit will not be exceeded, and all speakers must stop when requested to do so by the Chairman.
- 9.5 No material, including plans, photographs, letters or statements can be handed to the Committee Members at, or just before, the Committee meeting. All requests to hand out or circulate material will be **refused** in accordance with the Council's adopted policy on "Late Representations".
- 9.6 Public speaking will take place as each individual planning application is presented for determination. The order of speaking at the Committee is as follows:
- The Planning Officer will present the application and add any further relevant information.
  - The Chairman will call the registered person expressing objections to the planning application to come forward to speak for a maximum of three minutes. The person will then return to the public gallery.

- The Chairman will then call the registered person expressing support for the planning application to come forward to speak for a maximum of three minutes. The person will return to the public gallery.
- The Planning Officer will comment on any factual matters raised by either speaker.
- Members of the Development Management Committee will then debate the application and ask questions of officers in the usual way and reach a decision without further direct public involvement.

9.7 If the application is deferred without discussion then no public speaking will take place. If a decision on the application upon which speakers have made representations is deferred after discussion and debate, the speakers will not have an automatic right to speak at the next Development Management Committee meeting at which it is considered. Instead the speaker must register again.

9.8 In the event of any dispute over these procedures, the Chairman's decision is final.

## 4. CABINET PROCEDURE RULES

### 1. HOW DOES THE CABINET OPERATE?

#### 1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the Council. The arrangements provide for executive functions to be discharged by:

- ~~the Cabinet as a whole (this arrangement applies for the majority of decisions);~~
- a cabinet committee;
- an individual Member of the Cabinet;
- an officer;
- joint arrangements; or
- another local authority.

#### 1.2 Sub-delegation of executive functions

- (a) Where the Cabinet or a committee of the Cabinet is responsible for an executive function, then it may delegate the function to an officer or discharge it through joint arrangements.
- (b) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the body which delegated them.

#### ~~1.3 The Council's Scheme of Delegation and executive functions - Duplication~~

- ~~(a) Subject to paragraph (b) below, the Council's Scheme of Delegation will be subject to adoption by the Council. Changes to the method in which functions are discharged shall be approved by the Council. The Scheme of Delegation will meet the requirements of Article 7 and is set out in detail in Part 3 of this Constitution.~~

- ~~(b)(a) The Cabinet will be required to review the Scheme of Delegation from time to time in respect of executive functions and make changes as appropriate. Changes to the Scheme of Delegation shall be recorded in the minutes of the Cabinet and the Head of Democratic Services shall be required, at least on an annual basis, to prepare and publish a revised copy of the Scheme.~~

#### 1.4 Conflicts of Interest

- (a) Where the Leader of the Council has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of a Cabinet function has been delegated to a committee of the Cabinet, a Cabinet 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.

#### 1.5 Cabinet meetings – when and where?

The Cabinet will determine its schedule of meetings but shall normally meet at least once each calendar month. The Cabinet shall meet at the Council's main offices or another location to be determined by the Head of Democracy, Strategy and Partnerships, in consultation with the Leader of the Council.

#### 1.6 Public or private meetings of the Cabinet?

All meetings of the Cabinet shall be open to the public except where the item under discussion is considered exempt under Schedule 12A and Section 1001 of the Local Government Act 1972 or confidential under Section 100A of the Local Government Act 1972.

#### 1.7 Quorum

The quorum for a meeting of the Cabinet, shall be fivefour (at least 50% of the Cabinet Membership). For a meeting of any Cabinet committee the quorum shall not be less than one half of the total number of Members of the Committee.

#### 1.8 How are decisions to be taken by the Cabinet?

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

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

### **2.1 Who presides?**

The Leader of the Council will preside at any meeting of the Cabinet or any Cabinet committee at which he or she is present. In the absence of the Leader, the Deputy Leader shall take the chair. In the absence of both, another Member shall be appointed to preside at the meeting.

### **2.2 Who may attend?**

Cabinet meetings are open to members of the public to attend, subject to the provisions set out in Part 4 of this Constitution (Access to Information Rules) and paragraph 1.6 above.

### **2.3 What business?**

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

- (i) consideration of the minutes of the last meeting;
- (ii) 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;
- (iii) consideration of reports from the Policy and Project Advisory Board or the Overview and Scrutiny Committee;
- (iv) matters raised by Members of the Council; and
- (v) other matters set out in the agenda for the meeting, indicating 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.

### **2.4 Consultation**

All reports to the Cabinet from any Member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders, any appropriate Committee, Board or working group, as well as the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Including Items on the Cabinet Agenda

- (a) Any Member of the Cabinet may require the Head of Democracy, Strategy and Partnerships 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 Democracy, Strategy and Partnerships will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Policy and Project Advisory Board, Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.
- (c) Any Member of the Council shall have the right to:
  - (i) ask for an item to be included on the agenda of the next available meeting of the Cabinet. The notice of the meeting will give the name of the Member who asked for the item to be considered. The Member in question shall be invited to attend the meeting. Any such items should be a matter in relation to the Council's powers and duties or which affects the Borough directly.
  - (ii) subject to approval by the Cabinet, address a meeting in connection with any item of business being considered; and
  - (iii) subject to approval by the Cabinet, take part in the consideration of an item of business where a local interest can be demonstrated.
- (d) At the discretion of the Leader of the Council (or in his absence the Deputy Leader) or by agreement by the Cabinet, a Member of the Council can be invited to take part in discussions at a meeting of the Cabinet on any particular item under consideration.

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## 5. OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY

The Council will appoint one Overview and Scrutiny Committee ~~as described in Article 6~~ to undertake the overview and scrutiny function. The Committee may appoint sub-committees, which will also be subject to these Procedure Rules. Informal Task and Finish Groups may also be appointed for a fixed period on the expiry of which they shall cease to exist.

(a) The Council will have one Overview and Scrutiny Committee, with a maximum of eleven Members of the Council, which will perform all overview and scrutiny functions on behalf of the Council.

(b) The full terms of reference for the Overview and Scrutiny Committee are set out in Part 3 of the Constitution. The general functions of the Overview and Scrutiny Committee are to:

(i) prepare and approve a work programme ~~for the setting out the Committee's work~~ and to ensure its time is effectively and efficiently utilised;

(ii) undertake investigations into such matters that may be referred by the Cabinet, Committees and/or the full Council;

(iii) have the powers ~~of to call-in overview and scrutiny in relation to~~ executive decisions made but not implemented as set out in Section 21(3) of the Local Government Act, 2000;

(iv) review existing policies of the Council to secure continuous improvement in the way in which the Council's functions are exercised and to make recommendations to the Cabinet and/or the full Council for future options;

(v) monitor the Council's performance ~~against on key actions in the Council Business Plan and the Corporate Performance Plan and~~ monitor and review performance indicators;

(vi) review and/or scrutinise any matter affecting the area or its inhabitants;

(vii) appoint such task and finish groups and working groups as considered appropriate to fulfil its overview and scrutiny functions;

(viii) report annually to the full Council on its work;

(iv) put in place a system to ensure that referrals from the Committee to the Cabinet either by way of report or for



reconsideration are managed efficiently and do not exceed the limits set out in this Constitution; and

- (x) make decisions about the order in which reports should be referred to the Cabinet when it appears that the numbers of reports will interfere with the efficient running of Council business.
- (xi) review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions and to make reports or recommendations to the Council with respect to the discharge of those functions (Section 19 of the Police and Justice Act 2006)

## ~~2. WHO MAY SIT ON THE OVERVIEW AND SCRUTINY COMMITTEE?~~

~~All councillors, except Members of the Cabinet, may be members of the Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which he or she has been involved directly.~~

## ~~3. CO-OPTED MEMBERS~~

~~The Overview and Scrutiny Committee, or any of its sub-committees or task and finish groups, shall be entitled to appoint non-voting co-opted members and advisers and may co-opt additional members from the responsible authorities when looking at crime and disorder issues. Co-optees may be appointed as standing co-optees, or special interest co-optees to assist with scrutiny of a particular matter.~~

~~The Overview and Scrutiny Committee shall not co-opt any person to scrutinise a decision where that person was wholly or partly responsible for the matter. The number of co-optees shall not exceed the number of permanent Committee Members.~~

## ~~4. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE~~

~~There shall normally be seven scheduled meetings of the Overview and Scrutiny Committee in each year. Additional meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee may be called by the chairman, by one-third of the voting Members of the Committee or by the Head of Democracy, Strategy and Partnerships if he or she considers it necessary or appropriate.~~

~~The Committee shall meet to review or scrutinise matters in connection with the discharge by the responsible authorities of their crime and disorder functions at least once in a twelve-month period.~~

## ~~5. QUORUM~~

~~The quorum for the Overview and Scrutiny Committee shall be six voting members of the Committee (at least one half of the whole number of voting Members).~~

## ~~6. WHO CHAIRS OVERVIEW AND SCRUTINY MEETINGS~~

~~The Chairman and Vice Chairmen of the Overview and Scrutiny Committee shall be drawn from among those councillors serving on the Committee. The Chairman shall be appointed at the Annual Meeting of the Council for the ensuing year.~~

~~On a vacancy arising, the Committee will be asked to fill the vacancy at its next meeting. In the absence from a meeting of the Chairman and Vice Chairmen, a Chairman for that meeting shall be appointed.~~

## ~~7. VICE-CHAIRMEN~~

~~The Committee may appoint up to two Vice Chairmen to focus on different areas of responsibility, for example internal corporate matters, and external community and environmental issues.~~

~~The Vice Chairmen shall be appointed at the Committee's first meeting of the Municipal Year~~

~~Role Descriptions for the Vice Chairmen of the Overview and Scrutiny Committee are set out in Article 2 of the Constitution, 'Councillors and Role Descriptions'.~~

## ~~8. WORK PROGRAMME~~

~~(a) The Overview and Scrutiny Committee will be responsible for setting its own work programme and shall take into account the wishes of councillors who are not Members of the largest political group on the Council.~~

~~(b) When identifying and discussing issues to be including in the Committee's work programme, the Committee should refer to the Cabinet's Work Programme and identify issues for closer examination in advance of the Cabinet making its decision.~~

~~The overall work programme should take account of:~~

- ~~• whether the proposed work furthers corporate priorities~~
- ~~• the likelihood of something significant or valuable coming from the work~~
- ~~• the importance of the issue for users and the public generally~~
- whether there is evidence of user/general public dissatisfaction with the service
- Issues raised through audit or inspections

- ~~Whether there is a high level of budgetary commitment to the service~~
- ~~Public interest covered in the local media~~

~~The Committee should adopt a 'project management' approach to any in-depth review of existing Council policy:~~

- ~~Consider setting up a task and finish group~~
- ~~Identify a Lead Member for the Review~~
- ~~Agree terms of reference and objectives for the work~~
- ~~Agree a project plan to include timescales, who will participate, how evidence will be collected, the key issues/question to be addressed~~
- ~~Preparation of a final report with recommendations~~

## **~~9. TASK AND FINISH GROUPS~~**

~~All Councillors may be members of task and finish groups appointed by the Committee to carry out specific areas of scrutiny. However, no Member may be involved in scrutinising a decision in which he or she has been involved directly.~~

## **10. AGENDA ITEMS AND COUNCILLOR CALLS FOR ACTION**

- (a) Any Member of the Overview and Scrutiny Committee shall be entitled to give notice to the Head of Democracy, Strategy and Partnerships ~~tie Services~~ that he or she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting. On receipt of such a request, the Head of Democracy, Strategy and Partnerships ~~tie Services~~ will advise the Chairman and ensure that it is included for discussion at the next meeting of the Progress Group ~~mid-cycle meeting of the Committee~~, with a view to it being included on the next available agenda.
- (b) Any Member of the Council who is not a Member of the Overview and Scrutiny Committee shall be entitled to refer to the Committee for discussion any 'local government matter' which is relevant to the terms of reference of the Committee. The Member shall give written notice to the Head of Democracy, Strategy and Partnerships ~~tie Services~~ that he or she wishes an item to be included, and on receipt of such a request, the Head of Democracy, Strategy and Partnerships ~~tie Services~~ will ensure that it is included for discussion at the next meeting of the Progress Group ~~next mid-cycle meeting of the Committee~~, with a view to it being included on the first available agenda.
- (c) A 'local government matter' is defined as one which relates to the discharge of any function of the authority, affects all or part of the ward for which the member is elected, or any person who

lives or works in that area, and which is not an ‘excluded’ matter. An excluded matter is one relating to a planning or licensing decision, one which relates to an individual or entity where there is already a right to review or appeal, or one which in the judgement of the Monitoring Officer in consultation with the Mayor is vexatious, discriminatory or not reasonable.

The Committee may have regard to any representations by the Member on why it would be appropriate for the Committee to exercise any of its powers in relation to the matter. If the Committee decides not to do anything, it must notify the Member setting out the reasons. If it does decide to act, any report and subsequent response should be sent to the member who has placed the matter on the agenda. There is an expectation that the member who has placed the matter on the Committee agenda will normally attend the meeting to present their case.

- (d) The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where it does so, the Committee shall report its findings and any recommendations back to the Cabinet and/or Council, who shall consider the report of the Overview and Scrutiny Committee within one month of receiving it or the next available meeting, whichever is the longer.

## 11. POLICY REVIEW

In relation to the review of existing policy and strategy, the Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy and may appoint advisers and assessors to assist 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 address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## 12. REPORTS FROM THE OVERVIEW AND SCRUTINY COMMITTEE

- (a) Once it has formed recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Head of Democracy, Strategy and Partnerships ~~the Services~~ for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or the Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Cabinet (and the Council) with the majority report.
- (c) The Cabinet or the Council shall consider the report of an Overview and Scrutiny Committee within one month or at the next available meeting (whichever is the later) of the report being submitted to the Head of Democracy, Strategy and Partnerships ~~Services~~.
- (d) When a report is made dealing with Crime and Disorder matters in connection with the Committee's statutory role in paragraph 1 above, a copy shall be provided to each of the responsible authorities.

**13. MAKING SURE THAT REPORTS BY THE OVERVIEW AND SCRUTINY COMMITTEE ARE CONSIDERED BY THE CABINET**

- (a) Once the Overview and Scrutiny Committee has prepared a report, the Head of Democracy, Strategy and Partnerships ~~Services~~ will allocate it to the Cabinet for consideration and the Council if the contents of the report would have implications for the Council's budget and policy framework. If the Head of Democracy, Strategy and Partnerships ~~Services~~ refers the matter to the Council, he or she will serve a copy on the Cabinet with notice that the matter is to be referred to the Council. The Cabinet will have four weeks in which to respond to the Committee's report and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet.
- (b) The Overview and Scrutiny Committee will in any event have access to the Cabinet's ~~forward~~ work programme 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 consideration of possible policy/service developments, the Overview and Scrutiny Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

**14. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as councillors, Members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee as appropriate depending on the matter under consideration.

**15. MEMBERS AND OFFICERS GIVING ACCOUNT**

- (a) The Overview and Scrutiny Committee may scrutinise, and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, they may require any Member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before them to explain:

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) ~~their~~ performance monitoring information.

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

- (b) Where any Member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of the Committee will inform the Head of Democracy, Strategy and Partnerships ~~tic Services~~. The Head of Democracy, Strategy and Partnerships ~~tic Services~~ shall inform the Member or officer giving at least three working days' notice of the meeting at which he or she is required to attend, although, in normal circumstances, he or she will be expected to attend the next scheduled meeting of the Committee. The notice will state the nature of the item on which he or she is required to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of the documentation.
- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Committee shall, in consultation with the Member or officer, arrange an alternative

date for attendance or for a substitute to attend in his or her place.

## 16. ATTENDANCE BY OTHERS

The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 15 above to attend a meeting in order to 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.

When dealing with crime and disorder matters, the Committee may require the attendance of a representative of a responsible authority in order to provide information or answer questions, provided at least two weeks notice is given.

## 17. PETITIONS

Where a petition is submitted to the Council in accordance with the Council's Petitions Scheme, and has at least 500 eligible signatures, the petition organiser shall be entitled to require a senior officer to attend a meeting of the Overview and Scrutiny Committee to answer questions and address the subject matter of the petition. (Petitions with 1000 eligible signatures or more shall be considered by the full Council in the first instance. However, if such a petition specifies that it wishes a senior officer to give evidence at a public meeting, then this shall usually take place at the Overview and Scrutiny Committee).

The final decision on which senior officer should attend shall rest with the Committee and shall be dealt with in accordance with the provisions in Para. 15 'Members and Officers giving Account'. Committee members shall ask the questions at the meeting, but the petition organiser shall be able to suggest questions by contacting the Head of Democracy, Strategy and Partnerships ~~tic Services~~, or Meeting Administrator, no later than two working days before the meeting.

## 18. CALL-IN

(a) Call-in should be used only in exceptional circumstances. These circumstances are as follows:

(i) Any four or more non-executive Members will have the right within five working days of the publication of the decision to call in any ~~Cabinet~~ decision of the Cabinet, a Cabinet Member or a key decision taken by an officer under delegated powers to the Overview and Scrutiny Committee subject to giving reasons, such as it is:



- contrary to policy; or
  - contrary to budget; or
  - based on incorrect or inadequate or inaccurate information
- (ii) 25% of the Members of the Council will have the right within five working days of the publication of the decision to call in any executive decision direct to full Council if they consider it to be
- contrary to the policy framework
  - contrary to the agreed budget
- (b) When an executive decision is made by the Cabinet, a Cabinet committee, a Cabinet Member or under joint arrangements or a key decision is made by an officer with delegated authority from the Cabinet, a record of that decision shall be published on the Council's website and ~~, including where possible by electronic means, and~~ shall be available at the main offices of the Council normally within three days of it being made. All Members will be notified sent copies of the records of all such decisions within the same timescale by the Head of Democracy, Strategy and Partnerships ~~tie Services~~. The record will bear the date on which it is published.
- (c) Subject to the urgency provisions in paragraph ~~(j)~~ **19** below, any executive decision of the type referred to in paragraph (b) above will come into force and may be implemented following the expiry of five working days from the date of publication of the record of the decision UNLESS before the expiry of that period the decision is called in to the Overview and Scrutiny Committee in accordance with these rules. A decision which has been called-in will not come into force until the Overview and Scrutiny Committee has had the opportunity to decide whether the matter should be reconsidered.
- (d) Members will notify the Head of Democracy, Strategy and Partnerships ~~tie Services~~ of any executive decision that they wish to call-in in writing. The Head of Democracy, Strategy and Partnerships ~~tie Services~~ shall refer any decision which is called-in to the Overview and Scrutiny Committee in accordance with these Rules and shall notify the decision-taker of the request for call-in.
- (e) The Overview and Scrutiny Committee will normally consider any decision that has been called in to the Committee within ten working days of the Head of Democracy, Strategy and Partnerships ~~tie Services~~ being notified of the request (whether pursuant to paragraph (a) above or by the Committee itself).



- (f) If, having considered a decision that has been called in, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision taker for reconsideration, setting out in writing the nature of its concerns. If referred to the decision taker, that person or body shall then reconsider the decision within a further 15 working days, or at its next scheduled meeting (whichever is the later) amending the decision or not, before adopting a final decision.
- (g) If, having considered a decision that has been called in, the Overview and Scrutiny Committee does not refer the matter back to the decision taker nor onwards to full Council the decision shall take effect on the next working day after the Committee meeting.
- (h) 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 shall take effect on the next working day after the Council meeting. However, if the Council does object, it has no authority to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision taker, together with the Council's views on the decision. That decision taker shall choose whether to amend the decision or not before reaching a final decision and implementing it.

## 19. CALL-IN AND URGENCY

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet, a Cabinet committee, a Cabinet Member, or a key decision made by an officer –is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision shall state, whether, in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor and the Chairman of the Overview and Scrutiny Committee in consultation with the appropriate officers 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 either postholder, the Deputy Mayor and relevant Vice-Chairman's consent shall be required. In the absence of the required combination of individual Members, the Head of Paid Service or his or her nominee's consent shall be required.

## 20. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

(a) The Overview and Scrutiny Committee shall consider the following business:

- (i) minutes of the last meeting;
- (ii) consideration of any decisions “called in” to the Committee;
- (iii) ~~review of the work programme and, as appropriate, the Cabinet’s Work Programme~~
- (iv) responses of the Cabinet to reports of the Committee;  
~~and~~
- ~~(iv)~~ ~~(v)~~ — the business otherwise set out on the agenda for the meeting.

~~(iv)~~ ~~(v)~~ Review of the Committee’s work programme.

(b) Where the Overview and Scrutiny Committee conducts investigations, the Committee may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

- (i) the investigation will be conducted fairly and all Members of the Committee given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) those assisting the Committee by giving evidence are treated with respect and courtesy; and
- (iii) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and the Council (if appropriate) and shall make its report and findings public.

## ~~21. ANNUAL REPORT TO COUNCIL~~

~~At the end of the Municipal Year, the Overview and Scrutiny Committee is asked to report to the full Council on the key outcomes from its work over the previous year. In particular to focus on where the Committee has:~~

- ~~• Held the Cabinet to account~~

- ~~Contributed to continuous improvement in services through performance monitoring and review~~
- ~~Carried out external scrutiny~~

## ~~22. MID-CYCLE MEETINGS~~

~~'Mid-Cycle Meetings' will meet between scheduled meetings of the Overview and Scrutiny Committees to plan agendas for meetings of the Committee and manage the Committee's work programme.~~

~~The Membership of Mid-Cycle will comprise the Chairman and Vice-Chairman of the Overview and Scrutiny Committee together with cross party representatives. Cabinet Members can be invited to mid-cycle meetings to discuss items in the work programme and issues for scrutiny.~~

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## 6. LICENSING SUB COMMITTEE (ALCOHOL AND ENTERTAINMENTS) HEARINGS PROTOCOL AND PROCEDURE

The role of the Sub-Committee is to determine applications in an impartial manner in accordance with the relevant provisions of the Licensing Act 2003, Gambling Act 2005, national guidance and the Council's Policies.

### 1. Appointments to the Licensing Sub-Committee

The Head of Democracy, Strategy and Partnerships ~~tie Services~~ is authorised to make appointments to the Licensing Sub-Committee (alcohol and entertainments) from amongst the trained Members of the Licensing, Audit and General Purposes Committee.

In forming the membership of the Licensing Sub-Committee for a hearing, and where members' availability permits, the Head of Democracy, Strategy and Partnerships ~~tie Services~~ shall seek to ensure where possible:

- Cross-party representation
- At least two experienced Members in attendance
- Rotation of Membership

The Chairman for a hearing shall be selected from amongst the Members forming the sub-committee, based on experience.

Members will not normally be approached to sit on a hearing if an application relates to their own ward.

### 2. Hearings to be held in public

Licensing hearings shall take place in public. However, the Licensing Sub-Committee may exclude the public (including a party to the hearing) from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

For hearings under Part 8 of the Gambling Act, the Sub-Committee may exclude the public if it is considered there may be any unfairness to a party resulting from a public hearing, or if there is a need to protect the commercial interests of a party.

### 3. Time of hearings

Hearings of the Licensing Sub-Committee shall usually be held at the Council Offices during the day.

### 4. Notice of a hearing

In the case of a hearing under:

- (i) section 48(3)(a) of the Licensing Act (cancellation of interim authority notice following police objection); or
- (ii) section 105(2)(a) of the Licensing Act counter notice following police objection to temporary event notice).

notice of the hearing will be given no later than two clear working days before the day the hearing is to be held.

In the case of a hearing under:

- (i) section 167(5)(a) of the Licensing Act (review of premises licence following closure order);
- (ii) paragraph 4(3)(a) of Schedule 8 of the Licensing Act (determination of application for conversion of existing licence);
- (iii) paragraph 16(3)(a) of Schedule 8 of the Licensing Act (determination of application for conversion of existing club certificate), or
- (iv) paragraph 26(3)(a) of Schedule 8 of the Licensing Act (determination of application by holder of justices licence for grant of personal licence).

notice of the hearing will be given no later than five clear working days before the day the hearing is to be held.

In any other case, notice of a hearing will be given no later than ten clear working days before the day the hearing is to be held.

Information accompanying a notice of a hearing shall be given in accordance with the licensing regulations, specifying the date on which, the place at which and the time when the hearing is to take place.

## **5. Hearings held on more than one day**

Where a hearing is to be held on more than one day, the hearing must be arranged to take place on consecutive working days.

## **6. Right to dispense with a hearing**

If all parties agree that a hearing is unnecessary, then with the agreement of the licensing authority, the hearing may be dispensed with. The application or review shall be determined as soon as reasonably practicable and all parties notified accordingly.

## **7. Right to postpone or adjourn a hearing**

The Licensing Sub-Committee may postpone or adjourn a hearing where it considers this to be necessary for its consideration of any representations or notice made by a party. A hearing may also be postponed to enable a person's attendance where appropriate.

## 8. Papers available at the hearing

The Administrative Officer (Democracy, Strategy and Partnerships) ~~tic and Facilities~~ will ensure that copies of the relevant Council policy and a reasonable supply of papers for the hearing are available for the public at the meeting.

## 9. Substitutions

If a Member of the Licensing Sub-Committee is unable to attend at, or has an interest in, a hearing, he/she shall notify the Head of Democracy, Strategy and Partnerships ~~tic and Facilities~~ at the earliest opportunity. In accordance with arrangements approved by the Licensing, Audit and General Purposes Committee, a nominated substitute Member shall be appointed to the meeting by the Head of Democracy, Strategy and Partnerships ~~tic and Facilities~~ and shall have full voting rights.

## 10. Absence of the appointed Chairman at a hearing

In the absence of the appointed Chairman at a hearing, the Members forming the Sub-Committee shall agree a Chairman for that meeting as its first item of business.

## 11. Quorum

The Quorum for the Licensing Sub-Committee shall be 3.

## 12. Procedure at a hearing

A detailed procedure note for hearings is attached at Annex 1.

- 12.1 At the beginning of the hearing, the Chairman shall identify persons present, and outline the procedure which shall be followed. If applicable, the Sub-Committee shall consider any request made by a party for any other person to appear at the hearing.
- 12.2 The hearing shall take the form of a discussion led by the Licensing Sub-Committee. Cross-questioning shall not generally be permitted unless the Sub-Committee considers that this is required in order to consider the matter before it.
- 12.3 Each party who has received notice of the hearing has the right to address the Sub-Committee on any matter that is relevant to the application or review. In circumstances where there are a number of parties who wish to make the same or similar representations the nomination of a single person as spokesperson will usually be encouraged, and would normally be expected.
- 12.4 A party attending the hearing may call witnesses to give evidence on any matter that is relevant to the application or review, or any representations made on the application or review. For hearings under the Licensing Act

2003, the party must give notice and have the consent of the Sub-Committee.

- 12.5 A party attending the hearing may be assisted or represented by any person whether or not that person is legally qualified.
- 12.6 Except, in the case of hearings under Part 8 of the Gambling Act 2005, each party attending the hearing, or nominated spokesperson, shall be allowed an equal maximum period of time to address the authority. The maximum period of time permitted for each speaker will be 10 minutes, subject to the Chairman's discretion.
- 12.7 Members of the Licensing Sub-Committee may ask any question of any party or other person appearing at the hearing.
- 12.8 In considering any representations or notice made by a party the Sub-Committee may take into account documentary or other information produced by a party either before the hearing or, with the consent of all the other parties, at the hearing.
- 12.9 The Licensing Sub-Committee shall disregard any information given by a party that is not relevant to the application or representations made.

**13. Withdrawal of representations**

A party may withdraw any representations they have made orally at the meeting.

**14. Failure of Parties to attend the Hearing**

- 14.1 If a party has informed the Council that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence. The hearing may also proceed if a party has failed to advise whether he intends to attend or be represented, or leaves the hearing in circumstances enabling the committee to reasonably conclude that he/she does not intend to participate further.
- 14.2 If a party fails to attend or be represented at a hearing the Sub Committee may:
  - (1) adjourn the hearing to a specified date, where it is considered to be in the public interest to do so; or
  - (2) hold the hearing in the party's absence
- 14.3 Where a hearing is held in the absence of a party, the Licensing Sub-Committee shall consider the application, representations or notice made by that party.

**15. Disturbance by the Public or Parties**

- 15.1 If a member of the public, or party to the hearing, behaves in a disruptive manner, Chairman may require that person(s) to leave the hearing.
- 15.2 The Licensing Sub-Committee may refuse to permit that person to return, or may permit that person to return only on such conditions as the Licensing Sub-Committee may specify.
- 15.3 Such a person may, before the end of the hearing, submit to the Licensing Sub-Committee in writing any information which they would have been entitled to give had they not been required to leave. The Sub-Committee shall take into account that information in reaching a determination of the application or review.

**16. Determination of Applications**

- 16.1 Unless the matter being considered by the Sub-Committee falls within one of the categories below, the Sub-Committee has five working days to make their determination beginning with the day of the hearing and all parties will be notified of the determination forthwith which will include information as to how to appeal.
- 16.2 The time limit may be extended for a specified period, where the regulations permit and it is in the public interest. A notice of the extension shall be given to all parties stating the period of the extension and the reasons for it.
- 16.3 In respect of the following matters under the Licensing Act 2003, the Licensing Sub-Committee must make its decision at the conclusion of the hearing:
- 16.4 In the case of a hearing under
- (i) section 105(2)(a) (counter notice following police objection to temporary event notice)
  - (ii) section 167(5)(a) (review of premises licence following closure order)

**17. Record of proceedings**

A record of the hearing shall be made by the licensing authority and kept for six years from the date of the determination or, where an appeal is brought against the determination of the authority, the disposal of the appeal. The Council may also record the proceeding through video and/or audio tape.

**18. Ruling of Chairman to be Final**

The ruling of the Chairman of the Hearing in any procedural matter at the hearing shall not be open to discussion.



## **ANNEX 1**

### **PROCEDURE AT HEARINGS OF THE LICENSING SUB-COMMITTEE (ALCOHOL AND ENTERTAINMENTS)**

The following procedure shall be followed at licensing hearings in respect of applications for alcohol and entertainments licences under the provisions of the Licensing Act 2003 and Part 8 of the Gambling Act, 2005.

#### **1. Introduction and Preliminary Remarks**

- All parties are invited to join the meeting and the Chairman will introduce the Sub-Committee Members, Council Officers, and the procedure to be followed.
- The Chairman will take details of those appearing at the hearing who wish to speak.
- Typically, and subject to any ruling by the Chairman, the views of the parties will be heard in the order set out below. Some applications may involve additional parties, e.g. a Premises Supervisor and/or an existing Licence Holder, and if so, the Chairman will advise the parties at the start of the hearing, the order in which each is to present his/her case.
- Except in the case of hearings under Part 8 of the Gambling Act 2005, each party attending the hearing, or nominated spokesperson, shall be allowed an equal maximum period of time to present their case at the hearing. The length of time allowed shall be determined by the Chairman at the beginning of the meeting and will usually be 10 minutes. Following each presentation, there will be an opportunity for questions and answers.

(NB. To make efficient use of time at the hearing, parties can assume that the Sub-Committee Members have read all papers and statements which have been circulated in advance and form part of the agenda for the meeting. Therefore, parties need not read them aloud as part of their presentation unless they wish to do so.)

- The Chairman to deal with any preliminary matters raised and to remind the parties of issues specifically to be addressed.
- The Chairman to draw attention to matters of general housekeeping.

#### **2. Statement by the Licensing Officer**

- Licensing Officer to summarise the salient points of the report on the agenda.
- Each party in order, (if permitted by the Chairman), to have an opportunity to ask the Licensing Officer any questions on his statement.
- Sub Committee Members to ask the Licensing Officer any questions.

- Licensing Officer may respond to any new issues raised.

**3. Case for the Applicant**

- The Applicant to present the case in support of the application.
- Each other party in order, (if permitted by the Chairman), to have an opportunity to ask the Applicant any questions on his/her statement.
- Sub-Committee Members to ask the Applicant any questions.
- The Applicant may respond to any new issues raised.

**4. Case for the Responsible Authorities (Police, Fire Authority etc)**

- The representative of each Responsible Authority will be invited in turn to present the views of their organisation.
- Each other party in order, (if permitted by the Chairman,) to have an opportunity to ask the representative any questions on his/her statement.
- Sub-Committee Members to ask the representative any questions.
- The representative may respond to any new issues raised.

**5. Case for the Interested Parties (Local Residents and Businesses)**

- Those who have made representations will be invited to present their views and answer questions in turn.
- (NB. If a spokesperson has agreed to speak on behalf of several Interested Parties, all those he/she represents will be permitted to answer questions when the representative has finished presenting their views and add any further points.)
- Each Interested Party who wishes to speak, to present his or her views.
- Each other party in order, (if permitted by the Chairman), to have an opportunity to ask the Interested Party any questions on his/her statement.
- Sub-Committee Members to ask the Interested Party or representative any questions.
- The Interested Party or representative may respond to any new issues raised.

**6. Discussion about Conditions or Technical Issues**

- If it appears to the Licensing Officer or any party that one or more issues raised during the hearing could be dealt with by means of a condition attached to the licence, that person may put forward suggestions to the Chairman at this stage. All others to be given an opportunity to express a view on any proposed condition.
- Also any legal, technical or other point which has arisen to be discussed.

**7. Summary**

- Any party wishing to summarise his or her views may do so, in the reverse order to that in which cases were presented.

**8. The Decision**

- Members of the Sub-Committee will retire to reach a decision in private, accompanied by the Administrative Officer and the Council's Legal Representative.
- Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.
- The Chairman will announce the Sub-Committee's decision, giving reasons.
- The Council's Legal Representative to advise of the next steps, including arrangements for confirming decision.

## **7. STANDARDS HEARING PROCEDURE RULES**

### **1 Introduction**

- 1.1 This note sets out the procedures for a Standards Hearing, which may be required by the Monitoring Team following an initial assessment of a complaint that a Member of the Council has failed to comply with the Code of Conduct.

### **2. Timescales**

- 2.1 Where possible, if there has been no prior investigation, the hearing will be held within two months of the initial assessment decision. Where there has been a prior investigation the hearing shall be held within two months of receipt by the Monitoring Officer of the investigator's report.

### **3. Appointments to the Standards Hearing Panel**

- 3.1 The Hearing will be before a Panel of three Members drawn from the Licensing, Audit and General Purposes Committee.
- 3.2 The Head of Democracy, Strategy and Partnerships is authorised to make appointments to the Hearing Panel from the membership of the Licensing, Audit and General Purposes Committee. The Chairman for a Hearing shall be selected from amongst the Members forming the Hearing Panel.
- 3.3 In addition, the Independent Person appointed under section 28 of the Localism Act 2011 will also be present. His/her views will be requested and taken into account by the Panel, but by law he/she cannot vote.

### **4. Hearings to be held in Private – Permitted Attendance**

- 4.1 The arrangements for permitted attendance are:
- The Monitoring Officer (or deputy) will be present as legal advisor to the Panel and a Democratic Services Officer to provide administrative support to the Panel.
  - Both the Member and the complainant will be invited to appear. They may present their own case or they may be represented.
  - The Member and the complainant may bring witnesses (of a number the Panel considers is reasonable), in which case written statements from the witnesses must be lodged with the Monitoring Officer at least eight working days before the hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted.
- 4.2 The cost of any attendance/representation must be borne by the party concerned.

## **5. Arranging the Standards Hearing**

- 5.1 Upon receipt of a request from the Monitoring Team, the Head of Democracy, Strategy and Partnerships shall arrange a time and date for the Standards Hearing Panel to meet and consider the matter.
- 5.2 At least five clear working days before the date of the meeting, the Head of Democracy, Strategy and Partnerships shall circulate all written evidence to the Panel, the Independent Person, the Member and the Complainant.
- 5.3 Where the Head of Democracy, Strategy and Partnerships considers that any documentation for the hearing and/or the Member's written statement is likely to disclose "exempt information" falling within paragraphs 1,2,4,5, and 7 of Schedule 12A to the Local Government Act 1972, he/she shall not provide copies of these papers to the media or public in advance of the meeting or to any member of the Council other than the members of the Panel and the Member who is the subject of the complaint in advance of the meeting.

## **6. Procedure at the Hearing**

### **(a) General**

- Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.
- The legal advisor can speak at any time to advise the Panel on technical matters or ask questions of any party.
- If the Member is not present at the start of the meeting, the Panel shall adjourn to enable the Member to attend, unless they are satisfied that there is not sufficient reason for the failure of the Member to attend, in which case the Panel may resolve to proceed in the absence of the Member.
- Where the Panel proceeds in the absence of the Member, the procedure for the meeting shall be adapted as necessary, giving any representative of the Member who is present such rights as would otherwise be accorded to the Member.

### **(b) Order of Proceedings**

The order of business at the Hearing shall be as follows:

- (i) Introduction of the Panel
- (ii) Decision as to whether to exclude the press and public from the Hearing in accordance with Appendix below
- (iii) The complainant can address the Panel and call witnesses (if any)
- (iv) The Member can ask the complainant and witnesses questions

- (v) The Panel and Independent Person can ask the complainant and witnesses questions.
- (vi) The Member can address the Panel and call witnesses (if any)
- (vii) The complainant can ask the Member and witnesses questions.
- (viii) The Panel and IP can ask the member and witnesses questions.
- (ix) The complainant can make a closing statement.
- (x) The Member can make a closing statement.
- (xi) All those present except the Panel, the Independent Person, the legal advisor and Administrator will leave the room while the Panel makes its decision.
- (xii) The Panel's decision will be announced orally as soon as possible.

A written report of the hearing and decision, with reasons, will be prepared - usually within five working days. A copy will be sent to all those present at the hearing.

The written report will be available for public inspection.

## **7. Decisions open to the Panel**

The decisions that are open to the Panel are:

- (a) That the Member complied with the Council's Code of Conduct;
- (b) That the Member did fail to comply with the Council's Code of Conduct, and that
  - (i) No action need be taken; or
  - (ii) The Member be censured; and/or
  - (iii) Whatever communication the Panel considers appropriate be given to their findings; and/or
  - (iv) It be recommended to the Council (or to the member's political group where Committee appointments are made by political groups) that the Member be removed from a specific Committee(s), or from any other position to which the Council has appointed him/her.

The Panel may also make any recommendations it considers appropriate to the Council concerned on procedural amendments that might assist members generally to follow the Code of Conduct.

## APPENDIX

### Exclusion of Press and Public

#### Issues for Consideration

1. The hearing will consider as a preliminary point whether to exclude the press and public from the meeting, or any part of the meeting.
2. The Committee must act in accordance with Article 6 of the Human Rights Act 1998, which gives a right to a fair and public hearing by an independent and impartial tribunal. Article 6 provides that judgement shall be pronounced publicly, but that the press and public may be excluded from all or part of the “trial” in the interests of:
  - a. morals
  - b. public order
  - c. national security in a democratic society
  - d. where the interests of juveniles or the protection of the private life of the parties so require, or
  - e. in special circumstances where publicity would prejudice the interests of justice.

Accordingly, the presumption is in favour of a public hearing unless either the Councillor or the Reporting Officer can demonstrate over-riding reasons within one of these five headings for the press and public to be excluded.

3. Article 8 of the Human Rights Act 1998 provides that everyone has the right to respect their private and family life, home and correspondence. It provides that there shall be no interference by a public authority (such as the Committee) with the exercise of this right except such as is:
  - (a) in accordance with the law (such as the requirements for publication of the agenda, reports and background papers set out in Section 100A to 100K of the Local Government Act 1972), and
  - (b) necessary in a democratic society in the interests of:
    - i. national security
    - ii. public safety
    - iii. the economic well-being of the country
    - iv. the prevention of crime or disorder
    - v. the protection of health and morals (which would include the protection of standards of conduct in public life), or
    - vi. the protection of the rights and freedoms of others.

There is a clear public interest in promoting the probity of public authorities and public confidence therein, so that the presumption of a public hearing set out in Article 6 would apply. The Member’s Article 8 rights are qualified by

the exception set out in paragraph (b)v which refers to the protection of morals and would include the protection of standards in public life. Therefore, the hearing will be public unless either the Complainant or the Member demonstrates to the Panel's satisfaction that one of the circumstances set out in paragraph 2 apply and should over-ride that public interest. The Panel must give reasons for this decision.

4. Where the Panel concludes that the hearing or any part thereof should not be public, it must then consider whether there would be a disclosure of exempt information pursuant to the Local Government Act 1972. In that case, the Panel has a discretion under Section 100A(4) of the Local Government Act 1972, and would need to resolve whether or not to exclude the press and public.
5. Where the Panel does not resolve to exclude the press and public from the meeting, the Democratic Services officer supporting the Panel will then be required to provide copies of the agenda and reports to the media and public and other Members of the Council, and to permit inspection of the background papers.



## **8. BUDGET AND POLICY FRAMEWORK**

### **1. DEFINITIONS**

The policy framework comprises:

- (a) the plans and strategies that are required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and regulations proposed under the Local Government Act 2000 to be adopted by the Council:
  - The Council Business Plan
  - Budget and Medium-Term Strategy
  - Treasury Management Strategy
  - Housing and Homelessness Strategy
  - Crime and Disorder Reduction Strategy
  - The Rushmoor Local Plan and Development Plan documents
  - Licensing and Gambling Policy Statements
- (b) those plans and strategies which are overarching borough wide or council wide, with medium to long-term timescales (more than two years) which, for example, establish the council's financial strategies, and policies for housing, environment, economy and corporate governance.

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

### **2. RESPONSIBILITIES FOR THE BUDGET AND POLICY FRAMEWORK**

- 2.1 The Council sets the budget and policy framework as described in para. 1 above, and the Cabinet and officers must act within it.
- 2.2 The Cabinet is responsible for adopting all other policies and strategies that fall outside of the budget and policy framework.
- 2.3 The Policy and Project Advisory Board will assist the Cabinet and Council in the formulation, development and delivery of the budget and policy framework and other policies and priorities that will help to deliver the Council Plan.

### 3. **DEVELOPING THE BUDGET AND POLICY FRAMEWORK**

The process by which the budget and policy framework shall be developed is:

- (a) Proposals for any new plan, strategy or budget that forms part of the budget and policy framework shall be published in advance in the Cabinet Work Programme, with information about consultation periods.
- (b) The Cabinet or Council may ask the Policy and Project Advisory Board to carry out work on the development of a new plan or strategy, which will be published in the Policy and Project Advisory Board's work programme.
- (c) The Cabinet will make proposals to the full Council for any new plan, strategy or budget that forms part of the budget and policy framework, and will take into account any comments and recommendations from the Policy and Project Advisory Board or Overview and Scrutiny Committee where submitted. Any reports to the Cabinet must say what consultation has been carried out and what the results were.
- (d) The Cabinet's proposals will be presented to the Council as soon as possible.
- (d) The Council can:
  - Accept the Cabinet's proposals
  - Refer the proposals back to the Cabinet, or
  - Change the proposals, for example by adopting proposals of its own.
- (e) If the Council accepts the Cabinet's proposals without any changes, the decision will come into force immediately.
- (f) If the Council changes the Cabinet's proposals, it will be an in principle decision only.
- (f) The Leader will be given a copy of an in principle decision. The in principle decision will come into force unless the leader objects in writing to the Head of Democracy, Strategy and Partnership within five clear working days, giving reasons.

- (g) If the Leader objects to an in principle decision, the Council will meet again within 10 further working days. At the meeting, Council can accept the Cabinet's proposals or change them.
- (h) The Council's decision will come into force immediately.
- (i) When the Council sets the budget, it will also specify the extent of any virement or variations within the budget and degree of in-year changes to the policy framework which may be made by the Cabinet, in accordance with Budget and Policy Framework Rules 5 and 6. Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) The Cabinet, and any officers carrying out executive responsibilities can only take decisions if they are
  - In line with the budget and policy framework
  - Allowed under paragraph 4 below (urgent decisions)
  - Allowed under paragraph 5 below (moving money between cost centres)
  - Necessary to obey the law or ministerial directions or government guidance.

Any other decisions on the budget or policy framework must be recommended to Council.

- (b) The Cabinet or officers carrying out executive responsibilities will seek advice from the Head of Paid Service, Monitoring Officer and the Executive Head of Finance if it is unclear whether the proposals are in line with the budget and policy framework.

### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) The Cabinet, any Cabinet Committee, Cabinet Members or officers, or joint arrangements discharging executive functions may take a decision which is outside the budget or policy framework if:
  - it is urgent
  - it is not practical to convene a quorate meeting of the full Council; and
  - the chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency. (In the

absence of the chairman of the Overview and Scrutiny Committee the consent of the Mayor, and in the absence of both, the Deputy Mayor, will be sufficient).

- (b) The record of the decision must say why it was not practical to convene a quorate meeting of full Council. It must also say that the Chairman of the Overview and Scrutiny Committee (or Mayor or Deputy Mayor) agreed that the decision was urgent.
- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining why the decision was taken, why it was urgent and why it was not practical to arrange a meeting of the Council.

## **5. VIREMENT AND VARIATIONS IN THE BUDGET**

Steps taken by the Cabinet, a Cabinet committee, Cabinet Members, officers or joint arrangements discharging executive functions to implement Council policy shall normally not exceed those budgets allocated to each budget head. However, virements across and variations in budget heads will be allowed in accordance with the Financial Procedure Rules in Part 4 of this Constitution.

## **6. CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the full Council. However, there are some limited circumstances when changes may be made to policies and strategies which make up the policy framework outside of this requirement.

These are:

- changes necessary to ensure compliance with the law, ministerial direction or government guidance;
- updates to policies and strategies that make no changes to the major provisions within the policy;
- amendments where the existing policy framework is silent on the matter under consideration; and
- changes where a delay in the decision on a matter under consideration would have an adverse effect on all or part of the local community.

## **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 Executive Head of Finance.

- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Executive Head of Finance's report shall be to the Cabinet with a copy to all councillors. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and to prepare a report to the Council in the event that the Monitoring Officer or the Executive Head of Finance conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Executive Head of Finance conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Executive Head of Finance 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 the 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 Head of Democracy, Strategy and Partnerships will call a meeting of the Council, following consultation with the Mayor, within ten working days of the request by the Overview and Scrutiny Committee.
- (d) At the meeting of the Council, it will receive a report of the decision or proposals and the advice of the Monitoring Officer and the Executive Head of Finance. The Council may either:
  - (i) endorse the decision or proposal as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council shall be minuted and circulated to all councillors in the normal way;
  - or
  - (ii) amend the Council's budget or policy framework to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council shall be minuted and circulated to all councillors in the normal way;
  - or
  - (iii) require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer and Executive Head of Finance 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.

## **9. FINANCIAL PROCEDURE RULES**

### **CONTENTS**

1. Introduction
2. Financial Procedure Rules
3. Status of Financial Procedure Rules
4. Financial Regulations
  - A: Financial Management and Administration
  - B: Financial Planning
  - C: Budgetary Control
  - D: Risk Management, Insurance and Control of Resources
  - E: Systems and Procedures
  - F: External Arrangements

## 1. INTRODUCTION

- 1.1 Under the Local Government Act 2000 the Council has adopted the Cabinet form of governance. The Council's governance structure is laid down in its constitution, which sets out how the council operates, how decisions are made and the procedures that are followed.
- 1.2 To conduct its business efficiently, the Council needs to ensure that it has sound financial management policies in place and that they are strictly adhered to. Part of this process is the establishment of Financial Procedure Rules that set out the financial policies of the Council.
- 1.3 The Financial Procedure Rules provide clarity about the financial accountabilities of individuals – Cabinet Members, the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, the Directors, and the Heads of Service.

## 2. FINANCIAL PROCEDURE RULES

- 2.1 This document sets out how we intend to interpret these Financial Procedure Rules. Both Members and Officers may have delegated powers and functions mentioned in this document.
- 2.2 Each section of the financial procedures follows the format set out below:
  - **Why is this important?** - this sets the context for the financial procedures and accountability
  - **Key controls** - this explains the key internal controls that set the framework for ensuring Financial Procedure Rules are operating effectively
  - **Responsibilities of the Chief Finance Officer**
  - **Responsibilities of Officers.**

## 3. STATUS OF FINANCIAL PROCEDURE RULES

- 3.1 Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every member and officer of the Council and anyone acting on its behalf.
- 3.2 The regulations identify the financial responsibilities of the Council, Cabinet, Cabinet committees, Overview and Scrutiny members, Licensing Audit and General Purposes Committee, the Head of Paid Service (Chief Executive), the Monitoring Officer (Director and Deputy Chief Executive) and the Chief Finance Officer (Executive Head of Finance). Cabinet members and Officers should maintain a written record where decision making has been delegated to members of their staff, including seconded staff.
- 3.3 All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

- 3.3 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedure Rules 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 Procedure Rules to the Council and/or to Cabinet members as appropriate.
- 3.4 The Council's detailed financial procedures, setting out how the regulations will be implemented, are contained in separate guidance and do not form part of the Constitution.
- 3.5 Executive Directors, Head of Service and Service Managers are responsible for ensuring that all staff in their services are aware of the existence and content of the Council's Financial Procedure Rules and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their areas of responsibility.
- 3.6 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that members, officers and others acting on behalf of the Council are required to follow.



## **FINANCIAL REGULATION A: FINANCIAL MANAGEMENT AND ADMINISTRATION**

### **INTRODUCTION**

- (A1) Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.
- (A2) All staff (including temporary and contract staff and consultants) and members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

### **THE COUNCIL**

- (A3) The Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the budget and policy framework within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in its constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- (A4) The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council, the Cabinet and standing committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

### **THE CABINET**

- (A5) The Cabinet is responsible for proposing the policy framework and budget to the Council, and for discharging Cabinet functions in accordance with the policy framework and budget.
- (A6) Executive decisions can be delegated to a committee of the Cabinet, an individual Cabinet member, an officer or a joint committee.
- (A7) The Cabinet is responsible for establishing protocols to ensure that individual Cabinet members consult with relevant officers before taking a decision within his or her delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

### **Chief Finance Officer (Executive Head of Finance)**

- (A8) The Executive Head of Finance, as the Council's Chief Finance Officer, has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
  - Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Accounts and Audit Regulations 1996 (as amended)

- (A9) The Chief Finance Officer is responsible for:
- The proper administration of the Council's financial affairs
  - Setting and monitoring compliance with financial management standards, advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
  - Providing financial information
  - Preparing the revenue budget and capital programme
  - Treasury management.
- (A10) Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Council, Cabinet and external auditor if the Council or one of its officers:
- Has made, or is about to make, a decision which involves incurring unlawful expenditure
  - Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
  - Is about to make an unlawful entry in the Council's accounts.
- (A11) Section 114 of the 1988 Act also requires:
- The Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
  - The Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

### **Executive Directors, Head of Service and Service Managers**

- (A12) Executive Directors, Head of Service and Service Managers are individually responsible for the proper financial management of resources allocated to their services through the budget process and for the identification of and accounting for income which falls due within their area. This includes control of staff and the security, custody and control of all other resources including plant, buildings, material, cash, stores and equipment.
- (A13) Executive Directors, Head of Service and Service Managers shall ensure that their staff receive sufficient training to enable them to be aware of and comply with the requirements of Financial Procedure Rules and The Constitution.
- (A14) Executive Directors, Head of Service and Service Managers are responsible for 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
- (A15) It is the responsibility of Executive Directors, Head of Service and Service Managers to consult with the Chief Finance Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

## **FINANCIAL REGULATION B: FINANCIAL PLANNING**

### **INTRODUCTION**

- (B1) The Council is responsible for agreeing the Council's budget and policy framework, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- The Council Business Plan
  - The Budget
  - The Capital Programme
- (B2) The Council is responsible for approving the budget and policy framework. The framework comprises those statutory plans and strategies set out in the Council's Constitution.
- (B3) The Cabinet shall consider and recommend a capital programme and estimates of revenue expenditure and income. These programmes and estimates shall cover such future periods and be in such form as the Cabinet requires.
- (B4) The Cabinet will review fees and charges annually taking into account the policy framework previously agreed.
- (B5) The Cabinet shall consider the aggregate effect of these programmes and estimates on the Council's financial resources and, after any amendments shall submit them to the Council for approval, together with a recommendation of the Council Tax to be levied for the following financial year.
- (B6) The Council is also 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. Such decisions should be referred to the Council by the Monitoring Officer and the Chief Finance Officer.

## **BUDGETING**

### **Budget Format**

- (B7) The general format of the budget will be approved by the Council and proposed by the Cabinet on the advice of the Chief Finance Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

### **Budget Preparation**

- (B8) The Chief Finance Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a Medium-Term Financial Strategy (MTFS) on a rolling four-year basis as part of the financial strategy for consideration by the Cabinet.
- (B9) The Cabinet is responsible for issuing guidance on the general content of the budget in consultation with the Chief Finance Officer as soon as possible following approval by the Council.

### **Resource Allocation**

- (B10) The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's policy framework.

### **Preparation of the Capital Programme**

- (B11) The Chief Finance Officer is responsible for ensuring that a capital programme on a rolling four-year basis is prepared on an annual basis for consideration by the Cabinet before submission to the Council.

### **Guidelines**

- (B12) Guidelines on budget preparation are issued to Executive Directors, Head of Service and Service Managers by the Chief Finance Officer. The guidelines will take account of:
- Legal requirements
  - Medium-Term planning prospects
  - The Council Business Plan available resources
  - Savings target and spending pressures
  - Best Value and other relevant government guidelines other internal policy documents

### **Maintenance of Reserves**

- (B13) It is the responsibility of the Chief Finance Officer to advise the Cabinet and the Council on prudent levels of reserves for the Council.

## **FINANCIAL REGULATION C: BUDGETARY CONTROL**

### **INTRODUCTION**

- (C1) Budget management ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget. By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual budget limit, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the budget allocated to it.

### **Budget Monitoring and Control**

- (C2) The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet and to the relevant standing committee on the overall position on a regular basis.
- (C3) It is the responsibility of Executive Directors, Head of Service and Service Managers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Finance Officer. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.
- (C4) Budgetary control shall be exercised at cost centre level. Additional income, or any improvement in the financial position of a service, does not confer authority to incur additional expenditure on items within that service, or any other service.
- (C5) Executive Directors, Head of Service and Service Managers who are considering undertaking activities which have financial implications, but which have not been provided for in the Council's budget, shall consult the Chief Finance Officer before making any commitment, or reporting their plans to the Cabinet.
- (C6) Properly authorised officers can incur expenditure only if:
- it is provided for in the revenue or capital budget; or
  - a virement has been approved; or
  - a supplementary estimate has been approved; or
  - approval has been given as set out in Financial Procedure Rule (xxx) below.
- (C7) All new projects and proposals for additional expenditure require the submission of an appropriate business case to CLT, to be prepared in consultation with the Chief Finance Officer. The business case will need to be geared to the significance of the project/additional expenditure in both policy and financial terms. As a minimum, however, it will include the full financial implications of the scheme.

- (C8) Variations against existing budgets in excess of £20,000 (this includes virements, changes in revenue and capital expenditure and changes in income) must be reported to the Chief Finance Officer at the earliest opportunity, together with a full explanation of the reasons for the variances and any planned actions to mitigate the financial impact. These variations will be reported to CLT and the Cabinet by the Chief Finance Officer as part of the regular financial reports.
- (C9) The Executive Directors, Head of Service and Service Managers in consultation with the Chief Finance Officer should first look at funding additional expenditure or any shortfall in income through transferring budget provision between cost centres (known as virement).
- (C10) Virement must:
- Not result in the proposed reduction to the appropriate estimate expenditure head (or increase to income head) being caused by an abandonment or reduction in the level of a service/item following a change in Council or National Policy;
  - not cause a net increase in expenditure in the initial or any subsequent years;
  - be consistent with current accounting practice;
  - not be justified by an increase in income to a cost centre; and
  - not result in a movement of budget from Pay to Non-Pay without the agreement of the Head of Paid Service and the Chief Finance Officer.

The table below sets of the relevant approval process for virements and supplementary estimates:

<b>Limit</b>	<b>Approval</b>
Up to but not exceeding £20,000	Executive Directors, Head of Service and Service Managers in consultation with Chief Finance Officer
Above £20,000 but not exceeding £50,000	Executive Directors, Head of Service and Service Managers in consultation with the Chief Finance Officer and relevant Cabinet Portfolio holder
Above £50,000	Cabinet

- (C11) All Individual variations in expenditure (supplementary estimates and virements) over £50,000 will require the approval of the Cabinet. If variations in expenditure exceeding £50,000 have not been reported to the Chief Finance Officer before they have been committed, then a report explaining the reasons for the variation, and why it had not been reported, will be prepared by the appropriate Executive Director, Head of Service or Service Manager, in consultation with the Chief Finance Officer for submission to CLT.

### **Treatment of Year-End Balances**

- (C12) Carry forward of revenue budgets to the following financial year of planned under or over-spending will be allowed with agreement of CLT. The Chief Finance Officer will provide guidance to Executive Directors, Head of Service and Service Managers on the procedures and approach for carrying forward underspending on budget headings. The Chief Finance Officer shall report agreed carry forwards to the Cabinet for each year.

- (C13) The carry forward of resources relating to individual revenue or capital budget headings will normally only be permitted after (a) consideration of the draft outturn position and (b) for individual amounts in excess of £10,000 where there is clear justification as to why the resources could not be utilised in the financial year for which they were originally allocated.

### **Accounting Policies**

- (C14) The Chief Finance Officer is responsible for selecting accounting policies as per CIPFA and ASB guidelines and ensuring that they are applied consistently.

### **Accounting Records and Returns**

- (C15) The Chief Finance Officer is responsible for determining the accounting procedures and records for the Council and shall arrange for the proper administration of all accounts and accounting records in accordance with the Accounts and Audit Regulations 2015.
- (C16) Wherever possible, the following principles shall be complied with when allocating financial duties:
- Separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them.
  - Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- (C17) The Chief Finance Officer must be consulted on and approve any changes to accounting records and procedures.
- (C18) All staff and members must maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements.

### **The Annual Statement of Accounts**

- (C19) The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Council Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). The Council or an appropriate committee is responsible for approving the annual statement of accounts.

### **Banking Arrangements**

- (C20) The Chief Finance Officer is authorised to open such bank accounts considered necessary for the conduct of the Council's business
- (C21) All arrangements with the Council's bankers will be authorised by the Chief Finance Officer
- (C21) Cheques drawn on the Council's bank account shall bear the facsimile signature of the Chief Finance Officer.

- (C22) All cheques drawn for an amount in excess of £25,000 shall be countersigned by another authorised officer from the Council's list of authorised signatories.



## **FINANCIAL REGULATION D: RISK MANAGEMENT, INSURANCE AND CONTROL OF RESOURCES**

### **INTRODUCTION**

- (D1) It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

### **Risk Management**

- (D2) The Chief Finance Officer is responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council and for advising the Cabinet on proper insurance cover where appropriate.

### **Insurance**

- (D3) The Chief Finance Officer is responsible for arranging appropriate Insurance cover where necessary for:
- Known insurances risks; and
  - Assets owned and/or used, in connection with the Council's activities and for negotiating all claims (in consultation with other officers where necessary).
- (D4) Such cover shall be in accordance with statutory requirements.
- (D5) The Chief Finance Officer shall arrange for a Fidelity Guarantee Policy to cover the Council against fraud or dishonesty by an officer of the Council.
- (D6) The Chief Finance Officer shall regularly review the Council's insurances with the appropriate Executive Directors, Head of Service and Service Managers.
- Inform the Chief Finance Officer of all new or changed insurance requirements in their service areas, as soon as they are known. This should include any areas of responsibility undertaken in respect of an external organisation whether or not linked to the Council's activities.
  - Notify the Chief Finance Officer in writing as soon as is practicable of any loss, liability, damage or event which may lead to a claim. In exceptional circumstances, Executive Directors, Head of Service and Service Managers shall give the Chief Finance Officer verbal notification and confirm the information in writing as soon, as is practicable.
  - Consult the Chief Finance Officer regarding the terms of any indemnity the Council is requested to give.
  - Notify the Head of Finance immediately on receipt of any insurance claim.
- (D7) All Council staff shall have regard to the Council's Risk Management Policy

## **Internal Control**

- (D8) Internal control refers to the systems of control devised by the Council's Corporate Leadership Team to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- (D9) The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other organisations that govern their use.
- (D10) It is the responsibility of Executive Directors, Head of Service and Service Managers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

## **Audit Requirements**

- (D11) The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit. The Council will comply with this requirement.
- (D12) The Council is required to appoint an external auditor. The basic duties of the external auditor are governed by legislation
- (D13) The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

## **Preventing Fraud and Corruption**

- (D14) The Chief Finance Officer and Internal Audit Manager are responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

## **Assets**

- (D15) The Council holds assets in the form of land, property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.
- (D16) Executive Directors, Head of Service and Service Managers should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

- (D17) The Chief Finance Officer shall ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £20,000. The function of the asset register is to provide the authority with information about fixed assets so that they are:
- safeguarded
  - used efficiently and effectively
  - adequately maintained.
- (D18) Any use of Council property or equipment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- (D19) Staff and elected members shall not use any Council asset or item of equipment for personal use without proper authority.
- (D20) Staff and elected members shall ensure the safe custody of monies, vehicles, equipment, furniture, inventories and other property belonging to the Council.
- (D21) Executive Directors, Head of Service and Service Managers shall ensure that their service areas maintain a register of moveable assets and equipment in accordance with arrangements defined by the Chief Finance Officer.
- (D22) Executive Directors, Head of Service and Service Managers shall ensure that assets and equipment are identified, their location recorded and that they are appropriately marked as Council property and insured.
- (D23) The Chief Finance shall be consulted in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- (D24) Cash holdings on premises shall be kept to a minimum.
- (D25) Keys to safes and similar receptacles shall be carried on the person of those responsible at all times; loss of any such keys must be reported to the Chief Finance Officer as soon as possible.
- (D26) The disposal or part exchange of assets over £20,000 in value should normally be by public auction or open market sale.
- (D27) Staff and elected members have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way, or may be in breach of General Data Protection Regulation (GDPR) legislation.

## **Land and Property**

- (D28) Legal Services shall hold and provide for the safe custody of all deeds, leases and similar documents relating to the ownership of land and buildings.

- (D29) No proposal shall be made to acquire properties under the Housing Acts without prior consultation with the Chief Finance Officer in order to prevent the adverse consequences resulting from the re-creation of the Housing Revenue Account.
- (D30) The acquisition or disposal of commercial investment property is subject to separate arrangements through the Cabinet. The Property Investment Advisory Group (PIAG) provides Cabinet with advice on the Council's Investment Property portfolio both in terms of balance and performance and act as a consultative body in acquiring new properties / in disposing of existing properties in line with the budgetary framework and scheme of delegation.
- (D31) In all other cases, no proposal shall be made to acquire or dispose of land or property without prior consultation with the Chief Finance Officer.

### **Stocks and Inventories**

- (D32) Heads of Service and Service Managers shall ensure that inventories are maintained at reasonable levels, are adequately recorded and safe-guarded, and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- (D33) Heads of Service and Service Managers shall arrange for independent stock takes by the 31 March each year and shall provide a certified stock valuation certificate to the Chief Finance Officer in accordance with the timetable specified for the production of the annual statement of accounts.

### **Write-Outs**

- (D34) The Chief Finance Officer may authorise for write off or disposal redundant stocks and equipment up to a total value of £5,000. If the total written out exceeds £10,000, in aggregate, during the financial year a report must be made to Cabinet.

### **Treasury Management**

- (D35) The Council has adopted CIPFA's *Treasury Management in the Public Services: Code of Practice 2017 Edition* (the CIPFA Code).
- (D36) The Council is responsible for approving the Treasury Management Strategy which shall be proposed to it by the Cabinet. The Chief Finance Officer is responsible for reporting a proposed treasury management strategy for the coming financial year at or before the start of each financial year. The Chief Finance Officer has delegated responsibility for implementing and monitoring the statements.
- (D37) The Treasury Management Strategy includes the following strategies and policies and is supported by the Annual Capital Strategy:
- Treasury Management Strategy
  - Non-Treasury Management Strategy
  - Minimum Revenue Provision (MRP) Statement

- (D38) All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Chief Finance Officer.
- (D39) All decisions on borrowing, investment or financing shall be delegated to the Chief Finance Officer, who is required to act in accordance with the CIPFA Code.
- (D40) The Chief Finance Officer is responsible for reporting to the Licensing, Audit and General Purposes Committee, Cabinet and Council on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers.

## **FINANCIAL REGULATION E: SYSTEMS AND PROCEDURES**

### **INTRODUCTION**

- (E1) Sound financial systems and procedures are essential to an effective framework of accountability and control.

#### **General**

- (E2) The Chief Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Executive Directors, Head of Service and Service Managers to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer. However, Executive Directors, Head of Service and Service Managers are responsible for the proper operation of financial processes in their own services.
- (E3) Any changes to agreed procedures by Executive Directors, Head of Service and Service Managers to meet their own specific service needs must be agreed with the Chief Finance Officer prior to implementation.
- (E4) Executive Directors, Head of Service and Service Managers must ensure
- That their staff receive relevant financial training that has been approved by the Chief Finance Officer.
  - Where appropriate, computer and other systems are registered in accordance with GDPR legislation.
  - That staff are aware of their responsibilities under freedom of information legislation. When records are computerised they must be compatible with the financial information system.
- (E5) Public money should be spent with demonstrable probity and in accordance with the Council's policies. The Council has a statutory duty to achieve best value, in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures must be read in conjunction with the Council's Contract Standing Orders relating to contracts.
- (E6) Every officer and member of the Council has a responsibility to declare any links or personal interests that they may have with suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with the relevant Code of Conduct.
- (E7) All work, goods or services to be supplied to the Council shall be ordered on the Council's approved electronic systems and other electronic or paper-based forms approved by the Chief Finance Officer, with the exception of:
- Regular payments for utilities and services, e.g. rents, gas, water, electricity, telephone lines;
  - Items purchased through petty cash;
  - Work which is part of a formal contract (excluding term or "schedule of rates" contracts); and

- Other items specifically approved by the Chief Finance Officer; this authority cannot be delegated.
- (E8) All orders shall be placed through the approved systems in accordance with procedures published by the Chief Finance Officer, which may be amended by him or her from time to time. All such orders must be authorised by officers within the department requesting them.
- (E9) Prior to placing an order, officers shall ensure that provision has been made in the budget for the works, goods or services to be supplied.
- (E10) The Head of ICT, Facilities and Project Services shall normally place all orders for IT-related hardware and software.
- (E11) When ordering, officers shall follow the Council's Contract Standing Orders and Financial Procedure Rules and any other procedures laid down by the Chief Finance Officer.
- (E12) Authorised officers must sign orders. It is the responsibility of each Executive Directors, Head of Service and Service Managers to supply and keep up to date a list of authorised officers to the Chief Finance Officer.
- (E13) Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts or purchasing arrangements.

### **Payment of Invoices and Accounts**

- (E14) The Chief Finance Officer is responsible for payment of all invoices and accounts, and all such accounts must be referred to him or her for payment, except for payments made using payment cards following the appropriate procedures and guidelines issued by the Chief Finance Officer
- (E15) Executive Directors, Head of Service and Service Managers are responsible for examining and certifying invoices, payment vouchers, or accounts arising from sources in their departments. Such documents must be signed or authorised electronically by authorised officers.
- (E16) Executive Directors, Head of Service and Service Managers will prepare and maintain an accurate list of authorised signatories, which have been agreed by the Chief Finance Officer.
- (E17) Before certifying, authorised officers shall check the validity of invoices or accounts to be paid.
- (E18) Payment shall not be made unless a proper VAT invoice has been received, checked, coded and certified for payment, in accordance with the procedures specified by the Chief Finance Officer. Invoices shall not be amended; if any invoice is found to be incorrect, a replacement shall be requested from the originator. Where the invoice is not subject to VAT, officers amending accounts shall record and initial the amendment, and state the reason for the amendment.

- (E19) Payments shall not be made on photocopied or faxed invoices, statements or any documents other than the formal invoice which may be received via email. Where an original document cannot be supplied, due to it having been lost or not received, copies must be duly certified as such in accordance with the procedures specified by the Chief Finance Officer.
- (E20) The Chief Finance Officer shall promptly pay all accounts properly certified and payable by the Council, in a manner determined by him or her. Executive Directors, Head of Service and Service Managers must ensure all accounts are properly certified and paid within 30 days or any mutually agreed terms in order to avoid penalty interest becoming payable.
- (E21) Any penalty interest becoming payable under the Late Payment of Commercial Debts (Interest) Act 1998 shall be charged back to the appropriate budget head.
- (E22) Executive Directors, Head of Service and Service Managers must consult the Chief Finance Officer before entering mutual payment terms with a supplier. All such agreements must be made in writing.
- (E23) The Chief Finance Officer may examine any account, and obtain any explanation considered necessary.
- (E24) Apart from petty cash, Procurement Card, and payments made from cash advances, the normal method of payment shall be by cheque or BACS, drawn on the Council's bank account by the Chief Finance Officer. The use of direct debit for any payment shall require the prior agreement of the Chief Finance Officer.
- (E25) Executive Directors, Head of Service and Service Managers shall notify the Chief Finance Officer of all outstanding expenditure relating to the previous financial year, in accordance with the closing timetable produced by the Chief Finance Officer.

## **Salaries**

- (E26) The Corporate Manager (People) shall approve and control arrangements for the payment of all salaries, compensation and other emoluments to employees, or former employees of the Council, in consultation with the Chief Finance Officer.
- (E27) Executive Directors, Head of Service and Service Managers shall inform the Corporate Manager (People) of all matters affecting salaries.
- (E28) Appointments shall be made in accordance with the Officer Employment Procedure Rules of the Council, approved establishments, grades and rates of pay.
- (E29) The Corporate Manager (People) shall approve the form of all time records and pay documents, in consultation with the Chief Finance Officer. Executive Directors, Head of Service and Service Managers shall authorise appropriate supervisors to certify such records.
- (E30) The Corporate Manager (People) shall inform the Chief Finance Officer of the appointment, or resignation, of any officer to which the Council's assisted car purchase scheme or other salary sacrifice scheme applies.



## **Travelling, Subsistence, Expenses and Members Allowances**

- (E31) Claims for payments of car allowances, travelling and subsistence expenses, and other expenses shall be made using the Council's self-service HR application (MyHR), or in a form approved by the Corporate Manager (People), in consultation with the Chief Finance Officer.
- (E32) Claims must be certified by authorised officers, who are responsible for ensuring that journeys made and expenses claimed have been properly incurred.
- (E33) Claims shall normally be made monthly and passed to the Corporate Manager (People).
- (E34) Payments to Members for travelling or other allowances will be made by the Head of Democracy, Strategy and Partnerships upon receipt of the prescribed form duly completed.

## **Petty Cash**

- (E35) Payments made from Petty Cash shall normally be of a minor nature up to a maximum of £100. Payments in excess of this will normally be paid through the Council's self-service HR application (MyHR) or Creditors system. However, the Chief Finance Officer has discretion to allow larger payments to be made in exceptional cases.
- (E36) All payments will normally be supported by receipted vouchers and proper VAT receipts where appropriate. However, the Chief Finance Officer has discretion to allow payments to be made without obtaining receipts in exceptional cases.
- (E37) The officer responsible for petty cash accounts will provide the Chief Finance Officer with a certificate regarding the state of the account, when requested.
- (E38) Officers shall account to the Chief Finance Officer in full for the petty cash advanced:
  - on leaving the employment of the Council;
  - on ceasing to require petty cash; and
  - at any other time if so required.

## **Ex-Gratia Payments**

- (E39) The Chief Executive has discretion to make ex gratia payments up to £5,000 to effect local settlement in disputes. Approval from the Licensing, Audit and General Purposes Committee is required above this amount.
- (E40) Ex-gratia payments shall be met from appropriate service budgets and the Chief Finance Officer shall be notified of such payments.

**Contractual Payments (to be read in conjunction with the Contract Standing Orders)**

- (E41) Executive Directors, Head of Service and Service Managers shall ensure that appropriate records of payments under contract are kept and regularly monitored with contract payments made on a certificate issued by an authorised officer.
- (E42) Variations can only be made in writing by an authorised officer.
- (E43) In accordance with the Contract Standing Orders, the responsible Executive Directors, Head of Service and Service Managers shall report to the Cabinet, as soon as is practicable, any variation, or cost, which is likely to have a significant effect on the approved tender as determined by the Executive Directors, Head of Service and Service Managers in consultation with the Chief Finance Officer. The report shall detail the cumulative effect on the original tender sum.
- (E44) The Executive Directors, Head of Service and Service Managers, in consultation with the Chief Finance Officer, shall report to the appropriate Cabinet Member on a regular basis (not more than six monthly intervals) on the progress of capital contracts above £250,000. On completion of such a contract, a report will be made to the Cabinet stating the final cost, together with any associated costs, and explain any matter which has significantly affected the original tender sum.
- (E45) Where disputed claims cannot be resolved by the Contractor and the Executive Directors, Head of Service and Service Managers concerned, the matter shall be referred to the Corporate Manager (Legal) for consideration of the Council's legal liability, and to the Chief Finance Officer for financial consideration, before any payment or commitment is made.

**Taxation**

- (E46) Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.
- (E47) The Chief Finance Officer is responsible for advising Executive Directors, Head of Service and Service Managers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- (E48) The Chief Finance Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- (E49) Capital Schemes – There are VAT implications for de minimus exempt income calculation. There is a need to consult with the Chief Finance Officer on VAT implications of all new schemes.

## **Trading Accounts/Business Units**

- (E50) It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts, business units, and any other financial structure that is appropriate to the delivery of Council services or holding of assets.

## **INCOME**

- (E51) Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cashflow and avoids the time and cost of administering debts.
- (E52) Executive Directors, Head of Service and Service Managers shall inform the Chief Finance Officer of all sources of income arising from the work in their department.
- (E53) The Chief Finance Officer shall approve all arrangements made for collecting income and the procedures, systems and documentation for its collection.
- (E54) All monies received by an officer on behalf of the Council shall be paid to the Head of Customer Experience or direct into the Council's bank account without delay and always within three working days unless otherwise agreed by the Chief Finance Officer, in accordance with Accounts and Audit Regulations 2015.
- (E55) Payments received in "full and final settlement" shall only be accepted and paid in if they are sufficient to fully clear the appropriate debt, unless with the approval of the Chief Finance Officer. Deductions may not be made from such money unless specifically authorised by the Chief Finance Officer.
- (E56) Executive Directors, Head of Service and Service Managers shall establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with Council policies.
- (E57) Executive Directors, Head of Service and Service Managers must seek to recover sundry debt outstanding in accordance with up to date Debt Recovery Policy of the Council (if any) as approved by the Chief Finance Officer.
- (E58) Guidance will be issued from time to time by the Chief Finance Officer to set out responsibilities to establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- (E59) The Revenues and Benefits Manager in consultation with the Chief Finance Officer may write off accounts:
- For Council Tax, Business Rates and Housing Benefit where there is proof of Bankruptcy, Debt Relief Orders (DRO), Individual Voluntary Arrangements (IVA), or Liquidation;
  - In relation to overpaid Housing Benefit

- (E60) The Chief Finance Officer shall approve all debts to be written off in accordance with the authorisation limits as set out in the table below and shall keep a record of all sums written off and will adhere to the requirements of the Accounts and Audit Regulations 2015 currently in force.

<b>Amount/Limit</b>	<b>Authorisation process</b>
Amounts not exceeding £500	Service Manager in consultation with the Finance Manager
Amounts greater than £500 but not exceeding £5,000	Chief Finance Officer in consultation with the relevant Executive Directors, Head of Service and Service Managers
Amounts greater than £5,000 but not exceeding £10,000	Chief Finance Officer in consultation with the relevant Executive Directors, Head of Service and Service Managers.  Write-offs must be reported retrospectively to the Cabinet.
Amounts greater than £10,000	These should only be written-off with the approval of Cabinet

- (E61) This authority cannot be delegated. Cabinet approval is required for writing off all other debts.
- (E62) The Head of Operations may waive standard car park charge notices and shall maintain records detailing the reason and amounts of notices waived.
- (E63) Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- (E64) The Chief Finance Officer shall be notified of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer.

## **FINANCIAL REGULATION F: EXTERNAL ARRANGEMENTS**

### **Introduction**

- (F1) The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion and improvement of the economic, social or environmental well-being of its area.

### **Partnerships**

- (F2) The Cabinet is responsible for approving delegations, including frameworks, for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs, in line with the Council's Strategic Objectives and Key Priorities
- (F3) The Monitoring Officer and Chief Finance Officer are responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- (F4) Executive Directors, Head of Service and Service Managers, following consultation with the Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies and comply with the requirements of the Contract Standing Orders.
- (F5) Executive Directors, Head of Service and Service Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **External funding**

- (F6) Executive Directors, Head of Service and Service Managers are responsible for informing the Chief Finance Officer of any anticipated external funding.
- (F7) 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.

## **10. CONTRACT STANDING ORDERS**

### **CONTENTS**

#### **PART A - INTRODUCTION**

Definitions

Purpose – para 1

Responsibilities - rule 2

Compliance - rule 3

#### **PART B – PRE-CONTRACT PROCEDURES**

Authority to Purchase - rule 1

Defining the Need - rule 2

Rules for All Contracts - rule 3

Valuation Contracts - rule 3.1

Contractor Quality - rule 3.2

Purchase Orders - rule 3.3

Award Criteria - rule 4

Collaborative Procurement and Framework Agreements - rule 5

Quotation and Tender Procedure including threshold values – rule 6

EU Procurement procedures - rule 6.4

Medium Value transactions - rule 6.5

Low Value transactions - rule 6.6 and 6.7

Advertising - rule 7

Invitation to Tender - rule 8

Receiving and Opening Tenders - rule 9

Evaluation - rule 10

Contract Award - rule 11

Ordering and Paying for supplies, services and works - rule 12

Contracts Register - rule 13

Contents of Contracts - rule 14

Performance Guarantees - rule 14.2.

Liquidated damages - rule 14.3

Insurances - rule 14.4

Construction Industry Tax Certificates - rule 14.5

Contract Clauses (all contracts) - rule 14.6

Specific Conditions - rule 14.7

Standards - rule 14.8

Managing Contracts - rule 15

Variations and Extensions - rule 16

Conflicts of Interest and Corruption - rule 17

Business Continuity - rule 18

Partnering Arrangements - rule 19

Sharing or Delegation of Services - rule 20

Gifts and Hospitality - rule 21

Exemptions from the Rules - rule 22

## PART A - INTRODUCTION

### DEFINITIONS

Award Criteria	The criteria by which the successful Quotation or Tender is to be selected (see further Part B, Rule 4).
Best Value Legislation	The Local Government Act 1999.
Contracting Officer	Officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council.
Contract	A written document or deed incorporating the contract terms between the Council and the supplier. In the case of procurement for Low Value Transactions this may be made by obtaining written quotations followed by the placing of a Purchase Order.
EU Threshold	The contract value at which EU public procurement directives must be applied, <u>currently as advised in Information Note PPN xxx December 2019</u> : <del>(£173,189,934,330)</del> for the supply of goods or services and £4,348,350,733,252 for building, engineering and construction contracts. These values <del>are subject to change</del> <u>are subject to change</u> and you should contact the Procurement Service to check the current value
Estimated Contract Value	<p>The estimated contract value shall be calculated as follows:</p> <ul style="list-style-type: none"> <li>(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period;</li> <li>(b) where the purchase involves recurrent transactions for the same type of item, and the terms of the contract are to be annually renewable by aggregating the value of those transactions in the coming 12 months;</li> <li>(c) where the contract is for an indeterminate duration by multiplying the monthly payment by 48;</li> <li>(d) for feasibility studies: the value of the scheme or contracts which may be awarded as a result;</li> <li>(e) for nominated suppliers and sub-contractors: the estimated contract value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor.</li> </ul>

Financial Procedure Rules	The council's rules relating to financial procedures in Part 4 of the council's constitution and available on the council's website.
Framework Agreements	A contract, also called a call-off contract, between the Council and one or more contractors that sets out the terms (in particular the price and, where appropriate, quantity) under which the contractor will supply goods or services to the Council in the period during which the framework contract applies.
Head of Service	An officer of the Council employed above grade 7 and where an Executive Director has service responsibilities then they shall be deemed to be a Head of Service for the purposes of these Rules.
Invitation to Tender	Formal document combining an invitation to tender and instructions regarding the process. Usually issued with a Specification/Bill of Quantity and draft Contract conditions. The requirements for an Invitation to Tender are in Part B Rule 8.
Key Decision	A decision as defined within Part 2, para. 3.12 of the Constitution.
Officer Code of Conduct	The code of conduct binding on all officers of the Council and being within Part 5 of the Council's Constitution and viewable on the Council's website.
Open Tender Procedure	A tendering procedure where the invitation to tender is publicly advertised and all tenders received are evaluated.
Nominated Suppliers and Subcontractors	Those persons specified in a main contract for the discharge of any part of that contract.
Partnering Arrangements	A partnering arrangement will provide a structure within which a specific contract for the supply of goods, services or works may be formally developed between the Council and the preferred provider without the need to comply with these Rules.
Performance Bond	An "insurance policy": if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the surety (usually a bank), the sum of money specified in the Bond. A Bond is intended to protect the Council from additional costs arising from the contractor's failure.
Purchase Order	An order for the supply of goods or services placed through the Council's purchasing system E Series.



Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Scheme of Delegation	The Scheme of Delegation in Part 3 of the council's constitution and being available on the council's website.
Supplier	This includes suppliers of goods, works or services provided to the Council whether by an individual, supplier, company or consortium.
Tender Opening Sheet	The log recording details of Tenders, received and opened. (see Part B Rule 9)

## 1. PURPOSE

1.1 By law, Rushmoor Borough Council must make standing orders with respect to contracts for the supply of goods or services or for the execution of works which provide for:

- (a) securing competition; and
- (b) regulating the manner in which tenders are invited.

1.2 These Contract Standing Orders (the Rules) are the Council's rules for buying for the council and form part of Rushmoor Borough Council's Constitution.

1.3 Every contract made by or on behalf of the Council shall comply with:-

- ~~These~~ The Council's Contract Standing Orders CSOs (the Rules)
- The Council's Financial Procedure Rules
- All relevant statutory provisions including the Local Government Act 1988 Part II, Local government Act 1999, Local Government Act 2000, the Public Contract Regulations 2015, the Local Government (Contracts) Act 1997 and the Localism Act 2011;
- European Treaties and European Directives;
- Public Contracts Regulations 2015
- Small Business, Enterprise and Employment Act 2015
- The Public Services (Social Value) Act 2012
- European Union (EU) Rules-rules on State Aid
- Any direction by the Council; the cabinet or committee having appropriate delegated authority

1.4 These Rules have three main purposes:

- (a) To comply with the obligations that govern spending of public money such as the EU Procurement Directives as implemented into UK law by the Public Contract Regulations 2015

- (b) ~~to ensure that the Council obtains Best Value in the way we spend money~~ is spent, so that ~~we~~ the Council in turn may offer better and more

~~cost~~ cost-effective services to the public; and

(b)

(c) to protect the Council and its officers from undue criticism or allegations of wrongdoing.

1.5 The ~~Solicitor to the Council~~Corporate Manager (Legal Services), in consultation with the Executive Head of Finance, will investigate any incidences of non-compliance with these Rules and is responsible for keeping the Rules under review.

1.6 The Procurement Service is responsible for providing advice on these Rules.

## 2. RESPONSIBILITIES

2.1 Corporate Leadership Team/Heads of Service shall:

2.1.1 Oversee the arrangements for procurement within their service areas to ensure they are operating effectively

2.1.2 Strategic Leadership of procurement within their service areas.

2.1.2 ~~Personally~~ Ensure that every officer within their ~~Service~~ service areas is aware of these Rules and that they are observed

2.1.~~2~~3 Ensure that all officers whom are authorised to act as Contracting Officers are properly trained and monitored

2.1.~~3~~4 Be responsible for authorising an officer to act as the Contracting Officer in relation to a procurement

2.2 **Contracting Officers** shall:

2.2.1 Comply with these Rules and observe the integrity of the tender process

2.2.2 Comply with the relevant statutory provisions and the council's requirement relating to declarations of interest affecting any purchasing process

2.2.3 Ensure that there is any appropriate analysis of the requirement, timescales, procedure and documentation to be used

2.2.4 Ensure that the provisions relating to advertising are complied with

2.2.5 Ensure that the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costing and cost savings

2.2.6 Comply with the Council's decision-making processes including recording of Executive Decisions

- 2.2.7 Seek advice from ~~Democratic Services~~ Democracy, Strategy and Partnerships as to the procedure to be followed if the procurement is a Key Decision
- 2.2.8 Advise the Procurement Service of all contracts of a value of more than £5,000 for inclusion on the contracts register
- 2.2.9 Ensure that proper records of all contract award procedures, waivers, exemptions and extensions are maintained with separate files for each purchase of a value of £50,000 or more
- 2.2.10 Ensure that value for money is achieved
- 2.2.11 Ensure that adequate and appropriate security (such as a bond or guarantee) is taken to protect the Council in the event of non-performance
- 2.2.12 Ensure that any contract includes the mandatory conditions of contract
- 2.2.13 Monitor the performance of the contract throughout its term
- 2.2.14 Seek appropriate advice from the Procurement Service, Executive Head of Finance or the Corporate Manager (Legal Services) ~~Solicitor to the Council~~
- 2.2.15 Have regard to additional procurement guidance placed on the Council's intranet
- 2.2.16 Ensure that any consultant managing a procurement process on behalf of the council, is provided with copies of these Rules and that they are adhered to

### 2.3 **All employees** shall

- 2.3.1 ~~report~~ Report breaches (whether actual or suspected) of these Rules to the Corporate Manager (Legal Services) and the Executive Head of Finance ~~Head of Finance or to the Solicitor to the Council~~

## 3. **COMPLIANCE WITH THESE RULES**

- 3.1 These Rules apply to all relevant contracts (Relevant Contracts) made (including all Purchase Orders placed) by, for or on behalf of the Council. Relevant Contracts include arrangements for:
  - (a) The supply or disposal of goods
  - (b) The hire, rental or lease of goods or equipment
  - (c) The provision of works and supply of works materials
  - (d) The provision of services, including consultancy services
  - (e) The granting of works concessions or services concessions
  - (f) The selection of sub-contractors by the Council, where these are ~~nominates~~ nominated under the main contract

- 3.2 Relevant Contracts include contracts between the Council and any other contracting party, including:
- (a) Other public bodies, including other local authorities
  - (b) Voluntary and community sector organisations acting as suppliers to the Council
  - (c) Private sector suppliers to the Council
- 3.3 The list in 3.1 is indicative and should not be classed as all-inclusive. Contracting Officers should seek advice from the Procurement Service or Executive Head of Finance if they are unclear whether their purchasing decision will be covered by these rules.
- 3.4 A suite of tender documents and procurement advice will be available from the Procurement Service and published on the Council's intranet.
- 3.5 The Rules govern the method by which the Council spends money on the supplies, services and works which the Council needs to deliver its services. They apply only when officers need to buy something from outside the Council.
- 3.6 The Rules apply to any contract (including a Purchase Order) that results in a payment being made by the Council. **They also apply to some types of contracts where a service is being provided for the Council which results in income being generated for the Council.**
- 3.7 The Rules do not cover grants which the Council may receive or make except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered.
- 3.8 The Rules do not apply to:
- 3.8.1 the purchasing of land or ~~to~~of any interest in land
  - 3.8.2 contracts of employment of staff
  - 3.8.3 purchases using a collaborative arrangement as the lead authority's CSO's will have been adhered to
  - 3.8.4 Contracts for retention of legal counsel and the appointment of expert witnesses in legal proceedings
  - 3.8.5 Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies.
- 3.9 The Council's "Best Value Duty" is very important. It means that the Council must always consider how each procurement is consistent with the ~~councils~~ Council's duty to secure continuous improvement in what ~~we~~it ~~does~~ having regard to economy, efficiency and effectiveness. The procurement route is important here too. Officers therefore need to question whether the Council should be buying anything at all and if the ~~council~~Council should do,

whether the ~~council~~Council can do it internally , or jointly, or rely on someone else to get better value.

- 3.10 Government and EU Public Procurement Policy require that the Council must permit, and be seen to be permitting, freedom of opportunity to trade with the Council and to be open and transparent about how the Council buys things. If the Council fails in this duty an external party may have cause ~~for~~ to lodge a complaint against the ~~council~~Council and may be able to claim damages.
- 3.11 If officers are in any doubt about whether the Rules apply, they must always check with the Procurement Service.
- 3.12 The Officer Code of Conduct requires that officers must follow these Rules when buying for the Council. If officers do not follow the Rules and / or fail to enter into a contract on behalf of the Council in accordance with these Rules then they will have breached the Code of Conduct and this could be a disciplinary matter.

## **PART B - PRE-CONTRACT PROCEDURES**

### **1. Authority to Purchase**

- 1.1 Heads of Service must ensure that procurements undertaken within their service- by their Contracting Officers, comply with the requirements of the ~~council's~~Council's Scheme of Delegation and Financial Procedure Rules. Before starting a procurement process the relevant delegated authority or approval must be in place, according to whether the cost of the contract is being met from a revenue or capital budget
- 1.2 **Revenue Budget**  
The Head of Service may approve the procurement of any contract for the supply of services, goods or works that will incur any revenue expenditure contained within an approved budget in accordance with these Rules
- 1.3 **Capital Budget**  
For any contract that will incur capital expenditure from an approved budget, the Head of Service shall consult with the relevant portfolio holder prior to proceeding with the procurement process in accordance with these Rules
- 1.4 Internal audit maintain a list of authorised signatories for all service areas which identifies the Contracting Officers authorised to sign orders, contracts, invoices and payments and details the limits within which they may buy things for the ~~council~~Council. Contracting Officers must not exceed their limits without the authorisation of the Executive Head of Finance
- 1.5 Heads of Service must ensure that procurement is undertaken by authorised Contracting Officers who can demonstrate knowledge and understanding of the Rules and skills appropriate to the task. These Contracting Officers should already have authority under the list of financial authorisation limits

and if not must be granted by the ~~Chief Financial Officer~~Executive Head of Finance

- 1.6 Notwithstanding the authority granted to Heads of Service and their Contracting Officers by the ~~Executive Head~~ Head of Finance , all procurements for works, supplies and services where the estimated contract value is £50,000 or above must go through the Procurement Service for advice and then be managed by the Contracting Officer approved by the Head of Service for the procurement .
- 1.7 Heads of Service must ensure that there are the funds in the budget and the necessary budget approval prior to commencing a procurement procedure
- 1.8 In addition, where the procurement is a 'Key Decision', all appropriate steps must be taken ~~in~~ accordance with the constitution.

## 2. Defining the Need

- 2.1 As a minimum, Contracting Officers must clearly and carefully identify and specify the supplies, services or works required together with the terms for payment; the agreed programme for delivery, a certain duration for the contract, the terms for payment ~~and~~ any other terms and conditions.
- 2.2 The size, scope and specification of the supplies, services or works and award criteria must be decided in advance of the procurement process.
- 2.3 Contracting Officers must define the duration of the contract that will provide the most economically advantageous outcome for the ~~council~~ Council and not to avoid or delay the requirement to conduct a subsequent future procurement process. This decision must be made in advance of the procurement process.
- 2.4 Under the Best Value Legislation Contracting Officers must consider the options for the delivery of the required supplies, services or works. The options are
  - Not buying the supplies or services or having the works done at all;
  - Providing the supplies, services or works in house;
  - Using a third party to provide the ongoing supplies, services or works;
  - By commissioning jointly with another council; and/or
  - Shared service delivery with another council

## 3. Rules for all contracts

### 3.1 Valuation of Contracts

- 3.1.1 An estimated contract value **must** be established at the start of the procurement process.
- 3.1.2 If the procurement is related to another procurement or is for supplies , services or works which are or may also be procured by another service area of the Council or on a recurring basis this could affect the contract value for

the purpose of these Rules (that is, the requirement for aggregation may apply). In such circumstances you must seek the advice of the Procurement Service.

- 3.1.3 The contract value means the estimated ~~total~~ value over the full duration of the contract, including any extension options. It is **not the annual value**.
- 3.1.4 Where the duration of the contract is indeterminate, the contract value should be the estimated value of the contract over a period of four years
- 3.1.5 Where the contract does not indicate a total price, the contract value should be the expected value of payments over its full duration or over four years where the contract duration is indeterminate
- 3.1.6 The value of contracts **must never** be deliberately or artificially underestimated or split to avoid the application of procedures set out in these rules.

### 3.2 Contractor Quality

- 3.2.1 For all contracts regardless of value, a contractor must be selected who:
  - (a) Can confirm a business contact address and telephone number;
  - (b) Has an acceptable level of insurance in accordance with Part B rule 14.4
  - (c) Can demonstrate a level of expertise and experience appropriate to the services, goods or works required; and
  - (d) Is registered for tax and holds a valid certificate (where appropriate).
- 3.2.2 For contracts with an estimated value in excess of £50,000 a contractor must, where required, be selected who can evidence sufficient financial stability.

### 3.3 Purchase Orders

- 3.3.1 For the purchase of services, goods or works estimated at a value of less than £50,000, the Contracting Officer should normally consider using a Purchase Order which refers to the standard terms and conditions prescribed for Purchase Orders.
- 3.3.2 For contracts below £50,000 which have some level of complexity it may be appropriate to use conditions of contract instead of a Purchase Order terms and conditions in order to safeguard the Council's legal position. In such cases, the Contracting Officer should consult the Procurement Service and if necessary, the ~~Solicitor to the Council~~Corporate Manager (Legal Services). For any contract for works, the Procurement Service must be consulted to determine whether the contract should be made under seal to extend the limitation period to 12 years.

## 4. Award Criteria

- 4.1 Award Criteria appropriate to the procurement must be defined and included in the invitation to submit a quotation/tender documentation (Invitation to



Tender). It must be designed to secure an outcome giving best value for the Council. The usual criterion shall be:

(a) “**Most economically advantageous**” offer (where the Council needs to ensure that an appropriate and/or minimum level of expertise/quality is provided. This will usually (but not exclusively) apply to Medium-value contracts exceeding £50,000, i.e. where a tender exercise is required.

(b) “**Highest price**” if payment is to be received by the Council.

4.2 As a general guide where ‘most economically advantageous’ is used the split between ~~price cost~~ and quality should be on a 60/40% respective split. Advice should be sought from the Procurement Service on this issue but any deviation from this split i.e. if the cost percentage is to be lower, must be approved by the appropriate Head of Service in consultation with the Executive Head of Finance.

## 5. Collaborative procurement (Framework Agreements)

5.1 In order to secure best value, the Council may make use of collaborative procurement arrangements. Such arrangements may include, for example, collaborative contracts let by:

- (a) Other local authorities
- (b) Public Sector purchasing consortia
- (c) Other UK contracting authorities

5.2 A Framework Agreement is an agreement with one or more contractors that sets out the terms and conditions under which specific purchases can be made (or ‘called off’) throughout the term of the agreement.

5.3 Further information and advice on framework agreements including whether it is appropriate to use a framework agreement and how to access it can be obtained from the Procurement Service and from the procurement section on the Council’s intranet.

5.4 The use of a Framework Agreement should be considered when carrying out the initial Pre-contract procedures (Section B of these Rules paragraph 2).

## 6. Quotation and Tender Procedure

6.1 The Rules vary according to the value of the contract with stricter more rigorous procedures for higher value transactions. This is to ensure that the benefits of a more thorough, complex process are not outweighed by the cost relative to the value of supplies, services or works in question.

6.2 For the highest value contracts, the Council is obliged to follow the full EU Procurement Directives as implemented into UK law by the Public Contracts Regulations 2015



6.3 The table below indicates the relevant procedure to be followed for different levels of contract value:

Estimated contract Value ( Ex VAT)	Procedure
<ul style="list-style-type: none"> <li>£<del>181,302</del><u>189,330</u> <del>172,514</del> or over for supplies and services</li> <li>£<del>4,551</del><u>322,413</u><del>012</del> <del>4,733,252</del> or over for works</li> </ul> <p>NB these limits are subject to revision and the below link should be used to check the current threshold  <a href="http://www.ojec.com/threshholds.aspx">http://www.ojec.com/threshholds.aspx</a></p>	Contracting Officers <b>must</b> follow the EU procurement procedures or framework
£50,000 up to EU Procurement levels for supplies, services and works	Contracting Officers <b>must</b> follow the procedure for medium-value transactions. Or framework
£ <del>5,000</del> <u>2,500</u> up to £49,999	Contracting Officers <b>must</b> follow the procedure for low-value transactions band 2 3 Quotes or RFQ or framework
Below £ <del>52,000</del> <u>500</u>	Contracting Officers <b>must</b> follow the procedure for low-value transactions. Band 1 At least 1 quote or framework

#### 6.4 EU Procurement procedures

6.4.1 For transactions valued at EU procurement thresholds the procurement **must** be conducted in accordance with the EU procurement procedures specified in the Public Contract Regulations 2015.

6.4.2 All EU procurement procedures **must** be managed by the Procurement Service in consultation with the ~~Solicitor to the Council~~Corporate Manager (Legal Services)

6.4.3 Advice on the type of EU procurement procedure to be used **must** be sought from the ~~Solicitor to the Council~~Corporate Manager (Legal Services) and/or the Procurement Service and approved by the ~~Solicitor to the Council~~Corporate Manager (Legal Services)

6.4.4 Further guidance is available on the Council's intranet or from the Procurement Service

## 6.5 Medium value transactions

- 6.5.1 For transactions valued from and including £50,000 to EU Thresholds, the medium value transactions procurement procedure **must** be followed where a formal tender process **must** be conducted as described below.
- 6.5.2 For all medium value transactions, the tender process **must** be agreed by the appropriate Head of Service following receipt of advice from the Procurement Service and managed either by the Procurement Service or such other person as the Procurement Service agrees
- 6.5.3 A Procurement start up document **must** be completed and submitted to Procurement Service unless otherwise agreed by the Procurement Service. The assistance of the Procurement Service is available to assist officers in completing this document. This start up document will require evidence of budgetary provision from the Head of Service.
- 6.5.4 The contract opportunity [and relevant documents](#) **must** be advertised at the start of the tender procedure and the procurement service will arrange to do this.
- 6.5.5 The tender procedure **must** be an Open tender (all interested suppliers submit a tender in response to an advertisement);
- 6.5.6 Where a relevant Framework Agreement exists it should be explored and considered— in preference to carrying out a full tender process as such agreements can provide cost and time saving benefits.

## 6.6 Low-value transactions Band 2

- 6.6.1 For transactions valued from and including ~~£5,000~~[£2,500](#) to £49,999 for supplies, services and works, the low value (band 2) transactions procurement procedure **must** be followed where at least three written quotations **must** be invited from capable suppliers before a Purchase Order is issued.
- 6.6.2 Where a relevant Framework Agreement exists and is to be used then the terms of the framework agreement must be followed
- 6.6.3 The Purchase Order **must** specify the supplies, services or works to be provided, the price to be paid and the terms of payment.
- 6.6.4 The Purchase Order will refer to RBC's standard form of terms and conditions of purchase [which are on the Council's website](#). A quotation and a Purchase Order will create a legally binding contract. The Purchase Order is used to formalise the terms of the contract.
- 6.6.5 **If only one quotation is received the Contracting Officer must seek more quotations or obtain an exemption from the Rules in accordance with Rule 22 of these Rules.**

6.6.6 Emailed quotations [and screen prints](#) are acceptable but copies **must** be retained [in accordance with the Council's document retention policy](#).

6.6.7 Further guidance can be provided by the Procurement Service and is available on the intranet

## 6.7 Low-value transactions Band 1

6.7.1 For transactions valued up to £~~5,025~~500 for supplies, services and works, the low-value band 1 transactions procurement procedure **must** be followed where at least one written quotation **must** be obtained from a capable supplier before a formal Purchase Order is issued.

6.7.2 Where a relevant Framework Agreement exists and is to be used then the terms of the framework agreement must be followed

6.7.3 The Purchase Order **must** specify the supplies, services or works to be provided, the price to be paid and the terms of payment.

6.7.4 The Purchase Order will refer to RBC's standard form of terms and conditions of purchase [which are on the Council's website](#). A quotation and a Purchase Order will create a legally binding contract. The Purchase Order is used to formalise the terms of the contract.

6.7.5 Emailed quotations/ [screenprints](#) are acceptable but copies **must** be retained [in the relevant file](#).

6.7.6 Further guidance is provided by the Procurement Service -and is available on the intranet

## 7. Public Notice/Advert

7.1 The requirement for advertising opportunities is summarised in the table below:

Total Contract Value	South East Business Portal(SEBP)	Publication /Trade Journal	OJEU	Contract Finder (if opportunity to be advertised)
<b>£25,000-£49,999</b>	Optional	Optional	Optional	Required
> £50,000	Required	Optional	Optional	Required
Above EU Threshold	Required	Optional	Required	

7.2 The Procurement Service will place the advert as part of the procurement process

## 8. Invitation to Tender

- 8.1 For all procurements over £50,000 (medium-value contracts), officers must consult the Procurement Service on whether the procurement must be conducted through the Council's e-procurement system to make sure the procurement process is as efficient as possible. ~~It is This will be mandatory for EU procurement tenders to be run electronically from October 2018 but all OJEU notices and procurement documents for EU procurement already must be available electronically. This includes all communication and information exchanged during the process, including the submission of tenders.~~ Use of the e-tendering system should be carried out with the support of the Procurement Service in accordance with the approved procedures implemented in that system.
- 8.2 Invitations to Tender should be sent to all who express an interest if a below EU Procurement thresholds. We cannot pre-qualify. The Invitation to Tender should specify a period of not less than 2 weeks for the return of tenders. This can be amended accordingly to reflect the complexity of the tender document.
- 8.3 Where using a Framework Agreement, this may provide for carrying out a mini-tender exercise. In such cases, the rules of the Framework Agreement will govern the process where there is any conflict with these Rules
- 8.4. As a minimum, the Invitation to Tender needs to contain:
- 8.4.1 The Specification
  - 8.4.2 Evaluation Criteria and weightings
  - 8.4.3 The contract length and start date
  - 8.4.4 The Tender submission date and rules regarding submission
  - 8.4.5 The terms and conditions of contract
- 8.5 The Procurement Service will assist with the preparation of tender documentation and will liaise with ~~the Solicitor the Council~~ Corporate Manager (Legal Services) where necessary.
- 8.6 The Invitation to Tender is required to be ready for publication at the same time as the advert.

## 9. Receiving and opening tenders

- 9.1 Responses to an invitation to tender **must** be received according to the format of response specified in the Invitation to Tender and no later than the time specified for submission of tenders in the Invitation to Tender.
- 9.2 For all tenders received via the e-tendering system the 'locked box' must only be opened after the deadline for submission has passed in the presence of two officers from the Executive Head of Finance's Team who are not involved in managing the project. ~~Details of the opened tenders, including title/reference number of tenders, name of tenderers and prices, must be recorded in the Tender Opening Sheet or electronically.~~ Late

tenders **must** remain unopened until after the tenders properly received have been opened and the procedures set out in rule 9.3 below complied with.

- 9.3 For tenders conducted through paper-based methods, tender responses **must** be retained in a secure place until the time specified for their opening. For medium and high value transactions three officers of the Council including one officer from the Procurement Service **must** open all tenders at the same time and record the tenders. For low value transactions this can be undertaken by three officers without representation from the Procurement Service. Late tenders **must** be retained unopened until after the tenders properly received have been opened. The supplier **must** be notified of its exclusion on account of submitting its tender late. If no response from that supplier is received within a reasonable period then the unopened late tender **must** be returned to the supplier but if the supplier challenges the decision then the unopened late tender **must** be retained until Procurement Service and the ~~Solicitor to the Council~~ Corporate Manager (Legal Services) confirm that it may be returned to the supplier. Opened and rejected tenders as well as invited bidders who did not submit a tender **must** be recorded on a Tender Opening Sheet.

## 10. Evaluating quotations and tenders

- 10.1 For medium value transactions the tenders should be objectively evaluated by a panel of three officers including one officer from the Procurement Service using the Award Criteria.
- 10.2 For low value transactions tenders should be objectively evaluated by a panel of three officers using the Award Criteria.
- 10.3 Where the most economically advantageous evaluation is used, any resulting contract **must** be awarded to the bidder who submits the most economically advantageous bid that is the quotation or tender that achieves the highest score in the objective assessment.
- 10.4 The results of the evaluation process **must** be recorded and all tenderers must be formally notified ~~in writing~~ of the results either in writing or electronically.

## 11. Awarding contracts and Audit Trails

- 11.1 A contract **must** only be awarded and signed by a person authorised to do so in the Scheme of Delegation subject to receipt of confirmation from a Head of Service or Procurement Service (or finance officer) that the appropriate budget holder has the funds in place to sustain the contract prior to award.
- 11.2 For all contracts where the contract value exceeds £100,000 the contract **must** either:

- 11.2.1 Be made under the authority's seal in accordance with rule 24 of the Council's Standing Orders for Regulation of Council Business; or
- 11.2.2 Signed by at least two officers authorised by the ~~Solicitor to the Council~~Corporate Manager (Legal Services). The decision as to whether to sign or to seal a contract shall rest with the ~~Solicitor to the Council~~Corporate Manager (Legal Services). For the avoidance of doubt, no contract shall be either be attested by or signed by any member.
- 11.3 For contracts<sup>s</sup> where the contract value is up to £100,000<sup>1</sup>, the contract may be signed by a single officer with delegated authority unless the ~~Solicitor to the council~~Corporate Manager (Legal Services) requires it to be made under the authority's seal
- 11.4 A full and complete audit trail of all procurement activity resulting in the award of a contract **must** be retained in electronic or hard-copy format as appropriate.
- 11.5 Contracts procured under the EU procurement directives have a special award procedure which must be adhered to. Guidance on this can be obtained from the Procurement Service
- 11.6 When acting under a general delegation in awarding a contract, Contract Officers must make an appropriate record of the decision and notify democratic services.

## 12. **Ordering and Paying for Supplies, Services and Works**

- 12.1 Notwithstanding the fact that a contract may have been awarded, official orders **must** still be placed on suppliers in accordance with the Council's Financial Procedure Rules.
- 12.2 No pre-payment for supplies, services or works (other than those purchased with a corporate credit card) **may** be made without the prior written consent of the Executive Head of Finance and the Monitoring Officer.

## 13. **Contracts Register**

- 13.1 In accordance with the Local Government Transparency Code 2014, once a contract over £5,000 in value has been awarded, the Procurement Service must be notified of the following information so that the Contract Register can be updated:
- (a) Contract Title;
  - (b) Supplier Name and registered company number
  - (c) Contract term including details of any provisions for extension;
  - (d) Contract Start Date;
  - (e) Total contract value; and
  - (f) Name of Contract Manager.

13.2 As part of the Council's commitment to be open and transparent with its residents, since October 2010 a list of all payments over £500 made to suppliers and contractors has been published on the council website. In addition, disclosure of expenditure details may be required under the Freedom of Information Act.

13.3 If an existing Framework Agreement is utilised the Procurement Service must be notified of the following so that a record can be held:

- (a) Framework title and Reference Number (if applicable);
- (b) Lead buying organisations name;
- (c) Supplier Name;
- (d) Details of services/supplies purchased; and
- (e) Value of services/supplies purchased.

#### 14. **Contents of Contracts**

##### 14.1 **General**

14.1.1 Where a contract is estimated at a value over £50,000 and/or for any contract of an unusual or complex nature or is for the appointment of consultancy services, the Procurement Service and if necessary ~~the Solicitor~~ the Council – Corporate Manager (Legal Services) should be consulted to produce a suitable set of conditions of contract or pre-approved standard terms and conditions may be used.

14.1.2 Every contract must be made in writing, under English Law and comply with the requirements in rule 11.2

14.1.3 Every contract shall specify:-

14.1.3.1 the work, supplies or services to be undertaken or supplied;

14.1.3.2 the price to be paid with a statement of discounts or other deductions;

14.1.3.3 a condition requiring valid undisputed invoices to be paid by the Council within 30 days and a condition requiring a supplier to impose such condition in any subcontracts

14.1.3.4 the time or times within which the Contract is to be performed and, where appropriate, the amount of liquidated damages which may otherwise become due;

14.1.3.5 insurance provisions; and

14.1.3.6 the conditions of the Contract.

##### 14.2 **Performance Guarantees**

14.2.1 If over £100,000 the Council shall require the Contracting Body to give sufficient security for the due performance of the contract. This can be



- (a) a Performance Bond in the following sums

Contract Value	Amount of Security
£100,000 to £1,000,000	10% (inclusive of VAT)
Over £1,000,000	5% (inclusive of VAT);

or

- (b) a retention until expiry of the defects liability in such sum as shall be agreed in writing between the Contracting Officer and Head of Finance

14.2.2 If a performance bond is required to be provided the Contracting Officer shall arrange through the Executive Head of Finance for the financial status of the bondsman to be investigated and if satisfactory approved.

14.2.3 The Executive Head of Finance may determine that for contracts where the Council will not or is unlikely to suffer loss or that any loss will be small such as those for:

- (a) maintenance or  
(b) the supply of goods paid for upon invoice following delivery

that no performance bond or retention is required. Approval to dispense with a performance bond should be obtained in writing.

#### 14.3 Liquidated Damages

14.3.1 Where a Contract is for the execution of works, the provision of services or supplies by a particular date or series of dates, the appropriate Head of Service in consultation with the Procurement Service shall determine whether it should contain provision for liquidated damages.

#### 14.4 Insurances

14.4.1 Where the Council is procuring works or services, evidence of public liability insurance as part of the contractors self-certification exercise must be provided by the contractor and maintained throughout the period of the contract.

14.4.2 The value of Public Liability Insurance must not be less than £10,000,000 or such other sum as the Executive Head of Finance may advise.

14.4.3 Where the contractor is providing a professional service, the Executive Head of Finance should be consulted to establish if Professional Indemnity insurance is appropriate and the sum to be required.

14.4.4 Where the contract extends beyond the expiry date of current insurances the Contracting Officer shall ensure that copies of renewal certificates are obtained and examined.



## **14.5 Construction Industry Tax Certificates**

- 14.5.1 The Contracting Officer shall, where it is a lawful requirement, ensure that the contractor has produced for inspection a current C.I.S.5 or C.I.S.6 (sub-contractors) Tax Certificate and a copy provided to the Head of Finance.

## **14.6 Contract Clauses (all contracts)**

### **14.6.1 Non-assignment or transfer of contract**

Every written Contract shall include a clause to prevent the Contractor from transferring or assigning the Contract either directly or indirectly, without the written consent of the Council and to prevent the sub-letting of the Contract except to the extent permitted in writing by the appropriate Head of Service.

### **14.6.2 Prevention of Corruption**

Every written Contract shall include a clause to secure that the Council shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation if, in connection with the Contract, the contractor commits an offence under the Bribery Act 2010 or gives any fee or reward the receipt of which is an offence under s.19(2) of the 1972 Act, or has directly or indirectly canvassed any member or officer, or has obtained or attempted to obtain information concerning any other tender or otherwise acts in a similar unlawful manner.

### **14.6.3 Termination Provisions**

Every written Contract shall include a clause to secure that, should the contractor fail to carry out the works, provide the services or deliver the supplies or any part thereof within the time specified in the Contract or fall within the circumstances prescribed in regulation 73 of the Public Contract Regulations 2015, the Council, without prejudice to any other remedy available, shall be at liberty to terminate the Contract either wholly or to the extent of such default and execute the works, procure the services or purchase other supplies to make good such default or in the event of the Contract being wholly terminated the remainder of the works to be executed, services to be provided or the supplies remaining to be delivered. Such clause shall further secure that the amount by which the cost of so executing the works, so procuring the services or so purchasing other supplies exceeds the amount which would have been payable to the contractor in respect of the works, services or supplies shall be recoverable from the contractor.

## **14.7 Specific Conditions**

- 14.7.1 Where appropriate, every contract must provide for compliance with all relevant legislation including:
- a) The European Convention on Human Rights
  - b) Race Relations, Age and Sex Discrimination (Equalities Act)

- c) Health and Safety at Work
- d) General Data Protection Regulation
- e) Disability Discrimination
- f) Freedom of Information

14.7.2 Every contract must provide for information to be reasonably requested by the Council and provided by the supplier in relevant cases regarding:

- a) Race Relations & Equalities Matters
- b) Best Value
- c) Transfer of Undertakings and Protection of Employment
- d) Open book accounting

#### 14.8 **Standards**

14.8.1 All goods, materials and workmanship must be specified by reference to any relevant European or International Specification or Standard or, if there are none, to any relevant British Specification or Standard.

14.8.2 Goods and materials shall not be specified by reference to a particular make, source or process which has the effect of favouring or eliminating particular contractors or suppliers, except when this is unavoidable because of the subject matter of the contract or the absence of relevant specifications or standards. When goods and materials are so specified, the contract shall permit the successful contractor to propose suitable alternatives.

#### 15. **Managing contracts**

15.1 For each Medium-value contract, i.e. over £50,000, the Head of Service must designate an appropriate lead officer as primary contact and Contract Manager.

15.2 For particularly large and/or strategically important contracts, the Head of Service should consider the appointment of a dedicated project manager, who should be supported by other professional disciplines, prior to the award of the contract

#### 16. **Variations and Extensions**

16.1 As well as complying with any statutory restrictions including regulation 72 of the Public Contract Regulations 2015 and compliance with these Rules, Heads of Service may only authorise an extension to an existing contract where an extension for the particular period is provided for within the terms and conditions of the contract (and provided that there has been satisfactory performance).

- 16.2 Subject to any statutory restrictions and compliance with these Rules, Heads of Service with appropriate delegated power may authorise any other variation to an existing contract, and if relevant a consequent change in price, determined in accordance with the contract terms where the annual value of the variation is less than £25,000 or 10% of the original annual contract value (whichever is the lesser).
- 16.3 Any variations to an existing contract, and if relevant a consequent change in price, determined in accordance with the contract terms where the annual value of the variation is greater than £25,000 or 10% of the original annual contract value (whichever is the lesser) **must** be authorised by the Head of Finance.
- 16.4 No extension or variation may be granted to any contract not awarded under the EU procurement procedures where the value of the extension or variation results in the contract value exceeding the EU procurement procedures thresholds.
- 16.5 All extensions and variations to an existing contract **must** be checked to confirm that they represent best value and they are not being instigated solely to avoid or delay the requirement to conduct a procurement.
- 16.6 All extensions and variations to a contract awarded under the EU Procurement Directives **must** be authorised by the ~~Solicitor to the Council~~Corporate Manager (Legal Services) and the Executive Head of Finance having regard to the Public Contract regulations 2015.
- 16.7 All extensions and variations **must** be documented and signed by an authorised signatory on behalf of the Council and counter-signed by the supplier.
17. **Conflicts of Interest and corruption**
- 17.1 Any interest which may affect the award of a contract under these Rules **must** be declared. Such interests may include the ownership of shares in a potential supplier, previous employment by a potential supplier or the employment of a family member by a potential supplier. Any officer of the Council participating in a contract award decision or Contract Officer managing the procurement **must** provide the ~~Solicitor to the Council~~Corporate Manager (Legal Services) with a written declaration of any such interests.
- 17.2 ~~The Solicitor to the Council~~Corporate Manager (Legal Services) **must** either certify that such interests are acceptable or take any necessary action in respect of potential conflicts of interest and the officer should not participate in the award of the contract by the Council.
- 17.3 Officers should be aware of other requirements of the Council's Constitution with regard to conflicts of interest, bribery and corruption.

## 18. **Business Continuity**

- 18.1 Critical contracts i.e. those linked to the critical activities identified in each Services impact assessment and any contract that could have a major impact on delivery if the awarded contractor was unable to operate / provide their service for a period of time, should be identified at the beginning of the tender process. This should also include instances where there is only one company that is able to supply a service to the council.
- 18.2 For further advice please contact the Procurement Service.
- 18.3 To minimise the risk of disruption in the delivery of such contracts, business continuity plans should be requested from tenderers and this should form part of the tender evaluation.

## 19. **Partnering Arrangements**

- 19.1 Where it is determined that a Partnering Arrangement is appropriate then these Rules shall be complied with based on the estimated value of the project.
- 19.2 Partnering Arrangements should:
- (a) be based on a shared understanding of what the desired outcome is and which elements are to be provided by each party;
  - (b) be focused on benefits - not just on time and cost;
  - (c) have a shared understanding of which party is managing particular elements of risk;
  - (d) (for long term contracts) be able to cope with changing customer requirements and technology developments; and
  - (e) be capable of implementing effective and efficient procurement.
- 19.3 Partnering Arrangements may be appropriate where
- 19.3.1 a long term relationship, usually at least over five years, is anticipated where customers and providers adopt long term rather than short term views.
- 19.3.2 there is a need for:
- (a) business change, especially where innovation is required and/or the future is uncertain;
  - (b) using new methods of service delivery (such as providing services online);
  - (c) flexibility in constructing teams, involving specialist skills or scarce resources; and
  - (d) outsourcing business processes or services, perhaps to allow Council staff to concentrate on core areas.

19.4 Partnering Agreements should not be considered where there are:

- (a) short term requirements where there will not be time for the provider to recover initial investment costs;
- (b) projects where the Council requires complete or significant control over the specification and service delivery, with little or no flexibility for the provider to propose new ways of doing things;
- (c) contracts where there is little or no scope for continuous improvement;
- (d) contracts where the Council requires an outcome, but cannot transfer key elements of control or major risks to the provider.

20. **Sharing or Delegation of Services**

20.1 Where there is an opportunity to deliver services via a shared working or delegation of service arrangement with another public sector organisation, the requirement to seek quotations/tenders in accordance with these Rules may not apply.

20.2 Any such opportunity shall (where applicable) initially be considered in accordance with the matters set out in paragraph 2.

20.3 The advice of the Solicitor to the Council Corporate Manager (Legal Services) shall be obtained on any proposal to ensure that its implementation will be in accordance with appropriate legislative powers. Advice should also be sought from the Executive Head of Finance concerning the financial implications of any proposal.

20.4 All proposals for the sharing or delegation of services shall be subject to Cabinet approval (as appropriate)

21. **Gifts and Hospitality**

21.1 No gifts or hospitality should be accepted from any bidders to any contract being let by the Council. Acceptance of gifts or hospitality may be a disciplinary offence. Every Contracting Officer managing a procurement, letting a contract or managing a contract for the Council **must** inform the Solicitor to the Council Corporate Manager (Legal Services) -of any offers of gifts or hospitality. Reference should be made to the Council's policy on Gifts and Hospitality in place at such time and the Council's Bribery Act Policy.

22. **Exemptions from the Rules**

22.1 Exemptions from these Rules **must** be obtained in advance in accordance with the following procedure.

22.2 An exemption cannot be given for any procurement subject to the EU Procurement Directives as implemented in the UK by the Public Contracts Regulations 2015.

22.3 An exemption may be agreed jointly by the ~~Solicitor to the Council~~Corporate Manager (Legal Services) and the Executive Head of Finance if after considering a written request complying with 22.7 below ~~he/she is~~they are both satisfied that the exemption is justified because:

- (a) the nature of the market for the works to be carried out, or the supplies, or services to be provided, has been investigated and is demonstrated to be such that a departure from the requirements of the Rules is justifiable; or
- (b) that time limits required for tendering cannot be met for reasons of extreme urgency (usually emergency contracts where a risk to life, or the security or structural viability of a property can be demonstrated) and requirements were unforeseen — instead of there is an urgent requirement to secure the provision of works, services or supplies and it is not practical to seek competitive quotations or tenders;
- (c) by applying these Rules, it would not be possible to obtain genuine competition;
- (d) It has been tested that the works, services or supplies required are of a specialist nature, such that competitive prices cannot be obtained;
- (e) professional services, such as Counsel, are required urgently;
- (f) by extending the term (by exercising an option within the contract), or varying and/or extending the scope an existing contract, it is in the best interests of the Council, demonstrating value for money and is permitted by procurement legislation;
- (g) by appointing a contractor to carry out further work in connection with a main project following provision by such contractor of feasibility or initial work, it would be advantageous to the successful delivery of the main project; or
- (h) by applying these Rules it would not be possible to satisfy the best interests of the Council in terms of delivering social, economic or well-being benefits.

(similar to (g) but) that goods are required as a partial replacement for or addition to existing goods or installations and having another supplier would result in technical difficulties in operation and maintenance.

22.4 A record of the decision approving an exemption and the reasons for it **must** be kept by the ~~Solicitor to the Council~~Corporate Manager (Legal Services) and an entry made in the register of approved exemptions.

22.5 An exemption shall never be given in relation to either Rule 17 [conflicts of interest] or Rule 21 [gifts and hospitality] or retrospectively (unless it can be demonstrated to be essential for reasons of business continuity or recovery).

- 22.6 These Rules may also be varied or departed from when, but only when, jointly the ~~Solicitor to the Council~~Corporate Manager (Legal Services) and Executive Head of Finance advises that statute or subordinate legislation requires.
- 22.7 A request for an exemption from these rules must be made in writing to the Procurement Service in the first instance, who will then seek approval from the ~~Solicitor to the Council~~Corporate Manager (Legal Services) and Executive Head of Finance. The request must be accompanied by full reasons as to why the exemption is required, together with evidence and supporting information to demonstrate that the issue of the exemption will not prevent best value being obtained.
- 22.8 Any decision to exempt a procurement from compliance with these Rules must be made in writing jointly by the ~~Solicitor the Council~~Corporate Manager (Legal Services) and Executive Head of Finance and no action shall be taken to enter into the contract until such time as a request has been submitted and properly approved.
- 22.9 If any approval to exempt a procurement from compliance with these Rules falls within the key decision criteria then that procedure must be also be followed.
- 22.10 The Council is subject to legal requirements to ensure fair competition for contracts of a value exceeding EU Threshold and subject to obligations under EU treaty to ensure that all contracts are awarded having regard to the need to avoid any action that is discriminatory, improper or which distorts competition. It is therefore expected that exemptions granted from the Rules will be limited.

## **11. OFFICER EMPLOYMENT PROCEDURE RULES**

These Officer Employment Procedure Rules embody the requirements of the Local Government and Housing Act 1989, the Local Authorities (Standing Orders) Regulations 1993, the Local Authorities' (Standing Orders) (England) Regulations 2001 and Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which require the adoption of certain Standing Orders. These Employment Procedure Rules constitute those Standing Orders.

### **1. DEFINITIONS**

In these Rules –

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001 and 2015;

"Head of Paid Service" is the officer designated under Section 4(1) of the 1989 Act

"Statutory Chief Officer" has the meaning set out in Section 2 (6) of the 1989 Act and for this Council will be the Executive Head of Finance (Section 151 Officer);

"Non-Statutory Chief Officer" means a person who reports to the Head of Paid Service or who is directly accountable to the local authority as set out in Section 2 (7) of the 1989 Act and for this Council will be the Executive Directors and Monitoring Officer.

"Deputy Chief Officer" means a person who for most or all of their duties is required to report direct, or is directly accountable, to a statutory or non-statutory chief officer as set out in Section 2(8) of the 1989 Act and for this Council will include all Heads of Service other than the Statutory Chief Officers and the two Corporate Managers;

"member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part and for this Council will be the Head of Service with responsibility for Human Resources (Corporate Manager – People).

### **2. RESPONSIBILITY FOR STAFF APPOINTMENTS, DISMISSAL, AND DISCIPLINARY ACTION – GENERAL PROVISIONS**

#### **General**



- 2.1 Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Council and not by parts of the organisation or individuals.
- 2.2 All appointments must follow the Council's recruitment and selection procedure and be made on merit and in compliance with the law and any agreed policies and procedures of the Council.
- 2.3 The functions of appointment and dismissal of, and taking disciplinary action against a member of staff of the authority, must be discharged on behalf of the authority by the Head of Paid Service (Chief Executive) or by an officer nominated by him or her, except as set out in provisions below. A summary of the arrangements for appointments is attached to these procedure rules at Appendix A.
- 2.4 All officers must adhere to the Officer Code of Conduct (set out in Part 5 of the Constitution).

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

- 3.1 The Head of Paid Service is appointed by the Licensing, Audit and General Purposes Committee, subject to confirmation by the full Council.
- 3.2 Where the Council proposes to appoint a Head of Paid Service and it is not proposed that the appointment be made exclusively from among its existing Officers, the Council will:
  - (a) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request; and
  - (d) select from the applications a short list of qualified candidates.
- 3.3 The Licensing, Audit and General Purposes Committee shall appoint a Member Panel, including at least one member of the Cabinet, to interview candidates and come to a view as to the most suitable person to recommend for the position.
- 3.4 Before an offer of appointment is made by the Licensing, Audit and General Purposes Committee for the role of Head of Paid Service, the Committee must notify the Proper Officer (Corporate Manager – People), who it wishes to appoint and any other information that is considered relevant to the appointment.
- 3.5 The proper officer must notify every member of the Cabinet:

- (i) the name of the person to whom the Committee wishes to make the offer;
- (ii) any other particulars relevant to the appointment which the Committee has notified to the proper officer; and
- (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and

An offer of appointment must wait until:

- (iv) the Leader has, within the period specified in the notice under (iii) above, notified the proper officer that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
- (v) the proper officer has notified the Committee that no objection was received by them within that period from the Leader; or
- (vi) the Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

3.6 Where, following the above procedure, there are no objections to the proposed appointment or any objections are not upheld, the Licensing, Audit and General Purposes Committee will recommend that person for appointment to the next meeting of the Council. If the Council approves the recommendation, then a formal offer of appointment can be made.

3.7 Where the Council does not approve the recommendation of the Licensing, Audit and General Purposes Committee, it shall indicate how it wishes to proceed.

#### **4. DESIGNATING THE ROLE OF SECTION 151 CHIEF FINANCE OFFICER AND MONITORING OFFICER**

4.1 The roles of Section 151 Chief Finance Officer and Monitoring Officer will be designated by the Council.

#### **5. APPOINTING OTHER CHIEF OFFICERS (STATUTORY AND NON-STATUTORY) AND DEPUTY CHIEF OFFICERS**

5.1 Before an offer of appointment is made by the appointer (as set out in Appendix A) to the following posts, the appointer must notify the proper officer (Corporate Manager – People), who it wants to appoint and anything else that the appointer considers is relevant to the appointment:

- a statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989, which for the Council means the Executive Head of Finance
- a non-statutory chief officer within the meaning of section 2(7) of the Local Government and Housing Act 1989, which for the Council means the Executive Directors and Monitoring Officer role.

- A deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989 which means those posts that report to a statutory or non-statutory chief officer and for the Council includes Heads of Service and two Corporate Managers.

5.2 The proper officer must notify every member of the Cabinet:

- (i) the name of the person to whom the appointer wishes to make the offer;
- (ii) any other particulars relevant to the appointment which the appointer has notified to the proper officer; and
- (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and

An offer of appointment must wait until:

- (iv) the Leader has, within the period specified in the notice under (iii) above, notified the proper officer that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
- (v) the proper officer has notified the appointer that no objection was received by them within that period from the Leader; or
- (vi) the appointer is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

**6. APPOINTMENT OF POLITICAL ASSISTANTS**

6.1 Provisions are contained in Section 9 of the Local Government and Housing Act 1989 to appoint political assistants to assist a political group in the discharge of any of their functions as Members of the Council. No such appointment shall be made until the Council has allocated such a post to each political group which qualifies for such a post under that Section, and no more than one such post shall be allocated to any political group. The terms and conditions of appointments to all such posts shall be the same.

6.2 Appointments shall be made from time to time in accordance with the wishes of the political group to which the post has been allocated and on the terms and conditions agreed by the Council subject to requirements in the Regulations that the appointments are made on an annual basis and subject to salary restrictions. Functions and responsibilities of the Council may not be delegated to such posts.

**7. DISCLOSURE OF RELATIONSHIPS WITH COUNCILLORS AND OFFICERS**

7.1 The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.

- 7.2 No candidate so related to a Councillor or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by him or her.
- 7.3 Subject to paragraph 4.5, 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).
- 7.4 Subject to paragraph 4.5, no Councillor will seek support for any person for any appointment with the Council.
- 7.5 Nothing in paragraphs 4.3 and 4.4 above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment provided that Councillor has no role in the decision process of recruitment / appointment to that position.

## **8 DISCIPLINARY ACTION AND DISMISSAL**

- 8.1 Any disciplinary action taken against an officer shall be carried out in accordance with the Council's agreed policies and procedures.

### **Head of Paid Service, Chief Finance Officer and Monitoring Officer**

- 8.2 In paragraph 8.3 "Head of Paid Service", "Monitoring Officer" and "Chief Finance Officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2001 and "designated independent person" has the same meaning as in regulation 7 of those Regulations.
- 8.3 A Member Panel appointed by the Licensing, Audit and General Purposes Committee will be responsible for proposals to dismiss the Head of Paid Service, Monitoring Officer or Section 151 Chief Finance Officer.
- 8.4 Any disciplinary action short of dismissal will be the responsibility of the Member Panel. However, no disciplinary action may be taken, except as set out in para. 8.5 below, in respect of the Head of Paid Service, the Monitoring Officer or the Section 151 Chief Finance Officer, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.
- 8.5 Further to 8.4 above, the Member Panel may agree to suspend a Head of Paid Service, Chief Finance Officer or Monitoring Officer for the purpose of investigating alleged misconduct, and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.
- 8.6 Any decision to dismiss a Statutory Chief Officer must be taken by vote at a meeting of the full Council. This must follow a recommendation of the Member Panel comprising relevant independent persons, and which takes into account the conclusion of any investigation into the proposed dismissal and any

representations from the relevant offer concerned. It must also follow the procedures in para. 8.7 below.

- 8.7 Notice of dismissal of one of the Statutory Officers must not be given until the Member Panel has notified the proper officer that it wishes to dismiss the officer and any other particulars which the Panel considers are relevant to the dismissal.

The proper officer must notify every member of the Cabinet: -

- (i) the name of the person who the Panel wish to dismiss;
- (ii) any other particulars relevant to the dismissal which the Panel has notified to the proper officer; and
- (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the proper officer; and

And either:-

- (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Panel that neither he nor any other member of the Executive has any objection to the dismissal;
- (ii) the proper officer has notified the Panel that no objection was received by him within that period from the Leader; or
- (iii) the Panel is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

### **Non-Statutory Chief Officers and Deputy Chief Officers**

- 8.9 The Head of Paid Service shall be responsible for disciplinary action and dismissal of non-statutory chief officers and deputy chief officers. In this part, "dismissor" means, in relation to the dismissal of an officer of the authority, the Head of Paid Service.

- 8.10 Notice of the dismissal of an officer referred to in paragraph 5.8 must not be given by the dismissor until:-

The proper officer has notified every member of the Cabinet:-

- (i) the name of the person who the dismissor wishes to dismiss;
- (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
- (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the proper officer; and

And either:-

- (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the Executive has any objection to the dismissal;
- (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the Leader; or

(iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

8.11 Councillors will not usually be involved in the dismissal of any officer below Head of Service except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissals.

**APPENDIX A****APPOINTMENT OF STAFF**

Responsibility for staff appointments shall be in accordance with the following schedule:

<b>Post</b>	<b>Appointer</b>
Head of Paid Service	Licensing, Audit and General Purposes Committee, subject to confirmation by the Council.  The Committee will appoint a cross party Member Panel including the Leader of the Council and the Cabinet Member for Corporate Services to oversee the arrangements for filling the vacancy.
Section 151 Officer (Executive Head of Finance) (Statutory Chief Officer within the meaning of section 2(6) of LGHA 1989)	Appointment Panel consisting of four Members, including the Cabinet Member for Corporate Services and the Leader of the Council, subject to confirmation by the Licensing, Audit and General Purposes Committee.  The designation of an officer as the Council's Section 151 Chief Finance Officer to be confirmed by the Council
Executive Directors  (Non-Statutory Chief Officers within the meaning of section 2(7) of LGHA 1989)	Appointment Panel consisting of four Members, including the Cabinet Member for Corporate Services and the Leader of the Council, subject to confirmation by the Licensing, Audit and General Purposes Committee
Heads of Service (other than Chief Officers), Corporate Manager – Legal, and Corporate Manager – People  (Deputy Chief Officers within the meaning of section 2(8) of LGHA 1989)	Head of Paid Service
Deputy Chief Officers who are not Heads of Service	Head of Service, subject to confirmation by Executive Director
Other politically restricted posts	Head of Service
All other Posts	Head of Service

Note: The designation of an officer as the Council's Monitoring Officer must be confirmed by the Council.

## 12. PETITIONS SCHEME

Petitions are one of the ways in which people can influence decisions that affect their local community. Anyone who lives, works or studies in the Borough, including under 18s, can sign or organise a petition and trigger a response.

### 1. GENERAL

- 1.1 This Scheme covers the majority of petitions that are submitted to the Council. However separate provisions are in place for handling petitions related to planning and licensing applications. Further detailed information about how the Council will respond to these petitions is available from the Council's Planning Team and the Council's Licensing Team.

#### **Guidelines for submitting a petition**

- 1.2 The Council will treat something as a petition if it is identified as being a petition, or if it seems to the Council that it is intended to be a petition.

Petitions should be sent to:

Head of Democracy, Strategy and Partnerships  
Rushmoor Borough Council Offices  
Farnborough Road  
Farnborough  
Hampshire  
GU14 7JU

Email: [andrew.colver@rushmoor.gov.uk](mailto:andrew.colver@rushmoor.gov.uk)

- 1.3 Petitions submitted to the council should include
- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take.
  - The name, address and signature of any person supporting the petition.
- 1.4 Petitioners must provide an address that is within the area of Rushmoor, and can be their home, work or place of study.
- 1.5 Petitions should be accompanied by an eligible address for the petition organiser (An eligible address is one that falls within the Borough as a place of residence, work or study). This is the person the Council will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, the council will contact signatories to the petition to agree who should act as the petition organiser.
- 1.6 Petitions which, in the opinion of the Head of Democracy, Strategy and Partnerships are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or a referendum the council



may need to deal with the petition differently. If this is the case the council will explain the reasons and discuss the revised timescale which will apply.

- 1.7 If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, the Council will contact the petition organiser to explain the reasons.
- 1.8 Petitions may be presented to a meeting of the authority. If you would like to present your petition to a council meeting, or would like your ward councillor to present it on your behalf, please contact the Head of Democracy, Strategy and Partnerships (01252) 398800) to discuss the appropriate meeting that this should be submitted to. At least 10 working days notice should be given of a request to present a petition to a meeting of the authority.

### **What happens following receipt of a Petition**

- 1.9 All petitions sent or presented to the council will receive an acknowledgement from the Council within 14 working days of receipt. This acknowledgement will set out what we plan to do with the petition. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and advise when and where the meeting will take place.

## **2. HOW THE COUNCIL WILL RESPOND TO PETITIONS**

- 2.1 The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
  - taking the action requested in the petition
  - considering the petition at a meeting of the authority
  - holding an inquiry into the matter
  - commissioning research into the matter
  - holding a public meeting
  - a written response to the petition organiser setting out the authority's views on the request in the petition
  - referring the petition to the Council's Overview and Scrutiny Committee

### **Petitions with Less than 500 Signatures**

- 2.2 Where a petition is of a very local nature, and affects a small part of the Ward, the appropriate Head of Service shall consult the relevant Cabinet Member or Committee Chairman, together with Ward Members to agree a response and any necessary resulting action. This may include one of the actions set out in paragraph 2.1 above.
- 2.3 Where a petition raises implications for the Council's Services and/or budget and policy framework, the appropriate Head of Service shall consult the relevant Cabinet Member or Committee Chairman, together with Ward Members to consider a response, which may include one of the actions set out in paragraph 2.1 above. However, any action which has implications for the Council's budget and policy framework, or would have a significant impact on service delivery would need to be agreed by the Cabinet. Receipt of the petition and the proposed response shall be reported to the Cabinet, or relevant Committee as appropriate.

### **Referral to the Overview and Scrutiny Committee**

- 2.4 If a petition contains at least 500 eligible signatures and raises implications for the Council's services and/or budget, the matter shall be referred to the Overview and Scrutiny Committee for consideration.

### **Referral to Full Council**

- 2.5 If a petition contains more than 1,000 eligible signatures it will be debated at the next available Council meeting\*, allowing at least 10 working days notice. This means that the issue raised in the petition will be discussed at a meeting that all councillors can attend.
- 2.6 The council will consider and decide how to respond to the petition at this meeting. It may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision, which will also be published on the website.

\*An exception is that if the petition asks for a senior council officer to give evidence at a public meeting, then this shall usually take place at the Overview and Scrutiny Committee.

### **Public Speakers**

- 2.7 When a petition is referred to Council or a committee, the petition organiser shall be offered the option of presenting their petition to the meeting. A maximum of ten minutes shall be permitted for this. If there are requests for additional speakers, this will be managed in accordance with the public speaking procedure rules (set out in Part 4 of the Constitution). The Head of Democracy, Strategy and Partnerships in consultation with the Chairman of the Committee will make the final decision on the numbers of public speakers at any meeting.

### **Petitions related to planning or licensing applications**

- 2.8 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, the matter will be dealt with outside of these provisions, in accordance with existing procedures. All petitions related to planning applications shall be reported to the Council's Development Management Committee.

### **Other Responses**

- 2.9 If the petition is about something over which the council has no direct control (for example the local railway or hospital) the council will aim to make representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to the petition. If the Council is not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then the reasons will be explained to the petition organiser.

- 2.10 If the petition is about something that a different council is responsible for, the Council will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event, the petition organiser will be notified of the action taken.
- 2.11 The Council will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

### **3. PETITION APPEALS**

- 3.1 The petition organiser has the right to request that the Overview and Scrutiny Committee reviews the steps that the council has taken in response to their petition, if the organiser feels that the Council has not dealt with the petition properly.
- 3.2 The Overview and Scrutiny Committee will endeavour to consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine that a petition has not been dealt with adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation and making recommendations to the Cabinet.
- 3.3 Once the appeal has been considered the petition organiser will be informed of the results within seven days.

## PART 5

### Codes and Protocols

Section	Procedures	Page
1	Code of Conduct for Councillors - Guidance for using Social Media	261 271
2	Members Planning Code of Good Practice	275
3	Protocol for Member/Officer Relations	283
4	Protocol for Public Community Meetings	287
5	Selection of Mayor and Deputy Mayor	291
6	Mayoral Protocol	293
7	Appointment of Honorary Aldermen	302
8	Officer Code of Conduct	303
9	Code of Corporate Governance	312
10	Anti-Fraud, Bribery and Corruption Policy	313
11	ICT Acceptable Use Policy	319
12	Members Learning and Development Policy	328

# **1. CODE OF CONDUCT FOR COUNCILLORS**

## **PART 1: GENERAL PROVISIONS AND INTERPRETATION**

### **1. Introduction**

This Code of Conduct is adopted by the Borough Council pursuant to its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members of the Council. This Code applies to all Members and Co-opted Members of the Council.

This Code is based on and is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership as referred to in the Localism Act 2011 and forming an appendix to this Code.

In the interests of transparency and openness, and in accordance with the requirements of the Localism Act 2011, Members' Registers of Interests are published on the Council's website, and available for public inspection at the Council's offices at all reasonable hours.

### **2. Scope**

This Code applies to all Members and Co-opted Members of the Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the Council. References in this Code to "Member" shall also be interpreted to include co-opted Member.

Where a Member is a member of more than one local authority, but acting on behalf of the Council, such Member is, for the avoidance of doubt, bound by this Code of Conduct.

### **3. General obligations of Members and Co-opted Members**

As a Member of Rushmoor Borough Council, your conduct will address the principles of the Code of Conduct by:

- 3.1 Representing the needs of residents, and putting their interests first.
- 3.2 Dealing with representations or enquiries from residents, members of communities within the administrative area of Rushmoor Borough Council and visitors fairly, appropriately and impartially.
- 3.3 Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Council's area, or the good governance of the Council in a proper manner.

- 3.4 Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties.
- 3.5 Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit.
- 3.6 Being accountable for your decisions and co-operating when scrutinised internally and externally.
- 3.7 Contributing to making the Council's decision-making processes as open and transparent as possible.
- 3.8 Restricting access to information when the wider public interest, the Council's Constitution, or the law requires it.
- 3.9 Behaving in accordance with all the Council's legal obligations, alongside any requirements contained in the Council's policies, protocols and procedures relating to conduct.
- 3.10 Ensuring that when using or authorising the use by others of the resources of the Council that such resources are not used improperly for political purposes.
- 3.11 Having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or otherwise.
- 3.12 Not knowingly doing anything which might cause the Council to breach any legislation.
- 3.13 Valuing your colleagues and Officers of the Council and engaging with them in an appropriate manner.
- 3.14 Always treating all people and organisations with respect and propriety.
- 3.15 Providing leadership through behaving in accordance with these principles.

## **PART 2: DISCLOSABLE PECUNIARY INTERESTS**

### **1. Introduction**

A disclosable pecuniary interest is an interest falling within the Schedule set out at Paragraph 3 below of:

- 1.1 Yourself; or
- 1.2 Your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest.

## 2. Interpretation

In the Schedule set out at Paragraph 3 below, the following words or expressions mean as follows:

- 2.1 'the Act' means the Localism Act 2011;
- 2.2 'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- 2.3 'director' includes a member of the committee of management of an industrial and provident society;
- 2.4 'land' excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- 2.5 'M' means a member of a relevant authority;
- 2.6 'member' includes a co-opted member;
- 2.7 'relevant authority' means Rushmoor Borough Council of which M is a member;
- 2.8 'relevant period' means the period of 12 months ending with the day on which M gives a notification of a disclosable pecuniary interest for the purposes of Section 30(1) or Section 31(7), as the case may be, of the Act;
- 2.9 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## 3. Schedule of Disclosable Pecuniary Interests

Subject	Prescribed description
Employment, office, trade profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land

Any beneficial interest in land which is within the area of the relevant authority.

Licences

Any licence (along or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies

Any tenancy where (to M's knowledge):

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where:

- (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either:
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total



issued share capital of that class.

### **PART 3: REGISTRATION AND DISCLOSURE OF DISCLOSABLE PECUNIARY INTERESTS**

#### **1. Obligations**

- 1.1 You must, within 28 days of taking office as a Member or Co-opted Member of the Council, notify the Council's Monitoring Officer of any disclosable pecuniary interests as defined by regulations made by the Secretary of State (as set out at Part 2 of this Code), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- 1.2 You must also, within 28 days of becoming aware of any new disclosable pecuniary interest, or change thereto, notify the Council's Monitoring Officer of such new or changed interest.
- 1.3 If you have a disclosable pecuniary interest included on the Register of Members' Interests, you must disclose this interest at any meeting of the Council, its Cabinet or Committees (including joint committees and sub-committees) at which you are present. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent.
- 1.4 If a disclosable pecuniary interest has not been entered onto the Council's Register of Interests, then you must also disclose the interest to any meeting of the Council, its Cabinet or Committees (including joint committees and sub-committees) at which you are present where you have such an interest in any matter being considered. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. Following disclosure of a disclosable pecuniary interest not on the Council's Register or the subject of pending notification, you must notify the Monitoring Officer of such interest within 28 days, beginning with the date of disclosure.
- 1.5 Unless a dispensation has been granted by the Licensing, Audit and General Purposes Committee, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest. You must as soon as it becomes apparent that you have such an interest withdraw from the room where the meeting considering the business is being held, and must not seek improperly to influence a decision about that business. If acting as a portfolio holder you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.

### **PART 4: REGISTRATION OF GIFTS AND HOSPITALITY**

You must, within 28 days of receipt, notify the Council's Monitoring Officer of any gift or hospitality you receive, if such gift or hospitality has an estimated value of at least £50.

## **PART 5: NON-PECUNIARY INTERESTS – PERSONAL AND PREDJUDICIAL INTERESTS**

1. Without prejudice to requirements contained at Part 3 of this Code in respect of the registration and disclosure of disclosable pecuniary interests, this Code requires that other non-pecuniary interests may still need to be declared and may affect participation in the business of the Council.
2. A declaration needs to be made in respect of personal interests for reasons of openness and transparency.
3. If that personal interest is also a **prejudicial interest** then there may be a conflict of interest which prevents the Member from participating in the decision.
4. For the avoidance of doubt, the statutory requirements in respect of disclosable pecuniary interests, take precedence and apply in place of the Council's additional requirements in the Code for personal and prejudicial interests.

## **PART 6: PERSONAL INTERESTS**

1. You have a **personal interest** in the business of the Council when it relates to or is likely to affect:
  - 1.1 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 the Council.
  - 1.2 any body
    - (a) exercising functions of a public nature;
    - (b) directed to charitable purposes; or
    - (c) 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
  - 1.3 any employment or business carried on by you other than for profit or gain;
  - 1.4 any person or body who employs you, or who has appointed you, other than for profit or gain;
  - 1.5 the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 in the last three years;
2. You also have a **personal interest** in the business of the Council when 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** (as defined at paragraph 3) below, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward within the administrative area of the Council affected by the decision;

3. In Paragraph 2, a “relevant person” is:
- 3.1 your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest; or
  - 3.2 another member of your family, or any person with whom you have a close association, where you are aware that that other person has the interest; or
  - 3.3 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; or
  - 3.4 any person or body in whom to the Member’s knowledge such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000: or
  - 3.5 any body of a type described in paragraph 1.1 or 1.2 above.

## **PART 7: DISCLOSURE OF PERSONAL INTERESTS**

- 1.1 Subject to paragraphs 1.2 to 1.5 below, where you have a personal interest in any business of the Council you must disclose this interest at any meeting of the Council, its Cabinet or Committees (including joint committees and sub-committees) at which you are present. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent.
- 1.2 Where you have a personal interest in any business of the Council which relates to or is likely to affect a person described in Part 6 paragraphs 1.1 or 1.2 (a) above, you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 1.3 The requirement to declare a personal interest only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 1.4 Where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision (record of executive decisions form) records the existence and nature of that interest.
- 1.5 In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **PART 8: PREJUDICIAL INTERESTS**

### **1. Definition of Prejudicial Interest.**

Subject to paragraph 2 below, **where you have a personal interest in any business of the Council, you also have a prejudicial interest in that business when 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.**

### **2. Limitation on extent of prejudicial interests**

- 2.1 You do not have a prejudicial interest in any business of the Council where that business does not affect your financial position, or the financial position of a body or relevant person as described in Part 6 of this Code; or
- 2.2 does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or a body or relevant person as described in Part 6 of this Code; or
- 2.3 relates to the functions of the Council in respect of
  - (a) housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
  - (b) 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;
  - (c) an allowance, payment or indemnity given to members;
  - (d) any ceremonial honour given to Members; and
  - (e) setting council tax or a precept under the Local Government Finance Act 1992.

## **PART 9: EFFECT OF PREJUDICIAL INTERESTS ON PARTICIPATION**

- 1.1 Unless a dispensation has been granted by the Council's Licensing, Audit and General Purposes Committee, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a prejudicial interest (as set out at Part 7 of this Code), and must as soon as it becomes apparent that you have such an interest (save for in circumstances set out at paragraph 1.2 below) withdraw from the room where the meeting considering the business is being held, and must not seek improperly to influence a decision about that business. If acting as a single Executive member you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.
- 1.2 Without prejudice to paragraph 1.1 above, where you have a prejudicial interest in any business of the Council (including any meeting of an Overview and Scrutiny Committee or Policy and Project Advisory Board) you may, notwithstanding such prejudicial interest, attend such meeting for the purpose of making representations, answering questions or giving evidence relating to

such business, provided members of the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

- 1.3 For the avoidance of doubt the procedure in paragraph 1.2 above cannot be used by the member where the interest comes within the statutory definition of a disclosable pecuniary interest.
- 1.4 In any case where paragraph 1.2 above applies, you must withdraw from the room immediately after making representations, answering questions, or giving evidence, unless in the case of the Overview and Scrutiny Committee, the Panel invites you to remain.

## **PART 10: SENSITIVE INFORMATION**

- 1.1 A sensitive interest is described in the Localism Act 2011 as a member or co-opted member of the Council having an interest, and the nature of the interest being such that the member or co-opted member, and the Council's Monitoring Officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with them, being subject to violence and intimidation.
- 1.2 A sensitive disclosable pecuniary interest or a change to such an interest need not be included on the Register of Members' Interests, but you may state that there is an interest the details of which are withheld under S32 Localism Act 2011.
- 1.3 Within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 1.2 is no longer sensitive information, you shall notify the Council's Monitoring Officer asking that the information be included in the Register of Members' Interests.
- 1.4 Any requirements in this Code for the declaration of an interest at meetings shall be met by not giving details of the sensitive interest but by stating that you have a disclosable pecuniary interest or a personal/prejudicial interest in the matter concerned.

## **APPENDIX TO CODE OF CONDUCT**

### **7 PRINCIPLES OF CONDUCT IN PUBLIC LIFE**

#### **SELFLESSNESS**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits.

#### **INTEGRITY**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### **OBJECTIVITY**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **ACCOUNTABILITY**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **OPENNESS**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### **HONESTY**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### **LEADERSHIP**

Holders of public office should promote and support these principles by leadership and example.

## ANNEX – GUIDANCE FOR USING SOCIAL MEDIA

Set out below are some key points and considerations for councillors on the use of social media.

### 1.1 General ‘Dos and Don’ts’ for Social Media

#### Do

- **be responsible and respectful** at all times
- **choose your platform** – different approaches work for different people. Some residents will prefer Twitter, others Facebook or Instagram – choose which platform suits you best and master one of them first before trying others
- have a **personality** – corporate speak and jargon will not be effective on social media
- **have a plan** for your account – set yourself some simple objectives for your account and then understand what content they are most likely to be interested in then create and share it at the times your audience are most likely to be on these channels.
- **use hashtags** but use them appropriately and strategically – your hashtag should also be your campaign ‘call to action’, objective or event hashtag, Make sure they are clean – e.g. they haven’t been used before
- **credit** other people's work, ideas and links
- **listen** - social media is designed to be a two-way channel, just like any good conversation
- **ask** your own questions.
- **monitor your accounts** daily and respond to questions same day
- **evaluate your accounts** – look at your analytics or insights. Understand which posts are getting most engagement – do more of what works well and stop doing the things which aren’t working for you
- **learn** from others – there is rich learning of good practice social media use across both public and private sector
- and more than anything, do use social media in the spirit in which it was intended – to **engage openly and honestly**.

#### Don't

- **broadcast** or talk at people. Your residents will soon spot too many broadcasts and respond accordingly
- try to **cover up** mistakes, be honest and you'll get more respect for it in the long run
- just **build accounts** and just hope people will come – sometimes it is best to go to the places where your audiences are already having conversations, such as Facebook groups, LinkedIn groups or Twitter Chats

- **assume** that social media will look after itself – you will need to invest time, enthusiasm and energy to make it work. And don't leave your accounts unattended for long spells
- **assume that social media is 'free'**. It isn't – there is a cost for your time. Social media is a time-consuming activity and you have to consider this against your other work and priorities
- post content which will **embarrass** yourself – don't post any message on social media that you wouldn't happily say in a public meeting.
- **ignore** advice, it's there to help you
- think that a **disclaimer** in your bio will save you from potential legal action, it won't
- **share your passwords** with anyone and make it difficult to guess – don't have the name of your pet or your favourite football team as your password
- **don't** forget that **social media is 24/7** – your residents may be active out of normal office hours. It's a personal choice on how active you are on social media but to a degree you will get out of it what you put into it
- **Lastly and most importantly – don't argue on social media** – no one comes off well when you argue online. Imagine how that looks to other residents watching an argument taking place on social media. Answer questions honestly, be human and engaging. If someone is just trying to pick a fight with you step out and ignore it – don't rise to the bait.

## 1.2 Legal considerations

Councillors have the same legal duties online as anyone else and need to be aware of the laws that apply to published material.

- (1) **Defamation**  
If you publish an untrue statement about a person which is damaging to their reputation, you may be liable to pay damages.
- (2) **Copyright**  
Publishing information that is not yours, without permission, may also result in an award of damages against you.
- (3) **Harassment**  
It is an offence to repeatedly pursue a campaign against a person that is likely to cause alarm, harassment or distress.
- (4) **Data Protection**  
Avoid publishing the personal data of other people, including photographs, without their express permission to do so.



(5) **Incitement**

It is an offence to incite any criminal act.

(6) **Discrimination and ‘protected characteristics’**

It is an offence to discriminate against anyone based on protected characteristics (as defined in the Equality Act 2010).

(7) **Malicious and obscene communications**

It is a criminal offence to publish anything that people would consider malicious or obscene communications.

Additional considerations that apply to Councillors:

(8) **Bias and Pre-determination**

Members sitting on regulatory committees such as planning or licensing should be aware they are allowed to have a view but not have gone so far as to have predetermined their position on a matter. Any views aired on social media could be used as evidence of making a decision in advance of hearing all relevant information. The Council’s decision is then open to challenge and could be invalidated, and the ‘disrepute’ provision of the Code could be engaged.

(9) **Elections**

Particular care should be taken when using social media during the pre-election period. As good practice, your profile should display your full imprint details, and all digital campaign material should have an imprint saying who is behind the campaign and who created it. You can include a shortened link to your imprint in a tweet or post. (An imprint is added to election material to show who is responsible for its production and publication. It helps to ensure that there is transparency about who is campaigning and should therefore be clear and visible).

Websites and other electronic material during the pre-election period

As good practice, it is recommended to put an imprint on electronic material, such as websites and emails. The imprint should include the name and address of the promoter and the organisation on whose behalf it has been produced. You should include an imprint unless the size or format of the election material would mean that the imprint is not legible. Where it is impractical to place the full imprint on the election material you should consider how to provide some other means for the material to be associated with you. Any posters that are available for download from a website should carry the full imprint.

### **1.3 Members Code of Conduct**

Councillors may use social media in both an official and personal capacity, but they must be aware that the public may perceive them as acting in either capacity when that is not their intention. Any social media account which could be potentially linked to a councillor would need to meet the standards of the code of conduct. The sections of the Code most likely to give rise to complaints are the requirements to treat others with respect; not to bring the office or councillor or the Council into disrepute; and prohibiting the disclosure of confidential information.

### **1.4 Use of Social Media During Committee Meetings**

- (1) During meetings, councillors are encouraged to use Mobile devices to access the Modern.gov app and other information related to meetings. However, common sense and care should be taken when using social media during meetings. It is important for councillors not to give the impression that insufficient attention is being given to the discussion at the meeting, particularly at quasi-judicial meetings, as it could lead to the relevant decision coming under challenge if councillors are perceived to have made a decision without having properly listened to the debate. It could also result in a Code of Conduct complaint for a failure to treat others with respect or of bringing the Council into disrepute.
- (2) Councillors should not post photographs taken at internal Members Seminars and 'closed to public' meetings on social media, unless express permission has been given by meeting organisers.

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## 2. MEMBERS’ PLANNING CODE OF GOOD PRACTICE

### Background

The Planning Code of Good Practice was first prepared in response to the Local Government Association’s Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework. This Code is based on the model adopted by ACSeS in 2003. The Code as revised is considered to be consistent with the principles relating to public life set out in s28 of the Localism Act 2011. This Code supplements the Council’s Code of Conduct for Members.

### Introduction

**The aim of this code of good practice:** 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.

**The key purpose of Planning:** to control development in the public interest.

**Your role as a Member of the Planning Authority:** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of the Deputy Monitoring Officers, and preferably well before any meeting takes place.**

### 1. Relationship to Members’ Code of Conduct

- **Do** apply the rules in the Members’ Code of Conduct first, which has statutory effect and sets out the conduct that is expected of Members when acting in their official capacity.
- **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members’ Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
  - the Council at risk of proceedings on the legality or maladministration of the related decision; and
  - yourself at risk of a complaint being made to the Monitoring Officer if the failure is also likely to be a breach of the Code of Conduct.

## **2. Development Proposals and Interests under the Members' Code**

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members.
- **Do** always disclose your interest at the beginning of the meeting or as soon as you become aware of it and not just at the commencement of the discussion on that particular matter.
- **Do** then act accordingly. **Where your interest is pecuniary:** -
  - **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
  - **Don't** try to represent ward views, get another Ward Member to do so instead, explaining that you have such an interest. Don't seek to influence him or her.
  - **Don't** get involved in the processing of the application and don't 'promote' the application to Committee in your capacity as Ward Member.
  - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a pecuniary interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
  - **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a pecuniary interest to an appropriate officer, in person or in writing and in your private capacity, the Code places limitations on you in representing that proposal.
  - **Do** notify the Monitoring Officer in writing and note that:
    - you should send the notification no later than submission of that application where you can;
    - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
    - it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee.

## **3. Separating Your Professional and Public Roles**

- **Do** take care to separate your professional life from your work as a councillor and be sure to make it clear to others in which capacity you are acting.
- **Do** register with the Monitoring Officer any employment, office, trade, profession or vocation carried on for gain.
- **Do** notify the Corporate Planning Manager in writing if you are, or are likely to be, an applicant for planning permission in the Council's area or have a significant association with such an application, whether as an agent or as a member of a professional team involved in the preparation or submission of the

application. These applications will always be reported to the Development Management Committee for determination and will not be dealt with by officers under delegated powers.

- **Do** disclose to a meeting at which you are present any pecuniary interest in a planning application, whether arising as above or in any other way, and then withdraw from the meeting.

- **Don't** use your position as a councillor to lobby, promote or influence the outcome of a planning application in which you have a pecuniary interest. You should not, in these circumstances, use channels of communication or access to Members and officers that are not available to applicants and agents in the normal course. You should not indicate to others, including potential clients if you are employed as a planning agent, that you can use your position as a councillor to secure more favourable planning outcomes than might otherwise be the case.

#### **4. Fettering Discretion in the Planning Process.**

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

**Fettering your discretion** in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you 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* Council, Cabinet or Development Management Committee, but that through your significant personal involvement in preparing or advocating the proposal you 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.)
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the county council, for example), provided:
  - you do not have a pecuniary interest in the matter;
  - you make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your 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 you hear all of the relevant information; and

- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
- you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.
- **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so to avoid any appearance of impropriety.
- **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. Use the disclosure form provided for disclosing interests.
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a pecuniary interest. Where you do take such an opportunity to speak after fettering your discretion:
  - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
  - remove yourself from the member seating area for the duration of that item; and
  - ensure that your actions are recorded

## 5. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Corporate Planning Manager 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 authority 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.
- **Do** otherwise:
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the Corporate Planning Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

### **In addition in respect of presentations by applicants/developers:**

- **Do** be aware that a presentation is a form of lobbying and you must not express any

view that might suggest predetermination or state how you or other Members might vote.

- **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Development Management Committee.

## 6. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register it in the Register of Interests where its value is over £50 (in accordance with the authority's rules on gifts and hospitality).
- **Do** copy or pass on any lobbying correspondence you receive to the Corporate Planning Manager at the earliest opportunity.
- **Do** promptly refer to the Corporate Planning Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer or Deputy Monitoring Officers where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a pecuniary interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your

own mind having heard all the facts and listened to the debate.

## 7. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals without considering the risk of bias or predetermination. You are entitled to have a predisposition in favour of particular decisions but not a closed mind. Action, campaign or lobby groups are most likely to be formed specifically to promote or oppose planning proposals. Membership of an established residents' association, political party or similar body that may have adopted a particular line in respect of a development proposal does not, by itself, fetter the discretion of an individual Member and all such cases should be considered on their particular facts.
- **Do**, if you wish, join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society such as the Aldershot Civic Society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal
- **Don't** excessively lobby fellow councillors regarding your 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
- **Don't** decide or discuss how to vote on any application at any sort of 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.

## 8. Site Visits

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection;
  - matters raised by the applicant and/or objectors cannot be assessed from the application or supporting material;
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed; or
  - the proposal is particularly contentious
- **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.



- **Don't** hear representations from any other party. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views to anyone.
- **Don't** 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:
  - you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the Corporate Planning Manager about your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.

## 9. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 10. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Corporate Planning Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** 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.

## 11. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are first submitted to the Chairman in writing in accordance with the Council's Scheme of Delegation and recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material

considerations indicate otherwise.

- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for Committee's decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## 12. Training

- **Do** take advantage of all training opportunities provided by the Council in matters of conduct and propriety.
- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

### **3. PROTOCOL FOR MEMBER/OFFICER RELATIONS**

#### **1. INTRODUCTION**

- 1.1 The purpose of this protocol is to inform Councillors and Officers of what they might reasonably expect of each other and is intended to assist both Officers and Members in dealing with issues that might arise when carrying out their respective functions.
- 1.2 This protocol sits together with a number of other codes of conduct which apply to Members and Officers. This includes the Code of Conduct for Councillors, Officer Code of Conduct, Code of Conduct for Planning Matters, Standing Orders for the Regulation of Business, Disciplinary and Grievance Procedures for Staff and the Whistleblowing Policy.
- 1.3 The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they, therefore, demand very high standards of personal conduct.

#### **2. GENERAL PRINCIPLES**

- 2.1 Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors provide the democratic leadership of the Council. They are responsible to the electorate, serving only so long as their term of office lasts, and set high level policy and strategy. Officers are employees of the Council and are responsible to the Council as a whole. Their job is to implement the policies agreed by councillors, manage, organise and deliver services and provide unbiased, professional advice and support to councillors.

##### **Officer Impartiality**

- 2.2 Officers serve the whole Council, and not exclusively any political group, combination of groups or any individual Member of the Council. They are expected to provide full and impartial professional reports and advice including recommendations for possible action and are required to be politically neutral.
- 2.3 Officer support must not extend beyond providing information and advice in relation to matters of *Council* business. Officers must not be involved in advising on any matters of political party business and shall not in normal circumstances attend party group meetings unless agreed by the Chief Executive.
- 2.4 Any request for advice, together with the advice given to a political group or Member will be treated with strict confidentiality and will not be accessible to any other political group. However, factual information upon which any advice is based will, if requested, be available to all Members.

### **Balance between formality and informality**

- 2.5 A balance between formality and informality in member-officer relations needs to be struck - there are dangers in over emphasising informality, just as unnecessary formality is unduly restrictive. Formal relations need to be maintained in all public decision-making arenas. More informal relations may be appropriate, however, in working groups.

### **Mutual respect**

- 2.6 Members and Officers will treat each other with mutual respect. It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 2.7 Members should not raise matters relating to the conduct or capability of a Council employee or of employees collectively at meetings held in public. Employees have no means of responding to criticisms like this in public. Such criticism should, however, be distinguished from Members' right to disagree with the professional judgement of officers; Members are not *bound* to follow officers' advice. If a Member feels he or she has not been treated with proper respect, courtesy or have any concern about the conduct or capability of a Council employee the matter should be raised with the appropriate Executive Director or Head of Service if they fail to resolve it through direct discussion with the employee.
- 2.8 There is also an established convention that officers do not criticise Members in public meetings. Where an officer feels that he or she has a grievance against a Member it will normally be dealt with by the Chief Executive or Monitoring Officer in consultation with the Member concerned and/or the leader of the appropriate political group.
- 2.9 There may be occasions on which a Member feels bound publicly to criticise a decision of the Council. However, before doing so, it is important that the Member has taken adequate steps to verify the accuracy of the facts upon which such criticism is based. The Member concerned would normally be expected to verify the facts with the relevant officer, unless he or she is sure as to their accuracy.

### **Relationships**

- 2.10 The Chief Executive, Executive Directors and senior officers need to work closely with Members with a special responsibility including Cabinet Members and committee chairmen. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other members and other party groups.
- 2.11 Any officer who is personally connected to any Member should notify his/her Head of Service/Executive Director or the Chief Executive in writing. Any Member who has a social or personal relationship with any officer should disclose this relationship to his or her Group Leader and to the Chief Executive or the Council's Monitoring Officer. In order to maintain the integrity of the individuals concerned and the Council, such relationships should never be hidden.

### **3. UNDUE PRESSURE**

- 3.1 A Member should not apply undue pressure on an Officer, either to do anything that he/she is not empowered to do or to undertake work outside normal duties and approved budgets or to change his/her professional advice. Officers are accountable to their Head of Service/Executive Director or the Chief Executive and whilst they should always seek to assist Members they must not, in so doing, go beyond the bounds of whatever authority they have been given by their senior officer.
- 3.2 In dealing with Officers (especially those at a more junior level), Members need to be aware that it is possible for those officers to feel at a disadvantage and should bear this in mind in their approach.

### **4. ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 4.1 Members are entitled to have such access to information as they reasonably need to carry out their role as members of the Council. However, Members cannot have access to personal information about residents or members of staff, such as council tax, rent or benefit records, unless they have written consent from the individual.
- 4.2 Information given to Members should only be used for the purpose for which it was sought. The Code of Conduct and Access to Information Procedure Rules restrict the disclosure of confidential information provided to Members. Any Member or Officer encountering difficulty or uncertainty about access to documents should contact the Monitoring Officer.

#### **Access to Officers by Members**

- 4.3 To help manage workloads and in view of the greater use of electronic working, Members should seek to avoid, as far as possible, entering an Officer's work area and requiring immediate attention. Where an urgent response is required, the member should seek to contact the officer by telephone to arrange a meeting for the same day where practicable.

### **5. USE OF COUNCIL RESOURCES**

- 5.1 The Council provides resources for Members e.g. meeting rooms, photocopying facilities and business cards. The only basis on which the Council can provide these services is to assist Members in discharging their role as Members of the Council and not for personal or political purposes. Members using IT equipment supplied by the Council will be required to sign up to and observe the Acceptable Use Policy.

### **6. LIMITS ON POWER/ROLES**

- 6.1 The limits on powers of individual Members and Officers are set out in the Responsibility for Functions in Part 3 of the Constitution. While it is essential that Cabinet Members are kept up to date on matters that affect their portfolio responsibilities, Members should not be involved in detailed day to day management of services or deal with operational issues.

- 6.2 It is a fundamental principle that officers should not indicate to third parties as having power to bind the Council (leaving aside any issue of delegated powers). Similarly, individual Members must not negotiate with third parties and purport to represent the will of the Council.
- 6.3 Officers are accountable to their Executive Director or Head of Service through the line management structure. There will be occasions when officers receive instructions from a Member of the Cabinet or a Chairman. Officers will routinely liaise with their line managers on their capacity to undertake such tasks. There may be occasions when the Executive Director/Head of Service or other senior officer reverts to the Member concerned to discuss the impact of such work.

## **7. CORRESPONDENCE**

- 7.1 Where an officer corresponds with a Member on a ward matter, copies of correspondence will normally be sent to all Members in the ward.
- 7.2 Official correspondence on behalf of the Council should normally be sent out under the name of the appropriate officer, rather than under the name of a Member. It will be appropriate in certain circumstances (e.g. representations to a Government Minister or other organisations) for a letter to appear under the name of a Member, but this should be the exception rather than the norm. Letters which for example, create obligations or give instructions on behalf of the Council should never be sent out under the name of a Member. When Members use official Council notepaper, they should be careful to ensure that it is for the discharge of their duties as a Member and not in any private capacity.

## **8. PUBLICITY AND THE MEDIA**

- 8.1 Contact with the media on issues related to the Council, or to Council business is handled through the Corporate Communications Team. When media or press releases are issued on behalf of the Council with quotations from Members, it would not be appropriate to indicate their party-political affiliation nor to attribute policies or initiatives to the ruling group.
- 8.2 Similar considerations apply to the 'Arena' magazine. The timing and content of the magazine is controlled by an editorial team who must ensure that the content reflects a corporate point of view.
- 8.3 In the period before a local election to the Borough Council, there are restrictions on the role and identification of Members in Council publicity. The general rule is that during the period, starting with the notices of elections, Members will neither be named or quoted in corporate communications.

## **9 CONCLUSIONS**

- 9.1 This Protocol is intended to build on the arrangements and good relations that already exist between Members and Officers and to act as a reminder that mutual respect and understanding are the basis for protecting the integrity of the Council, its Members and Officers.

## **4. PROTOCOL FOR PUBLIC COMMUNITY MEETINGS**

### **1. Introduction**

- 1.1 As part of its community leadership role, the Council, together with other agencies, may arrange a public meeting in a ward or neighbourhood to gather information listen to the views of local people or resolve specific issues. Councillors, as local leaders, may also arrange a public meeting within their ward to discuss an issue of local importance or concern.
- 1.2 The purpose of this protocol is to provide guidance on the preparation and running of any public neighbourhood meeting arranged either by the Council, or by a councillor(s), where officers of the Council and representatives of other public agencies (e.g. the Police, County Council and housing associations) are expected to attend.

### **2. Involvement of Ward Councillors**

- 2.1 Where a public meeting is to involve the participation of Council officers it should normally have the support of all the ward councillors who represent the ward in which it is to be held. All councillors representing wards affected, including county councillors, should also be invited to attend the meeting.

### **3. Preparation for a Public Meeting**

- 3.1 Before a public meeting is called, the agenda and arrangements for the meeting should be agreed in consultation with the ward members and representatives of the principal agencies that are required to attend. Where councillors are seeking to arrange a public meeting, they should consult the appropriate officer first, especially if they expect officers to attend. Normally, a meeting will be convened for this purpose.
- 3.2 The Council will seek to meet the reasonable costs of holding public meetings, where officers of the Council are required to attend, subject to the arrangements for the meeting being agreed in advance with the Council.
- 3.3 It should be noted that following the publication of a Notice of Election, there are restrictions on the role and identification of councillors in Council publicity in the period leading up to the election (approximately six weeks). The general rule is that Members will neither be named nor quoted in corporate communications once the notice has been published.
- 3.4 The following issues should be considered at the initial preparation stage:
  - i) Objectives/purpose

A public meeting should be based around clearly identified community issues. The purpose of the meeting is likely to inform the agenda, format, style and layout of the meeting. Bearing in mind the objectives identified, it could be decided to take an alternative approach, and attend as a speaker at another organisation's meeting.

ii) Which agencies should attend

Consideration should be given to the contribution an organisation can make to a meeting. Speakers should be briefed in advance about the nature, format, likely audience and objective of the meeting.

iii) Time, date and venue

Consideration should be given to attendees, thinking particularly about places that have convenient access for people with disabilities. A suitable venue should be chosen which can accommodate the numbers expected to attend. The Council Offices and the Princes Hall can be used as venues for public meetings.

iv) Publicity

Reasonable time should be given to publicise the event so that people can plan to attend, know where to go and what to expect. The Council's Corporate Communications Team may be able to publicise the event.

Councillors organising a public meeting might wish to publicise the event on social media and put adverts in local shops and newsletters showing the date, time, place and reason for the meeting, plus contact details.

v) Chairing arrangements

Public meetings involving the Council should be formally chaired.

vi) presentational aids

vii) housekeeping matters

#### **4. Guidelines for the Meeting**

##### **4.1 Role of the Chairman**

The role of the Chairman should be to:

- i) open the meeting
- ii) keep the meeting focused on the agenda – if necessary, to refer people back to the agenda
- iii) make sure that everyone who wants to speak gets a chance – not allowing one or two people to dominate proceedings
- iv) draws the meeting to a close at the appropriate time.

##### **4.2 Creating the right atmosphere**

The organiser(s) should aim to arrive at the venue in good time to check that any equipment and facilities requested are in place. This will include any catering arranged, as well as the equipment needed at the meeting. The location of fire



doors and alarms should also be checked. Those attending should be greeted as they arrive, avoiding any serious debates or discussions before the meeting starts.

#### 4.3 Making a good start

The meeting should be started at the time arranged, with the appropriate introductions and a summary of the purpose of the meeting. If it is likely to be a while before the attendees can express their views (e.g. because there is a short, initial presentation), this should be made this clear, so that people have an expectation about the way the event is likely to proceed.

#### 4.4 Getting the most from the meeting

- Make good use of questions raised at the meeting to probe, challenge and fully understand the views that people may have
- Arrange for someone to keep notes on the main points raised
- Keep an attendance sheet, with contact details, so that those attending can be provided with follow up information
- At the end of the meeting thank people for attending and explain clearly what the next steps will be

### 5. **Conduct of Members and Officers During Public Meetings**

- 5.1 At all public meetings, councillors and officers must act in accordance with the general principles contained in the Council's Protocol for Member/Officer Relations (set out in Part 5 of the Council's Constitution).
- 5.2 Under these provisions Members should not raise matters relating to the conduct or capability of a Council employee, or of employees collectively, at meetings held in public. Employees have no means of responding to criticisms like this in public. If Members feel that they have not been treated with proper respect or courtesy, or if they have any concern about the conduct or capability of a Council employee, they should raise it with the appropriate Director/Head of Service if they fail to resolve it through discussion with the employee's supervisor or manager.
- 5.3 In turn, there is an established convention that officers do not criticise Members in public meetings. Where an officer feels that he or she has a grievance against a Member it will normally be dealt with by the Chief Executive in consultation with the Member concerned and/or the leader of the appropriate political group.

### 6. **After the Meeting**

All agreed actions should be followed up after the event. Consideration should also be given to lessons learnt from the process, such as:

- did the meeting achieve what was expected?

- what aspects of the meeting were successful and what did not work?
- did things go as planned or were there any surprises?
- were there any problems that could have been avoided?

## 5. SELECTION OF THE MAYOR AND DEPUTY MAYOR

The Council has established criteria for selecting the Mayor and Deputy Mayor. The Licensing, Audit and General Purposes Committee keeps the criteria under regular review. The arrangements are as follows:

- 1) The position of the Mayor and Deputy Mayor of the Borough will be taken in order of seniority from all the elected Members of the Council and will be calculated in accordance with the procedure adopted by the Council on 20th May 1976 as follows:  
  
“The order of seniority of Members of the Council shall be determined by the length of previous local government service with the Council, including past service with the former Aldershot Borough Council and Farnborough Urban District Council. In the case where two or more Members have the same length of service, then priority between such Members shall be determined by the number of votes received by each Member expressed as a percentage of the total number of ballot papers issued at the most recent election held in their respective Wards.”
- 2) The normal progression through the Mayoralty will be by the holding of the position of Deputy Mayor and then progressing to the position of Mayor the following year.
- 3) Should an elected Member be in the position of not being able or wanting to accept the nomination when they reach their position within the seniority list, they will be considered in the following Municipal Year, depending on his or her wishes.
- 4) The Offices of Mayor and Deputy Mayor must at all times be apolitical. The Offices should not be used for political advantage.
- 5) Past Mayors will not be considered for the position of Mayor or Deputy Mayor until fifteen years after the completion of the end of their Mayoral Year; at that time their position on the seniority list will be calculated on the basis of total length of service less fifteen years.
- 6) A Member will not normally be selected until that Member has served a full four year term.
- 7) A Member will not normally be selected for Mayor or Deputy Mayor if they are seeking re-election at that year's Borough Council Elections.
- 8) Where a Member who has not been Mayor before has the same number of eligible years' service as a Member who has already been Mayor, the Member who has not been Mayor shall be given priority in the selection process.
- 9) A Member should recognise the time required in carrying out the duties and responsibilities of the Mayor and be able to allocate that time during his or her year of office.

10) Those considered for appointment:

- must demonstrate a broad base of support amongst Members of the Council and all Members will be contacted in writing by the Chief Executive for their views on the proposed candidates after they have been identified from the seniority list.
- should be able to demonstrate some experience of chairing meetings

11) The Mayor-Elect and Deputy Mayor-Elect will be selected at the Licensing, Audit and General Purposes Committee on the basis of the selections being submitted to Council by the end of March.

## 6. MAYORAL PROTOCOL

### 1. ROLE OF THE MAYOR

- 1.1 The Mayor is the first citizen and the Queen's representative in the Borough and, as such, takes precedence over all other citizens in the Borough. The only exception to this rule is when Royalty or the Lord-Lieutenant/Deputy Lieutenant are visiting the Borough.

The office of Mayor dates back as far as AD 451. The title is derived from the French, "Monsieur le Maire" and before that it probably originated from the Latin "Major".

Local authorities, which have been granted borough status by the crown, have no more powers than ordinary district councils, but the chairmen and vice-chairmen of borough councils have the right to be styled 'Mayor' and 'Deputy Mayor'.

#### **Roles and Responsibilities**

- 1.2 In carrying out the roles below the Mayor, Deputy Mayor, Mayoress, consort, or escort should consider the public nature of their office. Behaviour and manner will need to be appropriate at all times and not bring the Council into disrepute. Support should not be given to any organisation or person whose objectives are contrary to law and/or Council policy. The role is a civic role and should be politically neutral, it is advised that during the Mayoral Year the Mayor reduces their political profile.

#### ***Mayor:***

- Chair meetings of the Council
- Act as ceremonial head of the Borough
- Attend functions as a representative of the Council
- Attend a variety of religious services of all denominations throughout the Borough
- Take military salutes
- Receive and welcome members of the Royal Family and other civic dignitaries/VIPs to the Borough
- Support charities – chosen charities to be announced at Mayor Making
- Appoint charity committee and chairman/secretary of committee
- Post to Mayor's Facebook and Twitter accounts

#### ***Deputy Mayor:***

- Deputise for the Mayor when the Mayor is unable to attend functions
- Support the Mayor at civic events, at the request of the Mayor or through arrangements between the hosts and Mayor's Office

#### ***Mayoress/Consort/Escort:***

- Personal support to the Mayor
- Accompany the Mayor on engagements
- Observe civic protocol

***Mayor's Chaplain:***

The Mayor will be expected to select a Chaplain that will be appointed at annual Council. The role will include:

- Taking prayers at full Council meetings and Annual Council
- Leading the Service of Remembrance on Remembrance Sunday at Municipal Gardens
- Lead grace at the Mayor's charity ball
- Lead prayers at other Mayoral events as required.

**2. BEFORE ELECTION OF THE MAYOR**

**Accepting the Role of Mayor**

- 2.1 Before accepting the role candidates should consider the effect the role will have on their life. Candidates should consider the time the role will take for the year and the effect it will have on their friends and family, job and political career. The commitment required for being Mayor is significant so any other appointments accepted during the year should also be considered carefully.

**Initial Meeting with the Chief Executive**

- 2.2 Before the Mayoral year begins, the Chief Executive and Head of Democratic, Strategy and Partnerships will meet with the Mayor-Elect to explain the broad responsibilities and conduct expected of Mayor's civic role. This will include information about the main civic and town twinning events, mayoral allowances, transport, dress code and civic regalia.
- 2.3 The provision and nature of officer support available to the Mayor will also be outlined at this meeting (further details set out below). Following the initial meeting a further meeting will be held with the Democratic Services staff. This will usually take place in April where a Mayor-Elect will be expected to agree and sign this protocol.
- 2.4 Fundraising is a part of the Mayoral year but should not be the primary focus for the Mayor. Before being elected, the Mayor-Elect will be expected to have chosen their nominated charities for the year. There would normally be a local focus on the charities selected or a local branch of a national charity.
- 2.5 The Mayor-Elect may also wish to consider establishing a Mayor's charity fundraising committee for the purposes of charity fundraising for the year. The Council does not provide administrative support for the Charity Committee although the Head of Democracy, Strategy and Partnerships may attend occasionally.

**Mayoral Support**

- 2.6 There is no dedicated Mayoral support service. The Democratic Services support staff work across a number of service areas. The Mayoralty is supported by Kathy Flatt (01252 398829) and Justine Davie (01252 398832). Justine Davie deals specifically with diary appointments and Kathy Flatt deals with Mayoral events. In-person visits to Democratic Services' staff to discuss Mayoral support matters are welcome, subject to reasonable notice and availability.

The role of the support staff is to:

- provide general advice and liaise with Mayor/Deputy Mayor
- provide letterheaded paper and notelets for the Mayor/Deputy Mayor's use
- organise up to four events per year for the Mayor
- maintain the Mayor's and Deputy Mayor's diary of engagements.

### **3. DIARY MANAGEMENT AND CORRESPONDENCE**

#### **Diary Engagements**

- 3.1 Invitations to events will generally be received either by post, from the online invitation form on the Council's website ([www.rushmoor.gov.uk/mayor](http://www.rushmoor.gov.uk/mayor)), or by email to [mayor@rushmoor.gov.uk](mailto:mayor@rushmoor.gov.uk). Any invitations received directly to the Mayor's personal or Rushmoor councillor email should be forwarded to [mayor@rushmoor.gov.uk](mailto:mayor@rushmoor.gov.uk) and any paper invitation received by post to their home address should be passed to the Mayoral support staff to be entered into the Mayor's calendar.
- 3.2 All appointments and information relating to the appointment will be entered into the [mayor@rushmoor.gov.uk](mailto:mayor@rushmoor.gov.uk) electronic diary and then sent to the Mayor's Rushmoor councillor email. The Mayor will then either accept or decline the invitation depending on their availability. The Mayor is responsible for communicating details of any arrangements with the Mayoress or Consort. The Mayor is encouraged to read the detail included in the diary appointment and note requirements of the event.
- 3.3 The office will liaise with the event organiser to advise them whether the Mayor is able to attend. If the Mayor is unable to attend the Mayoral support will ask the organiser if they would like the Deputy Mayor to attend. An appointment will then be entered into the [deputy.mayor@rushmoor.gov.uk](mailto:deputy.mayor@rushmoor.gov.uk) electronic calendar and then sent to the Deputy Mayor's Rushmoor councillor email.
- 3.4 Preference should be given to appointments in the Borough. Appointments will be accepted on a first come first served basis and once an appointment has been accepted it should only be cancelled in an emergency. All engagements are important, no matter how small. Organisers often put in a lot of effort to make their event successful and the Mayor's role in promoting their activity is vital, it is not acceptable for the Mayor to 'change their mind' if another invitation is more appealing.
- 3.5 If there is any doubt as to the suitability of any event for attendance by the Mayor, advice should be sought from the Head of Democracy, Strategy and Partnerships.
- 3.6 Meetings with the Mayoral support staff will be offered to the Mayor to take place as required to raise any issues arising from engagements and run through engagements coming forward.

## Correspondence

- 3.7 The Mayor will be provided with electronic and paper letterhead and notelets, to send out thank you letters. The Mayor will be expected to produce their own thank you letters and send out their own notelets. Advice and guidance can be provided from the Mayor's office if required. The Mayor should only use Mayoral headed paper to send out letter that relates to the Mayoral function, not general Council business.

## 4. FUNCTIONS AND EVENTS

- 4.1 During their term of office, the Mayor will attend many engagements. These may include:

- Meeting royalty
- Visiting other local authorities
- Various events in partnership with the military
- Visiting schools
- Welcoming overseas visitors
- Opening fêtes
- Supporting charity events

### 4.2 Annual Council/Mayor Making

The Mayor is formally elected to the office of Mayor at the first meeting of the Council in the municipal year. This meeting is more of a ceremonial event and is normally referred to as 'Mayor-making'.

The Mayor also chairs full meetings of the Council during the Mayoral year in accordance with standing orders, and should conduct the meeting in a fair and impartial manner. A pre-meeting is usually arranged on the day of the full Council meeting with the Chief Executive and Head of Democracy, Strategy and Partnerships to run through the order of the meeting.

As Mayor, they cannot be a member of the Cabinet, although they may be a member of any of the Council's standing committees. This is in their capacity as an ordinary Member of the Council.

### 4.3 Annual Civic/Mayoral Events

There are a number of events held on an annual basis which the Mayor is expected to attend, these will be put into the Mayor's diary and sent to the Mayor's personal email address once the date has been confirmed.

May	Annual Council The Gurkha Cup Farnborough Donkey Derby
June	Royal Garden Party Victoria Day Lord Lieutenants Annual Reception for New Mayors Rotary Kids Out Step by Step Sleep Out Armed Forces Day



July	Rushmoor in Bloom Finals Day Tour
September	Merchant Navy Day Canal Zoners Church Service and Parade Battle of Britain Church Service and Parade
October	Poppy Appeal Launch Rushmoor Rose Bowl
November	Remembrance Sunday Christmas Lights Switch-On (Aldershot and Princesmead) St Andrews Tide Service
December	Christmas Eve Carol Singing Frimley Park Hospital
January	Youth Speaks - Rotary Public Speaking Competition Holocaust Memorial Service

#### 4.4 **Charity Fundraising Events**

The Mayor will hold events throughout the year to raise money for the Mayoral charities. Up to four events will be supported by Mayoralty support staff, which traditionally have been the Mayor's Charity Ball, Mayor's Golf Tournament and two coffee mornings or afternoon teas. The incumbent Mayor is able to choose their own four events.

Mayoral support will include booking venues, sending out invitations, arranging refreshments/food and booking entertainment for the four events chosen by the Mayor.

Other events are arranged by the charity committee throughout the year and will not receive support from Democratic Services except for liaison and information purposes. The Mayor is advised to nominate an individual member of the charity committee to take responsibility for each event with support provided from the rest of the charity committee.

#### 4.5 **Presentations to Schools/Scouts/Guides**

The Mayor may be invited to give presentations to voluntary and community groups including schools and scout groups on the topic of the role of the Mayor. Where invitations are accepted, Mayoral support staff would not usually expect to accompany the Mayor, but can attend on an occasional basis and not more than four times a year – two during the day and two in the evening. The events will normally be held in the Council Chamber at the Council Offices when Mayoral support staff are in attendance.

#### 4.6 **Citizenship Ceremonies**

The Mayor may be requested to deputise for the Lord-Lieutenant's office and preside over the citizenship ceremonies held in Aldershot. The team at Hampshire County Council that arrange the ceremonies will provide the speech and paperwork required. The Mayoral Support team will put the dates in the Mayoral diary if required, this is usually in August.

## 5. EXPENSES

### Mayoral Transport

- 5.1 There is no mayoral car. Set out below are the events when a Chauffeur driven private hire vehicle or taxi can be provided. For all other events the Mayor will be expected to drive themselves or use public transport.
- 5.2 Mileage and public transport costs can be reimbursed – the Mayor will need to submit a mileage claim form listing the journey and distance being claimed. Receipts for public transport should be retained and passed to the Mayoral support team to be processed. Taxis or private hire vehicles used for events outside those listed below will be paid for from the Mayor's allowance.

Chauffeur Driven/Taxi	Own/Public Transport
Mayor's Charity Ball Royal Garden Party Remembrance Sunday Events at Winchester Cathedral/Serle's House Formal military/other events behind security gates Airport for formal civic twinning engagements Non civic engagements which Royalty is present	All other events

- 5.3 A Rushmoor car flag is provided to be used when a Chauffeur driven car is provided. The Mayor will take responsibility for the flag at the start of the mayoral year and take to be used on the Chauffeur driven car when appropriate.

### Mayor's Allowance

- 5.4 The Mayor's allowance is £8,250 and is to cover all items of expenditure during the Mayoral year which are wholly and exclusively related to the Mayor, not for personal use. These include:

- Hospitality (including parlour drinks)
- Mayoral Christmas cards
- Tickets to charity events
- Donations made at events
- Providing support to Mayoral/civic events (eg raffle prizes)
- Personal expenses – parking, postage, transport

To be reimbursed for personal expenses you will need to provide a valid receipt or proof of purchase where possible. The Mayoral support team can provide the necessary forms for claiming personal expenses.

### Gifts

- 5.5 The Mayor should be cautious of any offer of a gift, favour or hospitality. The person or organisation making the offer may be doing, or seeking to do, business with the Council. The Mayor is personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality. If a gift is of more than a

nominal value it should be accepted on behalf of the Council and not retained personally. For reasons of transparency the Mayor should declare gifts and hospitality over an estimated value of £50 within 28 days of receiving them.

- 5.6 Gifts may be purchased to be presented to civic dignitaries or taken to the Council's twin towns on civic visits. Discussion should be held with Head of Democracy, Strategy and Partnership on the type of suitable gift and whether a gift needed to be purchased. The purchase of such gifts would come from the Mayors allowance.

## 6. PROTOCOL

- 6.1 In the role as the civic head of the Borough, the Mayor represents the Borough at all civic ceremonial events.

- At major civic events, such as ceremonies relating to the granting of the Freedom of the Borough, the Mayor wears the robe, chain and badge of office and is preceded by the Macebearer with the mace
- On other formal occasions, the Mayor will wear the chain and badge of office
- For most functions attended the Mayor will wear the badge of office on a ribbon, it is the badge that is the symbol of the Mayor's authority at these events.

### Robes and Chain

- 6.2 The Mayor is responsible for the care and safety of the civic regalia when they are worn to events. Although the Chain and Badge are insured, they should be kept safe and locked away whilst in their possession. The Mayor will be given the Mayoral Badge to take care of throughout the Mayoral Year. The Mayor's Office will need to be satisfied that the Mayor has made adequate arrangements for the safekeeping of the Chains if they are worn to an event. The Robes will generally be kept at the Council Offices or the Mayor can on occasion take them home if they are needed for any visits.

<b>GENERAL RULES FOR WEARING ROBES, CHAINS AND BADGES</b>	
<b>OCCASION</b>	<b>WHAT TO WEAR</b>
Special and public functions connected with the business of the Council at which Royalty is present	Robe, chain and badge
Civic Receptions	Chain and badge
Non-civic functions within the Borough at which Royalty is present	Chain and badge (Robe if desired by the organisers)
Non-civic functions within the Borough at which Royalty is not present	Badge on ribbon

Functions outside the Borough for which a formal invitation has been received	Badge on ribbon (the Mayor's Office will ring the relevant authority to ask for badge permission). The Chain should only be worn outside the Borough in exceptional circumstances and with the permission of the Head of Democracy, Strategy and Partnership and the Mayor of the relevant authority.
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A chain and badge, or badge are not worn with Service uniform nor the uniform of a Lord Lieutenant or Deputy Lieutenant, but may be worn with academic dress or the canonicals of a clergyman. Civic robes are not worn with any form of ceremonial dress.

### **The Mace**

- 6.3 The Mace is the emblem which shows the Mayor's authority and immediately precedes the Mayor on official occasions. The Mace is used at official ceremonies and certain other events, in particular:

- Full Council meeting
- Mayor Making
- Formal civic services
- Remembrance Sunday
- Military parades and events
- Freedom of the Borough events

The Mace will not be used at other events. The Macebearer will normally accompany the Mayor to those events where the mace is present.

### **Badges of Office**

- 6.4 **The Deputy Mayor** should only wear their badge at events where the Mayor **is not** present and they are representing the Mayor. The exceptions to that when both the Mayor and Deputy Mayor are in attendance are Annual Council meeting and Remembrance Sunday (badge, chain and robes) and Council meeting (badge only).

**Ex-Mayor's Badges** should be worn only at:-

- a) meetings of the Council when the Mayor and Deputy Mayor are robed;
- b) all ceremonies or processions when robes are worn;
- c) civic dinners/receptions or other special civic functions within the Borough;
- d) other civic functions within the Borough at the request of the Mayor;
- e) civic functions in another Authority's area at the invitation of the Mayor or Chairman concerned.

Medals are not worn on robes except at Remembrance Day, Battle of Britain Sunday or any other commemorative Services when full medals should be worn. On these occasions they should be worn on the left breast of civic robes. Miniature medals should only be worn on full evening dress or dinner jackets when stated on the invitation.

## **7. SPEECHES**

- 7.1 The Mayor will be asked to make a number of speeches at events attended throughout the Mayoral year. All information received regarding events being attended will be included in the diary appointment to assist with putting together a speech. Speeches come across much better when they are written in the words of the person delivering the speech. The Mayoral support team do not normally write speeches; however, support and advice can be given if required.

## **8. REPUTATION OF THE COUNCIL/THE PRESS**

- 8.1 The role of the Mayor is a very privileged position. The post holder should be aware that they are representing the Council at all times during their Mayoral year. People will know them as the Mayor whether they are attending engagements or just going about their daily life. This is a non-political role and care should be taken when dealing with the press. Officers in the Communication Team should be asked for advice if approached by the press.

The Mayor is responsible for the post on the Mayors Facebook and Twitter accounts. The Communications Team can set up access to these accounts and give advice on the type of information to include in posts.

## **9. MAYOR'S CHARITY FUNDRAISING COMMITTEE**

- 9.1 The purpose of a Mayor's fundraising committee is to help raise funds for the Mayor's charities by organising and running fundraising activities. The Mayor will invite representatives to sit on the committee and agree a Chairman. The committee would usually comprise local fund-raising people, including representatives from the Mayor's nominated charities, who are willing to provide practical support for fundraising activities.
- 9.2 A fundraising committee is independent, and the Council does not provide administrative support for its meetings. However, Democratic Services will assist the Mayor to book meetings into electronic diaries and book a meeting room but agenda preparation and minute taking is the responsibility of the committee.
- 9.3 The first meeting of the committee would usually be held early in the Mayoral year, if not just before the Mayor's investiture. The agenda for the meeting would expect to include:
- Planning the programme fundraising events for the year
  - agreeing roles and responsibilities for the first event(s) (including a chairman and secretary for the meetings)
  - agreeing the schedule of future committee meetings

## **7. APPOINTMENT OF HONORARY ALDERMEN**

The Council has established criteria for the appointment of Honorary Aldermen. The criteria takes account of Section 249 of the Local Government Act 1972 and local practice.

- The title ‘Honorary Alderman’ can be conferred on someone no longer a Member of the Council who has “in the opinion of the Council rendered eminent services to the Council”.
- The Council resolution requires a two-thirds majority of those voting at a meeting specially convened for the purpose.
- Nominees should be former councillors and have not less than 16 years’ service (normally this would mean re-election on at least four occasions) with the Council or its constituent authorities and should normally be a resident of the Borough.
- There should be no specific criteria for offices held with the authority.
- The Extraordinary Meeting to bestow the honour should not be on the same day as the Annual Council Meeting.
- Honorary Alderman may attend and take part in civic events but shall not have the right to claim allowances. Whilst an Alderman does not have the right to attend meetings of the relevant bodies set out in the Council’s Constitution, an Alderman may ask the relevant body to attend and address the meeting on an item of business included on the agenda. At council meetings an Alderman may ask to speak on only one item per meeting, subject to the other rules of debate set out in the Council’s Procedures Rules.
- Honorary Aldermen may be selected by the Council to represent it on outside bodies to which it is asked to make nominations.

## **8. OFFICER CODE OF CONDUCT**

### **CONTENTS**

- 1. Introduction**
- 2. What the Council expects of officers**
- 3. Roles & responsibilities**
- 4. Serving the Public & Professional Conduct**
- 5. Political Neutrality**
- 6. Conflicts of Interest**
- 7. Other Employment**
- 8. Gifts, Hospitality & Sponsorship**
- 9. Conduct outside of work**
- 10. Declarations**
- 11. Support with this Code**

## **1. Introduction**

The public is entitled to the highest standards of conduct from all employees of Rushmoor Borough Council, and it is imperative that officers operate with integrity, honesty, impartiality and objectivity in carrying out their duties.

An officer's role as an employee of Rushmoor Borough Council is to serve the Council by providing advice, implementing its policies, and delivering services to the local community to the best of their abilities. Officers will act with the needs of the customer in mind and in line with Council policy, guidance and the associated laws within their area of work.

Failure to follow the various guidelines and requirements set out in this Code may result in disciplinary action being taken, which could lead to dismissal.

Following the code will ensure that officers are not placed in a position which risks, or appears to risk, any conflict between private interests and local government duties. It is therefore necessary for officers to declare any conflicts of interest to the Council in a timely manner. By disclosing any personal interests or conflicts at the earliest stage, all reasonable steps can be put in place to reduce the risk to both the employee, the Council and the community.

This code of conduct is designed to provide guidance about what is expected from officers in their daily work and in dealings with elected members, colleagues and the public. Also, as the Council's work is democratically controlled and open to public scrutiny, the Council's success is dependent upon public confidence in its employees.

Furthermore, the aim of this Code is to

- help officers to understand how they can fulfil their ethical obligations in performing their role; and
- set clear expectations for conduct as an employee of the Council.

## **2. What the Council expects of Officers**

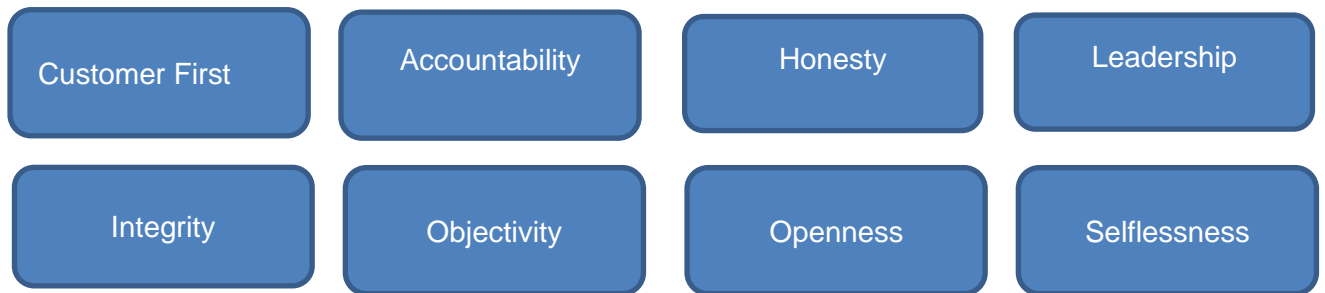
All employees, contractors or volunteers engaged by Rushmoor Borough Council are expected to work to the best of their ability and with the highest possible integrity and professionalism. For the purposes of this code alone, all shall be referred to as an RBC 'employee'. ALL are to be bound by this code. Members will be bound by the Code of Conduct for Councillors (in Part 5 of the Constitution)

It is therefore expected that officers will

- a) ensure that the public interest always remains paramount;
- b) be impartial and honest in the conduct of official duties;
- c) never use an official position for personal gain or to benefit family and friends; and
- d) identify and notify the Council of any potential conflict of interest that arises or could arise.



The following should be considered as corner stones for officers' conduct in serving the public through duties at Rushmoor:



### 3. Roles & Responsibility:

Roles and responsibilities under the code are outlined below. These are demonstrative not exhaustive.

#### a) Employees:

Employees of the Council are expected to

- observe and meet the standards of conduct set out in this code;
- ensure they seek advice at an early stage if they are uncertain about any of the content or implications of this code; and
- discuss with a line manager immediately any concerns, breaches or conflicts of interests that may arise in relation to any matter outlined in this code.

#### b) Managers:

Managers have a responsibility to set a good example for employees through:

- their own behaviour and attitudes, especially in relation to upholding the ethical principles, obligations and standards as set in this code of conduct
- ensuring that employees understand the standards of conduct expected from them and objectively assess their performance against these standards;
- ensuring new staff are introduced to the code and have opportunities to discuss it or ask any questions relating to the code;
- ensuring that relevant legislation, delegations, and council policies and procedures are accessible
- ensuring that direct reports are familiar with the requirements and objectives of their job, and have access to the information, training, supervision, feedback and work conditions needed to achieve them

Managers must act promptly, thoroughly and fairly when responding to, or investigating grievances and reports of breaches of the code of conduct or similar. To avoid any accusation of bias, you must not be involved in the appointment of any

applicant if you are a relative or friend to them. This apply equally to decisions relating to promotion, or discipline. If there is any doubt, the issue should be discussed with a line manager.

**c) What employees can expect from the Council:**

Employees can expect certain accountabilities from the Council.

The Council will:

- put in place clear rules, procedures and policies so that employees can be clear what is expected and how shortcomings will be addressed;
- respect that some areas of work and professionalism will have specific rules, procedures or legal requirements, and support the delivery of those duties;
- ensure a healthy working environment, which is free from discrimination, harassment or bullying;
- provide relevant training and development opportunities, within available resources, to ensure employees are suitably skilled; and
- protect employees from difficulty when a likely conflict of interest is declared

**4. Professional Conduct and Serving the Public without bias or preference**

If an officer is in a position where a person with whom the officer has a 'personal connection' should approach them for anything wider than general customer service advice (i.e. matters of fact or written policy) the officer will be expected to step aside from that interaction and alert a manager immediately. This is particularly the case where the officer is likely to offer advice, guidance or support where they have direct influence over the outcome of a matter for a customer with whom they are personally connected. This could include for example benefits assessments; housing advice; planning matters and decisions on enforcement action.

**A personal connection is considered:**

A personal relationship, friendship or family connection - be that blood relation or by marriage. It may also be anyone with whom there is a business interest. Aside from family or close friends it could be a neighbour, or someone the officer socialises with at regular clubs, or sports clubs etc.

It is paramount that Members of our community are served equally and with fairness and respect. The needs of the public/community must be the first consideration in all matters affecting policy, conduct, and decision making.

Officers must ensure that actions or advice are in line with duties, and in line with relevant policies, common practices, legislation and the Council's objectives. An officer's professional judgement must not be compromised, nor be perceived as being compromised because of bias or the undue influence of others.

It is a criminal offence, for an employee of a local authority, to demand or accept any fee or reward whatsoever other than their proper remuneration for any service or information.

## **5. Political Neutrality:**

Working in a political environment creates special rules within the working environment. Mutual respect between employee and councillors is essential to ensure a positive and appropriate working relationship (The Protocol for Member/Officer Relations is in Part 5 of the Constitution).

Employees are expected to

- remain politically neutral and ensure that their political views do not influence the performance of duties;
- respond to all relevant requests from Councillors, not just those from the controlling/majority Group; and
- respond to councillors requests for information with impartiality. Any legal restrictions in sharing information will continue to apply in requests from members, and this should be explained and adhered to where necessary.

In addition, some posts within the authority will be designated 'politically restricted', meaning due to the potential conflict with an officer's work they are prohibited from undertaking certain political activities and playing an active role in any political party.

Posts may be politically restricted if the requirements of the role include any of the following:

- writing or speaking publicly on politically or otherwise controversial issues – typically of great public interest;
- holding a post at or above spinal column point 44;
- regularly giving advice to committees or sub-committees;
- regularly speaking to journalists or broadcasters on behalf of the council; or
- canvassing at any election on behalf of a political party or at elections

The restriction means an officer cannot

- hold office in any political party;
- publicly declare themselves a candidate for councillor, MP or MEP; or
- show active support for any political party

However, the restriction does not extend to the following:

- voluntary work or work for trade unions or political parties (subject to the provisions of the 1989 Local Government Housing Act). This is provided the work does not conflict with an officer's own role or the council's interests; has the potential to weaken public confidence in the Council's conduct of business, or involve the employee being in direct competition with the council for work or contracts

- Secondary employment that is not in conflict with the role at the Council.

## **6. Conflicts of Interest**

A conflict of interest arises in the workplace when an employee has competing interests or loyalties that either is, or potentially could be, at odds with each other. In such circumstances an employee may have a conflict between acting in the best interest of the Council or customers or acting on interests that might benefit themselves or a personal connection. Alternatively, it could also be where an officer may be considered too closely connected to a matter to make objective decisions and retain impartiality and professional standards.

### **a) Involvement in awarding contracts or business to a supplier**

When awarding contracts, an employee is required to declare all relationships of a business or private nature with external contractors or potential contractors of the Council, before any involvement.

### **b) Employment decisions:**

Managers who are involved in recruitment and selection, or promotion and pay matters, or matters of discipline must withdraw from any decision where there is a likely impact on a person considered a friend, partner or family member. Any personal connection at all should be disclosed in order to avoid any possible accusation of bias. For clarity, this extends to anyone with whom there is regular personal contact outside of work e.g. members of the same societies, clubs, teams, wider friendship groups etc.

To assist in these matters, most recruitment and selection decisions or matters directly related to a person's income will be considered by more than one person to increase objectivity. Decisions relating to discipline would typically also see a third party involved for objectivity reasons.

Selection for redundancy should always be carried out based on objective criteria, and managers should not be involved in such decisions or processes where there is a personal connection to anyone directly involved.

## **7. Secondary Employment**

Employees are entitled to take up other employment outside of the Council and would not in usual circumstances need to seek approval to do so. This is provided that the other employment does not present any conflict of interest to the work undertaken for the Council, or if the other employment is likely to have any adverse effect on the employee's work within the Council.

If an employee is unsure whether the other employment represents a conflict with their role at the Council, they should discuss it with their line manager or HR who will be able to advise.

If an employee operates their own business or is part of a company outside of work, this should be declared. This is particularly important when an employee's private

business is in a comparable business area to the post held with the Council, or if it operates within the Borough. This should be raised with the line manager, who will be able to advise whether there are any likely conflicts of interest which needs considering.

All Employees will be asked to declare any secondary employment or pecuniary interests on an annual basis.

## **8. Gifts, Hospitality & Sponsorship**

Local Government employees must always be seen to be acting fairly and impartially. The acceptance of gifts and hospitality is a sensitive area where actions can easily be misconstrued. Guidance on Gifts, Hospitality and guidelines around how these should be handled are set out below:

- In most circumstances offers of gifts should be declined, but specifically employees should decline generous gifts.
- Typically, only very small gifts should be received that are inconsequential; and insignificant in value – for example receiving pens, mugs or other marketing material; or receipt of a gesture of thanks such as a box of chocolates or flowers as a thank you gesture.
- Any hospitality received should not be greater than the Council would provide in return. It is recognised that officers will be involved in representing the Council at official functions organised by the Council and other public bodies, charities and other organisations working in or with the public sector. Similarly, attendance at a function attend by the Mayor or Deputy Mayor in their official capacity (e.g. Rushmoor International Association visits and events) is acceptable.
- Any gifts or hospitality should not be received in return for 'favours' or benefits to an individual or organisation – ensure the giver is clear that any gift or hospitality will not elicit preferential treatment being given towards them.
- Ensure that any givers understand that the gift or hospitality will not avoid any action being taken against them that would otherwise have been appropriate.
- Never accept a gift or hospitality from anyone who has, is, or may in the future, be tendering for a contract with the Council, seeking planning consent, or is in dispute with the Council.
- Any other gifts received may need to be donated to the Mayor's charity where it may be used towards raffles or similar for the chosen charity.

When an offer is made, employees should seek advice from their line manager. If an offer of a gift or hospitality is accepted, employees are required to complete a declaration of gifts and hospitality form (available from Legal Services).

A criminal offence may be deemed to have been committed where an officer accepts fees, gifts or rewards in return for granting a third party an advantage or withholding appropriate actions.

## **9. Conduct outside of work**

Whilst employees are entitled to a private life away from work, their interests, behaviours and actions outside of work could become matters for consideration in certain circumstances.

If conduct outside work brings an employee's position, or suitability for that position within the Council into question it will become a matter for investigation. Equally if conduct outside of work could in anyway bring the Council into disrepute or affect the Council's reputation, the Council will need to investigate those issues and consider the impact of this.

The above also applies to online activity, including the use of social media.

## **10. Declarations**

Employees are asked to declare any matters of interest on a Declaration of Interest Forms. This should be used to declare any known interests or conflicts of interests (nil returns are also required where employees do not believe they have any personal interests).

A copy of the Disclosures Form is available from the Human Resources Service (HR).

New members of staff will be asked to complete a declaration of interest form at the time of commencement of employment with Rushmoor Borough Council.

If an employee suspects another employee may be operating with a Conflict of Interest in their role, it should be raised with the line manager in the first instance who will be able to take the necessary steps to investigate and address this with the employee concerned.

### **a) Retention & Monitoring of Declaration forms**

The information declared in respect of Declarations of Interest will be entered into the corporate 'Register of Interests'. The register will be maintained by the HR service and will be made available to all relevant senior officers within the Council when there is a legitimate business need.

Copies of signed Declaration of Interest forms will also be kept on your HR file.

It is necessary for staff to update their Individual declarations annually, and this should be reviewed by Line Managers, as part of the annual development review process, to ensure that they remain applicable and the register remains up to date.

**11. Support:**

Employees who are unclear about anything contained in this Code, should seek to clarification from their line manager in the first instance who should be able to offer advice. Alternatively, speak to a member of HR if more appropriate to the matter in question or seek advice from the Corporate Manager – Legal Services.

If it is suspected that another officer may be in breach of this code, this should be raised with the line manager or anyone in the HR, or the Corporate Manager – Legal Services.

## **9. LOCAL CODE OF CORPORATE GOVERNANCE**

The Council recognises the importance of effective corporate governance so that local communities can place trust in the way that the Council undertakes and carries out its duties.

The Council is committed to applying the seven core principles of good governance, as set out in the CIPFA/ SOLACE framework:

- Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.
- Ensuring openness and comprehensive stakeholder engagement.
- Defining outcomes in terms of sustainable economic, social and environmental benefits.
- Determining the interventions necessary to optimise the achievement of the intended outcomes.
- Developing the entity's capacity, including the capability of its leadership and the individuals within it.
- Managing risks and performance through robust internal control and strong public financial management.
- Implementing good practices in transparency, reporting, and audit, to deliver effective accountability.

The Council's Local Code of Corporate Governance defines the actions and behaviours undertaken by the Council to provide good governance in line with the above principles.

A full version of the current Local Code of Corporate Governance and the Annual Governance Statement is available on request to the Head of Democracy, Strategy and Partnerships.



## **10. ANTI - FRAUD, BRIBERY AND CORRUPTION POLICY**

### **1 Introduction**

- 1.1 Rushmoor Borough Council is committed to the highest possible standards of openness, probity, and accountability in order to ensure the proper use of public funds. This anti-fraud, bribery and corruption policy establishes the Council's objectives in this respect and sets out a cohesive framework to effectively manage the risks associated with fraud and corruption involving staff, Members or third parties.
- 1.2 This policy sets out the requirements for the Council in relation to combating fraud, bribery, corruption and dishonest dealings within and against the Council. The Council is committed to an effective Anti-Fraud, Bribery and Corruption policy that:
- Encourages prevention
  - Promotes detection
  - Identifies a clear pathway for investigation.
- 1.3 The Council expectations as to propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 1.4 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with which it comes into contact, will act with integrity and without thought or actions involving fraud and corruption.

### **2 Scope**

- 2.1 This policy forms part of the Council's internal control and corporate governance arrangements.
- 2.2 This policy applies to all activities undertaken on behalf of the Council and is designed to cover the risks associated with theft, fraud, corruption, bribery and ICT abuse, whether they are perpetrated by employees, councillors, residents, visitors, contractors, suppliers or individuals and organisations unconnected with the Council.

### **3 What is fraud, bribery and corruption**

#### **Fraud**

- 3.1 The 2006 Act provides for a general offence of fraud with three ways of committing it, which are by:

- ***False representation*** – A person commits the offence of fraud by false representation if they dishonestly make a false representation and intends, by making the representation, to make a gain for themselves or

another, or to cause loss to another, or to expose another to a risk of loss.

- ***Failing to disclose information*** – A person commits an offence of failing to disclose information if they dishonestly fail to disclose information to another person, information which they are under a legal duty to disclose and they intend, by failing to disclose the information, to make a gain for themselves or another, or to cause loss to another, or to expose another to a risk of loss.
- ***Abuse of position*** – Fraud by abuse of position is committed where a person occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person, and they dishonestly abuse that position and intend, by means of the abuse of that position, to make a gain for themselves or another, or to cause loss to another, or to expose another to a risk of loss.

It creates new offences of obtaining services dishonestly and of possessing, making and supplying articles for use in frauds.

### **Bribery**

- 3.2 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. There are four key offences under the Bribery Act 2010:
- Bribery of another person to induce or reward them to perform a function improperly (Section 1) (Active bribery)
  - Request or accept a bribe as a reward for performing a function improperly (Section 2) (Passive bribery)
  - Bribing a foreign official to gain a business advantage (Section 6)
  - Failing to prevent bribery is a corporate offence for the failure by a commercial organisation to prevent bribery (Section 7)

Under section 7, an organisation will have a defence to the corporate offence if it can demonstrate that it had in place adequate procedures to prevent bribery by or of persons associated with the organisation.

### **Corruption**

- 3.3 The Council defines corruption as the giving or obtaining advantage through means which are illegitimate, immoral and/or inconsistent with employees/Councillors' duties or the rights of others.

### **Theft**

- 3.4 Theft is the physical misappropriation of cash or other tangible assets. A person is guilty of 'theft' if he or she dishonestly takes property belonging to another, with the intention of permanently depriving the other of it.

## **4 Key principles**

- 4.1 The key principles of this policy are the:

- Prevention,
- Deterrence,
- Detection and,
- Investigation of fraudulent activity.

The results of fraud and/or corruption can be costly, time consuming, disruptive and unpleasant. The Council therefore sees that the overriding principle to be applied is that of prevention. Where this fails, then reporting, investigation and, where necessary, sanctions, will be pursued rigorously and swiftly.

### **4.2 Prevention**

#### **Staff**

The Council recognises that a key preventative measure in the fight against fraud, bribery and corruption is to take effective steps at the recruitment stage. The Council will ensure references are taken up for all permanent and temporary staff and carry out DBS (Disclosure and Barring Service) checks where appropriate.

#### **Policies and procedures**

The Council shall develop, implement and maintain such policies and procedures so as to reduce, as far as possible, the risks from fraud or corruption. Staff are expected to follow the code of conduct relevant to their profession and also abide by Rushmoor Borough Council's code of conduct for officers/ Members.

#### **Internal Control Systems**

The Council is committed to the implementation and operation of systems and procedures that incorporate efficient and effective internal controls. These include adequate separation of duties to ensure that error or impropriety is prevented.

All employees shall be made aware of and be expected to adhere to any internal control system designed to prevent or detect fraud, corruption, bribery and ICT abuse.

#### **Internal Audit**

The Council will ensure that it agrees a programme of internal audit assignments to support the systems and procedures already in place, to assist in the reduction of the likelihood of fraud, and to independently monitor the existence, appropriateness and effectiveness of internal controls.

#### **Conflict of Interest**

Both elected Members and employees must ensure that they avoid situations where there is potential for a conflict of interest, for example, tendering

contracts. Effective role separation will ensure that decisions are seen to be based upon impartial advice and free from undue or improper influence. Where employees have concerns, with regard to any potential conflicts of interest, they should raise these with either their Head of Service or Executive Director.

#### 4.3 **Deterrence**

##### **Prosecution**

The police will invariably be informed in cases where a criminal offence may have been committed and the Council will prosecute offenders where it is in our interest to do so, in line with the Council's Corporate Sanctions and Enforcement policy.

##### **Disciplinary Action**

The Council will not tolerate any level of fraud, bribery and corruption against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities. Disciplinary action may be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

Members may face appropriate action under the Members' Code of Conduct if they are suspected of being implicated in fraud, bribery or corruption involving the Council and in their role as a Member. Action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

##### **Publicity**

The Council will optimise the publicity opportunities associated with its anti-fraud, bribery and corruption activity. It will also try to ensure where appropriate that the results of any action taken, including prosecutions, are reported in the media. In appropriate cases, where financial loss to the Council has occurred, the Council will seek to recover the loss and advertise this fact.

#### 4.4 **Detection**

It is the responsibility of Heads of Service, Executive Directors and the Chief Executive to prevent and detect fraud, bribery and corruption. However, it is often the alertness of staff, Members and the public that enables detection to occur and for the appropriate action to take place when there is evidence that fraud, bribery or corruption may have been committed, or is in progress. Therefore, if you have any concerns of suspected or actual fraud, bribery or corruption you should report these concerns, as highlighted within the Council's Whistleblowing policy.

Along with the appropriate systems of internal control that are built into procedures in order to detect fraud, bribery, corruption and ICT abuse. The following specific systems of fraud detection will also be used:

- Whistleblowing
- Referrals from the public
- National Fraud Initiative Exercise (NFI)
- Data-matching

- Internal Audit reviews

If you are aware of actual or suspected instances of fraud, bribery or corruption, but you choose to either ignore them or fail to report them, this may result in disciplinary action being taken against you.

#### 4.5 **Investigation of fraudulent activity**

An incident of suspected or identified fraud must be reported in accordance with the Council's Whistleblowing policy and to the Audit Manager. Staff must not investigate an incident of suspected fraud themselves.

Depending on the nature and the anticipated extent of the allegations, the Internal Audit Team will work closely with management to ensure that all allegations and evidence are properly investigated and reported upon and, where appropriate, maximum recoveries are made for the Council.

The Council will deal with any instances of fraud, bribery, corruption or ICT abuse promptly, taking disciplinary action in line with the disciplinary policy as necessary. Where a decision is made to inform the police, the Audit Manager will do this.

In the event that fraud is suspected on the part of contractors, agency workers or by staff involved in agency or contract work on behalf of other bodies, procedures and responsibilities for reporting and investigation are the same as for staff. The Council will inform and involve the employing contractors or agencies where appropriate.

### **5 Legal responsibility**

5.1 The following legislation is applicable through out this policy:

- Bribery Act 2010
- Fraud Act 2006

### **6 Other related council policies and procedures**

6.1 Related policies and procedures include:

- The Council's Constitution, especially Contracts Standing Order and the Financial Procedures;
- Gifts and Hospitality policy;
- Whistleblowing policy;
- Anti-Money Laundering policy;
- Acceptable Use Policy
- Code of conduct for Councillors and Employees
- Corporate Sanctions and Enforcement Policy



## **11. ICT ACCEPTABLE USE POLICY**

### **1 Purpose**

- 1.1 The main purpose of this policy is to ensure that Rushmoor Borough Council's name is not brought into disrepute or its reputation, customer relations, or public image adversely affected by ensuring that data is held securely, used appropriately and any inappropriate use of Council equipment is prevented.
- 1.2 The policy also ensures that the Council and users meet legislative requirements, including Government Connect Code of Connection.

#### **Giving access**

- 2.1 All employees, Members and workers will be given this Policy.
- 2.2 All employees, including Members and Temporary staff and workers e.g. work experience, volunteers or contractors, are required to sign a copy of the declaration, attached at the end of this policy. By signing the declaration, they agree that they have read and will abide by the requirements of the AUP.
- 2.3 Line managers should advise the IT Service Desk of the need for access for an employee within a reasonable time prior to the access being needed. The IT Service Desk will require the following information:
  - Name
  - Department
  - Job title
  - Access to which systems
  - Access level required for all of the systems

### **2 Removing/Changing access**

- 3.1 A request, to remove access for staff or where a change in duties occurs, should be made by the Line Manager to the IT Service Desk where possible within 2 weeks of when the change is required.
- 3.2 Before an employee leaves the Council, they should ensure data stored on their U: drive is transferred to an area colleagues can access e.g. the S: drive. When the person leaves, their network account will be suspended. Data will be held for a further month, but access will only be available through IT Services. After the month has passed, data will be deleted from the network and therefore irretrievable.
- 3.3 Should access to emails from employees who have left be required, requests from line managers should be made to the IT Service Desk. The emails will still be held within the Email archive for the applicable time as per the email policy for retention.

### **3 Passwords**

- 4.1 Passwords are the first line of defence for our ICT systems and together with the username, they help to establish that people are who they claim to be. A poorly chosen or misused password is a security risk and may impact upon the confidentiality, integrity or availability of our computers and systems.
- 4.2 Weak passwords are ones which, for example, include words picked out of a dictionary. A strong password is one which is unlikely to be detected by people who are not supposed to know it, and difficult to work out even with the help of a computer. Therefore, strong passwords should be used, i.e.:
- At least seven characters
  - Contain a mix of alpha and numeric, with at least one digit
  - More complex than a single word otherwise they would be easy for hackers to crack
- 4.3 Passwords can be used on individual electronic files such as word and excel. However, it is important to remember these passwords, as IT Services are unable to unlock the file if you forget the password used.

### **4 User responsibility**

- 5.1 It is of utmost importance that a user's password remains protected at all times. Note the following:
- Never reveal passwords to anyone
  - Never use the 'remember password' function
  - Never write passwords down or store them where they are open to theft
  - Never store passwords in a computer system without encryption
  - Never share network accounts with anyone else.
  - Do not use any part of usernames within the password
  - Do not use the same password to access different systems
  - Do not use the same password for systems inside and outside work.
- 5.2 Default passwords must be changed immediately. If a user becomes aware, or suspects, that their password has become known to someone else, the user must change it immediately and report any concerns to the IT Service desk.
- 5.3 It is a user's responsibility to prevent their username and password being used to gain unauthorised access to Council systems by:
- Ensuring that any PC they are using is locked or logged out when left unattended so that the user cannot be held responsible for someone else's actions.
  - Leaving nothing on display that may contain access information such as login names and passwords



## **5 Physical Security**

- 6.1 Access to the Council offices and the IT Data Centre is controlled by a swipe card system. The card doubles as ID and if lost must be immediately reported to the Facilities Team. All visitors to the Council offices must report to the main reception and sign in.
- 6.2 Security pass activated doors should not be propped open and any unknown person following a card holder through security doors should be approached to confirm they are legitimate visitors.
- 6.3 Portable IT equipment must be held securely while in the office and locked away when not attended.
- 6.4 Users should ensure that all sensitive data is cleared from their desk when they are not using the data. Sensitive personal data in paper format must be locked away when unattended, and only authorised people should have access to it in order to conform to the Data Protection Act 1998.

See also guidance on the Data Protection Act. –

<http://inform/StaffHandbook/communications/dataprotect.htm>

- 6.5 To carry out business it may be required to take personal data out of the Council Offices either in paper format or on a portable device. When doing this:
  - Only take the information needed
  - Do not leave it unattended
  - Do not leave it on view in a locked car.

## **6 Health and Safety**

- 7.1 It is the policy of Rushmoor Borough Council to provide a safe and healthy working environment for employees, including particular measures to protect their health and safety when they are working. Please see <http://inform/StaffHandbook/health/healthsafetypolicy.htm> for guidance relating to Health and Safety within Rushmoor.

## **7 Using the Internet**

- 8.1 The Internet is a useful tool to enable users to carry out their daily work activities. However, an Internet policy is in place and should be adhered to. Below is a summary of key points from the Internet policy:
  - Users must familiarise themselves with the detail of the Internet policy before using the Internet facility provided.
  - The Council's internet access is primarily for business use. However, reasonable personal use is permitted in an officer's own time providing it does not interfere with work.

- Users must not create, download, upload, display or access knowingly, sites that contain pornography or other 'unsuitable' material that might be deemed illegal, obscene or offensive.
- Monitoring software is in place to automatically block access to specific categories of websites, for example, gambling.
- The data collected through monitoring will be used to ensure compliance with the Internet policy.
- Software must not be downloaded onto Council equipment.
- Access to social networking sites is restricted to those officers who require it for their job. A request for access can be made to IT. Each request requires a business case supported by the Head of Service outlining why and for what period access is required.

## **8 Email**

9.1 Email is an effective form of communication. However, an email policy is in place and should be adhered to. Below is a summary of key points from the policy however, please see Inform for the detailed Email policy:

- All emails that are used to conduct or support official Council business must be sent using a '@rushmoor.gov.uk' address. Non-work email accounts must not be used.
- For users of GCSx, all emails sent via the Government Connect Secure extranet (GCSx) must be of the format '@rushmoor.gcsx.gov.uk'.
- User should not communicate material (either internally or externally), which is defamatory, obscene, or does not comply with the Council's internal Equal Opportunities code of practice.
- The legal status of emails is similar to any other form of written communication. They can be legally binding and used as evidence in court proceedings.
- For users of GCSx automatic forwarding of email must be considered carefully to prevent PROTECT and RESTRICTED material being forwarded inappropriately.
- Monitoring software automatically filters emails for inappropriate or offensive materials.
- To avoid disclosing personal data where you are sending out a group email and you are not sure if they are business email addresses you should blind carbon copy all the recipients. If you require help with this, please contact the IT Service Desk.
- Users should endeavour to avoid sending unnecessary messages using the 'All' email facility.

## **9 Data Sharing**

10.1 The term 'data sharing' refers to the disclosure of personal data from one or more organisations to a third-party organisation or organisations, or the sharing of personal data between different parts of the organisation.

- 10.2 If a department requires personal information from another department in order to carry out its own statutory requirements then the data can be shared under Section 35 (1) of the Data Protection Act. Further details with regards to Data Sharing can be found on Inform.
- 10.3 Where information is requested regarding an account with someone's personal details on, staff should ensure that they have asked relevant security questions to establish that the person speaking is the person whose details they want to discuss.
- 10.4 When sharing data regularly with external organisations a written pre agreed protocol should be in place and followed. For ad hoc data sharing a request should be made via the Data Protection Officer.
- 10.5 The Data Protection Act principles must be followed when sharing data, but before sharing data, you should ask yourself the following questions:
- What is the sharing meant to achieve?
  - What information needs to be shared?
  - Who requires access to the shared personal data?
  - When should it be shared?
  - How should it be shared?
  - What risk does the data sharing pose?
  - Could the objectives be achieved without sharing the data or by anonymising it?
- 10.6 The Council participates in the National Fraud Initiative, which matches electronic data within and between public and private sector bodies to protect and detect fraud. This involves the Council providing the Audit Commission with the details of employees and members from the Council's payroll system.
- 10.7 For further detail and guidance on data sharing please see the data sharing policy on Inform.
- 10.8 For employees using the Government Connection scheme please see GCSx Acceptable Use Policy on Inform for additional guidance on GCSx data sharing.

## **10 Data held on the network**

- 11.1 Storing data on the Council's network is expensive and therefore only work-related data is to be stored on the network. The storage of non-work data is not permitted. If non work data is identified on the network, you will be asked to remove it. If it is not removed, then it may be deleted by your manager or IT to free up space.

- 11.2 To ensure that valuable space is not taken up on the network indefinitely, users should only hold data inline with the Council's data retention guidelines.  
<http://inform/StaffHandbook/communications/freedominfo.htm>

## **11 Government Connect Secure extranet AUP**

- 12.1 Employees using Government Connect are required to read, accept and sign the GCSx Acceptable Use Policy which can be found on Inform <http://inform/StaffHandbook/it/auppolicy.htm> This additional security introduces stringent controls on the particularly sensitive data used in this area.

## **12 Security Incident**

- 13.1 A security incident is an event that has or could result in the loss of or damage to the Council's information. It is also an action that is in breach of the Council's security policies and procedures.
- 13.2 Please see the Security Incident Policy on Inform for the detailed Security Incident policy, which should be adhered to. However, below is a summary of key points:
- All staff should report any electronic security incidents or suspected incidents immediately to the Head of IT or the IT Technical Services Manager. For example, loss of a USB stick with data held on it.
  - All staff should report any paper incidents or suspected incidents immediately to their Head of Service and the Data Protection Officer. For example, leaving personal paper documents on a train.

## **13 Remote Working**

- 14.1 A summary of the key points in the Remote Working Policy, which should be adhered to, is set out below:
- It is the user's responsibility to use portable computer devices in an acceptable way. This includes not installing software, taking due care and attention when moving portable computer devices.
  - Users should be aware of the physical security dangers and risks associated with working within any remote office or mobile working location.
  - Users should be aware about carrying out adequate health and safety assessments especially when working at different location/desks.
  - It is the GCSx users responsibility to ensure that access to all PROTECT or RESTRICTED information is controlled – e.g. through password controls.
  - All data held on portable computer devices must be encrypted.

## **14 Purchasing Software and Hardware**

- 15.1 All IT equipment and software must be purchased through IT services. The reasons for this are that IT Services:
- Will help to identify the best solution for the job.
  - Ensure all hardware and software is compatible
  - Check to see if they can offer on-going support.
  - Ensure it is correctly licensed.
  - Can take a business case for the IT equipment to the ICT group for them to review and assess.
- 15.2 Technical support will not be available for hardware or software not purchased through IT services (and in line with the ICT strategy). In addition, the equipment will not be able to be used in conjunction with Council systems.
- 15.3 The use of software on the network is continuously monitored. If unlicensed software is identified on an employee's PC, they will be given 5 working days to either produce a valid licence or remove it. If after that time, it is still in use and a licence has not been produced, IT services will remove the software directly.

## **15 Removable Media (USB, SD Cards, CDs)**

- 16.1 A summary of the key points in the Removable Media Policy which should be adhered to is set out below:
- Any removable media device that has not been supplied by IT Services must not be used. If they are used on Council equipment, then they will be restricted to read only.
  - All data stored on removable media devices must be encrypted.
  - Damaged or faulty removable media devices must not be used.
  - Special care must be taken to physically protect the removable media devices and stored data from loss, theft or damage. Anyone using removable media devices to transfer data must consider the most appropriate way to transport the devices and be able to demonstrate that they took reasonable care to avoid damage or loss.
  - Should removable media be lost or stolen please refer to the Security incident policy for the steps to be followed.
  - Removable media devices that are no longer required, or have become damaged, must be disposed of securely to avoid data leakage.

## **16 Instant Message**

- 17.1 Instant messenger is available on desk top PCs. It provides a system for the IT Service Desk to remotely access your PC and give support on technical problems.
- 17.2 The use of instant Messenger for personal use during work time is discouraged. However, it is recognised that, as with telephone calls, a certain amount of

private usage is acceptable, but this is monitored. Private use must be kept to a minimum and not interfere with work.

## **17 Telephones/Mobile phones/Smartphones**

- 18.1 Office phones are provided to assist the business of the Council. Personal calls are allowed in work time, but must be kept to a minimum, not interfere with work and in the main kept to local calls.
- 18.2 The Council provides mobile phones to employees who require them to carry out their work. A limited number of personal calls can be made on work mobile phones but calls to premium lines are not permitted. The Council's reputation must be considered when making use of the phone, for example content of texts or photos. Please see the Mobile Phone Policy for further details.

## **18 Printers**

- 19.1 Door entry cards are activated by the IT Service Desk and enable use of the Council's printers/photocopiers. If a job is sent to the print queue but not printed out within 24 hours, the print job will automatically be deleted. Use of the printers/ photocopiers should be for work purposes only.
- 19.2 Temporary door entry cards can be obtained from reception and can be activated for use by the IT Service desk for printing/photocopying.
- 19.3 For queries please contact the IT Service Desk or see the printer page on inform for further details.

<http://inform/StaffHandbook/it/docs/printersandcopiershintsandtips.pdf>

## **19 Radios**

- 20.1 When using the Council's radio system, it is not permitted to transmit personal or confidential information, or details that may put officers at risk. The radio is an open system with all broadcasts heard by others with a radio. People who have radio receivers can easily listen to broadcasts.
- 20.2 The Telecommunications Agency continuously monitor broadcasts to ensure the conditions of the licence are being met, such as only broadcasting appropriate material. If the conditions are breached, then the licence can be withdrawn.

## **20 Backing up of data**

- 21.1 Work should not be saved to the PC's hard drive (the C: drive). This is not backed up and should the PC fail, the data will be lost. Instead, work should be saved to a network drive that is automatically backed up by IT Services every night.

## **21 Legal Responsibility**

22.1 The following legislation is applicable throughout this policy:

- Data Protection Act 1998
- Copyright, Designs and Patents Act 1988
- Computer Misuse Act 1990
- Freedom of Information Act 2000
- Human Rights Act 1998
- Health & Safety (display screen equipment) regulations 1992 (as amended)

## **22 Other related council policies and procedures**

23.1 Related policies and procedures include:

- Disciplinary procedure
- Code of conduct for Councillors
- Corporate risk management
- Road safety procedures (using mobile phones)

## **23 Policy Compliance**

24.1 If any user is found to have breached this policy, they may be subject to Rushmoor's disciplinary procedure for employees, termination of work for contractors, and procedures for a breach of the Code of Conduct for Councillors. If a criminal offence is considered to have been committed, further action may be taken to assist in the prosecution of the offender.

## **12. MEMBERS LEARNING AND DEVELOPMENT POLICY**

Rushmoor Borough Council is committed to supporting local councillors in carrying out their roles as democratically elected representatives of the community and community leaders, and recognises the need to provide appropriate training, development and learning opportunities to help councillors undertake these roles.

### **1. SCOPE AND PURPOSE**

- 1.1 This policy applies to all elected Members and supports the principles of the South East Charter for Member Development.
- 1.2 The purpose of this Policy is to set out the Council's commitment to provide appropriate learning and development opportunities for all councillors, to enable them to acquire the knowledge and skills required to be effective elected members across all their roles, and to provide a structured and planned approach to training activities.
- 1.3 The Council recognises that continuing investment and commitment to Members' learning and development is integral to achieving the Council's strategic objectives, the delivery of high-quality services and for the effective governance of the Council.

### **2. OBJECTIVES OF ELECTED MEMBER DEVELOPMENT**

- 2.1 The key objectives of Members' training and development are to
  - ensure councillors have the skills and expertise to carry out the role of councillor in an ever-changing environment and gain satisfaction from their work;
  - support councillors to be effective in the delivery of the Council's priorities;
  - assist individual progression and develop capacity;
  - enable councillors to carry out their roles as ward representatives and as community leaders efficiently and effectively
  - enable councillors to undertake specific duties and responsibilities
  - keep Members up to date on new legislation and changing policies

### **3. KEY PRINCIPLES**

#### **Equality of Access and Opportunities**

- 3.1 The Council recognises its responsibility to offer equality of access to learning and development for all elected members. In practice this means making sure that there are no physical, social, religious or cultural barriers to Members who want to participate in development opportunities, including those with family and work responsibilities, and using a range of methods to meet learning needs. Training and development will be delivered in a range of formats to ensure flexibility around access.
- 3.2 All Elected Members shall have the opportunity to benefit from learning and development opportunities regardless of their physical circumstances, ethnicity, race, gender, sexuality, age or religion.



- 3.3 Information about Members' Seminars and training events shall be published well in advance, and appropriately publicised.

### **Member-led Approach**

- 3.4 The Council shall implement a Member-led approach to learning and development with representatives from all political groups invited to participate in the planning, delivery and evaluation of member development activities. Members shall be encouraged to identify their own development needs and participate fully in training and development events.

### **Community Engagement**

- 3.5 Member Development opportunities shall include activities that promote community engagement, work/life balance and good citizenship.

### **Resources**

- 3.6 The Council shall allocate a budget for elected Member development to cover priority needs linked to corporate, role specific and individual learning and development requirements, subject to finances and resources being available. This will be reviewed annually. Joint training activities with other authorities will be used where appropriate to reduce the costs of training to the authority.
- 3.7 Elected Member entitlements to travel and subsistence for attendance at learning and development events is stated in the Elected Members' Scheme of Allowances.

## **4 PROCESSES FOR MANAGING ELECTED MEMBER LEARNING AND DEVELOPMENT**

### **Summary**

- 4.1 Member development will take place within a structured process. In line with best practice, the Council shall implement a cyclical four-stage approach to managing Members' learning and development activities comprising the following:-
- Identification of needs
  - Planning activities
  - Delivery of activities and opportunities
  - Evaluation and monitoring of investment and benefits of learning and development

### **Identification of Needs**

- 4.2 The identification and delivery of learning and development needs and priorities will be carried out at a number of levels; Individual, Role specific and Corporate.

#### **(i) Individual**

- At least once a term, an individual training needs analysis questionnaire will be issued to each elected member.

- Newly elected Members will have an opportunity to discuss training and development needs as part of their induction, and often this will be facilitated through the mentoring arrangement with a member of the Executive Leadership Team.
- All Members will have the opportunity to discuss their training and development needs on a one to one basis.

(ii) **Role Specific**

- The Council shall publish and maintain up to date Members' Roles Profiles to assist in identifying potential areas of training and development needs for councillors. Members whose role changes will have their training and development needs reviewed.
- The Council shall seek to deliver a learning and development programme, which is informed by councillors' three key roles:
  - Representing the interests of the ward
  - Policy making, committee and scrutiny role
  - Community leadership role
- Identification of learning and development needs at political group level will be achieved through the feedback from the Member Training Group representatives.

(iii) **Corporate**

- Councillor training shall be linked to corporate priorities identified via the Council Business Plan, and by members of the Corporate Leadership Team.

**Planning Members' Learning and Development Activities**

- 4.3 The Council shall have a rolling programme of training and development events, which shall be updated regularly and circulated to all Members.
- 4.4 The cross-party Member Development Group shall have responsibility for the content of the programme.

**Delivery of Activities**

- 4.5 The Council shall seek to use a wide range of methods to provide elected Members with the knowledge, capabilities, opportunities, networks and experiences they need to fulfil their role as effectively as possible.

**Evaluation**

- 4.6 In order to evaluate satisfaction and value for money, the Council shall ensure that investment in learning and development is evaluated in terms of benefits and impacts, including evaluating value for money. The Council is committed to the continuous development of elected Members and shall make adjustments and improvements to development activities. Development resources, activities and processes will be regularly monitored by Members and officers to ensure effectiveness.

## **5. ROLES AND RESPONSIBILITIES**

- 5.1 Each individual Member is responsible for undertaking core training, identifying their training requirements and sharing knowledge and skills amongst other Members. The role of Political Group Leaders is to provide support and encouragement to councillors to attend Members Seminars and to ensure their members' training needs on core competencies are met.
- 5.2 The role of the cross-party Member Development Group, appointed by the Cabinet, is to prepare and monitor the implementation of an action plan for achieving the Charter standard for Member Development and to examine Members' training needs, and to develop proposals for the rolling programme of learning and development events as appropriate. The Cabinet Member with responsibility for Members' Learning and Development shall be invited to participate at all meetings.
- 5.3 The Corporate Leadership Team has a role to identify service specific training and development areas, and to anticipate new training needs arising from the areas identified for increased focus each year as part of the Council's annual review of its Business Plan.
- 5.4 The day-to-day management of appropriate Member Training and Development activities will be the responsibility of the Head of Democracy, Strategy and Partnerships, in consultation with the Member Development Group. A named officer shall be identified with responsibility for co-ordinating training.

## **PART 6**

### **Members Allowances Scheme**

## **MEMBERS' ALLOWANCES SCHEME**

Rushmoor Borough Council, in exercise of the powers provided within the Local Government Act, 2000, has made the following scheme in accordance with the report of an Independent Panel, which was approved by resolution of the Council on 21st June, 2018.

1. This Scheme

- (i) will be known as the Rushmoor Borough Council Members' Allowances Scheme, and shall have effect from 22nd May, 2018, except for the Cabinet Champions whose Special Responsibility Allowance shall be paid from the date of appointment on 29th May 2018;
- (ii) has been prepared in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations, 2001 and the Local Authorities (Members' Allowances) (England) Regulations 2003.

2. In this Scheme

"Councillor" means an elected Member of Rushmoor Borough Council.

"Leader of the Council" means the councillor appointed by the Council to fill that office.

"Deputy Leader of the Council" means the councillor appointed by the Leader to fill that office.

"Opposition Group Leader" means the councillor notified to the Head of Democratic Services as the councillor elected as leader of the political groups established under the provisions of the Local Government and Housing Act, 1989 and subsequent regulations.

"Cabinet Member" means a councillor appointed by the Leader as a Member of the Cabinet in accordance with the Council's Constitution.

"Year" means the period between Annual Meetings of Council.

### **Basic Allowance**

3. For each year a basic, flat rate allowance shall be paid to each Councillor as specified in Schedule 1 to this Scheme.

The Basic Allowance is uplifted to cover the annual fee for registration as a data controller under the General Data Protection Regulations. All Members need to register with the Information Commissioner as data controllers.

### **Information Technology & Telecommunications (ITT) Allowance**

4. In addition to the basic allowance, an ITT allowance shall be paid to each councillor towards ITT related costs including broadband, IT hardware and telephones as specified in Schedule 1 to this scheme. If a Member is not contactable by email then their ITT allowance shall be reduced by 50%.

### **Special Responsibility Allowances**

5.
  - (a) For each year, a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities as specified in Schedule 1 to this Scheme.
  - (b) No Councillor shall be entitled to be paid more than one special responsibility allowance at any one time. In the event that a Councillor undertakes more than one special responsibility at any one time, then the higher allowance will be paid.
  - (c) If more than five Members of the Cabinet are appointed, in addition to the Leader and Deputy Leader, the total amount of special responsibility allowance allocated to the Cabinet shall not be increased, but shall be divided equally amongst the larger number of Cabinet Members until the Independent Remuneration Panel has reviewed the implications of the change in the size of the Cabinet.
  - (d) There will be a maximum of three Cabinet Champions in any one year and their remit will be reviewed annually by the Cabinet.
  - (e) For an Opposition Group Leader to qualify for an Opposition Group Leader special responsibility allowance, the Group should have at least 10% of the seats on the Council. However, if the sole or largest opposition group has less than 10% of councillors, then the Group Leader shall still receive an Opposition Group Leaders' allowance.

### **Travel and Subsistence Allowances**

6. Travel and subsistence allowances are payable for approved duties outside of the Borough, as set out in Schedule 2 in accordance with the conditions and rates set out in Schedule 1. In exceptional circumstances, travel allowances may be paid for approved duties within the Borough.

### **Dependent Carer's Allowance**

7.
  - (a) A dependent carer's allowance shall be paid to those councillors who incur expenditure for the care of children or dependent relatives whilst undertaking approved duties. The allowance will not be payable to a member of the claimant's own household. The approved duties to which the allowance relates are set out in Schedule 2 to this Scheme.

- (b) The amount of such allowance shall be that specified in Schedule 1 to this Scheme.

### **Co-optees**

8. Statutory and non-statutory co-optees, as permitted by the Council's Constitution, shall be paid a special responsibility allowance and travel and child care allowances on the same basis as a Councillor.

### **Pensions**

9. No Member of the Council shall currently be eligible to join the Local Government Pension Scheme.

### **Suspension of Allowances**

10. If a Councillor is suspended from acting in that role for the Council, after being found to be in breach of Code of Conduct, the allowances payable in respect of the period for which the councillor is suspended may be withheld.

### **Renunciation**

11. A Councillor may by notice given in writing to the Head of Democratic Services, elect to forgo all or any part of his entitlement to an allowance under this Scheme.

### **Part Year Entitlements**

12. The provision of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility where, in the course of a year, this Scheme is amended or that Councillor becomes, or ceases to be, a Councillor or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable. The arrangements are as follows:-

- (a) If an amendment to this Scheme changes, the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the following periods;
- (i) beginning with the Municipal 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.

- (b) If an amendment to this Scheme changes the duties specified in Schedule 2 to this Scheme, the entitlement to such 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.
- (c) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a Municipal Year, the entitlement of that Councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- (d) Where this Scheme is amended as mentioned in sub-paragraph (a), and the term of office of a Councillor does not subsist through the period mentioned in sub-paragraph (ii) (a), the entitlement of such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with the sub-paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a Councillor subsists bears to the number of days in that period.
- (e) Where a Councillor has during part of, but not throughout a Municipal Year, such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to the payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (f) Where this Scheme is amended as mentioned in sub-paragraph (i), and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (a)(i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

### **Claims and Payments**

- 13. (a) Payment of the basic and special responsibility allowances shall be made in twelve equal monthly instalments on or around the 15th day of each month, subject to the arrangements for part year payment provisions set out above.
- (b) Claims for dependent carer's and travel and subsistence allowances under this Scheme will need to be submitted in writing to the Head of Democratic Services within three months of the date of the duty in respect of which the expenditure was incurred.



## **Application of Scheme**

14. The payments identified in this Scheme will be adjusted annually in accordance with the index recommended by the Independent Remuneration Panel. This arrangement shall apply for no more than four years at which point a review will be carried out by the independent remuneration panel (i.e. by June 2022).

## **Independent Remuneration Panel**

15. (a) An independent remuneration panel shall be established in accordance with the 2003 Regulations to produce reports making recommendations in respect of this Scheme and the Council must have regard to the recommendations of the panel in respect of allowances to be paid to Councillors.
- (b) As soon as reasonably practicable after receiving a report from the Panel, the Council will ensure that copies of the report are available for inspection and publicised in accordance with the 2003 Regulations.

## **Publicity**

16. (a) The Council, as soon as reasonably practicable after determining a scheme of allowances, will ensure that copies of the scheme are available for inspection and publicised in accordance with the 2003 Regulations.
- (b) As soon as practicable after making this scheme, the Council shall publish a notice setting out information about the scheme in the form specified in the 2003 Regulations. The notice shall be published in one or more newspapers circulating in the area and at the following times:-
- (i) when a new scheme is made or the existing scheme is amended; and
- (ii) as soon as possible after the expiration of twelve months after the previous publication of a notice.
- (c) As soon as reasonably practicable, in each year, the Council will publish the total sums paid to each councillor in respect of basic, special responsibility, travel and subsistence and dependent carer's allowances.

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## RUSHMOOR ALLOWANCES SCHEME

## SCHEDULE OF RATES

The following allowances are applicable with effect from 22nd May 2019 unless otherwise stated.

1. **MEMBERS' ALLOWANCES SCHEME**

(a) **Basic Allowance**

Payable to all Members	£5,202 p.a.
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(b) **Allowance for Information Technology and Telecommunications**

Payable to all Members	£376 p.a.
(reduced by 50% where Members do not have an email address)	

(c) **Special Responsibility Allowances**

Payable to the following post holders:

Leader of the Council	£16,167 p.a.
Deputy Leader of the Council	£9,312 p.a.
Cabinet Members	£8,027 p.a. (each)
Chairman of Development Mgt. Committee	£5,422p.a.
Chairman of Licensing and General Purposes Committee	£5,422 p.a.
Chairman of Overview and Scrutiny Committee	£4,042 p.a.
Vice-Chairman of Overview and Scrutiny Committee	£1,213 p.a. (each)
Chairman of Policy and Project Advisory Board	£4,042 p.a.
Vice-Chairman of Policy and Project Advisory Board	£1,213 p.a. (each)
Cabinet Champions	£1,605 p.a. (each)
Opposition Group Leaders	£3,258 p.a. (each)
(Subject to the group having at least 10% (4) of the Council's seats)	
Chairman of the Council (Mayor)	£1,514 p.a.

(d) **Licensing Sub-Committee (Alcohol and Entertainments)**

Members serving on four or more hearings in one municipal year (excluding the Chairman of the Licensing and General Purposes Committee)	£434 p.a.
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**(e) Co-optees Allowance**

Payable to the statutory co-optees £500 p.a.

**(f) Dependant Carers Allowance**

Childcare National Living Wage

Other care is hourly wage charged by HCC Adult Services for a carer

**2. TRAVELLING EXPENSES****(a) Allowance Rates****(i) Motor Mileage** (as at April 2012)

The rates for motor cars and tri-cars are as follows and apply to travel outside the Borough only:

<b>Vehicle</b>	<b>first 10k miles</b>	<b>Over 10k miles</b>
Cars and Vans	45p per mile	25p per mile
Motor Cycles	24p per mile	24p per mile
Bicycles	20p per mile	20p per mile

These rates apply if travel results in a substantial saving of the Member’s time or is in the interests of the body or is otherwise reasonable.

A passenger supplement rate of 5p per mile will apply where the passenger is also eligible for the same travel allowance.

The Head of Democracy, Strategy and Partnerships will prepare a list of those circumstances where travel allowances will apply inside the Borough.

**(ii) Public Transport**

Members should travel by the most cost effective means that suit their needs. For most forms of public transport and the use of taxicabs, the actual cost is reimbursed on the production of receipts. In the case of train journeys a “rail warrant” at standard class will normally be provided through the Head of Democracy, Strategy and Partnerships.

**(b) Meetings outside the Borough**

The following additional requirements apply to all meetings outside the Borough:

- (i) Travel to attend approved duties outside the Borough should be by the most cost effective method that meets the needs of the Member's requirements. The cost of travel by motor vehicle should be normally no more than the cost of the standard rail fare.
- (ii) Any first class rail travel must first be approved by the Head of Democracy, Strategy and Partnerships in consultation with the Chief Executive or the Corporate Director.
- (iii) Where accommodation and meals are required, these should be booked in advanced through the Head of Democracy, Strategy and Partnerships.
- (iv) Where meals cannot be pre-booked and paid in advance and are above the rates set out below, reasonable costs would be reimbursed on production of receipts up to a limit of £25 per day.

**3. SUBSISTENCE ALLOWANCES****(a) Daytime (as at April 2012)**

Apply to duties outside the Borough and subject to receipts being provided:

Breakfast	£5.73
Lunch	£7.92
Tea	£3.13
Evening meal	£9.80

**(b) Overnight**

The following rates apply:

Allowance for absence overnight from the usual place of residence	£79.82
Allowance for such absence in London (within specified London Boroughs) or for attendance at the annual conference of the Local Government Association	£91.04

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## Members' Allowances Scheme - Schedule 2

### Travel and Subsistence Allowance - Approved Duties

1. Subject to the provisions set out in the attached Schedule 1, travel and subsistence allowances shall be paid to those Councillors attending meetings ***outside of the Borough*** in respect of the following duties:
  - (a) Attendance at meetings with one or more other authorities.
  - (b) Attendance at a Member training or development event, providing it is open to Councillors of at least two political groups to attend.
  - (c) Attendance at conferences and meetings to which Section 175 of the Local Government Act 1972 applies, where such attendance has been approved in accordance with the Council's Constitution.
  - (d) Attendance as the Council's appointee / nominee at meeting of the bodies to which appointments are made by the Licensing and General Purposes Committee
  - (e) Site visits outside of the Borough requested by the Development Management Committee.
  - (f) Meetings of working groups held outside of the Borough, established by the Cabinet, a committee or sub-committee on which the Councillor sits or is entitled to attend under the Council's Standing Orders including formal or informal meetings authorised by any of the above
    - for the purpose of inspecting sites or visiting sites or establishments
    - for the purposes of presentations or submissions being made about its functions and/or workand providing that Councillors of at least two political groups have been invited to attend such meetings and officer satisfaction has been given.
  - (g) With the agreement of the Cabinet, committees or sub-committees or the prior agreement of the appropriate chairman, attendance by a Councillor at a meeting of a committee/sub-committee held outside of the Borough on which he/she does not sit, where;
    - (i) he/she attends as a representative of another committee/sub-committee/working party etc., or where
    - (ii) business affecting that Councillors' ward is to be discussed.

- (h) Full Council, Cabinet, committees and sub-committees in the event that they take place outside of the Borough
- 2. Subject to the provisions set out in the attached Schedule 1, travel and subsistence allowances shall be paid to those Councillors attending meetings between representatives of the Council and of other local authorities, government departments or distinguished visitors.

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