



## TO THE CHAIRMAN AND MEMBERS OF THE STANDARDS AND AUDIT COMMITTEE

You are hereby summoned to attend a meeting of the Standards and Audit Committee to be held on Thursday, 2 March 2023 at 7.00 pm in the Council Chamber, Civic Offices, Gloucester Square, Woking, Surrey GU21 6YL.

The agenda for the meeting is set out below.

JULIE FISHER  
Chief Executive

NOTE: Filming Council Meetings

Please note the meeting will be filmed and will be broadcast live and subsequently as an archive on the Council's website ([www.woking.gov.uk](http://www.woking.gov.uk)). The images and sound recording will also be used for training purposes within the Council. Generally the public seating areas are not filmed. However by entering the meeting room and using the public seating area, you are consenting to being filmed.

## AGENDA

### PART I - PRESS AND PUBLIC PRESENT

1. Election of Vice-Chairman  
To elect a Vice-Chairman for the remainder of the Municipal Year.
2. Minutes  
To approve the minutes of the meeting of the Standards and Audit Committee held on 24 November 2022 as published.
3. Apologies for Absence  
To receive any apologies for absence.
4. Declarations of Interest (Pages 5 - 6)
  - (i) To receive declarations of interest from Members and Officers in respect of any item to be considered at the meeting.
  - (ii) In accordance with the Officer Employment Procedure Rules, the Strategic Director - Corporate Resources, Kevin Foster declares a disclosable personal interest (non-pecuniary) in any items concerning the companies of which he is a Council-appointed director. The companies are listed in the attached schedule. The interests are such that Mr Foster may advise on those items.

5. Urgent Business

To consider any business that the Chairman rules may be dealt with under Section 100B(4) of the Local Government Act 1972.

**Matters for Determination**

6. Update on External Audit STA23-001

Report to follow.

Reporting Person – Steve Bladen (BDO) / Leigh Clarke

7. Internal Audit Strategy and Proposed Annual Plan 2023/24 STA23-003 (Pages 7 - 16)

Reporting Person – Graeme Clarke / Juan Fosco (Mazars)

8. Internal Audit Progress Report STA23-004 (Pages 17 - 30)

Reporting Person – Graeme Clarke / Juan Fosco (Mazars)

9. Review of the Amended Constitution STA23-005 (Pages 31 - 362)

Reporting Person – Joanne McIntosh

10. Update on Health and Safety E-learning STA23-006

Report to follow.

Reporting Person – Joanne McIntosh

AGENDA ENDS

Date Published - 22 February 2023

For further information regarding this agenda and arrangements for the meeting, please contact Doug Davern on 01483 743018 or email [doug.davern@woking.gov.uk](mailto:doug.davern@woking.gov.uk)



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# Agenda Item 4.

## Schedule Referred to in Declaration of Interests

### Council-appointed directorships

<b>Julie Fisher, Chief Executive</b>	
Brookwood Cemetery Limited	Thameswey Guest Houses Limited
Brookwood Park Limited	Thameswey Housing Limited
Energy Centre for Sustainable Communities Ltd	Thameswey Limited
Rutland Woking (Carthouse Lane) Limited	Thameswey Maintenance Services Limited
Rutland Woking (Residential) Limited	Thameswey Solar Limited
Rutland (Woking Limited)	Thameswey Sustainable Communities Limited
Thameswey Central Milton Keynes Limited	VSW Hotel Limited
Thameswey Developments Limited	Victoria Square Residential Limited
Thameswey Energy Limited	Victoria Square Woking Limited
Woking Necropolis and Mausoleum Limited	

<b>Kevin Foster, Strategic Director – Corporate Resource</b>	
Brookwood Cemetery Limited	Thameswey Housing Limited
Brookwood Park Limited	Thameswey Limited
Energy Centre for Sustainable Communities Ltd	Thameswey Maintenance Services Limited
Thameswey Central Milton Keynes Limited	VSW Hotel Limited
Thameswey Energy Limited	Victoria Square Residential Limited
Thameswey Guest Houses Limited	Victoria Square Woking Limited
Woking Necropolis and Mausoleum Limited	

<b>Giorgio Framallico, Strategic Director - Place</b>	
Brookwood Cemetery Limited	Thameswey Developments Limited
Brookwood Park Limited	Thameswey Energy Limited
Export House Limited	Thameswey Limited
LAC 2021 Limited (Dormant)	Thameswey Solar Limited
Kingfield Community Sports Centre Limited	Thameswey Sustainable Communities Limited
Thameswey Central Milton Keynes Limited	Woking Necropolis and Mausoleum Limited
Woking Shopping Limited	

<b>Louise Strongitharm, Strategic Director – Communities</b>	
Rutland Woking (Carthouse Lane) Limited	Thameswey Developments Limited
Rutland Woking (Residential) Limited	Thameswey Guest Houses Limited
Rutland (Woking) Limited	Thameswey Housing Limited
Thameswey Limited	



STANDARDS AND AUDIT COMMITTEE – 2 MARCH 2023

## INTERNAL AUDIT STRATEGY AND PROPOSED ANNUAL PLAN 2023/24

### Executive Summary

This report set out the Internal Audit Strategy and proposed Annual Plan for 2023/24, which details how the Council will meet its statutory requirements for Internal Audit.

The report explains that the overall level of audit coverage has been developed by applying a risk-based approach and overall coverage is similar to prior years in order to provide Members, management, and other external bodies with independent assurance on the adequacy of the Council's risk management, governance, and internal control framework.

The Internal Audit Plan presented for 2023/24 is indicative and reflects the current view of priority areas of work for the year. The programme will be reviewed once the report of the Department for Levelling Up, Housing and Communities (DLUHC) rapid review team is published. Any recommended changes as a result of this review will be reported to the Committee during the year.

### Recommendations

The Committee is requested to:

**RESOLVE That** the Internal Audit Strategy and the proposed Annual Plan for 2023/24 be approved.

The Committee has the authority to determine the recommendation(s) set out above.

**Background Papers:** None.

**Reporting Person:** Graeme Clarke, Partner, Mazars LLP  
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Juan Fosco, Manager, Mazars LLP  
E-Mail: [juan.fosco@mazars.co.uk](mailto:juan.fosco@mazars.co.uk)

**Contact Person:** Leigh Clarke, Finance Director  
Ext. 3277, E-Mail: [leigh.clarke@woking.gov.uk](mailto:leigh.clarke@woking.gov.uk)

**Date Published:** 22 February 2023

STA23-003

## **Implications**

### Financial and Risk

There are financial implications related to the delivery of the proposed Annual Plan and the days included. A sufficient budget needs to be set aside to cover delivery costs.

There may be financial implications regarding implementing internal audit recommendations depending on the nature of the area and recommendations made. However, any such implications are considered by Management as part of the consideration of the recommendations raised. Some audit recommendations are also designed to improve value for money and financial control.

Internal Audit identifies weaknesses in the control environment. Therefore, the implementation of recommendations improves the control environment and risk management.

### Human Resources and Equalities

Some audit recommendations need officer resources to put in place. There is minimal impact on equalities issues.

### Legal

The professional responsibilities of internal auditors are set out within UK Public Sector Internal Audit Standards (PSIAS).



Woking Borough Council  
**Internal Audit Strategy and Proposed 2023-24 Plan**  
March 2023

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## *Disclaimer*

This report (“Report”) was prepared by Mazars LLP at the request of Woking Borough Council (Council), and terms for the preparation and scope of the Report have been agreed with them. The matters raised in this Report are only those which came to our attention during our internal audit work. Whilst every care has been taken to ensure that the information provided in this Report is as accurate as possible, Internal Audit have only been able to base findings on the information and documentation provided and consequently, no complete guarantee can be given that this Report is necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

The Report was prepared solely for the use and benefit of the Council, and to the fullest extent permitted by law, Mazars LLP accepts no responsibility and disclaims all liability to any third party who purports to use or rely for any reason whatsoever on the Report, its contents, conclusions, any extract, reinterpretation, amendment and/or modification. Accordingly, any reliance placed on the Report, its contents, conclusions, any extract, reinterpretation, amendment and/or modification by any third party is entirely at their own risk.



## 01 Introduction

This report establishes the Internal Audit Strategy (Strategy) and proposed Annual Plan (Plan) for 2023/24, which details how the Council will meet its statutory requirements for Internal Audit.

## 02 Background

The fundamental role of Internal Audit is to provide senior management and Members with independent assurance on the adequacy, effectiveness, and efficiency of the system of internal control and report major weaknesses together with recommendations for improvement. The role is fulfilled by carrying out appropriate audit work following the Annual Plan as approved by the Chief Finance Officer (Finance Director) and the Standards and Audit Committee (Committee) of the Council. As Internal Audit is a major source of assurance that the Council is effectively managing its risks, a key rationale for developing the Internal Audit Plan was the Council's Strategic Risk Register (SRR) alongside discussions with members of the Corporate Leadership Team (CLT). We also considered issues arising across the wider sector.

The Council's Internal Audit Service is delivered following a regulatory framework comprising:

- The Local Government Finance Act 1972 which requires councils to 'make arrangements for the proper administration of their financial affairs;
- The Accounts and Audit Regulations 2015. These require that all local authorities must 'undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance'; and
- The UK Public Sector Internal Auditing Standards (PSIAS). These standards set out what is meant by appropriate internal audit practices. These are mandatory standards and replaced the former CIPFA Code of Practice for Internal Audit in Local Government 2006.

The Strategy is a high-level statement that outlines how the Internal Audit Service will be delivered to meet the requirements set out above. The PSIAS no longer make specific reference to a strategy document. However, they require that the information be communicated to the Audit Committee (or equivalent) to support audit planning and resources discussion.

## 03 Internal Audit Strategy

This Strategy recognises that it is management's responsibility to establish and maintain a sound internal control system and ensure that risks are appropriately managed. Internal audit work aims to establish areas requiring improvement and recommend solutions to enable the Council to achieve its objectives.

The Strategy and planning process reflects that the control environment constantly changes, requiring continuous review and re-evaluation to ensure that emerging risks are identified, assessed, and included as appropriate in the audit plan. Specifically, recognising the unprecedented challenges facing Public Sector finances, the strategy must have in built flexibility to consider:

- Greatest risks to the achievement of the Council's objectives;
- New areas of activity;
- Issues of local significance and importance;
- Changing issues and priorities;
- Changes to models for service delivery and partnership working; and
- The impact of changes on existing control structures.

The purpose of the Strategy is to establish an approach that will enable internal audit to be responsive to change and managed in a way that will facilitate:

- An understanding of assurance needs to enable the provision to Members and management of an overall opinion each year on the Council's risk

management, control and governance framework, to support the Annual Governance Statement within the audited financial statements;

- Internal Audit of the Council's risk management, control and governance systems through an approach which assesses risks to Council objectives and prioritises internal audits accordingly;
- The identification of internal audit resources required to deliver a service which meets the PSIAS and achieves the necessary level of audit coverage to enable an opinion to be given on the Council's control environment;
- The identification of other sources of assurance from other assurance providers which can be relied upon to inform the focus of internal audit activity;
- Identification of responsibilities for providing assurance where services are delivered in partnership.

Based on the budget available for internal audit work, the Strategy and internal audit work make provision for:

- Sufficient coverage of all significant financial systems to provide the necessary audit assurance;
- New systems and emerging high-risk areas;
- Cross-cutting reviews for a selection of corporate themes which link to the SRR;
- Support for corporate governance, with particular focus on governance issues identified in the Council's annual governance statement, ensuring that proposed actions are taken;
- Monitoring the implementation of internal audit recommendations categorised as high; and
- An element for a contingency to enable the audit service to provide ad hoc advice and to respond to management requests for support.
- We will also consider the outcomes of the Department for Levelling Up, Housing and Communities (DLUHC) review for inclusion into our work for next year.

The Plan is prepared based on a risk assessment combined with an understanding of other sources of assurance which are then compared to the internal audit resources available. Given the level of internal audit resources available, internal audit work must be planned and focused to ensure efficient and effective use of resources directed at those areas of most significant risk to the Council.

The Internal Audit function, including the Head of Internal Audit role, is outsourced to Mazars LLP under the London Borough of Croydon APEX Framework.

## 04 Development of the Annual Plan 2023/24

The Plan was developed by applying a risk-based approach. Its overall size is similar to prior years in order to provide Members, management, and other external bodies with independent assurance on the adequacy of the Council's risk management, governance, and internal control framework.

The main factors taken into account in compiling the Plan consist of:

- Materiality and significance based upon budgets and volume of transactions;
- Historical knowledge and experience accumulated in Internal Audit, based upon the results of previous audits;
- Changes to the control environment or legislative changes since the previous internal audit;
- A review of internal audit themes against the Council's SRR and corporate objectives;
- Other sources of assurance available to the Council;

- Concerns and emerging risks as identified by the management team including the Finance Director and attendance and presentation to the CLT; and,

- Mazars Horizon Scanning of issues affecting all Local Authorities (<https://www.mazars.co.uk/Home/Industries/Public-Social-Sector/Transforming-your-organisation/Horizon-Scanning>).

The total number of internal audit days allocated for 2023/24 is 249, including 30 days for IT audit and 24 days for the Head of Internal Audit role. The resources are allocated to ensure that sufficient high-risk areas are audited to allow the Head of Internal Audit to provide an effective annual opinion on the internal control environment.

The proposed days for 2023/24 is 56 days below the original allocation for 2022/23 (305 days); however, since approval of the 2022/23 plan, six audits have been deferred with all being included in the proposed 2023/24 Plan (69 days).

The proposed 2023/24 Plan is presented in **Appendix A**.

## A1 Proposed Annual Plan 2023/24

	Title	Source	Scope/Notes	Indicative Days
1	Community Safety	Deferred from 2022/23	Strategy and Governance; Partnership Working; Data Sharing; Commissioned Services; Financial Management; Performance Management.	10
2	Key Financial Control Testing – Accounts Payable, Accounts Receivable, General Ledger, NNDR, Council Tax and Payroll	Standing item	Testing of key financial controls in each financial system.	40
3	Thamesway Group Companies	Deferred from 2022/23	Scope to be determined.	10
4	Victoria Square Development	Deferred from 2022/23.	Review of Internal Operations/Management.	12
5	Health and Safety	Deferred from 2022/23	Policies and Procedures; Staff Training and Awareness; H&S Checks; Risk Assessments; Reporting Incidents and Follow-Ups; Management Reporting.	10
6	Business Planning/Woking for All Strategy	Deferred from 2022/23	Priority Setting; Collation of Information and Development of Plans; Scrutiny and Approval; Communication; Monitoring and Review; Risk Management.	12
7	Housing – Voids Process and Performance	CLT	A review of the effectiveness and of processes in place to ensure that void loss is minimised, including processes for inspecting void properties, carrying out void works and the timeliness of the re-allocation of properties.	12

	Title	Source	Scope/Notes	Indicative Days
8	Housing - Rent Collection	CLT	A review of rental income collection and rent arrears management at the Council. The review will also seek to establish whether proactive measures are being taken to prevent arrears, in line with good practice seen elsewhere within the sector.	10
9	Project Planning	CLT	Projects Initiation and Approval; Implementation and Delivery; Costs and Benefits; Risk Management and Lessons Learned; Monitoring and Reporting	10
10	Savings Plan, Monitoring of Budgets (including MTFs)	CLT – Strategic Risk Register	Scope to be confirmed	12
11	Information Governance	CLT	Legislation, Policies and Procedures; Roles and Responsibilities; Training and Awareness; Data Classification and Sharing; Data Protection Impact Assessment; Corporate Registration; Fair Processing Statements, Privacy Notices and Consent; Security of Information, Retention and Disposal; Data Security Breaches.	15
12	Parking Services – Off Street	CLT	Scope to be determined	12
<b>IT Audits</b>				
13	Office 365	Deferred from 2022/23	Scope to be determined.	15
14	Application Lifecycle Management	CLT	Scope to be determined.	15
<b>Other Work</b>				
15	Follow Up Reviews	Ongoing	N/a	10

	Title	Source	Scope/Notes	Indicative Days
16	Management	Ongoing	N/a	20
17	Head of Internal Audit	Ongoing	N/a	24
			<b>Total Audit Days</b>	<b>249</b>

STANDARDS AND AUDIT COMMITTEE – 2 MARCH 2023

## INTERNAL AUDIT PROGRESS REPORT

### Executive Summary

The Woking Borough Council Financial Regulation 2.8 requires that the Chief Finance Officer (Finance Director) shall regularly report to the Standards and Audit Committee (Committee) on the work undertaken by Internal Audit. Similarly, under the Internal Audit Charter approved by the Committee, it is a requirement that Internal Audit provides a quarterly report on internal audit progress and key findings to the Committee.

This report covers audit activity and performance from 11 November 2022 to 10 February 2023.

### Recommendations

The Committee is requested to:

**RESOLVE** That the report be received and progress against the 2022-23 Internal Audit Plan and implementation of Internal Audit recommendations be noted.

The Committee has the authority to determine the recommendation(s) set out above.

**Background Papers:** None.

**Reporting Person:** Graeme Clarke, Partner, Mazars LLP  
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**Date Published:** 22 February 2023

STA23-004

## **Implications**

### Financial and Risk

There may be financial implications regarding implementing internal audit recommendations depending on the nature of the area and recommendations made. However, any such implications are considered by Management as part of the consideration of the recommendations raised. Some audit recommendations are also designed to improve value for money and financial control.

Internal Audit identifies weaknesses in the control environment. Therefore, implementing recommendations improves the control environment and hence the risk management.

### Human Resources and Equalities

Some audit recommendations need officer resources to put in place. There is minimal impact on equality issues.

### Legal

The professional responsibilities of internal auditors are set out within UK Public Sector Internal Audit Standards (PSIAS).





Woking Borough Council - Internal Audit Progress Report  
**For November 2022 to February 2023 Period**  
February 2023

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## ***Disclaimer***

This report (“Report”) was prepared by Mazars LLP at the request of Woking Borough Council (WBC), and terms for the preparation and scope of the Report have been agreed with them. The matters raised in this Report are only those which came to our attention during our internal audit work. Whilst every care has been taken to ensure that the information provided in this Report is as accurate as possible, Internal Audit have only been able to base findings on the information and documentation provided, and consequently, no complete guarantee can be given that this Report is necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

The Report was prepared solely for the use and benefit of WBC, and to the fullest extent permitted by law, Mazars LLP accepts no responsibility and disclaims all liability to any third party who purports to use or rely for any reason whatsoever on the Report, its contents, conclusions, any extract, reinterpretation, amendment and/or modification. Accordingly, any reliance placed on the Report, its contents, conclusions, any extract, reinterpretation, amendment and/or modification by any third party is entirely at their own risk. Further details are provided in Appendix A4, “Statement of Responsibility”.

## 01 Introduction

The Woking Borough Council (Council) Financial Regulation 2.8 requires that the Chief Finance Officer (Finance Director) shall regularly report to the Standards and Audit Committee (Committee) on the work undertaken by Internal Audit. Similarly, the Internal Audit Charter approved by the Committee requires that Internal Audit provide a quarterly report on internal audit progress and key findings to the Committee.

The Committee approved the 2022/23 Internal Audit Plan (Plan) on 3 March 2022. The purpose of this report is to outline the following in respect of Internal Audit Activity during the period since the last Committee in November 2022:

- An update on progress in delivering the 2022/23 internal audit plan;
- A summary of any Limited/Unsatisfactory Assurance reports issued and high-priority recommendations raised; and
- An update on follow-up activity and any recommendations outstanding for implementation.

This report covers internal audit activity and performance from 11 November 2022 to 10 February 2023.

## 02 Internal Audit Progress

During this reporting period, we continue to meet with the Finance Director every month to discuss progress and any particular issues. Our last meeting was held on 8 February 2023. We have also met with the Lead Reviewer for the DLUHC Rapid Review on 2 February.

Also in this reporting period, we have met with CLT members individually to develop our IA Plan for 2023/24, which will be presented in a separate paper to this Committee.

As previously reported to the Committee in November 2022, the Business Planning and Health & Safety audits were deferred to 2023/24. In addition, we could not start the following work as planned in Q4:

- Thamesway Group Companies: This was deferred due to the ongoing external audit and business planning work being prioritised. Following discussions with the Finance Director, we will undertake this work in Q2 of 2023/24.
- Community Safety: The Operational Manager became unavailable at short notice for an extended period. We agreed with the Finance Director to include this audit in our 2023/24 activity.
- Victoria Square: Given the Department for Levelling Up, Housing and Communities (DLUHC) rapid review into the Council's finances, investments and related governance, resources were unavailable to assist our work. We agreed with the Strategic Director for Corporate Resources that this work will be undertaken in Q2 of 2023/24.
- IT Office365: Given the unforeseen circumstances in the Council's ICT Team, we have agreed to defer this work to our 2023/24 activity.

The table below provides a summary of the progress of the remaining audits included in the 2022/23 Plan:

Audit Status	Number of reviews	Percentage %
Finalised	2	17%
Draft	2	17%
Fieldwork in progress	6	50%
Not yet started	2	16%
<b>Total</b>	<b>12</b>	<b>100%</b>

Further detail on the

audits, progress and timing is included in **Appendix A1** of this report.

### 03 Audit Reports Issued

We have four categories by which we classify internal audit assurance over the processes we examine: Substantial, Moderate, Limited or Unsatisfactory reviews. Further details on these categories are included in **Appendix A3**.

In our previous Progress Report for November 2022, we highlighted one report at draft stage (Corporate Governance). This has now been finalised. The table below shows the reports issued in the period:

Audit Title	Assurance Opinion	Recommendations by Priority		
		High	Medium	Low
<b>2022/2023 Internal Audit Plan</b>				
Corporate Governance Arrangements	Substantial	-	1	-
DFG	Moderate*	-	4	2
HR – Recruitment & Retention	Limited*	1	4	3
<b>Total</b>		<b>1</b>	<b>10</b>	<b>5</b>

\* Draft reports currently awaiting management responses, which may lead to changes in content, including assurance levels and/or recommendations

As the previous progress report mentioned, one advisory report from the 2020/21 Plan is outstanding as a draft (Covid-19 Lessons Learned). Internal Audit has raised this matter with the Finance Director at our regular meetings. Given the time since this review, we have taken this report as agreed and finalised.

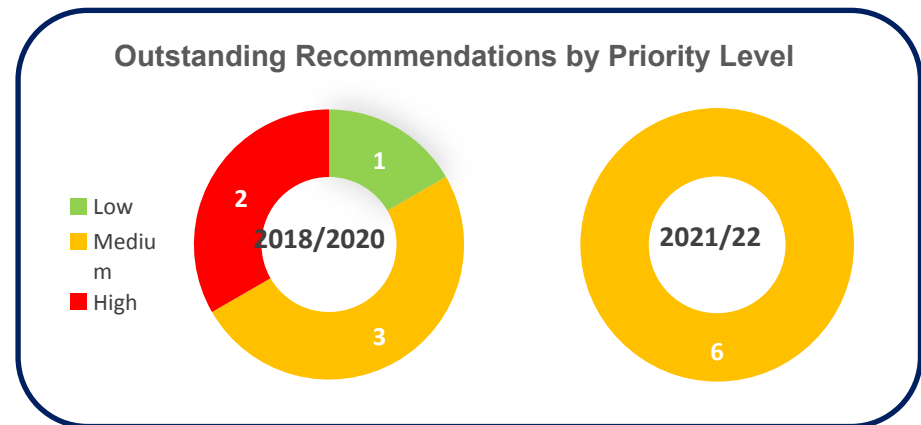
Internal Audit categorises recommendations as High, Medium, or Low priority to differentiate between the recommendations made. These categories give management an indication of the importance and urgency of implementing the recommendations.

As shown in the table above, one High Priority recommendation was raised. Further details of recommendations can be found in the summary reports for each audit provided separately to Members.

### 04 Follow-Ups

Since the last Committee meeting, the Council’s Action Management system has been populated with new recommendations from finalised reports.

As of 10 February 2023, there are 12 recommendations in Action Management which have past their initially agreed implementation dates. There are a further nine recommendations that were raised but within the agreed timescales for implementation and, therefore, not reviewed. Priorities for overdue recommendations are as follows:



Two high-priority recommendations are outstanding, which relate to historic recommendations from the Counter Fraud audit report, which were agreed to be implemented by December 2022, as previously reported to this Committee.

Six out of the nine medium-priority recommendations relate to the Temporary Accommodation audit completed in 2021/22 with recommendations agreed to be implemented by December 2022.

We shared a report listing all recommendations raised to the Finance Director and CLT on 16 February 2023, ahead of the Committee Meeting. All relevant Officers or Corporate Leadership Team (CLT) Members assigned to implement all outstanding recommendations were reminded to update the Action Management System with progress.

Further detail of outstanding high-priority recommendations is included in **Appendix A2** of this report.

## 05 Other Matters

At Mazars, we support the public and social sector by providing solutions and services that help organisations meet their challenges. We are committed to providing the insight and innovation that helps make informed decisions and deliver objectives.

In December 2022, we hosted an APEX Members meeting which was followed with communications on our 2023 Horizon Scanning report. This report looks at some of the challenges faced in 2022 and the new threats and opportunities for the upcoming year. Some of the themes covered in the report include:

- Economic challenges - including the cost-of-living crisis
- Work force crisis - recruitment and retention
- Social housing - housing stock, consumer regulation and diverse tenant needs
- Political uncertainty - impact of the change in key leadership roles and government policy
- Sustainability - meeting Net Zero targets

Also in December 2022, we hosted a discussion forum for local authority

Audit Committee Members, in which our team considered the role and purpose of an Audit Committee.

Our team of experts have put together two videos which we hope will help. In the first recording, The Role of the Audit Committee, experts at Mazars explain what audit committee members need to be aware of, how to develop a strong and effective Audit Committee and what questions you should be asking so that an Audit Committee helps public bodies develop good governance, ethical values, effective financial management and reporting to build and maintain public trust and confidence.

In the second video, The Role of the Audit Committee – Panel discussion by Audit Committee members our external panellists of Audit Committee members discuss areas including: how to create a successful Audit Committee, the positive impact their role has on the organisations they work with in the areas of effective financial management, governance and member recruitment, training, and retention.

[Audit Committee webinar for local authorities - Mazars - United Kingdom.](#)

## A1 Current Progress – 2022/23 Plan

Audit area	Progress	Assurance Opinion	Recommendations		
			High	Medium	Low
Corporate Debt Recovery	Final	Moderate	-	3	-
Corporate Governance Arrangements	Final	Substantial	-	1	-
Disabled Facilities Grant	Draft*	Moderate	-	4	2
HR – Recruitment and Retention	Draft*	Limited	1	4	3
Housing Stock – Gas Safety Compliance	Fieldwork Complete	-	-	-	-
Key Financial Systems – AP, GL, NNDR and Council Tax	Fieldwork	-	-	-	-
Contract Management – Savills	Fieldwork	-	-	-	-
Sheerwater Regeneration Project	Fieldwork	-	-	-	-
Commercial and Investment Property Portfolio	Fieldwork	-	-	-	-
Environmental Health Inspections	Starts 20/02/2023	-	-	-	-
Waste Management	Starts 27/03/2023	-	-	-	-
<b>Business Planning</b>	<b>Deferred to 23-24</b>	-	-	-	-
<b>Health &amp; Safety</b>	<b>Deferred to 23-24</b>	-	-	-	-
<b>Community Safety</b>	<b>Deferred to 23-24</b>	-	-	-	-
<b>Thamesway Group Companies</b>	<b>Deferred to 23-24</b>	-	-	-	-
<b>Victoria Square</b>	<b>Deferred to 23-24</b>	-	-	-	-
<b>IT</b>					
IT Disaster Recovery	Fieldwork in progress	-	-	-	-
<b>Office 365</b>	<b>Deferred to 23-24</b>	-	-	-	-
<b>Total</b>			<b>1</b>	<b>12</b>	<b>5</b>

\*Draft reports currently awaiting management responses, which may lead to changes in content, including assurance levels and/or recommendations

## A2 Outstanding High Priority Recommendations (Past Implementation Date)

Counter Fraud 2019/20					
Ref	Observation/Risk	Recommendation	Priority	Management Response	Timescale and Responsibility
1	<p>Fraud risk identification is essential in order to understand specific exposures to risk, changing patterns in fraud and corruption threats and the potential consequences to the Council and its service users.</p> <p>Although it was apparent that staff involved in counter fraud work are aware of fraud risks facing the Council, how they may occur and how they should be managed, the Council has not undertaken a formal fraud risk assessment.</p> <p>Where a fraud risk assessment is not undertaken, the Council may not be directing its counter fraud activity at the areas of greatest risk. Without a risk assessment and also a low number of reported cases of fraud, this may provide a false impression on the prevalence of fraud.</p>	<p>A fraud risk assessment should be undertaken so as to provide a basis for prioritising counter fraud activity. The Council should use published estimates of fraud loss, and where appropriate its own measurement exercises, to aid its evaluation of fraud risk exposure. This information should be used to evaluate the harm to the aims and objectives of the Council that different fraud risks may cause.</p> <p>The risk assessment should be reviewed periodically (at least annually) and reported to CMG.</p>	High	<p>Agreed. A Fraud risk assessment will be completed to inform future counter fraud work.</p> <p><i>February 2023:</i></p> <p>The work previously being discussed with Reigate/Oxford has stalled. Contact has recently been made to re-engage the team to progress this work. It is envisaged that this can be included within the Fit for the Future programme to be funded by Flexible Use of Capital receipts which will be reported to the Executive in March.</p>	<p>31 March 2020</p> <p>Director of Finance</p> <p><b>Revised timescale:</b></p> <p>30 June 2023</p>
2	<p>Organisations require a counter fraud strategy to set out their approach to managing fraud risks and defining responsibilities for action.</p> <p>Although the Council has an Anti-Fraud and Corruption Policy, a Counter Fraud and Corruption</p>	<p>A Counter Fraud and Corruption Strategy should be developed to address the fraud risks identified (see recommendation 1). The strategy should include a mixture of both proactive and reactive approaches that are best suited to addressing the Council's fraud and corruption risks.</p>	High	<p>Agreed, once the risk assessment (recommendation 1) has been completed, a Counter Fraud and Corruption Strategy will be prepared.</p>	<p>30 June 2020</p> <p>Director of Finance</p>

Counter Fraud 2019/20					
Ref	Observation/Risk	Recommendation	Priority	Management Response	Timescale and Responsibility
	<p>Strategy has not been developed setting out the Council's approach to managing the risk of fraud.</p> <p>The Local Government Transparency Code 2015 requires the annual publication of data relating to the Council's counter fraud work; however, we were unable to locate any transparency data related to fraud.</p> <p>Where the Council does not have a Counter Fraud and Corruption Strategy, actions, responsibilities and accountability may be unclear. As a result, the fraud risks the Council is exposed to may not be managed effectively.</p>	<p>Proactive and reactive components of a good practice response to fraud risk can be found in CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption.</p> <p>The strategy should include clear identification of responsibility and accountability for delivery of tasks within the strategy, and also for providing oversight.</p> <p>A report should be prepared for CMG and the Standards and Audit Committee (or another suitable committee) at least annually on performance against the counter fraud strategy.</p> <p>The Council should also comply with the Local Government Transparency Code 2015 requirement to publish data relating to the Council's counter fraud work.</p>		<p><i>February 2023:</i></p> <p>The work previously being discussed with Reigate/Oxford has stalled. Contact has recently been made to re-engage the team to progress this work. It is envisaged that this can be included within the Fit for the Future programme to be funded by Flexible Use of Capital receipts which will be reported to the Executive in March.</p>	<p><b>Revised timescale:</b></p> <p>30 June 2023</p>



## A3 Definitions of Assurance

Definitions of Assurance Levels		
Level	Description	
Substantial	The framework of governance, risk management and control is adequate and effective.	
Moderate	Some improvements are required to enhance the adequacy and effectiveness of the framework of governance, risk management and control.	
Limited	There are significant weaknesses in the framework of governance, risk management and control such that it could be or could become inadequate and ineffective.	
Unsatisfactory	There are fundamental weaknesses in the framework of governance, risk management and control such that it is inadequate and ineffective or is likely to fail.	
Definitions of Recommendations		
Priority	Definition	Action required
High (Fundamental)	Significant weakness in governance, risk management and control that if unresolved exposes the organisation to an unacceptable level of residual risk.	Remedial action must be taken urgently and within an agreed timescale.
Medium (Significant)	Weakness in governance, risk management and control that if unresolved exposes the organisation to a high level of residual risk.	Remedial action should be taken at the earliest opportunity and within an agreed timescale.
Low (Housekeeping)	Scope for improvement in governance, risk management and control.	Remedial action should be prioritised and undertaken within an agreed timescale.

## A4 Statement of Responsibility

We take responsibility to WBC for this report which is prepared on the basis of the limitations set out below.

The responsibility for designing and maintaining a sound system of internal control and the prevention and detection of fraud and other irregularities rests with management, with internal audit providing a service to management to enable them to achieve this objective. Specifically, we assess the adequacy and effectiveness of the system of internal control arrangements implemented by management and perform sample testing on those controls in the period under review with a view to providing an opinion on the extent to which risks in this area are managed.

We plan our work in order to ensure that we have a reasonable expectation of detecting significant control weaknesses. However, our procedures alone should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify any circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud.

The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made.

Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices.

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STANDARDS AND AUDIT COMMITTEE – 2 MARCH 2023

## REVIEW OF THE AMENDED CONSTITUTION

### Executive Summary

This report seeks comments on the attached draft Constitution approval for the adoption of a revised Constitution for Woking Borough Council.

The overall objectives of the recommended changes to the Constitution are to:

- streamline and improve efficiency of decision-making;
- simplify the Constitution;
- make the Constitution simple and easy to navigate; and
- make the decision-making process easier to understand for officers, Councillors and members of the public.

The recommended Constitution is attached as an appendix for consideration and approval and consists of the following:

- Part 1 – Summary and Explanation
- Part 2 – Articles of the Constitution
- Part 3 – Responsibility for Functions
- Part 4 – Rules of Procedure
- Part 5 – Codes and Protocols
- Part 6 – Group Company

The Constitution has been updated to reflect the objectives above as well as other more routine changes, such as updating officer titles and removing duplication.

The Standards and Audit Committee is asked to review the draft Constitution as pre-scrutiny and provide any comments and feedback. The Overview and Scrutiny Committee received the paper at its meeting on 20 February 2023. Comments shall be considered before the matter is reported to the Executive, prior to adoption at Full Council.

### Recommendations

The Committee is requested to:

**RESOLVE That** the report be noted.

The Committee has the authority to determine the recommendation set out above.

**Background Papers:** None

**Reporting Person:** Joanne McIntosh, Director of Legal and Democratic Services  
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**Contact Person:** Joanne McIntosh, Director of Legal and Democratic Services  
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## Review Of The Amended Constitution

**Portfolio Holder:** Councillor Ann-Marie Barker  
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**Shadow Portfolio Holder:** Councillor Ayesha Azad  
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**Date Published:** 22 February 2023

### 1.0 Introduction

- 1.1 The Council is required to maintain and publish a Constitution, in accordance with Section 9P of the Local Government Act 2000, setting out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.2 The Constitution Review is addressing concerns that the Council's governance and decision-making processes are not easily understandable to officers, councillors and members of the public.
- 1.3 The revised Constitution will be critical to ensuring that Council policies and procedures are consistent with delivering good governance.

### 2.0 Review

- 2.1 In practice, the review would seek to make changes in the interests of simplification and improving understanding of the Constitution.
- 2.2 To assist, these changes have been made to the current Constitution using tracked changes. A copy of which can be found at Appendix 1 to this report. Due to the extent of the drafting, at times these have become unwieldy and as such a clean copy has also been appended to this report at Appendix 2. It should be noted that form and design of Appendix 2 is still under review and there may be some stylist changes prior to adoption.

### 3.0 Part 1 – Introduction

- 3.1 The introduction has been updated and modernised to provide a more user-friendly overview of the Council and how it works. There are no substantial changes in law or practice.

### 4.0 Part 2 – Articles of the Constitution

- 4.1 The Articles of the Constitution have been updated and expanded upon. Parts have been changed to represent a more modern, simplified style of drafting. The Articles have also re-ordered to place them in a more logical order.
- 4.2 Article 10 has been updated to include a provision in respect of a four-year term of office (followed by one further four year period) for the Independent Chair of Standards and Audit. This shall ensure that the Chair remains independent. I am sure all Councillors shall agree that our current Independent Member, Claire Storey, has been a real asset to the Council and has served as an excellent Chair of the Standards and Audit Committee. She has been consulted in respect of the review of the Constitution and is supportive of this proposal. She has agreed to continue in her role for the time being to support a smooth transition.
- 4.3 The Terms of Reference for the Council's existing working/task groups are currently being formatted into a template document. Once this has been completed (prior to adoption at Full Council) they shall be inserted into the Part of the Constitution.

### 5.0 Part 3 – Responsibility for Functions, Management Arrangements and Scheme of Delegations.

- 5.1 This section now includes an introduction which explains in general legal terms responsibility of functions.
- 5.2 The existing table outlining responsibility is to remain the same however be landscape rather than portrait.

## Review Of The Amended Constitution

- 5.3 The current Joint Committee section is due to cease in April and be replaced with Partnership Boards. As such this section shall be removed from the Constitution and ultimately replaced.
- 5.4 The management arrangements section remains as drafted save as for a structure chart to be inserted to aid understanding.
- 5.5 The explanation of the operation of the scheme of delegations has been redrafted in a more modern and simplistic manner. The principles however remain the same. Notably, reference to ostensible authority has been removed and replaced with the ability to act in an emergency “to take all necessary actions including incurring expenditure with regards to any emergency involving serious danger to life, property and public welfare”.
- 5.6 This part shall also include a Proper Officer section. Proper officers carry out functions in relation to statutory provisions. It is commonplace to have such a section in the Constitution.

### **6.0 Part 4 – Council Procedure Rules**

- 6.1 Council Standing Orders have been redrafted; the use of track changes makes the changes appear more significant than they actually are. The sections have been placed into a more logic order.
- 6.2 The provisions in respect of Notices of Motion have been redrafted. These propose that Notice of Motions shall now be dealt with at the first meeting of Full Council and only go to the Executive if the legal director or the finance director considers it appropriate i.e. there are legal, policy and/or budgetary reasons which need to be addressed in an officers report to enable the Council to make an informed decision.
- 6.3 The process for dealing with amendments has been updated and to avoid confusion has been depicted in a flowchart which is to be appended to the Constitution. It is intended that this clarification shall ensure that the debate is concise and focused upon the topic at hand. The flowchart shall ensure that officers, members and residents understand the process of the meeting.
- 6.4 A matter which arose in the feedback sessions was the length of meetings. Historically, some meetings have continued for several hours. A 3.5 hour optional cut off point to the meeting has now been included.
- 6.5 Following significant feedback in respect of this area of consideration. The new Constitution provides for Members to remain seated to speak and to continue to wear business dress (dress code shall be managed by group leaders).
- 6.6 It is proposed that all speeches are to be no more than five minutes long (at the Mayors discretion). This would make managing the meeting easier for officers but would also focus debate. It is rare that moving a motion/amendment or a right of reply extends longer than five minutes.
- 6.7 There are also a number of drafting/modernising changes which have been included. One of which is to simply state which provisions of Full Council apply to its Committee and which do not.
- 6.8 The conventions section has been removed from the Constitution. These sections can now be found in other areas of the Constitution. It is considered that having conventions which are not rules provides a level of uncertainty and as such they should be avoided.
- 6.9 The Budget and Policy Framework document has been reviewed and minor amendments proposed.



## **Review Of The Amended Constitution**

- 6.10 The Council is currently considering the development of its procurement service, it is proposed that the Council's contract standing orders are reviewed as part of the service redesign to ensure they remain fit for purpose.
- 6.11 The Executive Procedure Rules and Access to Information Rules have been reviewed and minor changes have been made.
- 6.12 The Council's Scrutiny Officer and Kuldip Channa, Legal Adviser to the Overview and Scrutiny Committee, have reviewed the OSC Procedures Rules. The proposed changes are marked as tracked changes.

### **7.0 Part 5 – Codes of Protocols**

- 7.1 The Members Code of Conduct, Standards Protocols, and Arrangements for Dealing with Allegations of Misconduct have not been considered as part of this review as these have been recently updated and remain consistent with best practice.
- 7.2 It is proposed that the Members Allowance Scheme is considered separately and the Financial Regulations be reviewed once the new s151 officer has been appointed.
- 7.3 The Code of Corporate Governance which accompanied the Annual Governance Statement shall be inserted into this section.
- 7.4 It is commonplace to have an agreed protocol in respect of councillor and officer relations. As such a protocol has been drafted to be adopted and included as part of the Constitution.
- 7.5 The employment procedures and code of conduct for employees have been reviewed with HR colleagues. There are no significant changes however they propose the establishment of an Appointments Committee to recruitment of Members of the Corporate Leadership Team, referring appointments of Statutory Officers to Full Council for ratification. The Terms of Reference can be found at Appendix 4.
- 7.6 The confidentiality protocol shall be removed from the Constitution. On an operational level the protocol is impractical and overly burdensome. It also stipulates the duties of the Monitoring Officer. It is proposed to introduce a Monitoring Officer Protocol to explain the role of the Monitoring Officer which would provide some clarity of the role but be less restrictive than the protocol. It is commonplace to have a Monitoring Officer protocol included in the Constitution.

### **8.0 Part 6 – Group Company**

- 8.1 This section was recently introduced following the review of Company Governance and as such I have not revisited it.

### **9.0 Conclusion**

- 9.1 The attached draft Constitution has been developed with Member and Officer feedback. Councillors are requested to scrutinise the new Constitution and provide constructive feedback which shall be considered as part of the review process.
- 9.2 A copy of the Constitution can be found at Appendix 2. Councillor's should note that it is intended that the substantive content shall remain the same however stylistic changes may be made to the Constitution prior to its adoption such as the inclusion of further flowcharts and visual aids.

**10.0 Corporate Strategy**

10.1 The revised Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Therefore, the Constitution supports delivery of all the priorities described in the Corporate Strategy.

**11.0 Implications**

Finance and Risk

11.1 Nothing arising specifically from the body of this report save as for robust governance arrangements ensure that the Council is making informed and documented decision reducing risk to the Council.

Equalities and Human Resources

11.2 Nothing arising specifically from the body of this report.

Legal

11.3 Under Section 9P of the Local Government Act 2000 (the 2000 Act), local authorities must prepare and keep up to date a Constitution, which must also be made available to the public.

11.4 The Council's Constitution follows a standard format as recommended by the former Department of the Environment, Transport and the Regions (DETR) in 2001, as part of the implementation of the 2000 Act.

11.5 Changes to the Constitution are matters reserved to the Council to determine. As a result, the adoption of a new Constitution must be agreed by Council.

**12.0 Engagement and Consultation**

12.1 This report contributes by improving clarity to the Council's decision-making processes. This will enable councillors to fulfil their roles more effectively and make procedures and processes more transparent.

REPORT ENDS

## **Introduction**

### **The Council's Constitution**

This Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## **CONSTITUTION**

### **Summary and Explanation**

#### **The Council's Constitution**

This Constitution sets out how the Council operates, how decisions are made and the procedures followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, whilst others are a matter for the Council to choose. A copy of the Constitution is on the Council's website and a paper copy can be inspected in the Council's main Reception. This summary is a guide to how the Council and its meetings work.

#### **How the Council Operates**

The Council comprises 30 councillors elected by thirds every four years. The regular election of councillors will normally be held on the first Thursday in May every four years. The Council operates a system of election by "thirds" meaning it elects one third (10) of local Councillors every year for three years and hold no elections in the fourth year. Councillors are democratically accountable to residents of their ward to whom they have a special duty, including those who did not vote for them. However, the overriding duty of councillors is to the whole community. Councillors observe a code of conduct to ensure high standards in the way they undertake their duties. The Council's adopted code of conduct is set out in Part 5 of this Constitution. The Monitoring Officer is responsible for giving advice and training to councillors on matters relating to the code of conduct. If a Member of the public or another Councillor considers a councillor has acted inappropriately and in breach of the Code of Conduct, then they can make a complaint to the Monitoring Officer who will determine whether it merits formal investigation. The procedure for this is set out in Part 5.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here, councillors decide the Council's policy framework and set the budget each year. The Council has a Leader and Executive model of governance. This means the Council elects a Leader. He or she then appoints up to six other Councillors to form the Executive, one of whom will be the Deputy Leader. The Leader and Deputy Leader will act as Chairman and Vice-Chairman respectively of the Executive. As a balance the Council's Overview and Scrutiny Committee holds the Executive to account.

Councillors also make some decisions in relation to Regulatory functions, for example determination of planning applications and licensing matters. The Council appoints committees of councillors to make decisions on these matters. The meetings of these committees are normally held in public.

Public notice of all meetings is given on the Council's website and also on the notice board at the Council's main Reception. The Council also routinely webcasts meetings of the full Council, the Executive and other committees.

Decisions made at Council and Committee meetings become the decision of the Council as a whole.

#### **How Decisions are Made**

The Leader of the Council (the Leader) is responsible for most day-to-day decisions. These decisions can lawfully be delegated to the Executive, committees of the Executive, individual lead councillors on the Executive, individual local ward councillors, or officers. When major decisions

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are to be discussed or made, these are published in the Council's forward plan in so far as they can be anticipated. If these major decisions are to be made at a meeting of the Executive, this will be open for the public to attend except where personal or confidential matters are being discussed.

Decisions have to be made in accordance with the Council's overall policies and budget and may be informed by recommendations from the Overview and Scrutiny Committee. If a decision which is outside the budget or policy framework is required, this must be referred to the Council as a whole to decide.

### **How Council Meetings Work**

Meetings of the full Council, which are chaired by the Mayor, are more formal than Executive and committee meetings. Decisions are taken following a debate by councillors in which motions setting out recommended action are discussed. Amendments to these motions may also be discussed as part of the debate.

### **Overview and Scrutiny Committee**

The Overview and Scrutiny Committee supports the work of the Leader/Executive and the Council as a whole. The committee allows residents to have a greater say in Council matters by investigating matters of local concern. It leads to reports and recommendations which advise the Leader/Executive and the Council on its policies, budget and service delivery. The Committee also monitors the decisions taken by the Leader/Executive. The Committee can 'call-in' a decision which has been made by the Leader/Executive, but not yet implemented. This enables it to consider, for example, whether the decision is consistent with the budget and policy framework and it may recommend that the Leader/Executive reconsiders the decision.

Councillors have up to five working days after a decision has been made to call it in. In these circumstances, decisions cannot be implemented until any issues have been considered by the Committee. The Committee may also be consulted by the Leader/Executive or the Council on forthcoming decisions and the development of policy.

### **The Council's Staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and councillors (see Part 5 of this Constitution).

### **The Public's Rights**

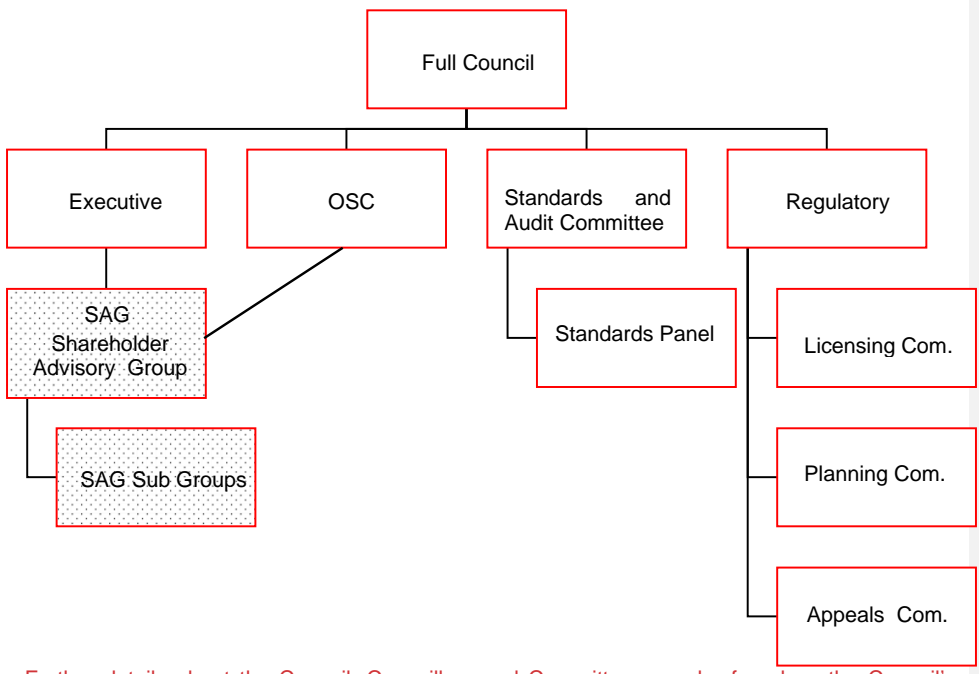
The public have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens Advice can advise on individuals' legal rights. Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

The public have the right to:

- > vote at local elections if they are registered;
- > contact their local councillor about any matters of concern to them;
- > obtain a copy of the Constitution, which can be viewed on the Council's website;
- > attend meetings of the Council and its Executive and committees except where, for example, personal or confidential matters are being discussed;
- > present petitions to the Council in accordance with the adopted Petition Scheme
- > ask questions or address meetings of the Council, Executive and committees;
- > find out from the Forward Plan what major decisions are to be discussed and decided by the Leader/Executive and when;
- > see reports and background papers and any record of decisions made by the Council, the Leader, lead councillors, the Executive and committees in relation to matters considered in public;
- > complain to the Council about any aspect of its services;

- > complain to the Ombudsman if they think the Council has not followed its procedures properly; however, they should only do this after using the Council's own complaints procedure;
- > complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Councillors' Code of Conduct; and
- > inspect the Council's accounts and make their views known to the external auditor during the 20 working days statutory period prior to the external auditor giving their opinion.

The Council welcomes participation by the public in its work and strives to be transparent and open in all its work.



Further details about the Council, Councillors and Committees can be found on the Council's website using the following link:

[Councillors and committees | Woking Borough Council](#)

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# Article 1 – The Constitution

## 1.01 Powers of the Council

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

## 1.02 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of local people in decisions made by the Council;
- (c) help councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people, and that they can explain the reasons for their decisions; and
- (h) provide a means of improving delivery of services to the community.

## 1.03 Interpretation of the Constitution

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







## Article 2 – Members of the Council

### 2.01 Number of Councillors

The Council comprises 30 councillors (also referred to as “Members”).

### 2.02 Eligibility

The eligibility criteria for a person to be qualified to be elected and be a councillor are set out in Section 79 of the Local Government Act 1972.

### 2.03 Election and Terms of Councillors

The regular election of councillors will normally be held on the first Thursday in May every four years. The Council operates a system of election by “thirds” meaning it elects one third (10) of local Councillors every year for three years and hold no elections in the fourth year.

### 2.05 Roles of Councillors

Councillors will:

- (i) Collectively be the ultimate policy-makers for the Council;
- (ii) Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) Represent the interests of their ward and of individual constituents;
- (iv) Respond to constituents’ enquiries and representations, fairly and impartially;
- (v) Serve the public interest, and make decisions having regard to the interests of the whole community.

(vi) be involved in decision-making;

(vii) be available to represent the Council on other bodies; and

(viii) maintain the highest standards of conduct and ethics.

### 2.06 ~~3~~ Rights and Duties of Councillors

Councillors have rights of access to such documents, information, land and buildings of the Council as are necessary for them to act as a councillor and in accordance with the law.

Councillors are entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 5 of this Constitution.

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





## Article 3 – The Public Citizens and the Council

### 3.01 The Public's Rights

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.

### 3.02 Petitions

The Council is committed to responding to petitions. Anyone who lives, works or studies in the Borough may sign or organise a petition and trigger a response from the Council. Details of the Council's adopted (non statutory) petition scheme are set out in Part 4 of this Constitution.

### 3.03 The Public's Citizens' rights

#### (a) Information.

The Public Citizens have the right to:

- (i) Attend meetings of the Council, Executive and Committees except where confidential or exempt information is likely to be disclosed, and the meeting is, therefore, held in private;
- (ii) Find out from the Forward Plan what key decisions will be taken under the Council's Executive arrangements. The Forward Plan is no longer a statutory requirement but the Council has decided to retain it for effective operation of the Council's activities;-
- (iii) See public reports and background papers, and any public records of decisions made by the Council, Executive and Committees except where confidential or exempt information is likely to be disclosed.; and
- (iv) inspect the Council's accounts, and make their views known to the external auditor during the statutory period of 20 working days prior to the external auditor giving their opinion-

#### (b) Participation.

The Public Citizens have the right to:

- (i) Contribute to investigations by the Overview and Scrutiny Committee;
- (ii) Present petitions under the Council's Petition Scheme,
- (iii) Ask questions at the Executive and Council.

#### (c) Complaints.

The Public Citizens have the right to complain to:

- (i) the Council under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme, and

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- (iii) the Council's Monitoring Officer about a breach of the Members' Code of Conduct.

**3.042 The Public's Citizens' Responsibilities**

The Public Citizens must not be violent, abusing or threatening to councillors, officers or persons carrying out work for the Council and -

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Citizens must not wilfully harm things owned by the Council, councillors or officers.

The public are entitled to attend public meetings of the Council, Executive and committees, but must comply with the rulings of the chairman. They may not disrupt the meeting or cause undue disturbance or they may be removed from the meeting.

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## Article 4 – The Full Council

### 4.01 Meanings

(a) Policy Framework.

"Policy Framework" means:

- (i) Plans and strategies which, by law, have to be approved by Full Council, and
- (ii) Plans and strategies which the Council has decided should be approved by Full Council.

(b) Budget.

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

(c) Housing Land Transfer.

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

### 4.02 Functions of the Full Council

Only Full Council will exercise the following functions:

- (a) adopting and changing the Constitution (apart from changes to Part 3 in relation to executive functions which will be discharged by the Leader and reported to the Council);
- (b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of a Housing Land Transfer;
- (c) intervening, where necessary, to prevent executive decisions that would run contrary to the Policy Framework or Budget;
- (d) appointing and removing the Leader of the Council;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies, unless the appointment is an executive function or has been delegated by Full Council;
- (g) adopting a Members' Allowances scheme under Article 2.03;
- (h) changing the name of the area, or conferring the title of Freedom of the Borough;
- (i) Appointing the Head of Paid Service and other members of the Corporate Leadership Team in accordance with the Officer Employment Rules;

- (j) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions, set out in Part 3 of this Constitution, which Full Council decides should be undertaken by itself;
- (l) electing the Mayor; and
- (m) all other matters which, by law, must be reserved to Full Council.

#### **4.03 Council Meetings**

There are three types of Council meeting:

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

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

#### **4.04 Responsibility for Functions**

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



## Article 5 – Chairing the Council

### 5.01 Role and Function of the Mayor

The Mayor will be elected by the Council annually.

The Mayor, and in his/her absence, the Deputy Mayor, will have the following roles and functions:

- (a) to act as First Citizen and Civic Head of the Borough;
- (b) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (c) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (d) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
- (e) to promote public involvement in the Council's activities;
- (f) to be the non-political representative of the Council; and
- (g) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

~~(g)~~ Neither the Mayor nor the Deputy Mayor shall be members of the Executive.

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## ~~Article 6 – Overview and Scrutiny Committee~~

### ~~6.01 – Terms of Reference~~

~~The Council will appoint the Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 and the functions of a crime and disorder committee under section 19 of the Police and Justice Act 2006.~~

### ~~6.02 – General Role~~

~~Within its terms of reference, the Overview and Scrutiny Committee will:~~

- ~~(a) review and/or scrutinise decisions made (or to be made) or actions taken (or to be taken) in connection with the discharge of any of the Council's functions;~~
- ~~(b) make reports and/or recommendations to Full Council and/or the Leader/Executive;~~
- ~~(c) consider any matter affecting the area or its inhabitants;~~
- ~~(d) exercise the right to call in, for reconsideration, Executive decisions made but not yet implemented; and~~
- ~~(e) deal with crime and disorder matters referred to it under the Police and Justice Act 2006;~~
- ~~(f) consider any valid Councillor Call for Action.~~

### ~~6.03 – Specific Functions~~

- ~~(a) Policy development and review.~~

~~The Overview and Scrutiny Committee may:~~

- ~~i) assist the Council and the Leader/Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;~~
- ~~ii) conduct research, community consultation and other consultation in the analysis of policy issues and possible options;~~
- ~~iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;~~
- ~~iv) question the Leader, members of the Executive and/or Committees and Corporate Leadership Team members about their views on issues and proposals affecting the Borough; and~~
- ~~v) liaise with other external organisations operating in the Borough, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.~~

~~(b) — Scrutiny.~~

~~The Overview and Scrutiny Committee:~~

- ~~i) — may review and scrutinise the decisions made or to be made by and performance of the Leader/Executive and/or Committees and Council officers, both in relation to individual decisions and over time;~~
- ~~ii) — may review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;~~
- ~~iii) — may question the Leader, members of the Executive and/or individual members (to the extent that the latter have been granted powers in relation to their ward) and/or Committees and Corporate Leadership Team members 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;~~
- ~~iv) — may make recommendations to the Leader/Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;~~
- ~~v) — may review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;~~
- ~~vi) — may question and gather evidence from any person or organisation (with their consent) and require information from partner authorities;~~
- ~~vii) — may review and scrutinise equality issues, and~~
- ~~viii) — shall be responsible for ensuring effective scrutiny of the Treasury Management Strategy and Policies.~~

~~(c) — Finance.~~

~~— The Overview and Scrutiny Committee have overall responsibility for the finances made available to them.~~

~~(d) — Annual Report.~~

~~— The Overview and Scrutiny Committee shall publish an annual report outlining work undertaken during the year, and may make recommendations for future work programmes and amended working methods (if appropriate).~~

~~(e) — Petitions.~~

~~— The Overview and Scrutiny Committee is responsible for considering petitions received under the Petition Scheme that fall into the following categories:~~

- ~~○ — Petitions requiring a Senior Officer to give evidence to the Overview and Scrutiny Committee;~~
- ~~○ — Appeals from Petitioners who are not satisfied with the response to a petition, and~~
- ~~○ — Where the petition has been referred to the Committee for further investigation.~~



**6.04 — Proceedings of Overview and Scrutiny Committee**

~~The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.~~





## Article ~~67~~ – The Leader

### 7.01 Role

The Leader of the Council will be a councillor elected to the position of Leader by the full Council. The Leader will be elected by Council at its post-election annual meeting (or, if the Council fails to elect the Leader at that meeting, at a subsequent meeting of Council).

The term of office of the Leader starts on the day of his/her election as Leader and ends on the day the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor unless:

- (a) he/she resigns as Leader; or
- (b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a councillor; or
- (d) he/she is removed from office by resolution of the Council

before that day.

During their term of office as Leader, the Leader shall continue to hold office as a councillor.

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If there is a vacancy in the position of Leader, the Leader will be elected at the first meeting of the Council following such vacancy for a term of office expiring on on the day the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor, subject to (a) to (d) above.

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The Leader will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution, unless otherwise delegated by him/her. All delegations by the Leader will be set out in Part 3 of this Constitution.

### 7.02 Functions of the Leader

The Leader is responsible for maintaining a list (which the Monitoring Officer will compile on the Leader's behalf), in Part 3 of this Constitution, setting out who will authorise executive functions. Executive functions can be exercised by the Leader, the Executive, individual Executive Members or individual councillors exercising powers in relation to their wards or Officers. Any changes to Part 3 of the Constitution in relation to Executive functions will be reported to the next appropriate meeting of the Council.

The Leader will be Chairman of the Executive.

Only the Leader will exercise the following functions:

- (a) appointing the Deputy Leader, ~~and~~
- (b) appointing the Executive, and

(c) allocation of areas of responsibility (portfolios) to lead councillors.—

The Leader may at any time:

(a) remove lead councillors from the Executive, or

(b) change lead councillors' areas of responsibility

The Leader shall report to the next appropriate meeting of the full Council on all appointments and changes to the Executive.

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### 7.03 Deputy Leader

The Leader shall appoint one of the lead councillors to be the Deputy Leader.

The Deputy Leader shall normally hold office until the end of the Leader's term of office unless that person:

a) is removed from office by decision of the Leader; or

b) is disqualified from being a councillor by order of a court under Section 34 of the Localism Act 2011; or

c) resigns as Deputy Leader; or

d) ceases to be a councillor.

before that day.

In the event of any of the above occurring, the Leader shall appoint another lead councillor as Deputy Leader at the earliest opportunity.

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### 7.04 Role of the Deputy Leader

The Deputy Leader will be Vice-Chairman of the Executive and if, for any reason, the Leader is unable to act, or the office of the Leader is vacant, the Deputy Leader must act in his/her place and shall be entitled to exercise all functions reserved to the Leader until such time as the Leader is able to act or until a new Leader is elected by the Council.

If for any reason the Leader is unable to act, or the office of the Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the remaining members of the Executive must either act collectively in the Leader's place or they must arrange for a lead councillor to act in the place of the Leader.

### **7.03 Removal of the Leader**

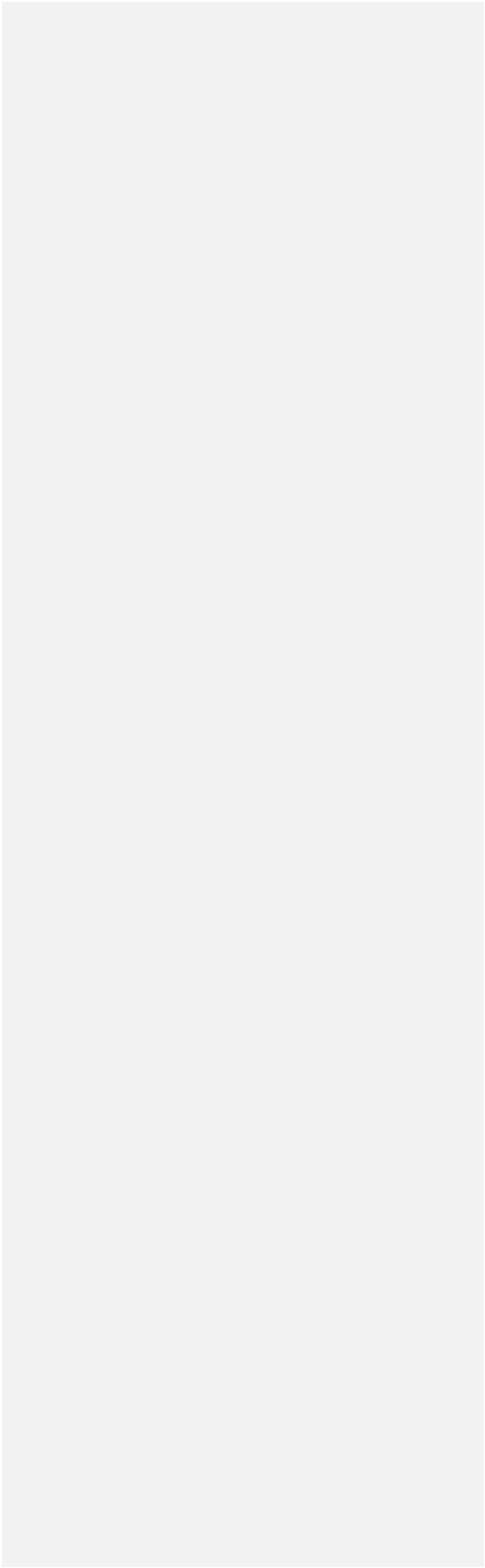
The Council may remove the Leader by way of resolution by a simple majority. At any meeting of the full Council, a councillor may propose that "the Council has no confidence in the Leader". The question shall, after debate, be put and, if carried by a simple majority of those councillors present, the Leader shall be removed from office.

In that event, a new Leader shall be elected:

(a) at the meeting at which the Leader is removed from office, or

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(b) at a subsequent meeting.



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#### **7.04 Deputy Leader**

~~The Leader will appoint a councillor as Deputy Leader.~~

~~The Deputy Leader will hold office until the end of the term of office of the Leader, or until:~~

- ~~(a) he/she resigns as Deputy Leader; or~~
- ~~(b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or~~
- ~~(c) he/she is no longer a councillor; or~~
- ~~(d) he/she is removed from office by the Leader.~~

~~If for any reason the Leader is unable to act, or the office of the Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the remaining members of the Executive shall either act collectively in the Leader's place, or they shall arrange for an Executive Member to act in the place of the Leader.~~

#### **7.05 Role of the Deputy Leader**

- ~~(a) The Deputy Leader will be Vice-Chairman of the Executive, and~~
- ~~(b) The Deputy Leader will exercise all functions reserved to the Leader in his/her absence.~~





## Article 8 – The Executive

### 8.01 Role of the Executive

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

### 8.02 Form and Composition

The Executive will consist of the Leader, Deputy Leader together with not fewer than one, and up to five other Councillors appointed by the Leader who shall be known as Portfolio Holders.–

### 8.03 Portfolio Holders/Executive Members

Executive Members shall be appointed by the Leader. The Leader shall appoint councillors to specified areas of the Council's work known as their Portfolio. They hold office until the end of the term of office of the Leader unless:

- (a) they resign from the Executive; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they are removed from office, either individually or collectively, by the –Leader.

before that date.

The Leader may at any time alter the responsibilities of an Executive Member or discontinue their appointment and elect a replacement. Lead councillors shall be entitled to be consulted by the Corporate Management Team and service leaders when exercising delegated powers requiring such consultation. A lead councillor shall not be a member of the Overview and Scrutiny Committee.

### 8.03 ~~8.04~~—Deputy Portfolio Holders

Other councillors may, from time to time, be designated by the Leader as Deputy Portfolio Holders.

A Deputy Portfolio Holders shall not be a member of the Executive and will not participate in Executive decision-making but may work closely with a Portfolio Holder(s). A Deputy Portfolio Holders shall not be a member of the Overview and Scrutiny Committee.

Deputy Portfolio Holders will not have delegated powers and will not be entitled to vote at Executive meetings. The Leader may, at any time, discontinue the appointment of a designated Deputy Portfolio Holders. The Leader will report all appointments and discontinued appointments to the next meeting of the Council.

Key Duties and Responsibilities of Deputy Portfolio Holders:

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(a) To assist, support, and advise the relevant Portfolio Holders in carrying out their responsibilities.

(b) To lead on specific policy areas at the request of the relevant Portfolio Holders and/or Leader.

(c) To carry out tasks as agreed on behalf of the relevant Portfolio Holders.

(d) To maintain awareness of policy developments, and advise the Portfolio Holders of key developments.

(e) To bring to the attention of the Portfolio Holders issues of concern to non Executive councillors.

(f) To undertake research and any other tasks under the direction of the Portfolio Holders.

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

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

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## Article 6 – Overview and Scrutiny Committee

### 6.01 Terms of Reference

The Council will appoint the Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 and the functions of a crime and disorder committee under section 19 of the Police and Justice Act 2006.

The work of the Overview and Scrutiny Committee should focus on the Council's principles, practice, procedures and performance (rather than politics and personalities); the work will be informed by the following principles:

- (i) Constructive "critical friend" challenge
- (ii) Amplifies the voices and concerns of the Public
- (iii) Led by independent people who take responsibility for their role; and
- (iv) Drives improvement in public services

### 6.02 General Role

Within its terms of reference, the Overview and Scrutiny Committee will:

- (a) review and/or scrutinise decisions made (or to be made) or actions taken (or to be taken) in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to Full Council and/or the Leader/Executive;
- (c) consider any matter affecting the area or its inhabitants;
- (d) exercise the right to call-in, for reconsideration, Executive decisions made but not yet implemented; and
- (e) deal with crime and disorder matters referred to it under the Police and Justice Act 2006;
- (f) consider any valid Councillor Call for Action.

### 6.03 Specific Functions

- (a) Policy development and review.

The Overview and Scrutiny Committee may:

- i) assist the Council and the Leader/Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- ii) conduct research, community consultation and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question the Leader, members of the Executive and/or Committees and Corporate Leadership Team members about their views on issues and proposals affecting the Borough; and

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

(b) Scrutiny.

The Overview and Scrutiny Committee:

- i) may review and scrutinise the decisions made or to be made by and performance of the Leader/Executive and/or Committees and Council officers, both in relation to individual decisions and over time;
- ii) may review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) may question the Leader, members of the Executive and/or individual members (to the extent that the latter have been granted powers in relation to their ward) and/or Committees and Corporate Leadership Team members 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;
- iv) may make recommendations to the Leader/Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- v) may review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;
- vi) may question and gather evidence from any person or organisation (with their consent) and require information from partner authorities;
- vii) may review and scrutinise equality issues, and
- viii) shall be responsible for ensuring effective scrutiny of the Treasury Management Strategy and Policies

(c) Finance.

The Overview and Scrutiny Committee have overall responsibility for the finances made available to them.

(d) Annual Report.

The Overview and Scrutiny Committee shall publish an annual report outlining work undertaken during the year, and may make recommendations for future work programmes and amended working methods (if appropriate).

(e) Petitions.

The Overview and Scrutiny Committee is responsible for considering petitions received under the Petition Scheme that fall into the following categories:

- o Petitions requiring a Senior Officer to give evidence to the Overview and Scrutiny Committee;
- o Appeals from Petitioners who are not satisfied with the response to a petition, and
- o Where the petition has been referred to the Committee for further investigation.

**6.04 Proceedings of Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.



## **Article 9 – Regulatory and Other Committees**

### **9.01 Regulatory and Other Committees**

The Council will appoint the committees set out in Part 3 of this Constitution (Responsibility for Council Functions) to discharge the functions described.





# Article 10 – The Standards and Audit Committee

## 10.01 Standards and Audit Committee

The Council meeting will establish a Standards and Audit Committee.

## 10.02 Composition

### (a) Membership.

The Standards and Audit Committee will comprise:

- o 5 councillors;
- o 1 Independent co-opted (independent) Member;

### (b) Independent Co-opted (independent) Member.

The Independent Members shall be appointed by the Council for an initial term of office of four years with serving independent members being eligible for re-appointment one further time.

At the end of the term of office, the Council will invite applications from the general public via its website for appointment as co-opted independent members of the Standards and Audit Committee.

To be eligible for appointment candidates must not be engaged in party political activity, or have been at any time in the preceding five years, a councillor or officer of Woking Borough Council or be a relative or close friend of a councillor or officer of the Council.

Ideally candidates will have significant experience of working at a senior level in a large, complex organisation and have a very good understanding of strategic or financial management or have sat previously on an Audit Committee.

The Monitoring Officer shall short-list candidates and invite them for interview by a panel comprising two members of the Standards and Audit Committee, the Monitoring Officer and Chief Finance Officer. The panel's recommendations as to appointment of co-opted independent members will be referred to full Council for approval.

The co-opted (independent) member is not entitled to vote at meetings, and will serve for such period as the Council determines (with no prohibition on reappointment);

### (c) Chairing the Committee.

The office of Chairman shall be filled by the co-opted (independent) member. In the absence of the Chairman, a meeting of the Committee shall be chaired by the Vice-Chairman.

### (d) Equality of Votes

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The Independent member is not entitled to vote at meetings.

In the case of an equality of votes, the Vice-Chairman may exercise a second or casting vote.

### 10.03 Role and Function

The Committee has a dual purpose both as an audit committee and a standards committee.

The Committee is a key component of the authority's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of the Committee is to provide independent assurance to councillors of the adequacy of the risk management framework and the internal control environment. It provides independent review of the authority's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.

It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place. With regard to standards, the Committee promotes high standards of conduct by councillors and co-opted members and oversees the arrangements for dealing with allegations of misconduct.

The Standards and Audit Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members in accordance with Sections 26-37 of the Localism Act 2011;
- (b) assisting councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) determining allegations that there has been a breach of the Members' Code of Conduct in accordance with arrangements adopted by Council;

- (g) acting as the Council's Audit Committee. In performing this task the Standards and Audit Committee will:
  - o approve the plans of Internal Audit and consider the External Audit plan;
  - o receive the Annual Audit and Inspection letter from External Audit;
  - o receive Internal Audit recommendations for improvements and assurance that action has been taken where necessary;
  - o review summary Internal Audit reports (located on the intranet);
  - o receive a half yearly and annual report from the Chief Internal Auditor on the work of Internal Audit;
  - o receive appropriate matters of concern raised by either External or Internal Audit or other agencies; and
  - o ensure that there are effective relationships between Internal and External Audit and promote the value of the audit process;
- (h) overseeing the Council's Risk Management, Anti Fraud and Whistleblowing strategies, and Health and Safety policies and practices;
- (i) receiving the Annual Governance Statement, and
- (j) oversight of payments in cases of maladministration which are neither disputed nor significant (which are dealt with by the Monitoring Officer).

#### 10.04 Standards Panel

The Committee will establish the Standards Panel. The Panel will comprise four councillors and the ~~Independent co-opted (independent) M~~member.

A substitute for each councillor member of the Panel shall be appointed. A substitute member may attend any meeting of the Panel, with all the powers of the appointed councillor member in the event that the appointed councillor member is unable to attend a particular meeting.

The Panel will be chaired by the ~~Independent co-opted (independent) M~~member (unless he/she is absent, in which case the Vice-Chairman will chair the meeting). The ~~Independent co-opted (independent) M~~member is not entitled to vote at meetings. In the case of an equality of votes, the Vice-Chairman may exercise a second or casting vote.

The Panel will act on the Committee's behalf in determining allegations that there has been a breach of the Members' Code of Conduct in accordance with arrangements adopted by Council.

#### 10.05 Election Review Panel

The Chairman of the Standards and Audit Committee shall be the Chairman of the Council's Election Review Panel.

## Article 11 – Officers

### 11.01 Management Structure

(a) General.

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

(b) Corporate Leadership Team.

The Council's Corporate Leadership Team will comprise the Chief Executive, the Monitoring Officer (Director of Legal and Democratic Services), the Chief Finance Officer (Director of Finance), Strategic Director of Corporate Resources, Strategic Director of Place and Strategic Director of Communities ~~Director of Housing, Director of Neighbourhood Services and Director of Planning~~ or such other composition as the Council may from time to time determine.

(c) Statutory Officers

The Council will designate Officers to the following statutory posts:

Head of Paid Service

Chief Finance Officer

Monitoring Officer

Such posts will have the functions described in Article 11.02–11.04 below.

(d) Structure.

The Head of Paid Service will determine and publicise a description of the overall service structure of the Council showing the management structure and deployment of officers. This is set out in Part 3 of this Constitution.

### 11.02 Statutory Functions of the Head of Paid Service

(a) Discharge of functions by the Council.

The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) Restrictions on functions.

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

### 11.03 Statutory Functions of the Monitoring Officer

(a) Maintaining the Constitution.

The Monitoring Officer 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.

(b) Ensuring lawfulness and fairness of decision making.

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to Full Council, or to the Leader/Executive in relation to an executive function, if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to mal-administration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Supporting the Standards and Audit Committee.

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and Audit Committee.

(d) Alleged Breaches of the Members' Code of Conduct.

The Monitoring Officer will be responsible for dealing with allegations that a Member has failed to comply with the Members' Code of Conduct in accordance with arrangements adopted by Council.

(e) Proper Officer for access to information.

The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.

(f) Budget and Policy Framework.

The Monitoring Officer will advise whether executive decisions are in accordance with the Budget and Policy Framework.

(g) Providing advice.

The Monitoring Officer will provide advice on: the scope of powers and authority to take decisions; maladministration; financial impropriety; probity and Budget; and Policy Framework issues to all councillors.

(h) Restrictions on posts.

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

#### **11.04 Statutory Functions of the Chief Finance Officer**

(a) Ensuring lawfulness and financial prudence of decision making.

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to Full Council, or to the Leader/Executive in relation to an executive function, and the Council's external auditor if he/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.

(b) Administration of financial affairs.

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.



(c) Contributing to corporate management.

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing advice.

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all councillors and will support and advise councillors and officers in their respective roles.

(e) Give financial information.

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

**11.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer.**

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

**11.06 Conduct**

Officers will comply with the Officers' Employment Procedure Rules set out in Part 5 of this Constitution.

**11.07 Employment**

The recruitment, selection and dismissal of officers will comply with the Officers' Employment Procedure Rules set out in Part 5 of this Constitution.





## Article 12 – Decision Making

### 12.01 Responsibility for Decision Making

The Council will issue and keep up-to-date a record of what part of the Council, or individual, has responsibility for:

- particular types of decisions; or
- decisions relating to particular areas or functions.

This record is set out in Part 3 of this Constitution.

### 12.02 Principles of Decision Making

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

- (a) the action must be proportionate to the desired outcome;
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

### 12.03 Types of Decision

(a) Decisions reserved to Full Council. Decisions relating to the functions listed in Article 4.02 will be made by Full Council, and not delegated.

(b) Key decisions

(i) A 'key decision' means an executive decision which is likely:

- ~~to result in significant expenditure or savings of £250,000 or more; and/or to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates;~~ or
- to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

(ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

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### 12.04 Decision Making

All decision making shall comply with the relevant Articles of, and Procedure Rules set out in, this Constitution.

## 12.05 Decision Making by Council Bodies Acting as Tribunals

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

## ~~12.06 "Paperless" Agenda Management~~

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~~The Council will, subject to the following criteria being satisfied, adopt a "paperless" approach to the conduct of meetings by the end of the 2016/17 Municipal Year:~~

- ~~(i) An appropriate electronic meeting management system being introduced at the Council, and~~
- ~~(ii) The Statutory Officers and the Leader of the Council being satisfied that the introduction of "paperless" meetings will not materially prejudice good governance at the Council.~~



# Article 13 – Finance, ~~and~~ Contracts and Legal Matters

## 13.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 5 of this Constitution.

## 13.02 Contracts

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 5 of this Constitution.

## 13.03 Legal Proceedings

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

## 13.04 Authentication of Documents

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

Any contract (excluding contracts for property disposals and acquisitions) which amounts to or exceeds £100,000 in value must, unless the Monitoring Officer otherwise, be sealed with the common seal of the Council. In exceptional cases where the Monitoring Officer that a contract which amounts to or exceeds £100,000 in value does not require the common seal, it must be signed, subject to compliance with the Council's Financial Procedure Rules, by two Strategic Directors or the Monitoring Officer.

Contracts less than £100,000 in value must be signed by the relevant Strategic Director, Director, or service leader or, subject to compliance with the Council's Financial Procedure Rules, their nominee.

## 13.05 Common Seal of the Council

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

The common seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the common seal will be attested by a Member of the Corporate Leadership Team, or some other persons authorised by the Monitoring Officer. An entry of every sealing of a document will be made and consecutively numbered in a book kept by the Monitoring Officer for the purpose and shall be signed by the persons who have attested the seal.

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13.06 Land, Premises – Inspection

A member of the Council, unless specifically authorised to do so by the Council or the Leader/Executive or the Committee concerned, shall not inspect any lands or premises which the Council has the right or duty to inspect, or enter upon any such lands or premises or issue any orders respecting any works which are being carried out by or on behalf of the Council.

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## Article 14 – Review and Revision of the Constitution

### 14.01 Duty to Monitor and Review the Constitution

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

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

(a) observe meetings of different parts of the councillor and officer structure;

(b) undertake an audit trail of a sample of decisions;

(c) record and analyse issues raised by councillors, officers, the public and other relevant stakeholders; and

(d) compare practices in this Council with those in other comparable authorities, or national examples of best practice.

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### 14.02 Changes to the Constitution

(a) Minor Changes.

The Monitoring Officer may generally update the Constitution, or make amendments consequential upon changes to operational arrangements (including, without limitation, amendments resulting from a decision by the Leader not to delegate responsibility for executive functions to the Executive), without report.

(b) Other Changes.

Changes to the Constitution, other than minor changes, will be approved by Full Council.

(c) Proposals.

The Monitoring Officer shall, before making any proposals for change to the Council, carry out consultation appropriate to the scale, scope and extent of the change proposed. The persons and bodies consulted may, without limitation, include the Corporate Leadership Team, the Leader and Executive, the Overview and Scrutiny Committee or the Standards and Audit Committee.



# Article 15 – Suspension, Interpretation and Publication of the Constitution

## 15.01 Suspension of the Constitution

(a) Limit to suspension.

The Articles of this Constitution may not be suspended. Other provisions of this Constitution may be suspended by Full Council to the extent permitted by those provisions and the law.

(b) Procedure to suspend.

The extent and duration of suspension shall be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

## 15.02 Interpretation

The ruling of the Mayor, the Leader or the Chairman of any Committee (as appropriate) as to the construction or application of this Constitution, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council, the Executive or Committee (as the case may be). Such ruling shall have regard to the purposes of this Constitution contained in Article 1.

## 15.03 Publication

(a) The Monitoring Officer will ensure that where a councillor so wishes a printed copy of this Constitution is delivered to him or her following their election to the Council. ~~The Chief Executive will give a printed copy of this Constitution to each elected or co-opted member of the Council upon that member being elected or co-opted.~~

(b) The Monitoring Officer will ensure that an up-to-date copy of the Constitution is available on the Council's web-site.

(c) The Monitoring Officer will ensure that a copy of this Constitution is available for inspection at the Council Offices and can be purchased on payment of a reasonable fee

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## Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

- (a) Article ~~86~~ (Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules;
- (b) Article ~~67~~ (The Leader);
- (c) Article ~~78~~ (The Executive) and the Executive Procedure Rules;
- (d) Article 12 (Decision making) and the Access to Information Procedure Rules;
- (e) Part 3 (Responsibility for Functions).







## **WOKING BOROUGH COUNCIL**

### **RESPONSIBILITY FOR FUNCTIONS**

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) require that certain parts of the structure of the Council must be responsible for certain decisions. The Regulations specify:

(a) functions which are not to be the responsibility of the Council's Executive;

(b) functions which may but need not be the responsibility of the Executive ("local choice functions"); and

(c) functions which are to some extent the responsibility of the Executive. All other functions not so specified are to be the responsibility of the Executive.

#### **Responsibility for Council (Non Executive) Functions**

These functions, which are listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), may not be the responsibility of the Council's Executive. In accordance with legislation, certain decisions on these matters must be taken by the full Council, whilst others may be taken by the full Council, a committee appointed by the Council, officers, or jointly with other bodies under separate joint arrangements, provided that they are within the budget and policy framework approved by the full Council.

#### **Responsibility for Executive Functions**

"Executive functions" are all the statutory functions of the Borough Council except those listed as Non Executive functions. In accordance with the Local Government Act 2000, decisions on these matters may be taken by the Leader, the Executive collectively, an individual lead councillor, committee of the Executive, individual local ward councillors, officers or jointly with other bodies under separate joint arrangements, provided that they are within the budget and policy framework approved by the full Council.

#### **Responsibilities Delegated to Officers**

The extent to which the functions described above have been delegated to officers is shown in the Council's scheme of delegation in this Part of the Constitution

Commented [JM1]: Explanation

Who is responsible	Membership	Functions
<p style="text-align: center;">Page 100</p>	<p>30 members of the authority</p>	<p>Council will:</p> <p>i) Approve:</p> <ul style="list-style-type: none"> <li>o Accounts</li> <li>o Borrowing Limits</li> <li>o Budget</li> <li>o Codes of Conduct</li> <li>o Community Strategy</li> <li>o Constitution</li> <li>o Council Tax</li> <li>o Electoral Arrangements</li> <li>o Financial Strategy</li> <li>o Housing Strategy</li> <li>o Housing rents etc</li> <li>o Housing Investment Programme</li> <li>o Housing Revenue Account Budget</li> <li>o Investment Programme</li> <li>o Local Agenda 21 Strategy</li> <li>o Local Plan</li> <li>o Local Transport Plan</li> <li>o Programme of Best Value Reviews</li> <li>o Service and Performance Plan</li> <li>o Standing Orders/Financial Regulations</li> <li>o Treasury Management Strategy</li> </ul> <p>ii) Adopt new policy and new strategy</p> <p>iii) Approve material departures from policy</p> <p>iv) Consider recommendations of action from</p> <ul style="list-style-type: none"> <li>o Executive</li> <li>o Standards and Audit Committee</li> </ul> <p>v) Determine notices of motion</p> <p>vi) Deal with Corporate Leadership Team appointments</p> <p>vii) Receive reports of action taken by Executive</p>

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Who is responsible	Membership	Functions
Page 101		<ul style="list-style-type: none"> <li>viii) Carry out miscellaneous functions which are not the responsibility of the Leader:               <ul style="list-style-type: none"> <li>o making, amending, revoking or re-enacting by-laws</li> <li>o functions relating to health and safety at work</li> <li>o names and status of areas and individuals</li> <li>o promoting or opposing local or personal Bills</li> <li>o functions relating to local government pensions</li> <li>o disputed/significant payments in cases of mal-administration</li> </ul> </li> <li>ix) Determine Members' allowances</li> <li>x) Designate Head of Paid Service</li> <li>xi) Designate Monitoring Officer</li> <li>xii) Designate Chief Finance Officer</li> <li>xiii) Appoint Leader</li> <li>xiv) Appoint to Committees etc</li> <li>xv) Elect Mayor/Deputy Mayor</li> </ul>
The Leader		Appoint Members to the Executive
The Executive	The Leader, Deputy Leader and up to five other Members	<p>The Leader has appointed the Executive and delegated the following executive functions to it:</p> <ul style="list-style-type: none"> <li>i) Determine all proposals, within existing policy, which require Member approval for action to be taken</li> <li>ii) Determine the Council Tax - Tax Base.</li> <li>iii) Make recommendations to Council on:             <ul style="list-style-type: none"> <li>o all the items under (i) to (iii) of the Council list above; and</li> <li>o Notices of Motion.</li> </ul> </li> <li>iv) Monitor and manage the effects of trends and developments affecting the Council's business</li> <li>v) Monitor and manage the effects of trends and developments for consistent application of corporate standards</li> <li>vi) Carry out all functions that are not otherwise reserved to the Council, its Committees or delegated to officers</li> </ul>

Who is responsible	Membership	Functions
		<p>vii) Carry out the following 'local choice' functions permitted by Regulation 3 of and Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 except as may be delegated to officers:</p> <ul style="list-style-type: none"> <li>o any functions conferred by local Acts;</li> <li>o functions relating to contaminated land;</li> <li>o functions relating to control of pollution or management of air quality; and</li> <li>o functions relating to statutory nuisances.</li> </ul> <p>viii) Responsibility for Risk Management Responsibility for the implementation and regular monitoring of Treasury Management policies and practices</p>

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Who is responsible	Membership	Functions
<p><b>Standards and Audit Committee</b></p>	<p>6 members (including 1 independent co-opted member).</p>	<p>Committee responsible for:</p> <ul style="list-style-type: none"> <li>i) promoting and maintaining high standards of conduct by councillors and co-opted members;</li> <li>ii) assisting councillors and co-opted members to observe the Members' Code of Conduct;</li> <li>iii) advising the Council on the adoption or revision of the Members' Code of Conduct;</li> <li>iv) monitoring the operation of the Members' Code of Conduct;</li> <li>v) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;</li> <li>vi) determining allegations that there has been a breach of the Members' Code of Conduct in accordance with arrangements adopted by Council;</li> <li>vii) act as the Council's Audit Committee. In performing this task the Standards and Audit Committee will: <ul style="list-style-type: none"> <li>o approve the plans of Internal Audit and consider the External Audit plan;</li> <li>o receive the Annual Audit and Inspection letter from External Audit;</li> <li>o receive Internal Audit recommendations for improvements and assurance that action has been taken where necessary;</li> <li>o review summary Internal Audit reports (located on the intranet);</li> <li>o receive a half yearly and annual report from the Chief Internal Auditor on the work of Internal Audit;</li> <li>o receive appropriate matters of concern raised by either External or Internal Audit or other agencies; and</li> <li>o ensure that there are effective relationships between internal and external audit and promote the value of the audit process;</li> </ul> </li> <li>viii) overseeing the Council's Risk Management, Anti Fraud and Whistleblowing strategies, and Health and Safety policies and strategies;</li> <li>ix) the receipt of the Annual Governance Statement, and</li> <li>ix) oversight of payments in cases of maladministration which are neither disputed nor significant (which are dealt with by the Monitoring Officer).</li> </ul>

Who is responsible	Membership	Functions
<b>Planning Committee</b>	910 members	Committee responsible for: i) All functions relating to Town and Country Planning and Development Control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) including: <ul style="list-style-type: none"> <li>○ planning applications</li> <li>○ enforcement action</li> <li>○ planning agreements</li> <li>○ lawful use or development</li> <li>○ advertisement control</li> <li>○ listed buildings</li> <li>○ conservation areas</li> <li>○ tree preservation</li> <li>○ minerals and waste disposal</li> <li>○ hazardous substances</li> <li>○ development proposals by County Council and Borough</li> </ul> ii) All matters relating to Building Control functions not otherwise delegated to officers.
<b>Licensing Committee</b>	10 members	i) All functions relating to licensing and registration functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) including: <ul style="list-style-type: none"> <li>○ public entertainments</li> <li>○ cinemas and theatres</li> <li>○ hackney carriage and private hire vehicles</li> <li>○ animal welfare</li> <li>○ sex establishments</li> <li>○ betting, gaming and lotteries</li> <li>○ caravan and camping sites</li> <li>○ food preparation</li> <li>○ markets and street trading</li> <li>○ night cafes and take-away food shops</li> <li>○ registration of door-staff</li> <li>○ licensing of hypnotism</li> <li>○ licensing of premises for acupuncture, tattooing, ear-piercing and electrolysis</li> <li>○ health and safety (other than in Council's capacity)</li> </ul> ii) Hearing of representations against cancellation or refusal to register an applicant pursuant to the Motor Salvage Operators



Who is responsible	Membership	Functions
		Regulations 2002. iii) Licensing Act 2003. iv) Power to make an Order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption pursuant to section 13 Criminal Justice and Police Act 2001.
<b>Appeals Committee</b>	3 members	Housing appeals.
<b>Overview and Scrutiny Committee</b> Page 105	<u>109</u> members	Functions: (a) Policy development and review. i) assist the Council and the Leader/Executive in the development of its budget and policy framework by in-depth analysis of policy issues; ii) conduct research, community and other consultation in the analysis of policy issues and possible options; iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options; iv) question the Leader, members of the Executive and/or Committees and Corporate Leadership Team members about their views on issues and proposals affecting the Borough; and v) liaise with other external organisations operating in the Borough, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working. (b) Scrutiny i) review and scrutinise the decisions made or to be made by and performance of the Leader/Executive and/or Committees and Council officers both in relation to individual decisions and over time; ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas; iii) question the Leader, members of the Executive, individual members exercising ward functions, Committees and Corporate Leadership Team members 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; iv) make recommendations to the Leader, Executive and/or appropriate Committee and/or Council arising from the outcome of

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Who is responsible	Membership	Functions
		<p>the scrutiny process;</p> <ul style="list-style-type: none"> <li>v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;</li> <li>vi) question and gather evidence from any person (with their consent) or require information from partner authorities;</li> <li>vii) review and scrutinise equality issues; and</li> <li>viii) effective scrutiny of the Treasury Management Strategy and Policies. .</li> </ul> <p>c) Discharge the functions of a crime and disorder committee under Section 19 Police and Justice Act 2006.</p>
<p><b>Joint Committee for the Oversight of Delivery of Surrey Public Authority Services (“Surrey First”)</b></p>	<p>One Member appointed by Woking Borough Council to Joint Committee comprising the Surrey local authorities and the Surrey Police Authority</p>	<p>The governance arrangements for the Joint Committee are appended.</p>
<p><del>Woking Joint Committee</del></p>	<p><del>7 Members appointed by Woking Borough Council and 7 Members appointed by Surrey County Council.</del></p>	<p><del>The governance arrangements for the Joint Committee are appended.</del></p>
<p><b>Joint Waste Services Collection</b></p>	<p>One Member appointed by Woking Borough</p>	<p>The governance arrangements for the Joint Committee are appended</p>

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Who is responsible	Membership	Functions
Committee	Council to Joint Committee, comprising Elmbridge Borough, Mole Valley District, Rushmoor Borough, Surrey County, Surrey Heath Borough and Woking Borough Council.	

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# Management Arrangements

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This document sets out the Council's general management arrangements.

## MANAGEMENT STRUCTURE

### 1. CORPORATE LEADERSHIP TEAM

- 1.1 The Council's Corporate Leadership Team comprises the Chief Executive, the Monitoring Officer (Director of Legal and Democratic Services), the Chief Finance Officer (Director of Finance), Strategic Director – Corporate Resource, Strategic Director-Communities, and Strategic Director or Place or such other composition as the Council may from time to time determine.
- 1.2 The Corporate Leadership Team will:
  - provide policy advice and support to the Council;
  - act as the interface between the Council and its staff;
  - lead, direct and support the staff, and
  - deliver the agenda set by the Council.
- 1.3 The Corporate Leadership Team performs a strategic and service role with senior managers responsible for day-to-day operations. Individual members of the Corporate Leadership Team will contribute to the effective collective work and responsibility of the Corporate Leadership Team; they will ensure cross-unit collaboration and will hold senior managers to account for delivery of the Council's objectives, services and priorities.
- 1.4 Individual members of the Corporate Leadership Team are accountable for ensuring that the fullest empowerment possible, including self-service by members of the public/citizens, is achieved within the areas subject to their oversight. ~~(under the "People, Place, Us" agenda).~~
- 1.5 The designation of one of the Director posts as Deputy Chief Executive is within the personal discretion of the Chief Executive.

### 2. STATUTORY OFFICERS

- 2.1 The Council designates officers to the following statutory positions:-
  - Head of Paid Service (Section 4 Local Government and Housing Act 1989);
  - Monitoring Officer (Section 5 Local Government and Housing Act 1989), and
  - Chief Finance Officer (Section 151 Local Government Act 1972).
- 2.2 The statutory officers shall exercise the statutory functions set out in Article 11 of this Constitution.
- 2.3 The Monitoring Officer and the Chief Finance Officer shall, at all times, enjoy unfettered rights to:-
  - Report direct to the Council, the Leader, the Executive, the Overview and Scrutiny Committee and all other Committees of the Council in exercise of their statutory functions, or where they consider it appropriate to do so;

- Attend meetings of the Corporate Leadership Team when issues relevant to their areas of responsibility are being considered (Note: this right will apply in the event that Council determines that the Monitoring Officer and/or the Chief Finance Officer should not be a member of the Corporate Leadership Team);
- Contribute to papers for Corporate Leadership Team meetings in advance with access to decisions made (Note: this right will apply in the event that Council determines that the Monitoring Officer and/or the Chief Finance Officer should not be a member of the Corporate Leadership Team), and
- Advise, consult with or report to the Chief Executive, the Corporate Leadership Team or to Councillors whenever they consider it appropriate to do so.

2.4 The Chief Finance Officer shall at all times enjoy unfettered access to:-

- Internal Audit, including the ability to influence and control those parts of its work programme that relate to the discharge of her/his statutory duties, and
- External Audit to ensure that they enjoy complete and up-to-date information about the financial arrangements in operation within the Council.

# Scheme of Delegations

## 1. INTRODUCTION

~~1.1 Under section 101 of the Local Government Act 1972 the Council may delegate its functions to a committee of the Council or to a member of staff, other than those matters reserved to the full Council meeting.~~

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~~1.2 This document sets out the functions which have been delegated to members of staff.~~

~~1.3 The references to members of staff are to the posts as currently titled but these will equally apply to the holder of an equivalent post in the future.~~

~~1.4 This document deals only with the standard delegations made by the Council and Committees and does not cover temporary delegations for a particular purpose. This document lists the powers, duties and functions (both executive and non-executive) which are delegated to Officers under Section 101 Local Government Act 1972 and/or Section 14 Local Government Act 2000.~~

~~1.2 The specified powers, duties and functions have been expressly delegated to Officers subject to the limitations set out below.~~

~~1.3 The tasks which Officers carry out within their ostensible authority are not listed. Such tasks shall, where appropriate, be undertaken in consultation with the Ostensible Authority Standing Panel. The Panel's terms of reference are appended at the end of this Scheme of Delegations.~~

Commented [JM2]: Ostensible authority to be removed and clarified in delegations.

~~1.4 Delegations granted (before or after the adoption of this Constitution) in respect of specific projects or matters ("one-off" delegations) are not necessarily listed. Such delegations remain in force.~~

## 2. GENERAL CONDITIONS AND LIMITATIONS

~~2.1 The functions, powers and duties in this scheme are delegated to staff as set out. These include the power to do anything which is calculated to facilitate, or is conducive to, the discharge of these functions.~~

~~2.2 All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.~~

~~2.3 All staff exercising these delegations are to act in accordance with the Council's Constitution, Contract Standing Orders, Financial Regulations and any other protocols or other arrangements approved in pursuance to them.~~

~~2.4 The following are not delegated to any member of staff:~~

~~a. Any matter reserved to Council, or any Committee or a member body having decision making powers.;~~

~~b. Any function which by law cannot be delegated to a member of staff; and~~

~~c. The adoption of new policy or significant variation to existing policies and any matter which is contrary to the policy framework and budget of the Council.~~

- 2.5 The Council, relevant committee or other member body with decision making powers may at any time resume responsibility for the function and may therefore exercise the function despite the delegation.
- 2.6 A member of staff may decide not to exercise any function in relation to a particular matter and invite the Council, or relevant Committee or sub Committee having decision making powers, as appropriate, to do so instead. It is open to a member of staff to consult with appropriate councillors on the exercise of delegated powers or in deciding whether or not to exercise any delegated powers where the matter is likely to be controversial or contentious.
- 2.7 A member of staff with line management responsibility for the member of staff named in the delegation may exercise the power instead of the member of staff so designated and may direct or negate any course of action proposed.
- 2.8 A decision delegated to a member of staff by Council or Committee can be taken by a staff member with line management responsibility for that staff member in his/her absence.
- 2.9 A member of staff to whom a power, duty or function is delegated may nominate or authorise another member of staff to exercise that power, duty or function, provided provided that officer reports to or is responsible to the delegator. Any such delegation must be recorded in writing and a copy provided to the Monitoring Officer.
- 2.10 With respect to any reference to a delegation being exercised following consultation with any councillor, the decision is vested with the member of staff so delegated who shall be responsible and accountable for the decision. The member of staff so delegated is required to bring independent judgement to bear on the decision and the decision shall be his/hers alone and not the members being consulted. If those councillors disagree with the member of staff, the matter should be referred to the Leader/ Executive for agreement to exercise such delegated power if lawful and so allowed under this Constitution.
- 2.11 In exercising any delegated powers, officers must ensure that their decisions are consistent with Council policy, within approved spending limits and in the best interests of residents and the Council as a whole. Relevant councillors should also be informed/consulted as appropriate depending on the nature and sensitivity of the decision.
- 2.12 Each officer is responsible for ensuring that decisions which they take are adequately recorded, and that the record of that decision is available to other Officers, to councillors and to the public as required by statute and this Constitution, particularly if the decision relates to a change in policy or practice, or a financial commitment. Every officer is responsible for ensuring that any decision which he/she takes is implemented in accordance with that decision.
- 2.12 Every officer is accountable for each decision which he/she takes and may be called to provide an explanation of his/her reasons for the decision and account for its implementation to other officer, councillors and statutory regulators.
- 2.13 The Chief Executive may remove from an Officer at any time a power to take delegated decisions and upon doing so in writing shall within 24 hours notify the Monitoring Officer. If appropriate, the Chief Executive shall also notify the Council of this removal of powers.



2.14 The Director of Legal and Democratic Services shall have the power to amend delegations to reflect re-organisations, changes in job titles and vacancies, where the changes result in redistributing existing delegations and not the creation of new ones.

2.15 The Director of Legal and Democratic Services shall have the power to amend delegations to reflect changes in legislation, or references to legislation where such changes do not alter the nature of the existing delegation.

### 3. INTERPRETATION

3.1 All enquiries about this scheme of delegations should be made to the Director of Legal and Democratic Services and all matters of interpretation will also be determined by the Director of Legal and Democratic Services

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3.2 Any reference to a statute or statutory instrument shall be deemed to include and be construed as if it contained a reference to any subsequent statute or statutory instrument for the time being replacing, amending or extending the same or containing related provisions.

3.3 The expressions 'officer', 'staff' or 'employee' includes any person employed by the Council irrespective of the particular scheme under which they are employed.

The expression Chief Officer shall mean any member of the Corporate Leadership Team.

### 4. General Delegations to Chief Officers

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Subject to all specific delegations contained in this scheme, Chief Officers may take action on behalf of the Council where the proposed action conforms to any policy, strategy or development plan approved by the Council or one of its committees and there is a budget provision.

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To delegate further, in writing, all or any of their delegated functions to other members of staff to exercise in their own name.

To advise on policy development and formulation. Emergencies

In order to enable an urgent decision to be made, the Chief Executive has delegated power to take any decision which is so urgent that it cannot wait until the next scheduled meeting of the Council or relevant Committee and where the decision is not in contravention of established policies.

In following this procedure, the Chief Executive is required to consult with the relevant Portfolio Holder.

The use of such urgent action must be reported to the next relevant Committee meeting.

The Chief Executive and all Chief Officers have power to take all necessary actions including incurring expenditure with regards to any emergency involving serious danger to life, property and public welfare.

Any action taken under this provision shall be reported as soon as practicable to the Council or relevant Committee as appropriate. If necessary and where legally possible

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Contract Standing Orders and Financial Regulations shall be suspended during such emergencies. All expenditure incurred should be reported to the Chief Finance Officer who will report such expenditure to the Council or relevant Committee where necessary under Financial Regulations. **OPERATING PRINCIPLES**

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- ~~2.1 The Director of Legal and Democratic Services shall maintain the list of delegations set out in this document.~~
- ~~2.2 An Officer to whom a power, duty or function has been delegated may authorise another Officer to exercise the delegation on his/her behalf provided:~~
- ~~(i) he/she considers that other Officer to be a suitable and qualified person to exercise the delegation;~~
  - ~~(ii) that other Officer reports to, or is responsible to, the Officer to whom the power, duty or function has been delegated, and~~
  - ~~(iii) written notice of the authorisation is given to the Director of Legal and Democratic Services (who shall maintain a written record of all such authorisations).~~
- ~~2.3 The Chief Executive may, in consultation with the other members of the Corporate Leadership Group ("CLT"), nominate Officers to exercise the powers, duties and functions listed. The Chief Executive may also nominate an Officer to act in another's absence. The Chief Executive shall give written notice of any nomination to the Director of Legal and Democratic Services (who shall maintain a written record of all such nominations).~~
- ~~2.4 Any power, duty or function delegated to an Officer below CLT level may, in the absence of that Officer, be exercised by the CLT member to whom that Officer reports, or is responsible, to.~~
- ~~2.5 The exercise of functions delegated to Officers under this Scheme must comply, as appropriate, with the following requirements:-~~
- ~~○ any statutory requirements or restrictions;~~
  - ~~○ the Council's Constitution;~~
  - ~~○ the Council's policy framework and any other approved plans and strategies;~~
  - ~~○ the Council's approved budget;~~
  - ~~○ the Officer Employment Procedure Rules;~~
  - ~~○ Contract Standing Orders and Financial Regulations, and~~
  - ~~○ all Codes and Protocols~~
- ~~2.6 This Scheme does not delegate any power, duty or function to an Officer which:-~~
- ~~○ is reserved by law, or this Constitution, to full Council, the Executive or any Committee of the Council;~~
  - ~~○ may not by law be delegated to an Officer; or~~
  - ~~○ is an Executive function which the Leader has reserved to him/herself.~~
- ~~2.7 The exercise of powers, duties or functions delegated to Officers under this Scheme shall be subject to:-~~

~~○ the right of the Overview and Scrutiny Committee to review and scrutinise Officer decisions (Article 6.03(b) of the Constitution and Rule 14 of the Overview and Scrutiny Procedure Rules), and~~

~~○ consultation by the Officer with the appropriate Portfolio Holder or Committee Chairman where the decision is known to have a significant policy, service or operational implication, or is known to be politically sensitive.~~

~~2.8 Any reference to a statutory provision shall be construed as including a reference to any statutory provision re-enacting or amending the same.~~

~~2.9 No Officer shall exercise a delegation without first identifying and documenting the source of the delegated authority, whether contained in this Scheme of Delegations, or otherwise granted to the Officer. Where authority to act is in question, Officers must take the advice of the Director of Legal and Democratic Services before exercising the delegation.~~

~~2.10 The Director of Legal and Democratic Services is authorised to amend this Scheme of Delegations to:~~

~~○ reflect organisational changes. Such amendments shall only re-allocate existing delegations, and~~

~~○ keep it up-to-date in the light of re-enactments or amendments to the statutory provisions referred to.~~

### ~~53.~~ **RECORDING OF DECISIONS**

~~53.1 All delegated decisions shall be a matter of public record unless containing exempt information under Schedule 12A to the Local Government Act 1972 and, in respect of executive decisions taken by officers under delegated powers, shall be available for inspection on the Council's website and at the Council's offices (including by access to the Council's website at the Council's offices) in accordance with Regulation 14 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.~~

~~An Officer exercising a delegation in respect of an Executive function (i.e. a decision on a matter which would otherwise be made by the Executive/Leader) shall, as soon as reasonably practicable after making the decision, prepare a written record which includes:~~

- ~~○ a record of the decision including the date it was made;~~
- ~~○ a record of the reasons for the decision;~~
- ~~○ details of any alternative options considered and rejected when making the decision;~~
- ~~○ a record of any conflict of interest declared by any Member of the Executive who is consulted by the Officer which relates to the decision, and~~
- ~~○ a note of any dispensation granted in respect of any declared conflict of interest.~~

~~53.2 An Officer exercising a delegation in respect of a non-Executive function (i.e. a decision on a matter which would otherwise be made by full Council or a Committee) must produce a written record of any decision which was made:~~

- ~~(i) under a specific express authorisation, or~~
- ~~(ii) under a general authorisation and the effect of the decision is to:~~

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- (a) grant a permission or licence;
- (b) affect the rights of an individual, or
- (c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

The written record must be produced as soon as reasonably practicable after the decision was made, and shall include the following information:

- o the date the decision was taken;
- o a record of the decision taken along with the reasons for the decision;
- o details of alternative options, if any, considered and rejected, and
- o where the decision was taken under a specific express authorisation, the names of any Member who has declared a conflict of interest in relation to the decision.

53.3 The written record must be forwarded to Democratic Services who will arrange for it to be available for public inspection at the Civic Offices and on the Council's website.

53.4 The Officer shall also forward to Democratic Services, for publication in the same manner, a copy of any report considered by the Officer which is relevant to the decision made.

53.5 These requirements do not extend to confidential or exempt information.





## PROPER OFFICERS OF THE COUNCIL

The following officers are appointed proper officers and will carry out functions in relation to the statutory provisions specified. This list is not necessarily exhaustive and any omission shall not affect the validity of any action or decision taken by the proper officer.

Subject to the proper officer appointments set out below, the Chief Executive be authorised to act as the proper officer for the statutory responsibilities which fall within their area.

In any case where an officer is appointed or authorised, he or she may delegate such authorisations to such officer as he or she may determine and may make such arrangements for the carrying out of functions in the event of his or her absence or otherwise being unable to act by any other officer of the Council as he or she considers appropriate, subject to such arrangements being made in written form indicating the officers in power to exercise the functions and the functions involved.

Any reference in this document to an enactment is to be taken as including a reference to any enactment for the time being amending or replacing it.

Statute	Function	Proper Officer
<b>Local Government Act 1972</b>		
Section 83	To witness, and to receive, declarations of acceptance of office.	Chief Executive or the Monitoring Officer
Section 84	To receive notices from Members of resignation from office.	Chief Executive
Section 86	To declare any vacancy in any office under this section	Chief Executive
Section 87	To publish a notice of vacancy	Chief Executive
Section 88	To convene if necessary a meeting of the Council when the office of Mayor is vacant.	Chief Executive
Section 89	To receive notice by local government electors of a casual vacancy in the office of Borough Councillor.	Chief Executive
Section 100B	To take decisions as to whether information is likely to be "exempt" when coming before the Council, the Cabinet or a Committee. To decide if other copy documents supplied to councillors should be supplied to the press	Director of Democratic and Legal Services
Section 100C	To produce a written summary of proceedings	Director of Democratic and Legal Services

	taken by the Council, the Cabinet or a Committee in private (i.e. Minute)	
Section 100D	To compile a list of background papers for a Cabinet or a Committee report.	Director of Democratic and Legal Services
Section 100F	To decide if a requested document appears to contain exempt information	Director of Democratic and Legal Services
Section 115	To receive money due from Officers.	Finance Director
Section 146	To sign declarations and certificates with regard to securities.	Finance Director
Section 191	To receive applications made by the Ordnance Survey Office for assistance in determining boundaries	Chief Executive
Section 210	To exercise any power with respect to a charity exercisable by any officer of a former authority.	Chief Executive
Section 223	Authorising officers to attend court and appear on behalf of the Council under the Local Government Act 1972 and County Courts Act 1984	Director of Democratic and Legal Services
Section 225	To receive and retain any document deposited with the Council for custody.	Director of Democratic and Legal Services
Section 228	To keep accounts open for inspection by any member of the Authority.	Finance Director
Section 229	To certify, for the purpose of any legal proceedings, photographic copies of documents.	Director of Democratic and Legal Services
Section 233	The officer to receive documents required to be served on the authority	Director of Democratic and Legal Services
Section 234	To authenticate notices, orders or other documents on behalf of the Council.	Director of Democratic and Legal Services
Section 236	To send copies of confirmed byelaws made by the Council to the County Council.	Director of Democratic and Legal Services
Section 238	To certify copies of bye-laws.	Director of Democratic and Legal Services



Section 248	To keep the rolls of Honorary Aldermen and Honorary Freemen.	Chief Executive
Schedule 12(4)	To sign, and send to all Members of the Council, the summons to attend meetings of the Council.	Chief Executive
Schedule 14(25)	To certify resolutions under this paragraph for the purpose of legal proceedings.	Director of Democratic and Legal Services
<b>Local Land Charges Act 1975</b>		
Section 9	To act as local registrar for the registration of local land charges and the issue of official certificates of search.	Finance Director
<b>Representation of the People Act 1983</b>		
Section 8	To be the Electoral Registration Officer for the purpose of the registration of electors	Chief Executive
Section 24	To be the Acting Returning Officer for the conduct of Parliamentary Elections.	Chief Executive
Section 35	To be the Returning Officer for the conduct of Local Elections.	Chief Executive
Section 67	To receive appointments of Election Agents	Chief Executive
Section 67	To publish a notice of Election Agents	Chief Executive
<b>Local Government And Housing Act 1989</b>		
Section 2	To retain on deposit a list of politically restricted posts.	Head of Human Resources
Section 3A	In consultation with the Monitoring Officer, to determine applications for exemption from political restriction or for designation of posts as politically restricted	Chief Executive
Section 4	Designation as the Head of Paid Service	Chief Executive
Section 5	Designation as the Council's Monitoring Officer	Director of Democratic and Legal Services
Section 9, 15, 16 and 17	To undertake all matters relating to the formal establishment of political groups within the membership of the	Chief Executive

	Council.	
<b>Local Authorities (Executive Arrangements)(Meeting and Access to Information) (England) Regulations 2012</b>		
Section 12	To produce a written statement of Cabinet decisions made at Meetings.	Director of Democratic and Legal Services
Section 13	To record executive decision made by individuals	Director of Democratic and Legal Services
Section 14	To make available for inspection by the public a copy of written statements of Cabinet decisions and associated reports.	Director of Democratic and Legal Services
Section 15	To make available for inspection a list of background papers	Director of Democratic and Legal Services
Section 9	To publish key decisions of the Authority	Director of Democratic and Legal Services
<b>Local Government Finance Act 1988</b>		
Section 116	Notification to the Council's auditor of any meeting held under section 115 if the 1988 Act	Finance Director
Section 139A	Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required	Finance Director
<b>Other Miscellaneous Proper Officer Functions</b>		
Any other miscellaneous proper or statutory officer functions not otherwise delegated by the authority		Chief Executive or his/her nominee
Any references to designations in legislation predating the 1971/1972 Session of Parliament, other than the Local Government Act 1972, and in Statutory Instruments made prior to 26th October, 1972.		The Chief Executive or the Finance Director, whichever is most appropriate to their departmental responsibilities.

# Standing Orders

## 1. MEETINGS OF THE COUNCIL

### 1.1 Time and Place

~~Unless the Council otherwise directs, a~~All meetings of the Council shall be held in the Council Chamber, Civic Offices, Gloucester Square, Woking on a Thursday commencing at 7 pm ~~unless otherwise notified by the proper officer in the summons to the meeting.~~

Commented [JM1]: Modernisation

### 1.2 Notice and Summons

~~The date of the annual meeting and those of ordinary meetings shall be fixed by the Council in, or about, December of the preceding municipal year. The annual meeting shall be on a day fixed in accordance with the provisions of the Local Government Act 1972.~~

Commented [JM2]:

Commented [JM3R2]: Re-ordered – below at para 4

1.3 ~~The Chief Executive will notify 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, (unless the law requires the business to be transacted by a particular date) the Chief Executive will send a summons signed by him/her to every councillor giving the date, time and place of the meeting and specifying the business to be transacted and will be accompanied by any reports which are available.~~

1.4 ~~The Chief Executive may cancel a meeting of the Council or its Committees where the agenda has already been issued if it is considered expedient to do so. The Chief Executive shall not exercise such power without prior consultation with the Mayor or the Committee Chair (as appropriate). Any outstanding business will be held over to the next scheduled meeting on a date to be arranged.~~

## 2. CHAIRING THE MEETINGS

~~The Mayor, if present, will chair the meeting. If the Mayor is absent the Deputy Mayor will take the chair. If both the Mayor and Deputy Mayor are absent, the councillors present will elect a councillor to take the Chair for the meeting. The person presiding at the meeting may exercise any power of duty of the Mayor. Any power or duty of the Mayor in relation to the conduct of a meeting shall, in his/her absence, be exercised by the Deputy Mayor or, in his/her absence, the person presiding at the meeting.~~

Commented [JM4]: Modernisation

## 3. QUORUM FOR COUNCIL MEETINGS

3.1 ~~The quorum of the Council is one quarter of the total number of councillors and no business shall be considered unless a quorum is present. For the avoidance of doubt the quorum for Council meetings shall be rounded up to 8 Councillors. No business may be transacted at a Council meeting unless at least one quarter of Councillors (eight) are present.~~

Commented [JM5]: Modernisation

3.2 ~~If there is no quorum present at the beginning of a meeting, there shall be a wait of up to thirty fifteen minutes. If there is still no quorum at the end of thirty fifteen minutes, the Chief Executive shall record the fact in the Minute Book and the names of the members then present. The meeting will stand adjourned to another day.~~

Commented [JM6]: Increase in time – aligned with other Councils. Maybe helpful in respect of train delays or traffic issues.

3.3 ~~During the course of a meeting, the Mayor, or any member, may call for a count. If there is no quorum, there shall be a wait of up to five minutes. If there is still no quorum at the end of five minutes, the Chief Executive shall record the fact in the Minute Book and the names of the members then present. The meeting will stand adjourned to another day.~~

Commented [JM7]: Clarification on process

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~~32.4 Any business remaining shall be dealt with on a date and time fixed by the Mayor or if a date and time is not found, at the next ordinary meeting of the Council. If there is no quorum at the end of the wait referred to in Standing Orders 2.2 or 2.3, any business not dealt with shall stand adjourned to the next ordinary meeting, or to an extraordinary meeting, of Council.~~

Commented [JM8]: Modernisation

~~32.5 It shall not be necessary for the wait to run its course if, in the meantime, a quorum is present.~~

~~43. DURATION OF MEETING~~

Commented [JM9]: Proposal raised at Cllr feedback session. Objective to focus the debate and ensure that everyone is comfortable continuing given the time and length of the meeting.

~~4.1 The Chief Executive or her representative at any Council meeting will indicate to the councillors present when any meeting has lasted for 3.5 hours.~~

~~4.2 Unless the majority of councillors present then agree that the meeting should continue, it will automatically be adjourned. Any business not considered will be considered at a time and date fixed by the Mayor. If the Mayor does not fix a date the remaining business will be considered at the next ordinary meet~~

~~5. ORDINARY COUNCIL MEETINGS~~

~~The date of the annual meeting and those of ordinary meetings shall be fixed by the Council in, or about, December of the preceding municipal year. The annual meeting shall be on a day fixed in accordance with the provisions of the Local Government Act 1972.~~

~~Order of Business~~

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~~5.1 Subject to Standing Order 4.2, the order of business at every meeting of the Council shall be:~~

~~1. To choose a person to preside if the Mayor and Deputy Mayor are absent.~~

~~2. To approve the Minutes of the last Council meeting.~~

~~3. To receive declarations of interest.~~

Commented [JM10]: To ensure interests are dealt with at the earliest possibility

~~4. To receive apologies for absence.~~

~~5. Receive any announcements from the Mayor, Leader (or his nominated spokesperson), Committee Chairs and/or the Chief Executive~~

Commented [JM11]: To allow opportunity for announcements from the Leader, Chairs and Chief Executive if necessary. Commonplace amongst other authorities.

~~6. To consider any urgent business.~~

Commented [JM12]: Inserted above

~~7. Written questions under Standing Order 8.1.~~

~~8. To receive, and consider, recommendations or other matters referred to Council by the Leader/Executive, Overview and Scrutiny Committee, Standards and Audit Committee, Planning Committee, or Licensing Committee.~~

~~9. To receive and consider reports from Council officers.~~

~~10. To deal with notices of motion under Standing Order 5 in the order in which they were received.~~

~~11. Any other business of which notice has been given in the summons.~~

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5.2 With the exception of items 1, 2, 3 and 4 in Standing Order 4.1, the Mayor may vary the order of business if he/she considers it desirable to do so.

Commented [JM13]: Re-ordered

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## **6. EXTRAORDINARY MEETINGS**

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### **Calling Extraordinary Meetings**

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

- (a) The Council by resolution
- (b) The Mayor: and
- (c) The Monitoring Officer:

## **7. ANNUAL MEETING**

Commented [JM14]: Clarification of procedure

### **7.1 Timing and business**

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

### **7.2 The Annual meeting will:**

- (a) Elect a person to preside if the Mayor is not present
- (b) Elect a councillor to be the Mayor of the Council
- (c) Elect a councillor to be Deputy Mayor of the Council
- (d) Approve the minutes of the last ordinary meeting
- (e) Receive any declarations of interest
- (f) Receive any announcements from the Mayor
- (g) Elect councillors to be the Leader and Deputy Leader for the next municipal year
- (h) Approve a programme of ordinary meetings of the Council for the year is one has not previously been agreed; and
- (i) Consider any business set out in the notice convening the meeting.

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

At the Annual meeting, the Council will:

- (a) Decide which committees to establish for the municipal year
- (b) Decide the size and terms of reference for those committees
- (c) Decide the allocation of seats to political groups in accordance with the political balance regulations
- (d) Appoint the Chairs and Vice-Chairs committees on a politically proportionate basis, and where feasible these positions on any one Committee being filled by members from different political groups
- (e) Appoint the Chairs and Vice-Chairs of sub-committees, where necessary

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(f) Appoint to such outside bodies not delegated to a Committee, that require a Council decision

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### COUNCIL MEETINGS - ORDER OF BUSINESS

3.1 Subject to Standing Order 3.2, the order of business at every meeting of the Council shall be:

1. To choose a person to preside if the Mayor and Deputy Mayor are absent.

2. To approve the Minutes of the last Council meeting.

3. To receive apologies for absence.

4. To receive the Mayor's communications.

5. To consider any urgent business.

6. To receive declarations of interest.

7. Written questions under Standing Order 8.1.

8. To receive, and consider, recommendations or other matters referred to Council by the Leader/Executive, Overview and Scrutiny Committee, Standards and Audit Committee, Planning Committee, or Licensing Committee.

9. To receive and consider reports from Council officers.

10. To deal with notices of motion under Standing Order 5 in the order in which they were received.

11. Any other business of which notice has been given in the summons.

Commented [JM15]: Inserted above

3.2 With the exception of items 1, 2 and 3 in Standing Order 3.1, the Mayor may vary the order of business if he/she considers it desirable to do so.

Commented [JM16]: Re-ordered

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**84. DECLARATIONS OF INTEREST**

Where in relation to an item on the agenda, a councillor has a Disclosable Pecuniary Interest, that interest should be declared at the start of the meeting by giving full details of the interest and the item to which it relates.

The councillor must thereafter leave the room when that matter falls to be discussed and take no part in the debate or the vote for that business.

Where in relation to an item on the agenda, a councillor has

(a) a Non-Pecuniary interest arising under paragraph 9 and detailed in Appendix B of the Code of Conduct for Councillors and Co-opted Members (the "Members' Code of Conduct") (membership of outside bodies etc.), or,

(a) any other Conflict of Interest then such interest should be declared at the start of the meeting by giving full details of the interest and the item to which it relates.

A councillor is not required to leave the room when the item is debated but may do so if, in the opinion of the councillor concerned, it is advisable in all the circumstances of the case. A councillor with such an interest, who has remained for the debate, is entitled to speak and vote on the matter to which it relates.

Commented [JM17]: Expanded for clarification – reordered. To be included earlier in the standing orders for better drafting and reflection of importance.

**9. COUNCIL MINUTES**

**11.1 Signing the Minutes**

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

Commented [JM18]: Reorder for clarity

Commented [JM19]: Modernisation

**11.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

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

**MOTIONS AT COUNCIL MEETINGS**

54.1 Motions may be made either with notice under Standing Order 65 or without notice under Standing Order 76, but not otherwise.

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**65. NOTICES OF MOTION ON NOTICE**

65.1 Any member may move a motion at a meeting of the Council if notice has been given under this Standing Order. Any councillor may give notice of a motion for consideration at any ordinary meeting of the Council.

Commented [JM20]: Modernisation

65.2 The subject matter of such a motion shall be relevant to the Borough and/or its residents. Every Motion must relate to matters in which the Council has powers or duties and must not include declaratory statements relating to matters outside the ambit of the Council. Motions should be about something for which the Council has responsibilities, or which affects the Borough. Motions should be about a single discreet issue and not be in the opinion of the Chief Executive (or Monitoring Officer in her absence) defamatory, frivolous, offensive or otherwise out of order

Commented [JM21]: Modernisation and clarification.

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~~65.3~~ Notices of motion under this Standing Order shall be in writing and delivered to the Chief Executive's office by noon on the day, ~~nine seven~~ days before the meeting of the Council at which the motion is intended to be moved. ~~No motion shall exceed 250 words in length.~~

**Commented [JM22]:** Allows time for the NoM to be received and considered before publication of the agenda.

~~65.4~~ A notice of motion may not be given by a Member with a disclosable pecuniary interest in the subject matter of the motion. If the disclosable pecuniary interest arises after a notice of motion has been given, the notice shall be of no further effect, and no further action shall be taken in respect of the notice or the motion under Standing Order 5.

**Commented [JM23]:** Common provision to encourage precise NoM

~~65.5~~ Notices delivered in accordance with Standing Order ~~65.3~~ shall be dated and numbered in the order in which they were received. The record of receipt shall be open to inspection by any member of the Council.

~~65.6~~ Every valid notice of motion shall be included in the summons for the next meeting of the Council unless:

- a) the member who gave it has indicated that it is to be moved at some later meeting; or
- b) it is withdrawn in writing.

~~65.7~~ ~~If the member who gave the notice, or some other member on his/her behalf, does not move the motion when called to do so, then unless the Council otherwise directs, the motion shall fail. The motion may be moved at a later meeting if fresh notice is given under this Standing Order. If a motion set out in the summons is not moved, either by the councillor who gave notice or by some other councillor on their behalf, it shall, unless the Council agrees otherwise, be treated as withdrawn. The motion may not be moved without fresh notice.~~

**Commented [JM24]:** Moderisation

~~65.8~~ After a motion under this Standing Order has been moved and seconded, it shall, ~~be dealt with at the meeting of the Council to which it is brought, unless the Monitoring Officer and/or S151 Officer considers that it would be conducive to the despatch of business to Standing Order 5.9 is applied, be referred the motion~~ without debate to a meeting of the Executive ~~falling before the next ordinary meeting of Council for consideration and report.~~

**Commented [JM25]:** As discussed in the feedback sessions, the Motions shall automatically be debated unless referred to the Executive for comment by the MO or FD

~~65.9~~ ~~Notwithstanding Standing Order 5.8, the Mayor may allow a motion under this Standing Order to be debated and determined at the meeting at which it is first moved, if that would be convenient and conducive to the despatch of business. Council may also proceed to debate and determine a motion if it considers (on a motion to that effect moved and seconded and (without debate) carried by a majority of the members present and voting) that it would be convenient and conducive to the despatch of business.~~

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~~65.10~~ If a motion is referred to the Executive ~~for consideration and report, the member who moved it shall (if he/she is not a member of the Executive) be entitled to receive notice of the meeting when the motion is to be considered, and to attend and speak on it (but not to vote).~~

~~65.11~~ The Executive shall report back to the Council and shall recommend the Council either to adopt the motion as originally moved or subject to some amendment or otherwise as it thinks fit. A motion may be referred by the Executive to another Committee for consideration.

~~56.12~~ If a motion is recommended for adoption with amendments, or is recommended to have no action taken on it, the member who gave the notice may, at the meeting of the Council at which it is considered, pursue his/her motion in its original form (provided it is moved and seconded). The member who gave the notice may speak twice; once to move his/her original motion, and secondly to have the right of reply to the debate. The

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Leader/member in charge of the Executive recommendation may only speak once (immediately before the member who gave the notice).

## **76. MOTIONS WITHOUT NOTICE**

**76.1** ~~The following motions may be moved without notice and will then be followed by no more than the number of speakers in brackets. The following motions may be moved without notice: that the Council:~~

Commented [JM26]: Clarification

1. Appoint a Chairman for the meeting (none).
2. Correct the Minutes (no limit).
3. ~~Proceed to next business.~~
4. ~~Adjourn further consideration of the matter.~~
5. Alter the order of business (none).
6. Refer the matter to a Committee (no limit).
7. ~~Appoint a Committee, or representatives, where this arises from an item in the Summons or from a Committee report.~~
8. ~~Adopt the report of a Committee or of an officer.~~
9. Give leave to withdraw a motion (none).
10. Amend a motion (no limit).
11. ~~Seal a document.~~
12. Extend the time limit for speeches (none).
13. Suspend Standing Orders (two).
14. Exclude press and public (subject to the provisions of sections 100A-100K of the Local Government Act 1972) (two).

~~15. Approve a Closure Motion under Standing Order 13.20 (closure) (none).~~

~~16. Approve a motion under Standing Order 13.28 (misconduct).~~

~~17. Give consent where consent is required by any Standing Order (no limit).~~

~~18. To continue the meeting beyond 3 hours (none)~~

## **87. PETITIONS**

**87.1** Petitions to the Council shall be dealt with in accordance with the Scheme for Petitions (see Part 4 of the Constitution).

## **98. PUBLIC INVOLVEMENT IN COUNCIL – QUESTIONS**

### **9.1 General**

Commented [JM27]: Public participation was raised and debate during feedback sessions. This allows questions to be submitted in advance of a meeting.

~~Meetings of the Council will allow for a period not exceeding 15 minutes during which time members of the public may ask the questions relating to matters over which the Council has powers or duties or which affect the Borough. The relevant portfolio holder or chairman shall respond to the questions raised.~~

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**9.2 Order of Questions**

Questions will be asked in the order received, except that the Mayor may group together similar questions. If more than two questions are submitted by the same person, the third and subsequent questions shall be moved to the end of the agenda item.

**9.3 Notice of Questions**

A question may only be asked if notice has been given by delivering the question in writing to the Chief Executive no later than 12 noon eight working days prior to the day of the Council meeting. Each question must give the name and address of the questioner and indicate the councillor to whom it is to be put.

**9.4 Length of Questions**

a) No question shall exceed 100 words in length in order to allow all members of the public submitting questions to have a fair and equitable opportunity to ask their question within the time allotted as stipulated at 9.1. The question may be accompanied by a statement of context which must not exceed 250 words and must be clearly separated from the text of the question. The statement of context and the question will be included in the agenda of the meeting.

b) The Chief Executive, or her representative, shall request that a question exceeding 100 words in length is re-submitted to meet this requirement, within one working day of the request being made.

c) Any question that fails to be re-submitted in accordance with 9.4 b) will receive a written response only, within 5 working days of the Council meeting for which it was submitted.

**9.5 Number of Questions**

A member of the public may not submit more than 3 questions for any Council meeting.

**9.6 Scope of Questions**

The Chief Executive (or representative) may reject a question if it:

(a) Is not about a matter for which the Council has a responsibility or which affects the Borough;

(b) Is defamatory, frivolous or offensive; or

(c) Requires the disclosure of confidential or exempt information.

**9.7 Record of Questions**

The Chief Executive will keep a record of each question and will, on receipt, send a copy of the question to the Councillor to who it is to be put. Rejected questions will include reasons for rejection. Questions, (and statements of context) including those dealt with under Standing Order 9.4c), and the answers given will be recorded in the minutes of the meeting.

**9.8 Asking the Question at the Meeting**

The Mayor will invite the questioner to put the question to the councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf and indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with. 9.9 Supplementary Question No supplementary questions will be allowed.

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9.10 Written Answers

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

**COUNCIL MEETINGS - QUESTIONS BY MEMBERS**

108.1 Provided that the Chief Executive has received a copy of the question to be asked before 12 noon seven working days prior to the day of the Council meeting, a councillor may:

(a) ask the Leader or the relevant Chair of any Committee or Sub Committee, about an issue in the councillor's ward; or

(b) ask the Leader or the relevant Chair of any Committee or Sub Committee about some issue in which the Council has powers or duties or which affects the Borough; or

(c) ask the Chair of a Committee about something for which their Committee has responsibility. A member may ask the Leader any question relating to the business of the Council provided written notice of the question is given to the Chief Executive's office not later than 12 noon two working days before the meeting of the Council at which the question is due to be asked.

108.2 The procedure for dealing with written questions shall be as follows:

- o The questions and draft replies shall be tabled at the Council meeting;
- o All first questions submitted by Members will be taken serially and taken as read first. Second questions will follow, then third questions and so on. Each question shall be dealt with serially and taken as read;
- o The draft reply shall (without further comment) be taken to be the reply to the question unless the Leader (or member answering on his/her behalf) indicates otherwise.
- o A member may ask one supplementary question. The supplementary question must be one which either directly arises out of the answer given or is required to clarify some part of the answer.
- o The total time for written questions shall be 15 minutes, or such longer time as the Mayor may allow.

108.3 A question and answer shall not be the subject of discussion or debate.

108.4 The person to whom a question, or a supplementary question, is put may:

1. decline to answer.
2. refer the questioner to a Council document or publication where the answer may be found.
3. undertake to supply an answer (either to the questioner or to all the members of the Council) if an answer cannot conveniently be given when it is asked and circulate within 7 working days.
4. refer the question for answer to another member of the Executive.

108.5 Notice of a question may not be given by a Member with a disclosable pecuniary interest in the subject matter of the question. If the disclosable pecuniary interest arises after

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notice has been given, the notice shall be of no further effect, and no further action shall be taken in respect of the notice or the question under Standing Order 98.

## ~~9. COUNCIL MEETINGS – MINUTES~~

Commented [JM33]: Reorder for clarity

~~9.1 The Minutes of the last meeting of the Council shall be taken as read if a copy has been circulated to each member of the Council not later than the day the summons to attend is issued.~~

~~9.2 As soon as the Minutes have been read or taken as read (as the case may be), the Mayor shall seek the authority of the Council to sign them as a correct record.~~

~~9.3 There shall be no debate or discussion on the Minutes except on their accuracy. Any question of accuracy shall be raised by motion to correct them.~~

~~9.4 If there is no such question, or as soon as any such question is disposed of, the Mayor shall sign the Minutes.~~

~~9.5 Where, in relation to a meeting of Council ("Meeting A"), the next meeting is an extraordinary meeting ("Meeting B"), the minutes of Meeting A shall be signed at the next ordinary or special meeting of Council, not at Meeting B.~~

## ~~1210. METHOD OF VOTING~~

### ~~12.1 Majority~~

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

Commented [JM34]: For clarification

### ~~40.412.2 Show of Hands~~

~~Unless a named vote is taken, voting at Council meetings shall be by a show of hands, or if there is no dissent, affirmation at the meeting, by such electronic system as the Council may approve.~~

Commented [JM35]: For clarification

### ~~40.212.3 Named Vote~~

A named vote shall be taken if:

~~(a)~~(b) The Mayor considers one is necessary, or

~~(b)~~(c) A member requests one before a "show of hands" vote is taken.

The names of members voting for and against the motion, and abstaining from voting on it ("present but not voting"), will be recorded when there is a named vote.

A named vote shall be taken at a meeting of the Council on business to approve the Budget or set Council Tax. In such matters, there shall be recorded in the minutes of the meeting, the names of members who cast a vote for the decision or against the decision or who abstained from voting ("present but not voting").

### ~~40.312.4 Result of Votes~~

The Mayor shall ascertain the number of votes for and against any motion, and declare the result. The Mayor's declaration shall be final provided that, in the case of a named vote, the number of names and of votes for and against, and abstentions, must tally

### ~~40.412.5 Recording of Individual Vote~~

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Immediately after a vote is taken, any member may require that the Minutes record how they cast their vote, or that they abstained from voting ("present but not voting").

#### 120.5 **Casting Vote**

In the case of an equality of votes, the Mayor may, provided he/she has cast a first vote, cast a second or casting vote. Where there is an equality of votes, and the Mayor has not exercised a second or casting vote, the motion is not carried.

### 11. **CONSIDERATION OF RECOMMENDATIONS**

~~11.1 Where the Executive or Committee is reporting a matter which is reserved to Council the relevant Portfolio Holder or Committee Chair (or a member of the relevant committee nominated by the chair of that committee) will introduce the report. The recommendation of the Executive or Committee in the report is deemed to be moved and seconded and the motion shall operate (without further words being necessary) as a motion. The normal rules of debate will apply to any debate on the recommendations.~~

**Commented [JM36]:** Simplify procedure

~~The Council shall receive and consider such recommendations or other matters of report as may be referred to it by the Leader/Executive, the Overview and Scrutiny Committee, Standards and Audit Committee, Planning Committee, Licensing Committee, or by an officer.~~

~~11.2 The Mayor shall call for a motion in respect of any Committee whose recommendation or report is submitted starting with the Executive and continuing with other Committees in date order.~~

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~~11.3 The person to be called to move a report or recommendation of the Executive or Committee must have been present at the Executive or Committee meeting and shall be the Leader or Chairman of the Committee or failing him/her, the Vice Chairman or failing him/her, such other member as the Leader or Chairman may select. Recommendations and reports from the Leader or an officer shall, for the purposes of debate, be deemed moved and seconded when the Mayor calls the item.~~

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~~11.4 The person moving the recommendation or report shall so state, and that motion shall operate (without further words being necessary) as a motion~~

~~1. to approve any recommendation of the Executive or Committee, and/or~~

~~2. to receive and adopt the report.~~

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~~11.5 The motion shall be seconded by any other member of the Executive or the Committee.~~

~~11.6 An amendment to the motion may be moved, unless the item relates to delegated business and it has been acted upon. No questions, discussion, amendment or debate shall take place on an item after the next item is called unless the Mayor exceptionally agrees.~~

~~11.7 The mover of a motion under Standing Order 11.4 with the consent of the Council may:~~

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~~1. except any items from his/her motion in order that it may be further considered by the Executive/Committee; and~~

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~~2. alter, amend or correct an item when it is called.~~

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~~11.8 Where an amendment has been moved and seconded to a motion under Standing Order 11.4, the person in charge of the report shall (whether or not he/she exercises his/her right of reply to the debate) inform the Council of the reasons for the Executive's or Committee's decision or recommendation (unless they are evident from the item itself). The person in charge of the report may call upon a member of the Corporate Leadership Team or a statutory Chief Officer (or their nominees) to provide such information or advice as may assist the Council in the consideration of the matter.~~

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~~11.9 After every item in a report has been sufficiently discussed or debated, the Mayor shall put the report to the vote, subject to such amendments or exceptions or exclusions as may have occurred.~~

Commented [JM37]: New section below re officers

## 12. CONFLICTING RECOMMENDATIONS

12.1 Where the reports of the Leader/Executive and/or one or more Committees contain conflicting recommendations on the same subject matter, all such recommendations shall be dealt with together when the first recommendation is reached.

12.2 The Mayor shall call for a motion or motions in respect of the second and any later recommendation(s). These motion(s), when seconded, shall operate as motion(s) to amend the recommendation in the first report.

12.3 No member shall speak more than once in the debate except on successive amendments, or to exercise a right of reply under **Standing Order 12.4**.

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12.4 Where the recommendation of the Executive is under consideration, the Leader shall have the right of reply at the close of the debate. In other cases, the Chairman of the second (or last) Committee (or the member having charge of that Committee's report) shall have the right of reply at the close of the debate, with the Chairman or Chairmen (or other member in charge) of the first or preceding Committee having the right to speak immediately before.

## 13. COUNCIL MEETINGS - RULES OF DEBATE

### 13.1 Motions and Amendments

13.1.1 A motion or amendment shall not be discussed unless it has been proposed and seconded.

13.1.2 The Mayor shall satisfy himself/herself that Council understands the terms of a motion or amendment before it is discussed or voted on.

### 13.2 Secunder's Speech

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

### 13.3 Speeches

13.3.1 A member may indicate his/her wish to speak, but the Mayor has an absolute discretion as to whether, and when, to call that member (except when a member is exercising a right of reply).

~~13.3.2 A member shall stand when speaking and shall address the Mayor.~~

13.3.3 A member shall direct his/her speech to the matter under discussion.

13.3.4 Unless the Mayor agrees otherwise, no speech shall exceed **five minutes**.

Commented [JM38]: Proposal to revert to five minutes for all speeches. Ease of administering the meeting and ensure efficiency of the meeting.

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- ~~(i) Moving a motion or amendment: ten minutes;~~
- ~~(ii) Right of reply: such reasonable period of time as is necessary for a sufficient reply to be given to the matters raised in the debate.~~
- ~~(iii) All other speeches: five minutes~~

~~The Leader's Statement at the first ordinary Council meeting of the Municipal Year and his/her annual Budget speech, and Group Leaders' responses, are not subject to a time limit.~~

When a Member May Speak Again

~~—A councillor who has spoken on a motion or an amendment may not speak again whilst it is the subject of debate, except:~~

- ~~(a) In exercise of a right of reply~~
- ~~(b) On a point of order, or~~
- ~~(c) By way of personal explanation.~~

13.4 **Content and Sequence of Amendments**

13.4.1 **Amendments to Motions**

~~An amendment shall be relevant to the motion and will either be:~~

- ~~(i) to refer the matter to the Leader/Executive, an appropriate committee or other body for consideration or reconsideration; (~~
- ~~(ii) ii) to leave out words;~~
- ~~(iii) (to leave out words and insert or add others; or~~
- ~~(iv) to insert or add words; as long as the effect of (ii) to (iv) above is not to negate the motion.~~

~~The Mayor may require the amendment to be written down and handed to the Chief Executive before it is discussed. If he or she deems it necessary, the Mayor shall read out the amended motion before the amendment is put.~~

~~Only one amendment may be moved and discussed at any one time and no further amendment shall be moved until the amendment under discussion has been disposed of, provided that the Mayor may permit multiple amendments to be discussed together if he/she thinks that this will facilitate the proper conduct of business, subject to separate votes being taken in respect of each amendment .~~

~~If an amendment is lost, other amendments to the original motion may be moved.~~

~~If an amendment is lost, no other amendment having a similar effect may be moved at the same meeting of the Council.~~

~~If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion to which any further amendments may be moved.~~

~~At any time after the original motion has been moved and seconded, a member may move an amendment to the original motion. On being seconded, the amendment shall then be the subject for discussion.~~

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~~13.4.2 An amendment shall be either:~~

- ~~1. to leave out words;~~
- ~~2. to leave out words and insert or add others;~~
- ~~3. to insert or add words;~~

~~An amendment shall not have the effect of merely negating the motion before the Council.~~

~~13.4.3~~ \_

~~\_\_\_\_\_~~

~~If an amendment is rejected, other amendments may be moved on the original motion. If an amendment is 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.~~

~~13.4.4 A further amendment shall not be moved until the Council has disposed of every amendment previously moved, but before an amendment is put to the meeting a member, if he/she so desires, may give notice to the Mayor that he/she proposes to move a further amendment.~~

~~13.4.5 The original or substantive motion, or any recommendation before the Council, shall at the close of debate be put to the vote. No amendment may be moved after the original or substantive motion has been voted upon and no further discussion may then take place.~~

~~A diagram showing how decisions can be made is at Appendix 1.~~

#### **Right of Reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) If an amendment has already been carried, the mover of that is deemed to be the mover of the substantive motion and therefore has the right of reply at the close of the debate on a further amendment.
- (d) The mover of an amendment has no right of reply to the debate on his or her amendment

A councillor exercising a right of reply shall confine him or herself to answering previous speakers and shall not introduce new matters or material. The Mayor's ruling on this shall be final and not open to discussion.

#### **13.8 Alteration and Withdrawal of Motions**

13.8.1 A member may with the consent of his/her seconder and of the Council, which shall be signified without discussion, alter a motion which he/she has proposed or of which notice has been given, if the alteration is one which could have been moved as an amendment.

13.8.2 A motion or amendment may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Council, which shall be signified without discussion, and it shall not be competent for any member to speak upon it after the proposer has asked and been given permission for its withdrawal.

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**Right of Reply**

(a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

(c) If an amendment has already been carried, the mover of that is deemed to be the mover of the substantive motion and therefore has the right of reply at the close of the debate on a further amendment.

(d) The mover of an amendment has no right of reply to the debate on his or her amendment

A councillor exercising a right of reply shall confine him or herself to answering previous speakers and shall not introduce new matters or material. The Mayor's ruling on this shall be final and not open to discussion.

A decision shall be taken immediately after the right of reply has been exercised.

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

When a motion is under debate, no other motion shall be moved except the following:

- 1. to amend the motion;
- 2. to adjourn the meeting;
- 3. to adjourn the debate;
- 4. to proceed to the next business;
- 5. that the question be now put;
- 6. that a member be not further heard;
- 5. that a member leave the meeting;
- 6. to exclude the public, under Section 100A of the Local Government Act 1972

~~13.5 **When a Member May Speak Again**~~

~~13.5.1 A member shall not speak more than once on any motion or amendment except:~~

- ~~1. to exercise a right of reply; or~~
- ~~2. on a point of order; or~~
- ~~3. by way of personal explanation; or~~
- ~~4. to move or second any of the motions mentioned in Standing Order 13.9; or~~

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~~5. being the Leader or a Chairman of a Committee, who intends to exercise his/her right of reply under Standing Order 13.11, to answer any specific question addressed to him/her during the course of debate on a motion or an amendment.~~

## 13.6 **Points of Order and Personal Explanation**

### 13.6.1 **Point of Order**

~~A councillor may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Standing Orders or the law. The councillor must indicate the Standing Order or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final. A member may rise to a point of order or in personal explanation, but a personal explanation shall be confined to some material part of a former speech by him/her at the same meeting which may have been misunderstood. A member so rising shall be entitled to be heard forthwith.~~

### **Personal Explanation**

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

13.6.2 The ruling of the Mayor on a point of order, or on the admissibility of a personal explanation, shall not be open to discussion.

### 13.7 **Respect for Chairman**

~~Whenever the Mayor rises during a debate, a member then speaking or standing shall resume his/her seat and the Council shall be silent.~~

### 13.8 **Alteration and Withdrawal of Motions**

13.8.1 ~~A member may with the consent of his/her seconder and of the Council, which shall be signified without discussion, alter a motion which he/she has proposed or of which notice has been given, if the alteration is one which could have been moved as an amendment.~~

13.8.2 ~~A motion or amendment may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Council, which shall be signified without discussion, and it shall not be competent for any member to speak upon it after the proposer has asked and been given permission for its withdrawal.~~

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

~~When a motion is under debate, no other motion shall be moved except the following:~~

- ~~1. to amend the motion;~~
- ~~2. to adjourn the meeting;~~
- ~~3. to adjourn the debate;~~
- ~~4. to proceed to the next business;~~
- ~~5. that the question be now put;~~
- ~~6. that a member be not further heard;~~
- ~~5. that a member leave the meeting;~~

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~~6. to exclude the public, under Section 100A of the Local Government Act 1972~~

13.10 **Closure Motions ~~Adjournment and Next Business~~**

~~13.10.1 A councillor may move, without comment, the following Closure Motions at the end of a speech of another councillor;~~

~~(a) To proceed to the next business;~~

~~(b) That the question be now put;~~

~~(c) To adjourn a debate; or~~

~~(d) To adjourn a meeting. 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:~~

- ~~1. on a motion to proceed to next business; unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall first give the mover of the original motion a right of reply to the motion to proceed to next business (but not to the preceding debate) and then put to the vote the motion to proceed to next business; if the motion is carried, the subject of debate shall be deemed to be disposed of for that day. If the motion to proceed to next business is not carried the debate shall be resumed.~~
- ~~2. on a motion that the question be now put; unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall first put to the vote the motion that the question be now put, and if it is passed then give the member entitled his/her right of reply under Standing Order 13.11 before putting the matter to the vote;~~
- ~~3. on a motion to adjourn the debate or the meeting; if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion he/she shall put the adjournment motion to the vote without giving the mover of the original motion his/her right of reply on that occasion.~~

~~13.10.2 If a Closure Motion is seconded and the Mayor thinks the item has been sufficiently discussed, the Mayor will put the procedural motion to the vote. If it is passed the Mayor will give the mover of the original motion a right of reply before putting the motion to the vote~~

~~None of the three motions the subject of Standing Order 13.10 shall be deemed carried, except by a two-thirds majority of members voting.~~

~~13.10.3 A second Closure Motion that the Council do now adjourn, or that the Council do now proceed to the next business, or that the debate be now adjourned, shall not be made within a period of half an hour except by leave of the Mayor.~~

~~13.10.4 The Mayor may, at his/her discretion, adjourn the meeting, at any time, for such period of time that he/she considers reasonable and conducive to the dispatch of business.~~

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~~13.11 **Right of Reply**~~

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~~13.11.1 The person moving an Executive or Committee recommendation or report, and the proposer of any other motion, shall have a right to reply at the close of the debate upon such motion immediately before it is put to the vote.~~

~~13.11.2 If the motion is deemed moved under Standing Order 11.3 (Leader's report/officer's recommendation), the right of reply shall be with the Leader or Chairman of the Committee (as the case may be), or some other member of the Executive/Committee nominated by him/her.~~

~~13.11.3 If the motion is to amend a recommendation or report of the Executive or a Committee, the right of reply remains with the Leader or Chairman of the Committee (as the case may be), or some other member of the Executive/Committee nominated by him/her.~~

~~13.11.4 A member exercising a right of reply shall confine himself/herself to dealing with matters raised in the debate.~~

~~13.11.5 A decision shall be taken immediately after the right of reply has been exercised.~~

**13.12 Rescission of Preceding Resolution ("Six Months' Rule")**

~~13.12.1~~ No motion to rescind any resolution of the Council passed within the preceding six months, and no motion or amendment to the same effect as one which has been negated within the preceding six months, shall be proposed unless notice is given under Standing Order 5 and bears the names of at least ten members of the Council.

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~~13.12.2~~ This Standing Order shall not apply to:

- (i) motions to receive and adopt the report or recommendation of the Executive or a Committee, or
- (ii) motions arising from a recommendation or report from a Statutory Officer.

OFFICERS SPEAKING DURING DEBATES

Any member of the Corporate Leadership Team or his representative may signify his/her wish to speak.

The Mayor shall then use his discretion to call upon the Officer at an appropriate point during the debate.

The subject matter on which an Officer may speak shall be confined to:

- i) providing relevant information; or
- ii) explanation or interpretation of any law, regulation, protocol or procedure

The Mayor may, at his discretion, permit a councillor to seek, through the Chair, the opinion of any Officer present at the meeting on a particular point.

Any Officer may be called upon to speak by the Mayor who shall indicate the subject matter.

Where an Officer is presenting a report of which prior notice has been given, the above rules do not apply, in relation to the presentation.

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**14. Councillor Conduct**

**14.1 Role of Mayor**

The Mayor is required to ensure that the meeting is conducted in a calm atmosphere of decorum.

**14.2 Remaining Seated to Speak**

When councillors speak at Council they may remain seated and address the meeting through the Mayor.

**Attire**

Members and Officers shall dress appropriately at meetings of the Council, Executive and Committees. This should be business dress. Any comments in respect of dress at meetings shall be raised with Group Leaders.

**14.3 Mayor Standing**

When the Mayor stands during a debate, any councillor speaking at the time must stop immediately. The meeting must be silent.

**13.13 Misconduct by a Member**

~~If a councillor persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion. If at a meeting, any member of the Council misconducts himself/herself by persistently disregarding the ruling of the Mayor, or by behaving irregularly, improperly, or offensively or by wilfully obstructing the business of the Council, the Mayor may name him/her and the Mayor or any other member may move "That the member named be not further heard". The motion, if seconded, shall be put and determined without discussion.~~

**13.14 Continuing Misconduct By A Named Member**

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

~~If the member named continues his/her misconduct after a motion under Standing Order 13.13 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 period as he/she, in his/her discretion, shall consider expedient.~~

**13.15 General Disturbance**

~~If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary. In the event of general disturbance which, in the opinion of the Mayor renders the due and orderly despatch of business impossible, the Mayor (in addition to any other power vested in him/her may, without question, adjourn the meeting of the Council for such period as he/she, in his/her discretion, shall consider expedient.~~

**13.16 Disturbance by Members of the Public**

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

## 20.7 Confidentiality of Business

20.7.1 All agendas, reports and other documents circulated to Council, but not made available to members of the public under Section 100B(2) of the Local Government Act 1972 and marked "Not for Publication" under section 100B(5) shall not be disclosed to any persons, but may be communicated after the meeting to members of the Council.

20.7.2 The proceedings of Council shall be open to the press and public, subject to the right of any Committee to exclude the press and public pursuant to the Local Government Act 1972.

### 14. APPLICATION TO ALL COMMITTEES AND SUB COMMITTEES

All of these Standing Orders apply to meetings of Council.

Standing Orders 2-5, 9 and 16-27 (but not 19 and 24.1) apply to meetings of Committees and to meetings of the Cabinet.

### 15. PLANNING COMMITTEE – SPEAKING BY THE PUBLIC AND WARD COUNCILLORS

The Planning Committee will receive representations from members of the public and applicants in accordance with procedures agreed from time to time by the Committee.

Any councillor may attend meetings of the Planning Committee but must sit separately from the members of the Committee so that it is clear to members of the public who are the members of the Committee.

Any councillor may seek the permission of the Chairman of the Committee of which they are not a member to speak at the meeting in relation to an item relating to his ward.

### 16. LICENSING COMMITTEE – SPEAKING BY WARD COUNCILLORS

Any councillor may attend meetings of the Licensing Committee but must sit separately from the members of the Committee so that it is clear to members of the public who are the members of the Committee.

Any councillor may seek the permission of the Chairman of the Committee of which they are not a member to speak at the meeting in relation to an item relating to his ward.

### 17. STANDARDS AND AUDIT COMMITTEE – ATTENDANCE BY NON COMMITTEE COUNCILLORS

Any councillor may attend meetings of the Standards and Audit Committee of which he/she is not a member but shall sit separately from the members of the Committee so that it is clear to members of the public who are the members of the Committee.

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~~Any councillor may seek the permission of the Chairman of the Committee of which they are not a member to speak at the meeting in relation to an item relating to his ward.~~

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#### **18. EXCLUSION OF PUBLIC**

~~Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or under Standing Order 24 (Disturbance by public).~~

#### **19. PHOTOGRAPHY AND AUDIO/VISUAL RECORDING OF MEETINGS**

~~Audio/visual recording at Council meetings is permitted in accordance with the Openness of Local Government Bodies Regulations 2014.~~

#### **20.313.17 Motions Affecting Persons Employed by the Council**

If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, it shall be dealt with following a motion to exclude the person and public under Section 100A(4) of the Local Government Act 1972 on the grounds that otherwise there would be disclosure of exempt information within the meaning of paragraph 1, Schedule 12A of that Act.

#### **14. SEALING OF DOCUMENTS**

Commented [JM48]: Not applicable to this section. Now in Part 2 – Articles.

~~14.1 The Common Seal of the Council may be affixed to any document to give effect to a decision of the Council, Executive, Committee or an officer exercising delegated powers.~~

~~14.2 The Seal shall be attested by (i) the Director of Legal and Democratic Services or an officer designated by him/her and (ii) another member of the Corporate Leadership Team.~~

~~14.3 An entry of every sealing of a document shall be made and consecutively numbered in a book kept for that purpose. The entry shall be signed by the persons who have attested the Seal. The authority for the sealing shall be recorded in every case.~~

#### **15. LEGAL PROCEEDINGS/AUTHENTICATION OF DOCUMENTS**

Commented [JM49]: Not applicable to this section. Now in Part 2 – Articles – redrafted.

~~15.1 Where any document will be a necessary step in legal proceedings, or shall otherwise need to be authenticated, on behalf of the Council, it shall, unless any enactment otherwise requires or authorises, or the Council shall have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Director of Legal and Democratic Services or some person authorised by him/her.~~

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~~15.2 There shall be delegated to the Director of Legal and Democratic Services, or some person authorised by him/her, power to institute, carry on, defend, compromise or settle legal proceedings (civil or criminal) or other disputes in connection with any of the Council's functions, including the enforcement of any judgement or order obtained.~~

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~~15.3 There shall be delegated to the Director of Legal and Democratic Services, or an officer authorised by him/her, power to authorise officers to appear in Court for the Council.~~

#### **16. LANDS, PREMISES – INSPECTION ETC**

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~~A member of the Council, unless specifically authorised to do so by the Council or the Leader/Executive or the Committee concerned, shall not inspect any lands or premises which the Council has the right or duty to inspect, or enter upon any such lands or~~

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~~premises or issue any orders respecting any works which are being carried out by or on behalf of the Council.~~

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~~17. CANVASSING OF AND RECOMMENDATIONS BY MEMBERS~~

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~~A member of the Council shall not solicit for any person any appointment under the Council, but this shall not preclude a member from giving a written testimonial of the candidate's ability, experience, or character for submission to the Council with an application for appointment.~~

~~18. RELATIVES OF MEMBERS OR OFFICERS~~

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~~18.1 Every Member and every member of the Corporate Leadership Team of the Council shall disclose to the Chief Executive any relationship known to him/her to exist between himself/herself and any person whom he/she knows is a candidate for an appointment under the Council.~~

~~18.2 A disclosure by the Chief Executive shall be made to the Monitoring Officer.~~

~~18.3 The Chief Executive/Monitoring Officer (as the case may be) shall report any disclosure to the Leader/Executive.~~

~~18.4 For the purpose of this Standing Order, persons shall be deemed to be related if they are husband, wife (and where a person is one of an unmarried couple, the other member of that couple), mother, father, son, daughter, grandson, granddaughter, brother, sister, nephew, niece of the member or member of the Corporate Leadership Team (or his or her spouse).~~

~~19. DECLARATIONS OF INTEREST~~

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~~Members shall declare interests, and withdraw from the meeting, in accordance with the requirements of the Members' Code of Conduct set out in Part 5 of the Constitution.~~

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~~20. APPOINTMENT, COMPOSITION AND CONDUCT OF COMMITTEES~~

~~20.1 The Council shall, at its first ordinary meeting following the annual meeting, appoint the following Committees:~~

- ~~o Appeals Committee~~
- ~~o Licensing Committee~~
- ~~o Planning Committee~~
- ~~o Standards and Audit Committee~~
- ~~o Overview & Scrutiny Committee~~

~~20.2 All such Committees shall be continued in office until immediately before the first meeting of their successors after the annual meeting of the Council.~~

~~20.3 If any Committee is not re-appointed, it shall not continue in office beyond the annual meeting of the Council.~~

~~20.4 Any Committee may be dissolved, or its membership altered, at any time by the Council.~~

~~20.5 Unless the Council otherwise directs, the first meetings of the Committees in each municipal year shall take place on the rising of the first ordinary meeting of the Council. The meetings shall take place serially in the order indicated in Standing Order 20.1. The business to be transacted shall be limited to the appointment of Chairman and Vice Chairman (and any Sub-Committees).~~

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20.6 **Committees - Composition**

- 20.6.1 Except where otherwise provided by statute, the Mayor shall be an ex-officio non-voting member of every Committee appointed by the Council.
- 20.6.2 The Mayor and Deputy Mayor shall not be appointed to the Executive.
- 20.6.3 Members of the Executive may be appointed to the Planning and Licensing Committees, but no other Committee.
- 20.6.4 The membership of a Committee shall not exceed thirteen members (excluding ex-officio members and co-optees).

~~20.7 **Confidentiality of Business**~~

- ~~20.7.1 All agendas, reports and other documents circulated to a Committee, but not made available to members of the public under Section 100B(2) of the Local Government Act 1972 and marked "Not for Publication" under section 100B(5) shall not be disclosed to any persons, but may be communicated after the meeting to members of the Council.~~
- ~~20.7.2 The proceedings of Committees shall be open to the press and public, subject to the right of any Committee to exclude the press and public pursuant to the Local Government Act 1972.~~

20.8 **Convening of Committees**

- 20.8.1 The summons, agenda paper, reports and documents prepared for a Committee shall be circulated to the Committee members as long before as reasonably possible, and not less than the statutory minimum period before the meeting.
- 20.8.2 The Chairman of a Committee, or in his/her absence the Vice-Chairman, shall be authorised, after consultation with the Chief Executive, to cancel a meeting of a Committee in cases where he/she is satisfied that the amount of business to be conducted at the meeting is such that it could conveniently be left over until the next ordinary meeting of the Committee.

~~The Chairman of a Committee, or the Mayor, may summon a special meeting of the Committee at any time. A special meeting shall also be summoned on the requisition in writing of not less than a quarter of the members of the Committee. The summons shall set out the business to be considered at the special meeting and no business other than that set out shall be considered at that meeting. Provided that such a special meeting, except by permission of the Chairman of the Committee, shall not be called to deal with any matter which has within the previous six months been considered or in respect of which consideration has been adjourned by the Committee.~~

~~20.9 **Committees - Election of Chairmen**~~

- ~~20.9.1 Every Committee shall, at its first meeting, before proceeding to any other business, elect a Chairman and if it so desires may elect a Vice-Chairman or such number of Vice-Chairmen as they think fit for the year. In the absence at a meeting of both Chairman and Vice-Chairman, a Chairman for that meeting shall be appointed.~~

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~~20.10 **Committees - Quorum**~~

- ~~20.10.1 The quorum for meetings shall be one-third of the number of members of the Committee, or two members, whichever is the greater (with such rounding up as may be necessary to achieve whole numbers) present throughout the duration of the meeting.~~

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~~21. COMMITTEE MEETINGS – RULES OF DEBATE~~

~~21.1. Motions and Amendments~~

~~21.1.1 A motion or amendment shall not be discussed unless it has been proposed and seconded.~~

~~21.1.2 Where a Committee has before it a recommendation, whether contained in a report or in a minute, the recommendation shall formally for the purposes of debate be deemed moved and seconded when the Chairman calls the item in question.~~

~~21.1.3 The Chairman shall satisfy himself/herself that the Committee understands the terms of a motion or amendment before it is discussed or voted on.~~

~~21.2. Secunder's Speech~~

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

~~21.3. Speeches~~

~~21.3.1 A member may indicate his/her wish to speak, but the Chairman has an absolute discretion as to whether, and when, to call that member.~~

~~21.3.2 A member shall direct his/her speech to the matter under discussion.~~

~~21.4. Content and Sequence of Amendments~~

~~21.4.1 At any time after the original motion has been moved and seconded, a member may move an amendment to the original motion. On being seconded, the amendment shall then be the subject for discussion.~~

~~21.4.2 An amendment shall be either:~~

- ~~1. to leave out words;~~
- ~~2. to leave out words and insert or add others;~~
- ~~3. to insert or add words;~~

~~An amendment shall not have the effect of merely negating the motion before the Committee.~~

~~21.4.3 If an amendment is rejected, other amendments may be moved on the original motion. If an amendment is 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.~~

~~21.4.4 A further amendment shall not be moved until the Committee has disposed of every amendment previously moved, but before an amendment is put to the meeting a member, if he/she so desires, may give notice to the Chairman that he/she proposes to move a further amendment.~~

~~21.4.5 The original or substantive motion, or any recommendation before the Committee, shall at the close of debate be put to the vote. No amendment may be moved after the original or substantive motion has been voted upon and no further discussion may then take place.~~

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~~21.5 — **Points of Order and Personal Explanation**~~

~~21.5.1 — A member may indicate that he/she wishes raise a point of order or make a personal explanation, but a personal explanation shall be confined to some material part of a former speech by him/her at the same meeting which may have been misunderstood. A member so indicating shall be entitled to be heard forthwith.~~

~~21.5.2 — The ruling of the Chairman on a point of order, or on the admissibility of a personal explanation, shall not be open to discussion.~~

~~21.6 — **Respect for Chairman**~~

~~— Whenever the Chairman speaks during a debate, any member then speaking, and the Committee, shall be silent.~~

~~21.7 — **Alteration and Withdrawal of Motions**~~

~~21.7.1 — A member may with the consent of his/her seconder and of the Committee, which shall be signified without discussion, alter a motion which he/she has proposed if the alteration is one which could have been moved as an amendment.~~

~~21.7.2 — A motion or amendment may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Committee, which shall be signified without discussion, and it shall not be competent for any member to speak upon it after the proposer has asked and been given permission for its withdrawal.~~

~~21.8 — **Motions which may be moved during debate**~~

~~— When a motion is under debate, no other motion shall be moved except the following:~~

- ~~1. — to amend the motion;~~
- ~~2. — to adjourn the meeting;~~
- ~~3. — to adjourn the debate;~~
- ~~4. — to proceed to the next business;~~
- ~~5. — that the question be now put;~~
- ~~6. — that a member be not further heard;~~
- ~~7. — that a member leave the meeting;~~
- ~~8. — to exclude the public, under Section 100A of the Local Government Act 1972~~

~~21.9 — **Adjournment and Next Business**~~

~~21.9.1 — A member may move without comment at the conclusion of a speech of another member "That the Committee proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the Committee do now adjourn", on the seconding of which the Chairman shall proceed as follows:~~

- ~~1. — on a motion to proceed to next business; unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall put to the vote the motion to proceed to next business; if the motion is carried, the subject of debate shall be deemed to be disposed of for that day. If the motion to proceed to next business is not carried the debate shall be resumed.~~

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~~2. on a motion that the question be now put; unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall put to the vote the motion that the question be now put, and if it is passed then put the matter to the vote;~~

~~3. on a motion to adjourn the debate or the meeting; if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion he/she shall put the adjournment motion to the vote.~~

~~21.9.2 None of the three motions the subject of Standing Order 21.9 shall be deemed carried, except by a two-thirds majority of members voting.~~

~~21.9.3 A second motion that the Committee do now adjourn, or that the Committee do now proceed to the next business, or that the debate be now adjourned, shall not be made within a period of half an hour except by leave of the Chairman.~~

~~21.9.4 The Chairman may, at his/her discretion, adjourn the meeting, at any time, for such period of time that he/she considers reasonable and conducive to the dispatch of business.~~

#### ~~21.10 **Misconduct by a Member**~~

~~— If at a meeting, any member of the Committee misconducts himself/herself by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly, or offensively or by wilfully obstructing the business of the Committee, the Chairman may name him/her and the Chairman or any other member may move "That the member named be not further heard". The motion, if seconded, shall be put and determined without discussion.~~

#### ~~21.11 **Continuing Misconduct By A Named Member**~~

~~— If the member named continues his/her misconduct after a motion under Standing Order 21.10 has been carried the Chairman 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 Committee for such period as he/she, in his/her discretion, shall consider expedient.~~

#### ~~21.12 **General Disturbance**~~

~~— In the event of general disturbance which, in the opinion of the Chairman renders the due and orderly despatch of business impossible, the Chairman (in addition to any other power vested in him/her) may, without question, adjourn the meeting of the Committee for such period as he/she, in his/her discretion, shall consider expedient.~~

#### ~~21.13 **Disturbance by Members of the Public**~~

~~— If a member of the public interrupts the proceedings at any meeting, the Chairman may warn him/her. If he/she continues the interruption after the warning, the Chairman may order his/her removal from the Council Chamber. In the case of general disturbance in any part of the Chamber open to the public, the Chairman may order that part to be cleared.~~

~~21.14~~ **Matters Affecting Persons Employed by the Council**

~~———— If any question arises at a meeting of the Committee as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, it shall be dealt with following a motion to exclude the press and public under Section 100A(4) of the Local Government Act 1972 on the grounds that otherwise there would be disclosure of exempt information within the meaning of paragraph 1, Schedule 12A of that Act.~~

~~22.~~ **COMMITTEES – METHOD OF VOTING**

~~22.1~~ **Show of Hands**

~~Unless a named vote is taken, voting at Committee meetings shall be by a show of hands, or by such electronic system as the Council may approve.~~

~~22.2~~ **Named Vote**

~~22.2.1~~ A named vote shall be taken if:

- ~~(a) The Chairman considers one is necessary, or~~
- ~~(b) A member requests one before a “show of hands” vote is taken.~~

~~22.2.2~~ The names of members voting for and against the motion, and abstaining from voting on it (“present but not voting”), will be recorded when there is a named vote.

~~22.3~~ **Result of Votes**

~~The Chairman shall ascertain the number of votes for and against any motion, and declare the result. The Chairman’s declaration shall be final provided that, in the case of a named vote, the number of names and of votes for and against, and abstentions, must tally.~~

~~22.4~~ **Recording of Individual Vote**

~~Immediately after a vote is taken, any member may require that the Minutes record how they cast their vote, or that they abstained from voting (“present but not voting”).~~

~~22.5~~ **Casting Vote**

~~In the case of an equality of votes, the Chairman may, provided he/she has cast a first vote, cast a second or casting vote. Where there is an equality of votes, and the Chairman has not exercised a second or casting vote, the motion is not carried.~~

~~23~~ **COMMITTEES – SPECIAL MEETINGS**

~~———— The Chairman of a Committee, or the Mayor, may summon a special meeting of the Committee at any time. A special meeting shall also be summoned on the requisition in writing of not less than a quarter of the members of the Committee. The summons shall set out the business to be considered at the special meeting and no business other than that set out shall be considered at that meeting. Provided that such a special meeting, except by permission of the Chairman of the Committee, shall not be called to deal with any matter which has within the previous six months been considered or in respect of which consideration has been adjourned by the Committee.~~

**24. POWERS, DUTIES AND RESPONSIBILITY FOR FUNCTIONS**

24.1 The powers, duties and responsibility for functions of the Council, the Executive and the Council’s Committees shall be as set out in the Articles and in Part 3 of the Constitution.

24.2 In the exercise of their powers or duties or tasks the Leader/Executive, an individual Member exercising delegated powers and every Committee shall:

1. formulate and keep under review objectives and standards for the provision of services within its terms of reference;
2. monitor and keep under review the economy, efficiency and effectiveness with which those services are provided and the functions of the Council are discharged; and
3. take such action or make such recommendations as may be necessary or appropriate.

24.3 The powers and duties which may be delegated to any Special Committee shall be at large and may include any matter already the subject of delegated authority to another Committee.

**25. STANDING ORDERS**

25.1 Variation and Revocation

The Leader/Executive may make recommendations to vary or revoke these Standing Orders. Any other motion to do so shall, when proposed and seconded, stand adjourned without discussion to the Leader/Executive for report to the next ordinary meeting of the Council.

25.2 Copies for Members

~~If requested~~ ~~the~~ Chief Executive shall give a printed copy of this Constitution to each member of the Council upon that member being elected. Otherwise the Constitution shall be available online.

25.3 Suspension of Standing Orders

Any of the preceding Standing Orders may be suspended so far as regards any business at the meeting where its suspension is moved, if the Council is satisfied that it is conducive to the effective despatch of business.

25.4 Interpretation of Standing Orders

The ruling of the Mayor as to the construction or application of any of these Standing Orders, or as to any proceedings of the Council, shall be final.

25.5 Construction of Standing Orders

Reference in these Standing Orders to the masculine gender shall include the feminine; and the singular shall include the plural, and vice versa.

Save where specified to the contrary in this Constitution, the expression “clear days” means that the time is to be reckoned exclusive both of the day on which the notice is given and of the day of the meeting. A Saturday, Sunday or public holiday will not count as one of the clear days.

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**26. APPOINTMENTS TO OUTSIDE BODIES**

In any case where the Council is entitled to nominate representatives to outside bodies, any contested appointments shall be decided by election. The election shall be conducted by ascertaining the number of votes in favour of each candidate. Each member shall have a maximum number of votes equal to the number of vacancies.

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## Conventions

~~There are areas of Council and Committee practice where the basis of dealing with business is well-established and agreed between the political groups but where formal regulation by Rule of Procedure is not appropriate.~~

~~These conventions which are set out in this section will generally govern the way things are done. Departures from the conventions do not attract a legal or formal sanction.~~

~~Conventions do not have to be included in this section but if they are they will continue to apply unless specifically varied; any variations to conventions should be approved by Council as revisions to the Constitution and not approved solely by the political groups.~~

- ~~1. The Mayor is the civic head of the Borough and performs a role that is non-political and non-executive (see Article 5 of the Constitution). Although the Mayor does not normally vote at meetings at which he/she presides, this convention does not displace the right for the Mayor to do so when this would be consistent with his/her role under Article 5 of the Constitution (i.e. to ensure the proper conduct of the Council's business).~~
- ~~2. Notices of Motion should relate to some matter of public, local or general concern or interest, and should normally reflect in their wording the extent to which the Borough Council has either the statutory powers or the responsibility to take action.~~
- ~~3. Members of the Council may seek the permission of the Chairman of a Committee (or the Leader, so far as the Executive is concerned) of which they are not a member to speak at meetings of the Committee at which business is to be discussed in which they have a particular interest.~~

~~In exercising this discretion, the Chairman of the Planning Committee will have regard to the following criteria:~~

- ~~(i) Ward Councillors, who are not members of the Planning Committee, will be allowed to speak at the Planning Committee, regardless of Party;~~

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- (ii) ~~Ward Councillors, who are not members of the Planning Committee, will only be allowed to speak once after any Objector/Applicant and before the debate of the Planning Committee commences, and~~
- (iii) ~~Ward Councillors, who are not members of the Planning Committee, will be restricted to a time limit, considered appropriate by the Chairman, in which they can speak.~~

~~(Note: This convention does not displace the right of any member to attend any meeting as a member of the public.)~~

4. ~~Members are entitled to look to the officers for information, advice and guidance on any matter of Council business on a confidential basis. The officers will deal with each of the political groups equally, separately and confidentially and such dealings shall not be disclosed in any circumstances to any member of another group, except, with the prior knowledge of the Group concerned, to the Leader or a Chairman of a Committee if in the opinion of the Chief Officer or Business Manager concerned the Leader/Chairman needs to know it in order to discharge his/her duties as such.~~
5. ~~The principles of proportionality set out in the Terms of Reference of the Selection Panel shall apply to the constitution and membership of any Working Group.~~
6. ~~The Leader's Statement at the first ordinary Council meeting of the Municipal Year and his/her annual Budget speech, and Group Leaders' responses, are not subject to a time limit.~~
7. ~~Members and Officers shall dress appropriately at meetings of the Council, Executive and Committees. This means that Members and Officers should wear "business dress".~~
8. ~~When the Chairman/Vice Chairman of the Working Joint Committee is a Borough Councillor, he/she should be the Leader of the Council or his/her nominee (who shall be a member of the Executive).~~

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# Budget and Policy Framework Procedure Rules

## 1. The Framework for Executive Decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Leader/Executive to implement it.

## 2. Process for Developing the Framework

The process by which the budget and policy framework shall be developed is:

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- (a) The Leader/Executive will publicise by including in the forward plan a timetable in accordance with which it will make proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework. Within this timetable the Overview and Scrutiny Committee will conduct such research, consultation with stakeholders and investigations as are necessary to enable it to develop proposals for a budget and policy framework for the forthcoming year.
- (b) The Overview and Scrutiny Committee will present its recommendations for the policy and budget framework to the Leader/Executive. The Leader/Executive will finalise their proposals for the Council to consider having taken into account the proposals from the Overview and Scrutiny Committee. The Leader's/Executive's report to Council will show their response to those proposals.
- (c) The Council will consider the proposals of the Leader/Executive and may adopt them, amend them, refer them back to the Leader/Executive for further consideration, or substitute its own proposals in their place.
- (d) The Council's decision will be publicised within five working days and a copy shall be given to the Leader/Executive. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Leader's/Executive's proposal without amendment) or (if the Leader's/Executive's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader/Executive formally objects to it in that period.
- (e) If the Leader/Executive objects to the decision of the Council, then the Leader/Executive shall give written notice to the Proper Officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Proper Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (f) The Council meeting must take place within five working days of the receipt of the Leader's/Executive's written objection. At that Council meeting, the previous decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (g) The Council's decision, if not in accordance with the recommendation of the Leader/Executive, shall require a simple majority of those voting at the meeting.
- (h) The decision shall then be made public and shall be implemented immediately.

### **3. Decisions Outside the Budget or Policy Framework**

- (a) Subject to the provisions of Financial Regulations as they apply to virement, the Leader/Executive, Committees of the Executive, individual members and any officers discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Leader/Executive, Committees of the Executive, individual members and any officers discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. Urgent Decisions Outside the Budget or Policy Framework**

- (a) The Leader/Executive, a Committee of the Executive, an individual member or officers discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. Decisions to commit urgent expenditure may be taken in cases of civil emergency or where there is a compelling and urgent need for immediate action. In all other cases, the decision may only be taken:
  - i) if it is not practical to convene a quorate meeting of the Full Council; and
  - ii) if the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Full Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Committee the consent of the Mayor and in the absence of both the Deputy Mayor will be sufficient.

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

### **5. In-Year Changes to Policy Framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Leader/Executive, a Committee of the Executive, an individual member or officers discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes necessary to ensure compliance with the law, ministerial direction or government guidance.

### **6. Call-In of Decisions Outside the Budget or Policy Framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or

not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

- (b) In respect of functions which are the responsibility of the Leader/Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Leader/Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Leader/Executive must decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer 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 Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within five days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
  - i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - ii) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Leader/Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

## **7. Financial Regulations**

The Council shall make, and from time to time review, financial regulations to determine the responsibilities of members and officers in the administration of its financial affairs, and there shall be delegated to the Chief Finance Officer authority to exercise the functions described in the regulations.

## **8. Investment Programme**

1. Each year, the Leader/Executive shall prepare a five year Investment Programme and shall consider the aggregate effect of the Investment Programme on the Council's financial resources and make recommendations thereon to the Council.
2. Any scheme proposed to be included in an Investment Programme which was not contained in the preceding approved Investment Programme shall be considered by the Leader/Executive having received a report from the appropriate officer on the financial implications of the proposal.

## **9. Revenue Estimates**

1. The Leader/Executive shall keep the Council's financial strategy under review and shall consider and determine annual revenue estimates for submission by way of recommendation to Council having received a report thereon from the Chief Finance Officer.
2. Any proposal to incur expenditure which is not provided for in the previously approved revenue estimates and which cannot be financed by way of virement in accordance with financial regulation 5.3 shall be considered and determined by the Leader/Executive for submission by way of recommendation to Council having received a report thereon from the appropriate officer on the financial implications of the proposal.

**10. Expenditure - Exceptional**

Any motion which is moved at a Council meeting otherwise than in pursuance of a recommendation or report of the Leader/Executive and if carried would, by the lesser of 5% or £5000, increase the expenditure upon or reduce the revenue of any service or would involve capital expenditure, shall when proposed or seconded, stand adjourned without discussion to the next ordinary meeting of the Council, and the Leader/Executive shall report on the financial implications of the proposal.

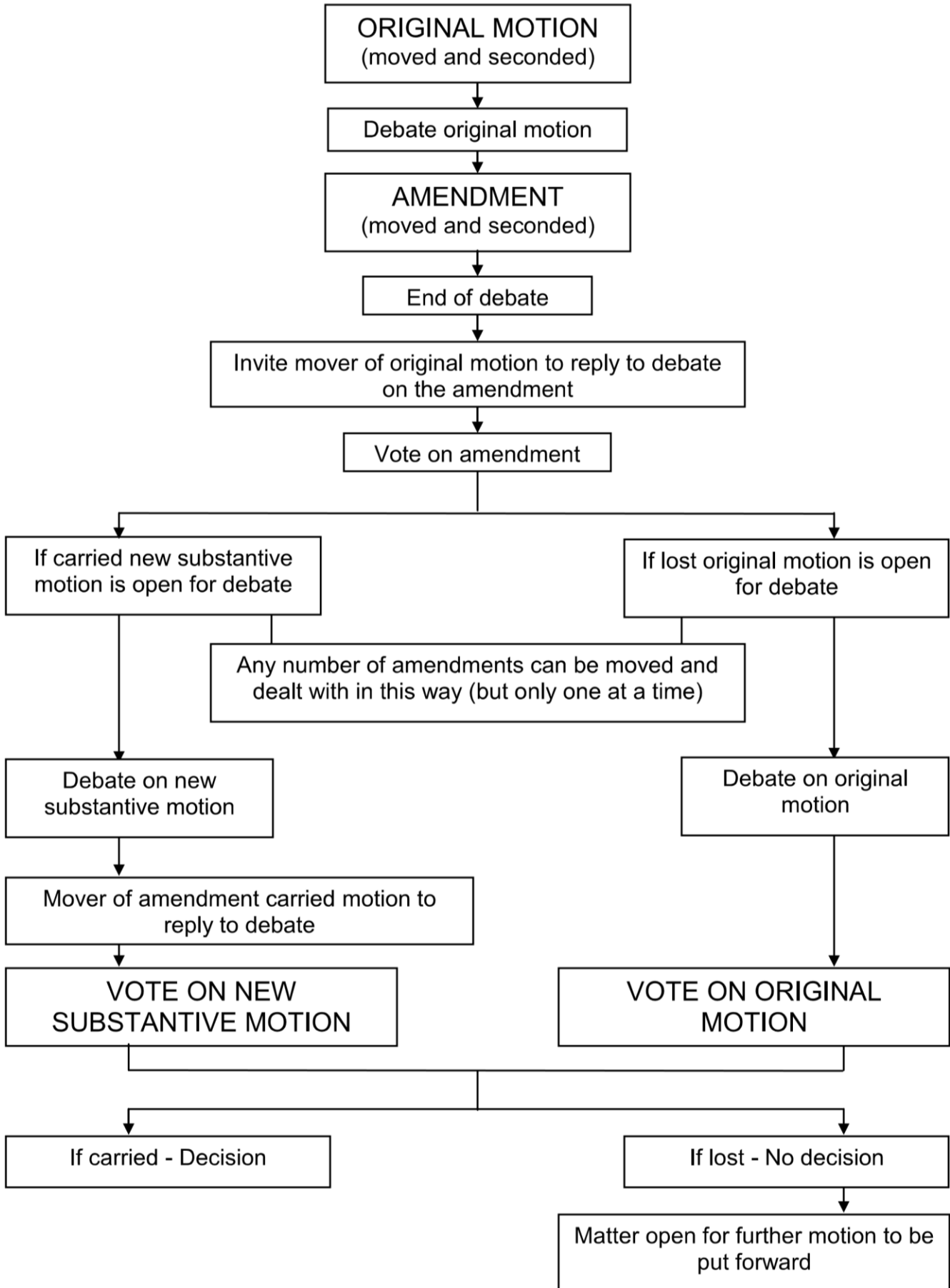


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# RULES OF DEBATE

(Diagram showing how decisions can be made)





# Executive Procedure Rules

## How does the Executive operate?

### Who may make executive decisions?

1.1 The Leader ~~shall be responsible for the Executive functions listed in Part 3 of this Constitution (Responsibility for Functions). The Leader~~ has responsibility for the discharge of all executive functions and may delegate any or all of these functions to:

~~1.2 The Leader may provide for Executive functions to be discharged by:~~

- (b) The Executive as a whole;
- (c) a Committee of the Executive;
- (d) an individual Member of the Executive;
- (e) an individual Member of the Council who may exercise powers in relation ~~to his/her ward~~;
- (f) an Officer;
- (g) another local authority, or
- (h) under joint arrangements.

### ~~1.23.~~ Allocation of Political Accountabilities by Leader

The Leader may allocate to individual members of the Executive particular areas of political accountability. Any such individual will take responsibility for the explanation of identified areas of policy or service themes, but will not exercise executive functions in that respect. These individuals become known as Portfolio Holders.

### 1.4 Sub-Delegation of Executive Functions

The Executive, Committee of the Executive or an individual Member of the Executive may further delegate functions to an officer, in which case the Responsibility for Functions in Part 3 of the Constitution and the Scheme of Delegations to Officers shall be amended accordingly.

### 1.5 Conflicts of Interest

Conflicts of interest affecting the Leader or any member of the Executive shall be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

### 1.6 Executive Meetings

The Executive will meet at such times as the Leader shall determine. The Executive shall meet at the Civic Offices or another location to be agreed by the Leader.

### 1.7 Quorum

The quorum for a meeting of the Executive, or a Committee of it, shall be one-third of the number of members of the Executive (with such rounding-up as may be necessary to achieve whole numbers) or two (whichever is the greater).

### 1.8 How are decisions to be taken by the Executive?

#### ~~Taking Decisions~~

Executive decisions which have been delegated to the Executive will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

## **2. How are Executive Meetings Conducted? CONDUCT OF EXECUTIVE MEETINGS**

### **2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. In the absence of the Leader and the Deputy Leader, a person appointed to do so by those present shall preside.

### **2.2 Who may attend?**

Meetings of the Executive will be held in accordance with the Access to Information Rules in Part 4 of this Constitution

### **2.3 What is the order of Business?**

At each meeting of the Executive, the following business will be conducted:

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) matters referred to the Executive (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Executive 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;
- iv) consideration of reports from the Overview and Scrutiny Committee; and
- v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

### **2.3 Consultation**

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **2.4 Who sets the Agenda?-Management**

The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive, a Committee of it or any member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

Any member of the Council may ask the Leader to arrange that an item is placed on the agenda of the next available meeting of the Executive for consideration. The Leader is not obliged to comply with such requests.

The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Executive where the Overview and Scrutiny Committee or the Full Council have resolved that an item be considered by the Executive.

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of an Executive meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties.

3. **Can members of the public ask questions?**

**QUESTIONS BY THE PUBLIC**

3.1 Members of the public, which for these purposes shall mean persons living or working in the Borough, may ask questions of members of the Executive at meetings of the Executive.

3.2 **What is the procedure for asking questions? Order of Questions**

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

3.3 **How do I raise a question? Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than 12 noon, seven days before the day of the meeting. Each question must give the name and address of the questioner and should specify the member to whom the question is to be put.

3.4 **How many questions can I raise? Number of Questions**

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

3.5 **What questions can I ask the Executive?**

**Scope of Questions**

The Chief Executive may reject a question if it:

- is not about a matter for which the Council has a responsibility or which affects the Borough;
- is defamatory, frivolous or offensive;
- requires the disclosure of confidential or exempt information.

3.6 **How are the questions recorded? Record of Questions**

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the Leader and the member to whom the question is to be put. If no particular member has been specified as the person to whom the question is to be put, the question shall be put to the Leader. Rejected questions will include reasons for rejection.

Copies of all questions and the draft replies shall be prepared, laid round the table and made available to the public attending the meeting.

3.7 **Can I ask my Asking the Question at the Meeting?**

The Leader will invite the questioner to put the question to himself/herself or the specified member. If a questioner who has submitted a written question is unable to be present, they may ask the Leader to put the question on their behalf. The Leader may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

The Leader or the specified member may state that his/her reply is in the terms of the draft or otherwise as he/she thinks fit.

The total time for public question-time shall be 30 minutes or such longer time as the Leader shall in his/her discretion allow.

### **3.8 Can I raise a Supplementary Question?**

A questioner who has put a question in person may also put one supplementary question without notice. A supplementary question must arise directly out of the original question or reply. The Leader may reject a supplementary question on any of the grounds in Rule 3.5 above.

The Leader or the specified member may reply to the supplementary question as he/she thinks fit.

### **3.9 Written Answers**

Any question which cannot be dealt with during public question-time through lack of time will be dealt with by a written answer.

### **3.10 Reference Elsewhere**

Unless the Leader decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to another Committee. Once seconded, such a motion will be voted on without discussion.

## **4 How are individual decisions made and documented?**

### **~~INDIVIDUAL DECISION MAKING~~**

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4.1 The Leader, or an individual Member, taking a decision on a matter shall comply with the following parts of the Executive Procedure Rules.

4.2 A clear audit trail of decision-making must be maintained for future reference.

### **4.3 Forward Plan**

4.4 Subject to the provisions of Access to Information Procedure Rules 15 (General Exception) and 16 (Special Urgency), a key decision shall not be taken by an individual Member unless details have been included in the Forward Plan.

### **4.5 Requirement for a Written Report**

4.6 A written report on the proposed decision shall be prepared by the relevant officer on his or her own initiative, or at the request of the Member.

4.7 The officer's report shall set out the following:

- (a) The date of the proposed decision.
- (b) Whether a key decision is to be taken.
- (c) Whether the report contains confidential or exempt information.
- (d) A description of the issue to be decided.
- (e) Any consultations undertaken, the method of consultation and a summary of any representations received.
- (f) The officer's recommendations and the reasons for them.
- (g) Implications arising from the decision.
- (h) A list of background papers.



4.8 Subject to the provisions on confidential and exempt information and special urgency set out in the Council's Access to Information Procedure Rules, the Proper Officer shall at least five clear days prior to the date that the proposed decision is scheduled to be taken:

- (a) forward a copy of the report by e-mail to the relevant Member and all other councillors; and
- (b) make the report publicly available.

#### **4.9 Taking the Decision**

4.10 The decision shall be taken by the Member on the scheduled date in the presence of the relevant officers (which shall always include a Democratic Services Officer).

4.11 Prior to taking the decision, the Member will be required to disclose any personal and/or prejudicial interests in the matter under consideration.

#### **4.12. How is the decision recorded? Record of Decision**

4.13 After a decision has been taken by the Member, the Democratic Services Officer will prepare a record, including details of:

- (i) whether it was a key or non-key decision;
- (ii) the title of the item;
- (iii) the name of the decision-maker;
- (iv) the date on which the decision was made;
- (v) the date on which the decision will be implemented;
- (vi) any declarations of interest;
- (vii) the decision;
- (viii) the reasons for the decision;
- (ix) details of any alternative options considered and rejected by the Member when making the decision;
- (x) a record of any conflict of interest declared by any Executive member who is consulted by the Member making the decision which relates to that decision;
- (xi) a note of any dispensation granted in respect of any declared conflict of interest; and
- (xii) a list of the documents taken into account by the decision-maker, including the report of the relevant officer.

4.14 The decision shall be published by the Democratic Services Officer in draft form electronically, and shall otherwise be available at the Civic Offices, within 24 hours of the decision being made. All members of the Council shall receive electronic notification of such decision within the same timescale. This will enable Councillors to consider whether they wish to "call-in" the decision in accordance with Overview and Scrutiny Procedure Rules.

4.15 The Proper Officer will maintain records of all decisions made, together with associated reports and background papers, in accordance with the Council's Access to Information Procedure Rules.



# Access to Information Procedure Rules

## 1. SCOPE

These Procedure Rules allow the public rights of access to meetings and information to reflect the Council's commitment to its residents of being open and accountable. These rules apply to all meetings of the Council, the Executive and Committees (together called meetings)- unless otherwise specified in this Constitution or by legislation.

## 2. ADDITIONAL RIGHTS TO INFORMATION

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

## 3. RIGHTS TO ATTEND MEETINGS

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

## 4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Civic Offices, Gloucester Square, Woking (the designated office) and on its website. Where the meeting is convened at shorter notice, the notice shall be given at the time the meeting is convened.

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

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. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

## 6. SUPPLY OF COPIES

The Council will supply copies of:

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

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

## 7. ACCESS TO MINUTES ETC AFTER THE MEETING

The Council will, as soon as reasonably practicable, arrange for electronic publication and make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and

(d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of Background Papers**

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

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

### **8.2 Public Inspection of Background Papers**

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

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

This written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL.

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

### **10.1 Confidential Information – Requirement to Exclude Public**

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

### **10.2 Exempt Information – Discretion to Exclude Public**

The public may be excluded from meetings or parts thereof whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **10.3 Meaning of Confidential Information**

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

### **10.4 Meaning of Exempt Information**

Exempt information means information falling within the following 7 categories (subject to any qualification):

- (1) Information relating to any individual.
- (2) Information which is likely to reveal the identity of an individual.
- (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).

- (4) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- (5) Information in respect of which a claim to professional privilege could be maintained in legal proceedings.
- (6) Information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person or (b) to make an order or direction under any enactment.
- (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### **Qualifications**

- (1) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under the Companies Act 1985, the Friendly Societies Acts of 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 1993.
- (2) Information falling within any of paragraphs 1-7 is not exempt by virtue of those paragraphs if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- (3) Information which (a) falls within any of paragraphs 1-7 above and (b) is not prevented from being exempt by virtue of qualifications 1 or 2 above is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

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

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

Rules 13 – 22 apply to the Executive and its Committees (in addition to Rules 1-11).

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

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision, as defined in Article 11.03 of this Constitution, may not be taken unless:

- (a) a document (called a "forward plan") has been published in connection with the matter in question; and
- (b) at least twenty-eight clear days (which may include Saturdays, Sundays and public holidays) have elapsed since the publication of the forward plan and the date of the meeting at which the key decision is to be made.

## **14. THE FORWARD PLAN**

## **14.1 Period of Forward Plan**

Forward plans will be prepared to cover a period of four months, beginning with the first day of any month. A forward plan will be prepared in respect of each meeting of the Executive.

## **14.2 Contents of Forward Plan**

The forward plan will contain matters which the Proper Officer has reason to believe will be subject of a key decision to be taken by the Leader/Executive, a Committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

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

Exempt information and confidential information may not be included in a forward plan.

## **15. GENERAL EXCEPTION**

Where the publication of a forward plan in respect of a key decision is impracticable, that decision may only be made:

- (a) where the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee or, if there is no such person, each member of the Overview and Scrutiny Committee, by notice in writing of the matter about which the decision is to be made;
- (b) where the Proper Officer has made available at the Civic Offices for inspection by the public, and published on the Council's website, a copy of the notice given under sub-paragraph (a) above; and
- (c) after five clear days have elapsed following the day on which the Proper Officer made available the notice referred to in sub-paragraph (b) above.

As soon as reasonably practicable after complying with sub-paragraphs (a) and (b) above, the Proper Officer shall make available at the Civic Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why it was impracticable to include the item in a forward plan.

## **16. SPECIAL URGENCY**

Where the date by which a key decision must be made makes compliance with Rule 15 (General Exception) impracticable, the decision may only be made where the decision maker has obtained agreement from:

- (a) the Chairman of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or the Chairman of the Overview and Scrutiny Committee is unable to act, the Mayor; or
- (c) where there is no Chairman of the Overview and Scrutiny Committee or Mayor, the Deputy Mayor,

that the making of the decision is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the decision maker has obtained agreement under the applicable sub-paragraph above, the Proper Officer shall make available at the Civic Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why the meeting was urgent and could not reasonably be deferred.

## **17. REPORT TO COUNCIL**

### **17.1 When an 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:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure under Rule 15; or
- (c) the subject of the special urgency procedure under Rule 16;

the Committee may require the Leader/Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### **17.2 Executive's Report to Council**

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

### **17.3 Annual Reports on Special Urgency Decisions**

In any event, the Leader/Executive will submit annual reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding year. The report will include the number of decisions so taken, particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

After any meeting of the Executive or any of its Committees, the Proper Officer will produce a record of every decision taken at that meeting as soon as reasonably practicable. The record will include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the meeting;
- (d) a record of any conflict of interest relating to the matter decided which is declared at the meeting by any Member of the Executive or any of its Committees; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

## **19. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE/INDIVIDUAL MEMBERS EXERCISING POWERS IN RELATION TO THEIR WARDS**

Decisions by individual Members shall comply with the relevant provisions of the Executive Procedure Rules.

## **20. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **20.1 Rights to Copies**

Subject to Rule 20.2 below, the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:

- (a) any business transacted at a meeting of the Executive or its Committees;
- (b) any decision taken by an individual member; or
- (c) any executive decision by an Officer acting under powers delegated by the Leader/Executive.

### **20.2 Limit on Rights**

The Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form, or
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to (i) an action or decision they are reviewing or scrutinising or intend to scrutinise or (ii) any review contained in any programme of work of the Overview and Scrutiny Committee.

## **21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **21.1 Rights to Copies**

Subject to Rule 21.2 below, all Members will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:



- (a) any business transacted at a meeting of the Executive or its Committees;
- (b) any decision taken by an individual member; or
- (c) any executive decision by an Officer acting under powers delegated by the Leader/Executive.

## **21.2 Limit on Rights**

Members will not be entitled to:

- (a) any document that is in draft form; or
- (b) any document that contains exempt information as defined in paragraphs 10.4(1), (2) (3) 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, (4), (5) and (7) of these Access to Information Procedure Rules.

## **21.3 Nature of Rights**

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

## **22. PART II MEETINGS OF THE EXECUTIVE**

22.1 At least twenty-eight clear days' notice (which may include Saturdays, Sundays and public holidays) must be given before the Executive meets in private (i.e. on a Part II basis). Such notice shall give the reasons for the meeting being held in private, and shall be available for public inspection at the Civic Offices and on the Council's website.

22.2 At least five clear days before the private meeting of the Executive, a further notice of the intention to hold a private meeting shall be published at the Civic Offices and on the Council's website. Such notice shall give the reasons for the meeting being held in private, details of any representations received about why the meeting should be open to the public and a statement in response to any such representations.

22.3 Where the date by which a meeting must be held makes compliance with paragraphs 22.1 and 22.2 impracticable, the meeting may only be held in private if agreement has been obtained from:

- (a) the Chairman of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or the Chairman of the Overview and Scrutiny Committee is unable to act, the Mayor; or
- (c) where there is no Chairman of the Overview and Scrutiny Committee or Mayor, the Deputy Mayor,

that the meeting is urgent and cannot reasonably be deferred.

22.4 As soon as reasonably practicable after the agreement required under paragraph 22.3 has been obtained, the Proper Officer shall make available at the Civic Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why the meeting was urgent and could not reasonably be deferred.



# ~~Guidance on the Submission and Consideration of Petitions~~

## 1. Introduction

~~The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Anyone who lives, works or studies in the Borough may sign or organise a petition and trigger a response. This includes anyone under the age of 18.~~

~~All petitions submitted to the Council will receive a written acknowledgement from the Council within ten working days of receipt. This acknowledgement will set out what we plan to do with the petition.~~

~~E-petitions must be created, signed and submitted online through the Council's e-petitions facility~~

~~This document sets out Woking Borough Council's arrangements for submitting and considering petitions.~~

~~A petition must either relate to a function of the Council or to an improvement in the economic, social or environmental well-being of the Borough to which any of the Council's partner authorities could contribute.~~

Petitions can be submitted to Woking Borough Council either on-line through the Council's e-petitions facility or on paper. If you wish to submit a paper petition, or have any questions relating to the Borough Council's Petitions Scheme, please contact Democratic Services as follows:

Democratic Services  
Civic Offices  
Gloucester Square  
Woking, Surrey GU21 6YL  
Tel: 01483 743863  
E-mail: memberservices@woking.gov.uk  
Website: www.woking.gov.uk

## 2. What are the Guidelines for Drawing Up a Petition?

Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take; and
- the name and address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including an address, for the petition organiser. The petition organiser can be anyone who lives, works or studies in Woking. This includes anyone under the age of 18. This is the person the Council will contact to explain how it will respond to the petition.

The contact details of the petition organiser will not be placed on the website. In the event that the petition does not identify a petition organiser, the Council will contact the signatories to the petition to agree who should act as the petition organiser.

In the period immediately before an election or referendum, the Council may need to deal with a petition differently – if this is the case, the Council will explain the reasons and discuss the revised timescale which will apply.

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If a petition does not follow the guidelines set out above, the Chief Executive Officer ~~shall Council~~ may decide not to do anything further with it. In such cases, the Council will write to the petition organiser to explain the reasons. A copy of the notification will be published on the Council's website.

3. **What types of petitions are excluded? Exclusion of Petitions**

The Council will not take action on any petition which is considered to be vexatious, abusive or otherwise inappropriate. The petition organiser will be advised of the reasons for the Council's decision in such situations, and a copy of the notification will be published on the Council's website.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

Where a petition is received on the same or similar topic as one the Council has received in the last six months, it will not be treated as a new petition. The Council will acknowledge receipt of the petition within fourteen days and include details of its response to the previous petition on the topic.

Where the Council is still considering a petition on the same or similar topic, the new petition will be amalgamated with the first received petition.

4. **What will the Council do when it receives my petition? Acknowledgement of Receipt of a Petition**

The Council will acknowledge the receipt of a petition within fourteen days of receiving it. The acknowledgement will indicate what the authority has done or proposes to do in response to the petition and associated timescale. It will also be published on the Council's website, except in cases where this would be inappropriate.

The Council will write to the petition organiser at each stage of the petition's consideration. If the petition has been submitted online, all information will be sent to the petition organiser's e-mail account. The Council will only contact the petition organiser in matters relating to the petition.

5. **How will the Council respond? The Council's Response**

The Borough 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:

- Giving effect to the request in the petition ('taking the action requested').
- Considering the petition at a meeting of the Overview and Scrutiny Committee, Executive or Council.
- Holding an inquiry into the matter.
- Holding a public meeting.
- Undertaking research.
- Giving a written response to the petition organiser setting out the Council's views about the request in the petition.
- Referring the petition to the Council's Overview and Scrutiny Committee for consideration.
- Holding a consultation.
- Holding a meeting with petitioners.
- Calling a referendum.

The relevant local Ward Councillors will be advised when a petition has been received and will be consulted on the appropriate response. The type of response the Council provides may be dependent on the number of signatories to the petition. The table below summarises the Council's approach:

Number of signatories	Response
<del>Fewer than 50</del> <del>less than 40</del>	Response from Officer (treated as standard correspondence).
<del>50 – 150</del> <del>40 – 99</del>	<del>Response from relevant Portfolio Holder to be decided by Chief Executive in consultation with Leader of the Council.</del>
At least <del>2</del> 400	Referred to the Executive <u>for a response</u> .
At least <del>2</del> 200	Officer(s) called to provide evidence at a meeting of the Overview and Scrutiny Committee. This threshold only applies where such action is requested in the petition.
At least <del>4</del> 400	Debated at a meeting of full Council.

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If the Council is able to take the action requested in the petition, the acknowledgement may confirm that the action requested has been undertaken and that the petition will be closed. If the petition has enough signatures to trigger a debate at a meeting of the Council, or a senior Officer giving evidence, then the acknowledgment will confirm this, setting out when and where the meeting will take place. If the petition needs more investigation, the acknowledgement will outline the intended steps.

Where the petition is referred to the relevant Portfolio Holder for a response, the petition organiser will be invited to make a written statement in support of the petition.

Where the petition is referred to a meeting of the Council, the petition organiser will be allowed three minutes to present the petition, following which the petition will be discussed by Councillors.

If a petition is about something over which the Council has no direct control, consideration will be given to making representations on behalf of the community to the relevant body. The Council works with a large number of partner organisations and where possible will work with these partners to respond to a petition. If the Council is not able to do this for any reason, notification will be sent to the petition organiser setting out the Authority's reasons.

If a petition relates to a service or responsibility of a different Council, Woking Borough Council will give consideration to what the best method is for responding to it. This may consist of simply forwarding the petition to the other Council, but could involve other steps. The petition organiser will again be notified of the action taken by the Council.

## 6. Full Presenting at a Meeting of the Council Debates

If a petition contains ~~between~~at least 150 or 100 and 400 signatures it will be referred to a meeting of the Executive for consideration. If more than ~~4~~400 signatures have been added to the petition, it will automatically be referred to a meeting of the full Council for debate. The only exception would be in those cases where the petition asks for a senior Council Officer to give evidence at the Overview and Scrutiny Committee.

The Council will refer the petition to the next available meeting of Full Council. No more than two petitions shall be presented at any one Council meeting. If this is the case, the petition shall be referred to the next meeting thereafter. The Council may not hear petition in the Pre-Election Period. If this is the case, the Council shall contact you to discuss the matter.

The Council will contact the petition organiser before the meeting and if the organiser or their nominee wishes to present the petition at the meeting, confirmation must be given at least ten working days before the meeting.

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The presentation of a petition is limited to not more than three minutes, and should be confined to reading out, or summarising, the purpose of the petition, indicating the number and description of signatories, and making supporting remarks relevant to the petition. Councillors may then proceed to ask questions of the petition organiser.

At a meeting of an Overview and Scrutiny Committee, the Chairman may permit the petition organiser to participate in the Committee's consideration or debate of the issues raised by the petition.

The Council will consider all the specific actions it can potentially take on the issues highlighted in a petition and the Councillors will decide how to respond to the petition at this meeting. A motion suggesting a formal response to the petition shall be proposed and seconded at the meeting and dealt with under the normal rules of debate, provided that any such motion must respond explicitly to the request in the petition i.e. that part of the petition which asks the Council to take some form of action. They may decide to support the action the petition requests, or not, or refer the matter to another meeting, such as the Executive or Overview and Scrutiny Committee, for further consideration. The petition organiser will receive written confirmation of this decision.

## 7. **Deputations or Lobby Groups**

Associations or groups who wish to present a petition to the Council about a Council service or initiative or about an issue which affects the Borough can do so as a deputation. The request must be made at least ten working days before the meeting at which the petition will be presented and should include all details of the issue, the number of people forming the deputation (no more than five) and their names and addresses and names of the people who will speak about the petition.

The Chairman will ask the members of the deputation who are presenting the petition to speak about it for up to five minutes. Councillors may then ask members of the deputation questions about the petition.

## 8. **Petitions Asking Senior Officers to Provide Evidence**

A petition may ask for a senior Council Officer to give evidence at a meeting of the Overview and Scrutiny Committee about something for which the Officer is responsible as part of their job. For example, a petition may ask a senior Council Officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If a petition requests such action and contains at least ~~2~~200 signatures, the relevant senior Officer will give evidence at a public meeting of the Council's Overview and

Scrutiny Committee. Only Officers of the Council's Corporate Leadership Team can be petitioned to give evidence. However, the Overview and Scrutiny Committee may decide that it would be more appropriate for another Officer to give evidence instead of any Officer named in the petition – for instance if the named Officer has changed jobs. The Committee may also decide to call the relevant Councillor to attend the meeting.

The Members of the Committee will ask the questions at the meeting, but the petition organiser will be able to suggest questions to the Chairman of the Committee. These questions must be received by Democratic Services at least ten working days before the meeting.

## 9. E-petitions

An e-petition facility will be available on the Council's website through which residents of the Borough can create petitions for submission to the Council. The same guidelines apply to e-petitions as to paper petitions.

Under the scheme, the petition organiser will need to provide their name, postal address and email address. Furthermore, the petition organiser needs to decide how long they would like the petition to be open for signatures, up to a maximum of 12 months.

When an e-petition is created, it may take up to five working days before it is published online. During this time, the Council will check that the content of the petition is suitable before it is made available for signature.

If it is felt that the Council cannot publish a petition for some reason, the petition organiser will be advised of the reasons. Petition organisers will be able to change and resubmit a petition. If this is not done within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the website.

When an e-petition has closed for signature, it will automatically be submitted to Democratic Services. In the same way as with a paper petition, the petition organiser will receive an acknowledgement within fourteen working days of receipt of the petition. A copy of the petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on the Council's website.

## 10. How do I sign an e-Petition

Details of all the e-petitions currently available for signature will be available on the Council's website. Those wishing to add their support to a petition will be asked to provide their name, postcode and valid email address. Once the information has been added, an e-mail will be sent to the email address provided which contains a link which must be clicked on in order to confirm that the email address is valid. Once this has been done, the 'signature' will be added to the petition. People visiting the e-petition will be able to see all 'signatures' but will not have access to the contact details.

## 11. What can I do if I feel my petition was not handled correctly ? Requesting a Review of the Council's Actions in response to a Petition.

The petition organiser has the right to request that the Council's Overview and Scrutiny Committee reviews the steps that the Council has taken in response to their petition. The petition organiser will be asked to provide a short explanation of the reasons why the Council's response is not considered to be adequate.

The petition organiser must exercise this right within 21 days of receipt of the Council's formal response to the petition

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The Overview and Scrutiny Committee will endeavour to consider such requests 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 the Council has not dealt with a petition adequately, it may investigate the matter, make recommendations to the Executive or arrange for the matter to be considered at a meeting of full Council.

The procedure for conducting the review at the meeting shall be as follows:

(a) The petition organiser (or any person authorised by them) shall be invited to address the Committee for no more than five minutes in respect of their request for review.

(b) Councillors to ask the petition organiser any questions relevant to the review arising from their statement to the Committee.

(c) The Committee to review the steps taken by the Council in responding to the petition and to consider whether the Council has dealt with the petition adequately.

Dependent on whether the formal response to the petition was given by:

- A strategic director or senior manager
- a lead councillor, or
- full Council

this may include asking the relevant strategic director/senior manager or relevant lead councillor to attend and answer questions from the Committee.

(d) Prior to making a decision on the review, the petition organiser (or any person authorised by them) shall have a right of reply on the debate, for which they will be given five minutes.

(e) The Committee to formally determine the review – deciding either that the Council has dealt with the petition adequately or that it has not. If the latter, the Committee must then decide one of the following options:

(i) to investigate the matter further;

(ii) to make recommendations to the Leader/Executive; or

(iii) to arrange for the matter to be considered at a meeting of full Council.

The question as to whether implementation of any decisions pertinent to a petition under review by overview and scrutiny should be deferred pending completion of the review process shall be dealt with by the Chief Executive on a case-by-case basis including, where necessary, convening special meetings of the Overview and Scrutiny Committee and/or full Council for this purpose.

Once the Committee has completed its review the petition organiser will be informed of the results within five working days. The results of the review will also be published on the Council's website.

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12. What happens to my petition or e-petition following a formal response by the Council?

Following a period of 21 days after the Council has responded formally, a paper petition will be destroyed, and all e-signatories on an e-petition will be erased, unless during that period, the petition organiser requests a review in which case it shall be destroyed 21 days after the review has been completed.

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# Overview and Scrutiny Procedure Rules

The role that overview and scrutiny can play in holding an authority's decision-makers to account makes it fundamentally important to the successful functioning of local democracy.

## 1. 4. — **General Arrangements**

1.1 — The Council will have the Overview and Scrutiny Committee as set out in **Article 6** and will appoint to the Committee # at its first ordinary meeting in accordance with **Standing Order 20**.

1.2 — The terms of reference of the Committee will be as provided in Article 6 and in the **Responsibility for Functions in Part 3** of this Constitution and shall include the functions of a crime and disorder committee under Section 19 Police and Justice Act 2006.

## 2. 2. — **Membership**

2.1 — The membership shall comprise ten elected councillors.

2.2 — All councillors except members of the Executive may be members of the Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

## 3. 3. — **Co-optees**

3.1 — The Committee shall be entitled to recommend to Council the appointment of a number of people-individuals as non-voting co-optees.

## 4. 4. — **Meetings**

4.1 — There shall be between eight and ten ordinary meetings of the Committee in each year.

4.2 — In addition, extraordinary meetings may be called from time to time as and when appropriate.

4.3 — A meeting of the Committee may be called by the Chairman of the Overview and Scrutiny Committee or by the Proper Officer if he/she considers it necessary or appropriate.

## 5. 5. — **Quorum**

5.1 The quorum for the Committee shall be as set out in Standing Order 20.10. i.e. one-third of the number of members of the Committee (with such rounding-up as may be necessary to achieve whole numbers).

— Chairman

5.2 The Committee shall normally be chaired by a councillor who is not a member of the largest political party group on the council.

5.3 —The Vice-Chairman shall not be from the same political group as the Chair.

5.4 —The appointment of the Chairman and Vice-Chairman of the Committee shall in accordance with ~~Standing Order 20.9~~.

## 6. 6.—Work Programme

6.1 —The Overview and Scrutiny Committee shall be responsible for setting its own work programme, and the Committee shall have particular regard to the time and resources (including officer time) needed to deliver the programme. The Committee shall be assisted in its work by sight of the Leader's draft Forward Plan for the whole year.

—Members wishing to suggest items for the work programme shall refer to and complete the a Scrutiny Topic Proposal form ~~Preforma~~ referencing the Scrutiny Topic Selection Flowchart in the Toolkit. The form must then be ~~and submitted to the Chair~~ Proper Officer for inclusion consideration to their draft work programme. If the ~~item is agreed by OSC~~ Membership of the Committee agrees, ~~then the item shall be added to the~~ work programme.

### 6.2

#### Pre-decision Scrutiny

6.3 As part of its ordinary process, the Committee will consider upcoming decisions of the Executive by way of pre-decision scrutiny.

An annual meeting of the Committee shall be held to set the work programme for the coming year, and the Committee shall have particular regard to the time and resources (including officer time) needed to deliver the programme. The Committee shall be assisted in its work by sight of the Leader's draft Forward Plan for the whole year.

## 7. 7.—Agenda Items

7.1 —The usual method for requesting inclusion of Agenda items for the Committee will be via the ~~Work Programme~~. However, Any member of the Council shall be entitled to give written notice to the Proper Officer that he/she wishes an item relevant to the functions of ~~the Committee~~ Committee to be included on the agenda for the next available meeting of ~~the Committee~~ Committee. The written notice must specify the reasons for the proposed item, reasons why it cannot be progressed as a part of the work programme and the outcome sought by the member from ~~Committee~~. On receipt of such a valid request the Proper Officer will ensure that it is included on the next available agenda.

## 8. Task and Finish Groups and Standing Working Groups

8.1 The Committee work programme and/or the development of a pertinent/relevant theme/topic during the year may require the establishment of a group to undertake detailed work for a specific item. The Committee will determine the membership, terms of reference, timescales and reporting by the Task and Finish Group ("Task Group").

**8.2 A Task and Finish Group shall be established as follows:**

- i) ~~The Committee may appoint any Task and Finish Group at its own discretion. The Committee must have regard to the Toolkit when commissioning work for Task and Finish Group.~~
- ii) ~~The Committee shall define the broad theme for the work of the Task and Finish Group. The Task and Finish Group shall define the detailed focus of the agreed item and create its terms of reference.~~
- iii) ~~The Committee shall receive draft terms of reference for consideration. These shall be debated and agreed as necessary at the Committee.~~

**Membership**

**8.3** ~~The Committee~~ ~~The Committee~~ shall ~~also~~ consider the number of persons to be appointed ~~to~~ the Task ~~and Finish~~ Group and its political balance; usually the composition of the Task ~~and Finish~~ Group shall take into account proportionality ~~however flexibility needs to be applied as necessary, without applying it inflexibly.~~ Nominations to the Task ~~and Finish~~ Group shall be agreed ~~by~~ ~~the Committee~~ ~~the Committee~~ and, if necessary, determined by voting.

**8.4** ~~Subject to approval by the Committee, Task and Finish Groups may co-opt councillors and non-councillors as may assist them in their work. Non-councillors shall be eligible for the reimbursement of their expenses.~~

~~Subject to the above and to applying the guidance of the Toolkit when commissioning work, the Committee may appoint such Task Groups as it thinks fit.~~

~~Meetings:~~

~~Task and Finish Groups shall meet in public.~~

**8.5** ~~The anticipated recommended number of meetings for a Task and Finish Group is between one and three (inclusive), unless otherwise directed by the Committee 2-3 meetings. Any additional meetings will require the approval from OSC.~~

~~Reporting:~~

**8.6** ~~Task and Finish Groups shall make submit a report to the Committee the Committee or direct to the Executive as required.~~

**8.7** ~~, and Task and Finish Group members shall be entitled to attend and speak at Committee meetings where the work of their Group is under consideration.~~

~~and may co-opt councillors and non-councillors as may assist them in their work (including councillors who do not sit on the Overview and Scrutiny Committee). Non-councillors shall be eligible for the reimbursement of their expenses.~~

~~A permanent Task Group shall consider the financial aspects of the Council's business. The establishment of other standing Task Groups shall be considered.~~

~~—~~ **Officer resource:**

~~8.8~~ ~~—~~ Subject to availability of officer resources, ~~an~~ ~~A dedicated Officer from within Democratic Services resource may~~ shall be made available ~~(from within Democratic Services to assist, support and coordinate the work of the Task and Finish Group set up by the Committee, Overview and Scrutiny Committee and its Task Groups.~~

~~—~~ **Standing TaskWorking Groups:**

~~8.9~~ ~~—~~ A ~~permanent~~ ~~Standing WorkingTask Group (“Working Group”)~~ shall consider the financial aspects of the Council’s business.

~~—~~ The establishment of other ~~standing TaskWorking Groups~~ shall be considered by ~~the Committee~~ as necessary.

**Terms of Reference**

~~—~~ Terms of Reference will be made for any Group that is deemed necessary to be formed.

~~8.10~~ ~~—~~

**9. 9. Policy Review and Development**

~~9.1 (a)~~ ~~—~~ The role of ~~the Committee, Overview and Scrutiny Committee~~ in relation to the development of the Council’s budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

~~9.2 (b)~~ ~~—~~ In relation to the development of the Council’s approach to other matters not forming part of its policy and budget framework, ~~the Committee, Overview and Scrutiny Committee~~ may make proposals to the Leader/Executive for developments in so far as they relate to matters within their terms of reference.

~~9.3~~ ~~The Committee, Overview and Scrutiny Committee~~ may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist ~~them~~ ~~the Members~~ in this process. ~~They~~ ~~The Committee~~ may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that ~~they~~ ~~it~~ reasonably considers necessary to inform ~~its~~ ~~their~~ deliberations. ~~The Committee~~ ~~They~~ may ask witnesses to attend to address ~~them~~ ~~it~~ on any matter under consideration.

**10. 10. Reports from Overview and Scrutiny Committee**

~~10.1 (a)~~ ~~—~~ Once it has formed recommendations on proposals for development, ~~the Committee, Overview and Scrutiny Committee~~ will prepare a formal report and submit it to the Proper Officer for consideration by the Leader/Executive if the proposals are consistent with the existing budgetary and policy framework, or to the Council as appropriate. ~~The Committee, Overview and Scrutiny Committee~~ may publish its report or recommendations.

~~10.2(b)~~ If ~~the Committee~~~~overview and Scrutiny Committee~~ cannot agree on one single final report to the Council or Leader/Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Leader/Executive with the majority report.

~~10.3~~ ~~The Committee~~~~overview and Scrutiny Committee~~ shall by notice in writing require the Council or the Leader/Executive:-

- ~~i) (i)~~ — to consider the report or recommendations,
- ~~ii) (ii)~~ — to respond to ~~the Committee~~~~overview and Scrutiny Committee~~ indicating what action (if any) the Council or the Leader/Executive proposes to take,
- ~~iii) (iii)~~ — if ~~the Committee~~~~overview and Scrutiny Committee~~ has published the report or recommendations, to publish a response,
- ~~iv) (iv)~~ — if ~~the Committee~~ ~~overview and Scrutiny Committee~~ provided a copy of the report or recommendations to a member of the Council under section 21A(8) of the Local Government Act 2000, to provide the member with a copy of the response,

— and to do so within two months beginning with the date on which the Council or the Leader/Executive received the report or recommendations or (if later) the notice.

~~(d) The Council or Leader/Executive shall consider the report of the OSC~~~~overview and Scrutiny Committee within one month~~ of it being submitted to the Proper Officer.

#### ~~11.44.~~ **Overview and Scrutiny Reports: Consideration by the Executive**

~~11.1(a)~~ Once a ~~n OSC~~~~overview and scrutiny~~ report of ~~the Committee~~ on any matter which is the responsibility of the Leader/Executive has been completed, it shall be referred to the Leader/Executive at the next available meeting of the Executive unless the matter which is the subject of the report is already scheduled to be considered by the Leader/Executive on an agreed date.

~~11.2~~ ~~The Committee~~~~overview and Scrutiny Committee~~ will in any event have access to the forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a ~~Committee meeting~~ ~~overview and Scrutiny Committee~~ following a consideration of possible policy/service developments, ~~the Committee~~~~the Committee~~ may respond in the course of the Leader/Executive's consultation process in relation to any key decision.

#### ~~12.42.~~ **Rights of Overview and Scrutiny Committee Members to Documents**

~~12.1(a)~~ In addition to their rights as councillors, members of the ~~Overview and Scrutiny Committee~~~~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.

~~12.2(b)~~ Nothing in this paragraph prevents more detailed liaison between the Leader/Executive and ~~OSC~~~~overview and Scrutiny Committee~~~~Chairman of the~~

Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### **13.13. — Members and Officers Giving Account**

~~13.1(a)~~—The ~~Overview and Scrutiny Committee~~ ~~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, it may require the Leader, any member of the Executive allocated particular political accountability, or any councillor exercising functions of the Council in relation to their ward, or any senior officer, to attend before it to explain in relation to matters within their remit:

—  
—

~~13.2(i)~~—any particular decision or series of decisions;

- ~~i) ii)~~—the extent to which the actions taken implement Council policy; and/or
- ~~ii) iii)~~—their performance.

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

~~13.3(b)~~—Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then ~~the Committee~~ overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

### **14.14. — Attendance by Others**

~~14.1~~ ~~The Committee~~ overview and Scrutiny Committee may invite people other than those people referred to in ~~paragraph 13~~ ~~the~~ above section, 'Members and Officers Giving Account', to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

~~14.2~~—The Committee shall have rights under Section 22A Local Government Act 2000 and regulations made thereunder to call for information from partner authorities.

### **15. — Call-In**

#### **15. (a) —**

~~15.1~~ When a decision is made by the Leader, the Executive, or its Committee, an Executive member, a Councillor exercising powers in relation to their ward, or a key decision is made by an Officer with delegated authority from the Leader, the decision shall be published in draft form electronically, and shall otherwise be available at the main offices of the Council, within 24 hours of the decision being made. All members of the Council shall receive electronic notification of such decisions within the same timescale by ~~the person responsible for publishing the decision~~ the person responsible for publishing the decision.



~~15.2 Non-key decisions and recommendations to Council from the Executive may not be called in.~~

~~15.3(b)–That notice will bear the date on which it is published and will specify that the decision will come into force, subject to urgency provisions as detailed in paragraph (15.9), and may then be implemented:~~

~~i) –on the expiry of five working days after the publication of the decision in the case of decisions taken by the Leader, individual lead councillors or key decisions taken by an officer with delegated authority from the Leader or Executive; or~~

~~ii) on the expiry of five working days after the date of the meeting in the case of decisions taken by the Executive collectively;~~

~~–unless the Committee ~~verview and Scrutiny Committee~~ objects to it and calls it in.~~

~~— Urgent decisions shall be dealt with as provided for in paragraph (h) below.~~

~~15.4(e)– During the call-in period, as referred in (15.3), the Proper Officer shall call in a decision for scrutiny by the Committee if so requested by the Chairman or any three members of the Committee, may request in writing to the Proper Officer and who shall then notify the decision-taker of the call-in.~~

Commented [TN1]: Consider changing to three elected members of the Council

~~i) –The notice to the ~~Proper~~ Proper Officer shall state the reasons for the call-in, and these reasons shall be made available to all members of the Council. The call-in must meet one of the following criteria:~~

~~o that there was insufficient, misleading, or inaccurate information available to the decision-maker;~~

~~o that all the relevant facts had not been taken into account and/or properly assessed;~~

~~o that the decision is contrary to the budget and policy framework and is not covered by urgency provisions; or~~

~~o that the decision is not in accordance with the decision-making principles set out in the Constitution.~~

~~ii) –~~He/she~~The Proper Officer shall call a meeting of the Committee on such date as ~~he/she may~~ may be determined, where possible after consultation with the Chairman of the ~~Committee~~ Overview and Scrutiny Committee, and in any case within ~~five-five~~ working days of the decision to call-in.~~

Commented [TN2]: Suggest increase to ten working days

~~15.5(d)–If, having considered the decision, the ~~Committee~~ ~~verview and Scrutiny Committee~~ wishes to take action it may refer the decision back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the next ordinary meeting of Full Council. If referred back to the Executive, it shall be reconsidered at the next ordinary meeting of the Executive’s Committee or earlier if the Leader determines. Where the decision was made by an individual, the individual will reconsider within five working days of the request. The decision-making person or body shall reconsider the decision, amending the decision or not as the case may be, before adopting a final decision.~~

~~15.6(e)~~—If following an objection to the decision, ~~the Committee~~ ~~verview and Scrutiny Committee~~ does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of ~~the Committee~~ ~~verview and Scrutiny~~ meeting, or the expiry of the five day period, whichever is the earlier.

~~15.7(f)~~—If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is ~~necessary~~ ~~necessary~~, and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus 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-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive or by its Committee of it, a meeting will be convened to reconsider within ~~five working days~~ of the Council request. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.

Commented [TN3]: Consider extending as with above

~~15.8(g)~~—If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

~~15.9(h)~~—The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the ~~call~~ ~~in~~ ~~call-in~~ process would be seriously prejudicial to the Council's or the public's interests. The notice by which the decision or proposed decision is made public shall state whether in the opinion of the ~~decision-making~~ ~~decision-making~~ person or body, the decision is an urgent one, and therefore not subject to call-in. The notice shall state that the decision, if agreed, shall take immediate effect. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## ~~16. 16.~~ Questions

~~16.1(a)~~—Members of the Council may ask questions of the Chairman of the Overview and Scrutiny Committee at meetings of the Committee regarding matters that come within the remit of the Committee.

### ~~(b)~~ Notice of Questions

~~16.2~~ Notice of a question must be given by delivering it in writing or by electronic mail to the Chief Executive no later than 5.00pm, five days before the day of the meeting (e.g. 5.00pm Wednesday for a meeting on the following Monday). Each question must give the name of the Councillor.

### ~~(e)~~ Number of Questions and Length of Question-Time

~~16.3~~ At any one meeting, no Councillor may submit more than three questions. The total time for question-time shall be 30 minutes or such longer time as the Chairman shall in his/her discretion allow.

**~~(d)~~ Scope of Questions**

**16.4** The Chairman may reject a question if it:-

- ⇒i) is not about a matter for which the Council has a ~~responsibility~~responsibility, or which affects the Borough;
- ⇒ii) is defamatory, ~~frivolous~~frivolous, or offensive; or
- ⇒iii) requires the disclosure of confidential or exempt information

**~~(e)~~ Procedure at the Meeting**

**16.5** Copies of all questions and the draft replies shall be prepared, laid round the table and made available to the public attending the meeting. The Chairman shall ask the Councillor if he/she is satisfied with the answer. A Councillor who has put a question in person may put one supplementary question without notice. It will be at the Chairman's discretion whether supplementary questions may be put by other members of the Committee or whether a discussion on the topic takes place.

**~~(f)~~ Written Answers**

**16.6** Any question which cannot be dealt with during question-time through lack of time will be dealt with by a written answer.

**~~(g)~~ Reference Elsewhere**

**16.7** Any member may move that a matter raised by a question be referred to another Committee. Once seconded, such a motion shall be voted on without discussion.

**17. Councillor Call for Action**

**17.1** The Committee will consider a Councillor Call for Action (CCfA) that:

- i) has been submitted in relation to a matter that affects a single Ward;
- ii) has been submitted by a Councillor from the Ward affected;
- iii) is in relation to a Local Government matter (including the "well-being" powers under the Local Government Act 2000);
- iv) demonstrates that all existing avenues have been exhausted and that it is a matter of a "last resort";
- v) has been submitted on the CCfA Request Form; and
- vi) states:
  - the nature of the issue;

- what action has been taken to resolve the issue;
- an outline of the resolution to the problem being sought; and
- an indication of any other organisations involved in the CCfA.

**17.2** The Committee will not consider a CCfA that:

- i) is a vexatious, persistent, unreasonable or discriminatory request, or
- ii) is in relation to a planning, licensing or regulatory application

**17.3** Details of requests for a CCfA which have been rejected by the Chairman will be reported to the Committee. The Committee will consider any representations by the Member responsible for the request and determine whether to uphold the Chairman's decision or agree that the CCfA be taken forward to step 4 – Initial Report to the Committee.

**18. 47. — Crime and Disorder**

**18.1** The Committee shall have power:-

- ⇒i) to review or scrutinise decisions made, or action taken, in connection with the discharge by the Council, Surrey Police and Surrey County Council (“responsible authorities”) of their crime and disorder functions
- ⇒ii) to make reports or recommendations to the Council with respect to the discharge of those functions

**18.2** ~~(b)~~ If the Committee makes a report or recommendations, it shall provide a copy:-

- ⇒i) to each of the responsible authorities; and
- ⇒ii) to each of the persons with whom the responsible authorities have a duty to cooperate under Section 5(2) of the Crime and Disorder Act 1998 (“the cooperating persons”)

**18.3** ~~(c)~~ Where a member of the Council is asked to consider a crime and disorder matter by a person who lives or works in the area that the member represents:-

- ⇒i) the member shall consider the matter and respond to the person who asked him/her to consider it, indicating what (if any) action he/she proposes to take;
- ⇒ii) the member may refer the matter to the Committee

**18.4** ~~(d)~~ Where a member of the Council declines to refer a matter to the Committee the person who asked him/her to consider it may refer the matter to the Leader/Executive.

**18.5** ~~(e)~~ Where a matter is referred to the Leader/Executive under (d) above:-

- ⇒i) the Leader/Executive shall consider the matter and respond to the person who referred the matter to it, indicating what (if any) action he/she/it proposes to take;
- ⇒ii) the Leader/Executive may refer the matter to the Committee

**18.6** The Committee shall consider any crime and disorder matter:-

- ⇒i) referred to it by a member of the Council (whether under (c) above or not) or
- ⇒ii) referred to it by the Leader/Executive under (e) above

and may make a report or recommendations to the Council with respect to it.

**18.7** ~~(g)~~—Where the Committee makes a report or recommendations under (f) above, it shall provide a copy to such of the responsible authorities and to such of the cooperating persons as it thinks appropriate.

**18.8** ~~(h)~~—An authority or person to whom a copy of a report or recommendations is provided under (b) or (g) above shall:-

- ⇒i) consider the report or recommendations;
- ⇒ii) respond to the Committee indicating what (if any) action it proposes to take;
- ⇒iii) have regard to the report or recommendations in exercising its functions

**18. — Councillor Call for Action**



# Officer Employment Procedure Rules

## 1. RECRUITMENT AND APPOINTMENT

### (a) Declarations

• 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, aunt, nephew or niece of an existing Member or officer of the Council; or of the partner of such persons.

• No candidate so related to a Member or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

### (b) Seeking support for appointment

• Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

• Subject to paragraph (iii), no Member will seek support for any person for any appointment with the Council.

• Nothing in paragraphs (i) and (ii) preclude a Member from giving a written reference for a candidate for submission with an application for appointment.

## 2. Recruitment of Head of Paid Service and Members of the Corporate Leadership Team

2.1 Where the Council proposes to appoint a member of the Corporate Leadership Team and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

### (a) Draw up a statement specifying:

• 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; and

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

## 3. APPOINTMENT OF STATUTORY OFFICERS (CHIEF EXECUTIVE, MONITORING OFFICER AND S151 OFFICER)

(a) The Council will approve the appointment of Statutory Officers following the recommendation of such an appointment by the Appointment Committee of the Council. That committee must include at least one member of the Executive

(b) The Council may only make or approve the appointment of Statutory Officers where no material or well-founded objection has been made by any member of the Executive.

#### **4. Appointment Of members of the Corporate Leadership Team**

- > The Appointment Committee of the Council will appoint Chief Officers to any posts within the Corporate Leadership Team (salary level W10 and below). That Committee must include at least one member of the Executive. All other senior officers will be appointed by members of the Corporate Leadership Team on behalf of the Head of Paid Service.
- > An offer of employment as a member of the Corporate Leadership Team shall only be made where no well-founded objection from any member of the Executive has been received.

#### **5. Other Appointments**

- > Officers below the Corporate Leadership Team. Appointment of officers to positions below the Corporate Leadership Team (W10 or above) (other than any assistants to political groups) is the responsibility of the Head of Paid service and his/her nominee, and may not be made by Members.

(b) Assistants to political groups. Any appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

#### **6. DISCIPLINARY ACTION**

The Council will follow the Model Discipline Procedure and Guidance for dealing with matters of discipline, capability, redundancy and other dismissals against the Chief Executive, as specified in the latest edition of the Chief Executives of Local Authorities Handbook and any subsequent updates. This procedure will also be used as the framework for dealing with matters of discipline against other statutory officers within the Council.

#### **7. EQUAL OPPORTUNITIES**

The Council will publish and follow Equal Opportunities policies in relation to the recruitment of all staff.

#### **4.0 RELATIVES OF MEMBERS OR OFFICERS**

##### 4.1

~~Every member, and every member of the Corporate Leadership Team (CLT), of the Council shall disclose to the Chief Executive any relationship known to him/her to exist between himself/herself and any person whom he/she knows is a candidate for an appointment under the Council. The Chief Executive shall make disclosures to the Monitoring Officer. The Chief Executive/Monitoring Officer (as the case may be) shall report any disclosure to the Executive.~~

Commented [JM1]:

Commented [JM2R1]: Redrafted above

##### 4.2

~~For the purpose of this Rule persons shall be deemed to be related if they are husband, wife (and where a person is one of an unmarried couple, the other member of that couple), mother, father, son, daughter, grandson, granddaughter, brother, sister, nephew, niece of the member of the CLT (or his or her spouse).~~

##### 4.31.1

~~or the purposes of these Rules the CLT of the Council shall be the Chief Executive, the Monitoring Officer (Director of Legal and Democratic Services), the Chief Finance Officer (Director of Finance), Director of Housing, Director of Neighbourhood Services and Director of Planning or such other composition as the Council may from time to time determine.~~

#### **2.0 APPOINTMENT OF STAFF**



~~2.1~~ ~~anvassing of members of the Council or of any officer of the Council directly or indirectly for any appointment under the Council shall disqualify the candidate for such appointment. The existence of this Rule shall be included in every advertisement inviting applications for appointments or in the form of application.~~ ~~C~~

~~2.2~~ ~~here there are more than two persons nominated and seconded for appointment as a member of the Council's staff (in cases to which Rule 2.4 applies) and of the votes given there is not a 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.~~ ~~W~~

~~2.3~~ ~~here there are more than two persons nominated and seconded for any other position to be filled by the Council, the names of the nominees shall be put to the Council and a count taken of the votes in favour of each and the person (or in the case of several vacancies on the same body the equivalent number of persons) for whom the highest number of votes is given shall be declared to have been appointed.~~ ~~W~~

~~2.4~~ ~~he appointment of the Head of Paid Service or any member of the CLT shall be made by the Council and shall comply with Rules 2.10-2.11 below.~~ ~~T~~

~~2.5~~ ~~he appointment of Senior Officers shall be made by a member of the CLT acting as the nominee of the Head of Paid Service.~~ ~~T~~

~~2.6~~ ~~he appointment of officers to posts graded below Senior Officer shall be made by the Senior Officer (or his or her nominee) acting as the nominee of the Head of Paid Services.~~ ~~T~~

~~2.7~~ ~~It shall be a matter for Council or the person making a staff appointment whether the appointment is to be by promotion or transfer, or following public advertisement but regard shall be had to the need to secure the best possible appointment in the circumstances of the case.~~ ~~I~~

~~2.8~~ ~~If appointments shall be conditional on the disclosure in writing of any relationship known to the person to be appointed between himself/herself and any member of the CLT or member of the Council. For the purpose of this Rule 'relationship' has the same meaning as in Rule 1. All such disclosures shall be reported by the Chief Executive to the Executive.~~ ~~A~~

~~2.9~~ ~~no officer shall appoint a person as a member of the Council's staff where a relationship between them (as defined in Rule 1) exists. Where an officer intending to make an appointment first becomes aware that a candidate for appointment is a relative as defined, he/she shall report that fact to the Chief Executive.~~ ~~N~~

Appointment of CLT

~~2.10~~ ~~Where the Council proposes to appoint a member of the CLT and it is not proposed that the appointment be made exclusively from among its existing officers, the Chief Executive (or, in the case of the appointment of the Chief Executive, the Executive) shall:~~

~~(a)~~ ~~draw up a statement specifying:~~

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- ~~(i) — the duties of the officer concerned; and~~
- ~~(ii) — any qualifications or qualities to be sought in the person to be appointed.~~
- ~~(b) — make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and~~
- ~~(c) — make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.~~

~~2.11 (1) — Where a post has been advertised as provided in Rule 2.10 above, the Executive or an Appointments Panel established for the purpose shall:~~

- ~~(a) — interview all qualified applicants for the post; or~~
- ~~(b) — select a shortlist of such qualified applicants and interview those included on the shortlist.~~

~~(2) — Where no qualified person has applied, the Chief Executive or the Executive shall make further arrangements for advertisement in accordance with Rule 2.10.~~

~~Appointments and Dismissals — Executive Consultation~~

~~2.12 — The following provisions for Executive consultation apply to appointments and dismissals of the Head of Paid Service or a member of the CLT.~~

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~~2.13 — “Appointor” means, for the purposes of the following paragraph, in relation to the appointment of a person as an officer of the Council, the Council or, where a Committee or officer is discharging the function of appointment on behalf of the Council, that Committee or officer, as the case may be.—~~

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~~2.14 — An offer of an appointment must not be made by the appointor until:~~

- ~~(a) — the appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;~~
- ~~(b) — the Proper Officer has notified every member of the Executive of:
 
  - ~~(i) — the name of the person to whom the appointor wishes to make the offer;~~
  - ~~(ii) — any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and~~
  - ~~(iii) — the period of two working days within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Executive to the Proper Officer; and~~~~

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~~(c) — either:~~

- ~~(i) — the Leader of the Council has, within the specified period, notified the appointor that neither he/she nor any other member of the Executive has any objection to the making of the offer;~~
- ~~(ii) — the Proper Officer has notified the appointor that no objection was received by him/her within the specified period from the Leader of the Council; or~~
- ~~(iii) — the appointor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.~~

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~~2.15 — “Dismissor” means, for the purposes of the following paragraph, in relation to the~~

~~dismissal of a person as an officer of the Council, the Council or, where a committee or officer is discharging the function of dismissal on behalf of the Council, that committee or officer, as the case may be.~~

~~2.16~~ ~~N~~

~~notice of dismissal must not be given by the dismissor until:~~

~~(a) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;~~

~~(b) the Proper Officer has notified every member of the Executive of:~~

~~(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 of two working days within which any objection is to be made by the Leader of the Council on behalf of the Executive to the Proper Officer; and~~

~~(c) either:~~

~~(i) the Leader of the Council has within the specified period notified the dismissor that neither he/she nor any 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/her within the specified period from the Leader of the Council; or~~

~~(iii) the dismissor is satisfied that any objection received from the Leader of the Council is not material or is not well-founded.~~

~~2.17~~ ~~T~~

~~the dismissal of a Statutory Officer (Head of Paid Service, Chief Finance Officer/Section 151 Officer and Monitoring Officer), or other member of the CLT, shall be made by the Council, and shall comply with Rule 3 below.~~

### ~~3.0 DISCIPLINARY ACTION~~

~~3.1~~ ~~E~~

~~except for action described in Rule 3.2 below, any disciplinary action (within the meaning of regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001) against the Head of Paid Service, Monitoring Officer, Chief Finance Officer/Section 151 Officer or other member of CLT shall be approved by the Council.~~

~~3.2~~ ~~T~~

~~the action mentioned in Rule 3.1 above is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension shall be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.~~

~~3.3~~ ~~A~~

~~any dismissal of the Head of Paid Service, Monitoring Officer, Chief Finance Officer/Section 151 Officer must comply with the requirements of Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001, as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("Schedule 3 to the Regulations"), a copy of which is appended to these Rules.~~

~~3.4~~ ~~ny member of the CLT who is not a Statutory Officer shall be deemed to be a "relevant officer" for the purposes of Schedule 3 to the Regulations, and subject to the provisions of Rule 3.3 above.~~ A

**4.02.0 INTERESTS OF OFFICERS IN CONTRACTS AND OTHER MATTERS**

(Local Government Act 1972 - Section 117)

4.12.1 In addition to his/her duty under section 117 of the 1972 Act, if it comes to the knowledge of any officer of the Council that he/she has a disclosable personal interest in any contract which has been, or is proposed to be, entered into by the Council, or in some other matter which is to be considered by the Council or any Committee, and which (in either case) is not: I

- (a) the contract of employment (if any) under which he/she serves the Council; or
- (b) the tenancy of a dwelling provided by the Council.

he/she shall as soon as practicable give notice in writing to the Director of Legal and Democratic Services of the fact that he/she is interested therein.

4.22.2 or the purposes of this Rule, a disclosable personal interest is F

- (a) an interest that, if the officer were a member of the Council, and if the contract or other matter were to be considered at a meeting of the Council at which he/she were present, he/she would have to disclose under section 94 of the 1972 Act, as a pecuniary interest, and
- (b) an interest of a type that if the officer were a member of the Council, he/she would have to disclose under the Members' Code of Conduct, whether the contract or other matter is to be considered at a Council or Committee meeting or not.

4.32.3 The Director of Legal and Democratic Services shall record in a book or electronic record to be kept for the purpose particulars of any notice of a personal interest given by an officer of the Council under section 117 of the 1972 Act or Rule 84.1. The book or electronic record shall, during the ordinary office hours of the Council, be open for inspection by any member of the Council. T

4.42.4 Where an officer submits a report to a meeting of a matter in which he/she has declared an interest under section 117 of the 1972 Act or Rule 84.1 he/she shall state that such declaration has been made, and give brief details of it, in a separate paragraph at the commencement of the report. W

4.52.5 Where any officer advises orally a meeting of the Council or a Committee on a contract, grant, proposed contract or other matter and has declared a pecuniary interest in that matter, whether under the requirements of section 117 of the 1972 Act, or Rule 84.1, he/she shall remind the meeting orally of that interest. W





# Code of Conduct for Employees Policy

## 1.0 Introduction

- 1.1 The Council's employees are responsible to the Council for carrying out its work. Their jobs are paid, and paid employment brings with it certain obligations. These obligations may be statutory; for instance, if an employee knows that a contract in which he/she has a financial interest is being considered by the Council, notice of that interest must be given.
- 1.2 Employees should never do anything that is incapable of being justified to the public. It is the responsibility of local government employees to give the highest possible standard of service to the public. This means that employees must do nothing that might give rise to suspicion, however ill-founded, that they are in any way influenced by improper motives.
- 1.3 This Code of Conduct contains formal guidelines to employees covering matters such as the acceptance of gifts and hospitality, private work and the use of the Council's time and materials. This Code is intended to offer broad advice to employees in these areas of activity and, in limited cases, to prescribe rules for future conduct. These rules must be followed unless the Director of Legal and Democratic Services has agreed, in writing, that exceptional circumstances justify otherwise.
- 1.4 This Code takes into account 'The Seven Principles of Public Life' which are included in the Localism Act 2011. They are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.5 References in this Code to the Director of Legal and Democratic Services, Chief Finance Officer and Head of Human Resources include their respective deputies, who may act in their absence.
- 1.6 An e-form for reporting (i) receipt of gifts and hospitality and/or (ii) details of private work/employment is available on ewokplus in the Human Resources forms section.

## 2.0 Gifts and Hospitality

- 2.1 Employees should treat with caution any offer of a gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision.
- 2.2 Employees should bear in mind the importance of avoiding the appearance of improper conduct or undue influence, any suggestion of which damages public confidence in local government. Openness is important, and in the limited cases where gifts are considered acceptable their receipt should be put on record.
- 2.3 As a general rule employees should decline offers of gifts from persons or organisations who may provide works/goods/services to the Council or who may benefit from some decision of the Council (for example applicants for planning permission, those seeking to agree terms in property transactions etc.).
- 2.4 In limited circumstances, it may be acceptable to depart from the general rule in paragraph 2.3 above. These circumstances include the following:
- 2.5 Gifts of promotional stationery (e.g. diaries, pens and calendars) with a value of less than £10 may be accepted and do not need to be recorded in the register referred to in paragraph 2.7 below.
- 2.6 At Christmas time, gifts of a modest value (e.g. sweets, biscuits and alcohol with a value of less than £25) may be accepted. This is because of the custom and practice that such gifts

are routinely given at this time of year, which provides a justifiable context for their acceptance.

**A gift of cash should not be accepted in any circumstances.**

- 2.7 Where a gift is considered acceptable, its receipt should be recorded via the e-form described in 1.6 above and will be kept in an open register kept by the Director of Legal and Democratic Services. The register entry shall describe the gift and its approximate value, identify the person or organisation making the gift, the officer to whom it was given, and the date of its receipt.
- 2.8 Employees should also exercise caution in accepting hospitality. "Hospitality" includes both attendance at events and meals. The provision of hospitality may, of course, be incidental to the carrying on of legitimate business activity (for instance, during business lunches). If so, such hospitality is acceptable and should merely be put on record (see paragraph 2.9 below). However, employees need to consider carefully whether the benefit is reasonable in scale to the work under discussion and be satisfied that its provision is genuinely "work-related".
- 2.9 Details of hospitality received by employees should be recorded via the e-form described in 1.6 above and will be kept in an open register kept by the Director of Legal and Democratic Services. The register entry shall describe the hospitality and its approximate value, identify the person or organisation providing the hospitality, the officer to whom it was provided and the date of its receipt.
- 2.10 Every effort will be made to deal with your complaint as speedily as possible. Please remember that some cases need time to investigate fully. If within a period of ten working days the matter has not been dealt with at any stage of this procedure, you will be entitled to proceed to the next stage.
- 2.11 Employees should always exercise care in the provision of gifts or hospitality to outside bodies, whenever this is to be paid for by the Council. Broadly-speaking, the same tests that apply to the receipt of gifts and hospitality apply to their provision. It is important to avoid the appearance of improper conduct. The provision of hospitality should always be funded from a budget specifically established for the purpose, and its use must, where appropriate, be properly authorised by the appropriate officer. The provision of the benefit must be reasonable in scale to the matter under discussion and it must be genuinely relevant to the business in hand. The purpose of the provision must be capable of justification by reasonably objective standards. For instance, the justification for the provision of limited hospitality may be that it facilitates, or is conducive to, the carrying on of legitimate and important business activity.

**3.0 Private Work**

- 3.1 The Council recognises that with the changing pattern of employment (in particular the increase in part-time, reduced hours and flexible working) it would not be appropriate to prevent employees of the Council from taking other employment (that is in addition to their role with the Council, or indeed more than one position with the Council). The Council therefore does not apply a blanket prohibition on staff accepting other employment or carrying out private work. However, it does require such employment or work to be authorised, in writing, by a member of the Corporate Leadership Team. This is to ensure that the work does not conflict with the Council's interests or weaken public confidence in the conduct of the Council's business. Details of such employment or work should be recorded via the e-form described in 1.6 above and will be kept recorded in an open register kept by the Director of Legal and Democratic Services.



- 3.2 The requirements of paragraph 3.1 above to obtain the approval of a member of the Corporate Leadership Team do not apply to any employment or private work an employee was carrying out before he/she was employed by the Council provided such employment or private work was made known to the Council before the employee was employed by the Council. Details of such employment or work do still need to be recorded in the open register kept by the Director of Legal and Democratic Services.
- 3.3 If an employee's role at the Council changes materially, he/she is required to seek further written authority from a member of the Corporate Leadership Team to continue with the other employment/private work.
- 3.4 The Council expects employees to carry out other work only to the extent that it does not interfere with the performance of their normal duties and provided, of course, that such work is undertaken outside normal working hours for that employee. The Council accepts that, in some instances, the carrying on of "freelance" work (for instance, by participating in seminars or contributing articles to professional journals) can be of mutual benefit to the Council and the employee alike; they may reflect credit upon the Council (for instance, by publicising service initiatives) whilst assisting in the development of the employee's expertise. Although these factors may encourage flexibility in individual cases, employees should be concerned to ensure that private work does not conflict with their work obligations. It is important to consider whether the work is being undertaken on behalf of the Council, and therefore in an official role, or alternatively in the employee's private capacity. Articles written for private gain should be composed in the employee's own time, and the same rule applies to time spent in preparation for and presentation at seminars. If services are to be delivered on behalf of the Council or during work hours, any fees received should be passed to the Council. Fees received that are not the result of work carried out in the Council's time and satisfying the above tests may be retained by the employee.
- 3.5 Unless expressly authorised by the Chief Executive in writing on an exceptional basis, it is not permissible for an employee to undertake private work in connection with plans or applications intended for consideration by the Council. An employee engaged in work on his or her own application is not to be treated as undertaking "private work" for these purposes.

#### **4.0 Use of Council time and materials**

- 4.1 Unless expressly permitted by other policies of the Council, employees should always make sure that any facilities (such as stationery, telephones, IT, photocopying or secretarial services) provided by the Council for use in performance of their duties are used strictly for those duties and for no other purpose. It has been made clear above that private work should not be undertaken in the Council's time, and it is equally important that any such work is carried out without using the Council's materials or services. The Council's materials may only be used for such work if the Chief Finance Officer agrees in writing and the full cost of provision of the material/service is paid by the employee.

#### **5.0 Copyright**

- 5.1 It is important to set out some broad principles relevant to copyright and intellectual property created during employment. Intellectual property is a generic term that includes inventions, creative designs, writings and drawings.

5.2 If these are created by an employee during the course of employment, then as a general rule they belong to the employer. However, statutory rules may provide otherwise. In particular, the Patents Act 1977 provides that inventions are only the property of the employer if:

- They have been made in the course of the employee's normal duties; or
- They have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or
- They were made in the course of the employee's duties and at the time the employee had (because of the nature of his duties and particular responsibilities arising from them) a special obligation to further the interests of the employer

5.3 In the unlikely event of a dispute arising between the Council and employee as to the ownership of information or material, it will be important to establish the ambit of the employee's "normal duties" (recourse will naturally be made to the individual's contract of employment).

## **6.0 Confidentiality of Information**

6.1 The law requires that certain types of information must be available to councillors, auditors, government departments, service users and the public. In general, employees should act on the assumption that open government serves the public better than secrecy.

However, employees should recognise that certain information is confidential to the Council. This includes information which is stated to be "Part II" for the purpose of a report to Council or a committee, and information which is classified under the Council's information classification scheme as not being open to the public.

6.2 Employees should not use information obtained in the course of their employment for personal gain or benefit, nor should they pass it to others who may use it in that way.

## **7.0 Working with Councillors**

7.1 Employees are in the service of the Council. It follows that they have a duty to serve all councillors, not just councillors of a controlling group. The basic rule is that councillors should be briefed and consulted on any matter where they have an interest or entitlement to know what is going on and, in particular, on committee business. Employees should ensure that all necessary help and support is given without restriction. Advice to councillors, whether given in committee or in briefings or otherwise, should be firm, clear and consistent.

7.2 Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage this relationship and prove embarrassing to other employees and councillors, and should therefore be avoided.

## **8.0 Declaration of External Interests (as may be relevant to employment)**

8.1 Employees are obliged by statute to disclose financial interests, whether direct or indirect, in contracts which have been, or are proposed to be, entered into by the Council. The Council's Standing Orders go further and require disclosure of interests in non-financial matters (drawing a parallel with councillors' "code of conduct" interests). The point is that interests that are not financial may be just as important and employees must not allow the impression to be created that they are using their position to promote a private or personal interest. Non-financial interests include those arising from membership of bodies exercising functions of a public nature, bodies directed to charitable purposes and bodies one of whose principal purposes includes the influence of public opinion or policy.

- 8.2 Employees will need to consider carefully which outside interests may give rise to conflict in the performance of their normal duties and which therefore ought to be disclosed to their manager and formally recorded. It may be, for instance, that a purchasing officer, regularly required to choose between competing companies, will have a family connection with a potential supplier. Another example might be an employee whose membership of an organisation not open to the public (characterised by commitments of allegiance and secrecy of membership) would call into question his or her objectivity in selecting applicants for employment.
- 8.3 Employees shall disclose details of interests relevant to their employment with the Council (whether direct or indirect, financial or otherwise) which will be recorded in an open register kept by the Director of Legal and Democratic Services. Such interests shall include those arising from membership of the bodies described in paragraph 8.1 above. The requirements of this rule are in addition to the statutory duty of disclosure contained in s.117 Local Government Act 1972 (financial interests in contracts) and the general requirements of Rule 3.0 of the Officer Employment Procedure Rules (which can be found in the Council's Constitution).

### **9.0 Confidential Reporting**

- 9.1 If you believe or suspect that a colleague in the Council is involved in corrupt or questionable practices, you should refer to the guidance under section 7.0 of the Confidential Reporting Policy.

### **10.0 Politically Restricted Posts**

- 10.1 Some posts in the Council are politically restricted under the Local Democracy, Economic Development and Construction Act 2009. Employees undertaking these posts will be prevented from having any politically active role either in or outside the workplace. Employees will not be able to hold or stand for elected office and will also be prevented from:

- Participating in political activities, publicly expressing support for a political party or undertaking other activities such as canvassing on behalf of a person who seeks to be a candidate; and
- Speaking to the public at large or publishing any written or artistic work that could give the impression of advocating support for a political party.

### **11.0 Disciplinary Policy**

- 11.1 This code forms part of the Council's Disciplinary Policy. Any failure to comply with it may be dealt with under that policy.

### **12.0 Further Advice**

- 12.1 Further advice on the acceptance of gifts and hospitality may be sought from the Director of Legal and Democratic Services. Further advice on other aspects of this Code may be sought from the Head of Human Resources.



Woking Borough Council

## Introduction

Shaping the *future* of our borough



## **1. Meetings of the Council**

### **Time and Place**

- 1.1. All meetings of the Council shall be held in the Council Chamber, Civic Offices, Gloucester Square, Woking on a Thursday commencing at 7 pm unless otherwise notified by the proper officer in the summons to the meeting.

## **2. Summary and Explanation**

### **The Council's Constitution**

- 2.1. This Constitution sets out how the Council operates, how decisions are made and the procedures followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, whilst others are a matter for the Council to choose. A copy of the Constitution is on the Council's website and a paper copy can be inspected in the Council's main Reception. This summary is a guide to how the Council and its meetings work.

### **How the Council Operates**

- 2.2. The Council comprises 30 councillors elected by thirds every four years. The regular election of councillors will normally be held on the first Thursday in May every four years. The Council operates a system of election by "thirds" meaning it elects one third (10) of local Councillors every year for three years and hold no elections in the fourth year. Councillors are democratically accountable to residents of their ward to whom they have a special duty, including those who did not vote for them. However, the overriding duty of councillors is to the whole community. Councillors observe a code of conduct to ensure high standards in the way they undertake their duties. The Council's adopted code of conduct is set out in Part 5 of this Constitution. The Monitoring Officer is responsible for giving advice and training to councillors on matters relating to the code of conduct. If a Member of the public or another Councillor considers a councillor has acted inappropriately and in breach of the Code of Conduct, then they can make a complaint to the Monitoring Officer who will determine whether it merits formal investigation. The procedure for this is set out in Part 5.
- 2.3. All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here, councillors decide the Council's policy framework and set the budget each year. The Council has a Leader and Executive model of governance. This means the Council elects a Leader. He or she then appoints up to six other Councillors to form the Executive, one of whom will be the Deputy Leader. The Leader and Deputy Leader will act as Chairman and Vice-Chairman respectively of the Executive. As a balance the Council's Overview and Scrutiny Committee holds the Executive to account.
- 2.4. Councillors also make some decisions in relation to Regulatory functions, for example determination of planning applications and licensing matters. The Council appoints committees of councillors to make decisions on these matters. The meetings of these committees are normally held in public.
- 2.5. Public notice of all meetings is given on the Council's website and also on the notice board at the Council's main Reception. The Council also routinely webcasts meetings of the full Council, the Executive and other committees.

- 2.6. Decisions made at Council and Committee meetings become the decision of the Council as a whole.

### **How Decisions are Made**

- 2.7. The Leader of the Council (the Leader) is responsible for most day-to-day decisions. These decisions can lawfully be delegated to the Executive, committees of the Executive, individual lead councillors on the Executive, individual local ward councillors, or officers. When major decisions are to be discussed or made, these are published in the Council's forward plan in so far as they can be anticipated. If these major decisions are to be made at a meeting of the Executive, this will be open for the public to attend except where personal or confidential matters are being discussed.
- 2.8. Decisions have to be made in accordance with the Council's overall policies and budget and may be informed by recommendations from the Overview and Scrutiny Committee. If a decision which is outside the budget or policy framework is required, this must be referred to the Council as a whole to decide.

### **How Council Meetings Work**

- 2.9. Meetings of the full Council, which are chaired by the Mayor, are more formal than Executive and committee meetings. Decisions are taken following a debate by councillors in which motions setting out recommended action are discussed. Amendments to these motions may also be discussed as part of the debate.

### **Overview and Scrutiny Committee**

- 2.10. The Overview and Scrutiny Committee supports the work of the Leader/Executive and the Council as a whole. The committee allows residents to have a greater say in Council matters by investigating matters of local concern. It leads to reports and recommendations which advise the Leader/Executive and the Council on its policies, budget and service delivery. The Committee also monitors the decisions taken by the Leader/Executive. The Committee can 'call-in' a decision which has been made by the Leader/Executive, but not yet implemented. This enables it to consider, for example, whether the decision is consistent with the budget and policy framework and it may recommend that the Leader/Executive reconsiders the decision.
- 2.11. Councillors have up to five working days after a decision has been made to call it in. In these circumstances, decisions cannot be implemented until any issues have been considered by the Committee. The Committee may also be consulted by the Leader/Executive or the Council on forthcoming decisions and the development of policy.

### **The Council's Staff**

- 2.12. The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and councillors (see Part 5 of this Constitution).

### **The Public's Rights**

- 2.13. The public have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. The local

Citizens Advice can advise on individuals' legal rights. Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

2.14. The public have the right to:

- vote at local elections if they are registered;

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- contact their local councillor about any matters of concern to them;

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- obtain a copy of the Constitution, which can be viewed on the Council's website;

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- attend meetings of the Council and its Executive and committees except where, for example, personal or confidential matters are being discussed;

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- present petitions to the Council in accordance with the adopted Petition Scheme

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- ask questions or address meetings of the Council, Executive and committees;

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- find out from the Forward Plan what major decisions are to be discussed and decided by the Leader/Executive and when;

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- see reports and background papers and any record of decisions made by the Council, the Leader, lead councillors, the Executive and committees in relation to matters considered in public;

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- complain to the Council about any aspect of its services;

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- complain to the Ombudsman if they think the Council has not followed its procedures properly; however, they should only do this after using the Council's own complaints procedure;

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- complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Councillors' Code of Conduct; and

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- inspect the Council's accounts and make their views known to the external auditor during the 20 working days statutory period prior to the external auditor giving their opinion.

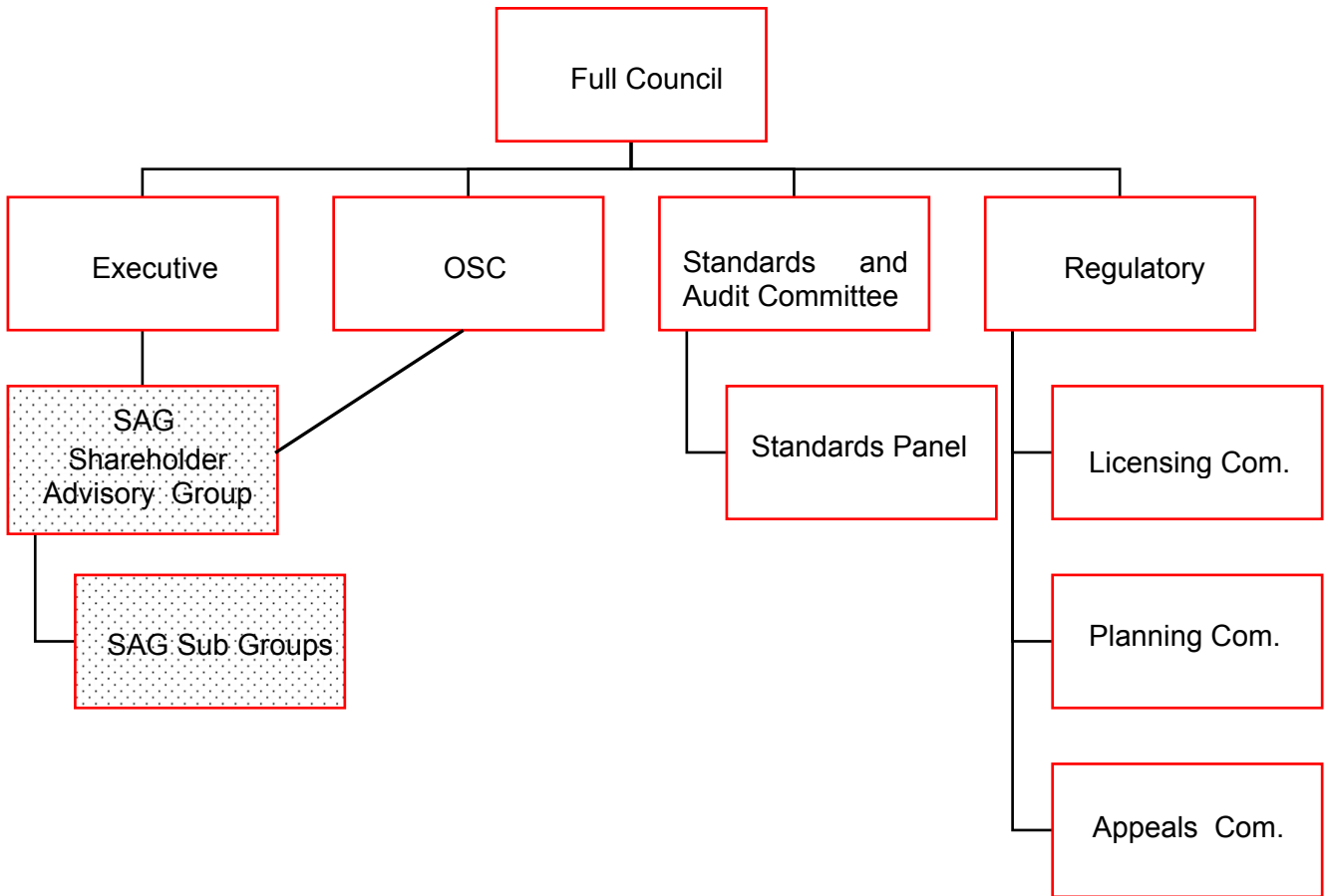
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The Council welcomes participation by the public in its work and strives to be transparent and open in all its work.

Further details about the Council, Councillors and Committees can be found on the Council's website using the following link:

[Councillors and committees | Woking Borough Council](#)







1.

Woking Borough Council

# Articles

Shaping the *future* of our borough



## **1. Article 1 – The Constitution**

### 1.1. Powers of the Council

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

### **Purpose of the Constitution**

1.3. The purpose of the Constitution is to:

(i) enable the Council to provide leadership to the community in partnership with citizens, businesses and other organisations;

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(ii) support the active involvement of local people in decisions made by the Council;

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(iii) help councillors represent their constituents more effectively;

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(iv) enable decisions to be taken efficiently and effectively;

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(v) create a powerful and effective means of holding decision-makers to public account;

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(vi) ensure that no one will review or scrutinise a decision in which they were directly involved;

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(vii) ensure that those responsible for decision making are clearly identifiable to local people, and that they can explain the reasons for their decisions; and

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(viii) provide a means of improving delivery of services to the community.

### **Interpretation of the Constitution**

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

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

### **Number of Councillors**

2.1. The Council comprises 30 councillors (also referred to as “Members”).

### **Eligibility**

2.2. The eligibility criteria for a person to be qualified to be elected and be a councillor are set out in Section 79 of the Local Government Act 1972.

### **Election and Terms of Councillors**

2.3. The regular election of councillors will normally be held on the first Thursday in May every four years. The Council operates a system of election by “thirds” meaning it

elects one third (10) of local Councillors every year for three years and hold no elections in the fourth year.

### **Roles of Councillors**

2.4. Councillors will:

- (i) Collectively be the ultimate policy-makers for the Council;

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- (ii) Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;

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- (iii) Represent the interests of their ward and of individual constituents;

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- (iv) Respond to constituents' enquiries and representations, fairly and impartially;

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- (v) Serve the public interest, and make decisions having regard to the interests of the whole community.

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- (vi) be involved in decision-making;

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- (vii) be available to represent the Council on other bodies; and

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- (viii) maintain the highest standards of conduct and ethics.

### **Rights and Duties of Councillors**

2.5. Councillors have rights of access to such documents, information, land and buildings of the Council as are necessary for them to act as a councillor and in accordance with the law.

2.6. Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 5 of this Constitution.

2.7. Councillors will observe the Members' Code of Conduct set out in Part 5 of this Constitution.

## **3. Article 3 –The Public and the Council**

### **The Public's Rights**

3.1. 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.

### **Petitions**

3.2. The Council is committed to responding to petitions. Anyone who lives, works or studies in the Borough may sign or organise a petition and trigger a response from the Council. Details of the Council's adopted (non statutory) petition scheme are set out in Part 4 of this Constitution.

### **The Public's rights**

(a) Information.

3.3. The Public have the right to:

- (i) attend meetings of the Council, Executive and Committees except where confidential or exempt information is likely to be disclosed, and the meeting is, therefore, held in private;

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- (ii) find out from the Forward Plan what key decisions will be taken under the Council's Executive arrangements. The Forward Plan is no longer a statutory requirement but the Council has decided to retain it for effective operation of the Council's activities;

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- (iii) see public reports and background papers, and any public records of decisions made by the Council, Executive and Committees except where confidential or exempt information is likely to be disclosed; and

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- (iv) inspect the Council's accounts, and make their views known to the external auditor during the statutory period of 20 working days prior to the external auditor giving their opinion.

(b) Participation.

3.4. The Public have the right to:

- (i) contribute to investigations by the Overview and Scrutiny Committee;

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- (ii) present petitions under the Council's Petition Scheme; and

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- (iii) ask questions at the Executive and Council.

(c) Complaints

3.5. The Public have the right to complain to:

- (i) the Council under its complaints scheme;

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- (ii) the Ombudsman after using the Council's own complaints scheme, and

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- (iii) the Council's Monitoring Officer about a breach of the Members' Code of Conduct.

3.6. The Public's ' Responsibilities

3.7. The Public must not be violent, abusing or threatening to councillors, officers or persons carrying out work for the Council and must not wilfully harm things owned by the Council, councillors or officers.

3.8. The public are entitled to attend public meetings of the Council, Executive and committees, but must comply with the rulings of the chairman. They may not disrupt the meeting or cause undue disturbance or they may be removed from the meeting.

**4. Article 4 – The Full Council**

## Meanings

(a) Policy Framework.

4.1. "Policy Framework" means:

(i) plans and strategies which, by law, have to be approved by Full Council, and

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(ii) plans and strategies which the Council has decided should be approved by Full Council.

(b) Budget

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

(c) Housing Land Transfer

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

## Functions of the Full Council

4.4. Only Full Council will exercise the following functions:

(i) adopting and changing the Constitution (apart from changes to Part 3 in relation to executive functions which will be discharged by the Leader and reported to the Council);

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(ii) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of a Housing Land Transfer;

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(iii) intervening, where necessary, to prevent executive decisions that would run contrary to the Policy Framework or Budget;

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(iv) appointing and removing the Leader of the Council;

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(v) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;

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(vi) appointing representatives to outside bodies, unless the appointment is an executive function or has been delegated by Full Council;

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(vii) adopting a Members' Allowances scheme under Article 2.03;

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(viii) changing the name of the area, or conferring the title of Freedom of the Borough;

- (ix) Appointing the Head of Paid Service and other members of the Corporate Leadership Team in accordance with the Officer Employment Rules;

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- (x) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;

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- (xi) all local choice functions, set out in Part 3 of this Constitution, which Full Council decides should be undertaken by itself;

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- (xii) electing the Mayor; and

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- (xiii) all other matters which, by law, must be reserved to Full Council.

### **Council Meetings**

4.5. There are three types of Council meeting:

- (i) the annual meeting;

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- (ii) ordinary meetings;

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- (iii) extraordinary meetings;

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

### **Responsibility for Functions**

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

## **5. Article 5 – Chairing the Council**

### **Role and Function of the Mayor**

5.1. The Mayor will be elected by the Council annually.

5.2. The Mayor, and in his/her absence, the Deputy Mayor, will have the following roles and functions:

- (i) to act as First Citizen and Civic Head of the Borough;

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- (ii) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;

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- (iii) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;

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- (iv) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;

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- (v) to promote public involvement in the Council's activities;

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  - (vi) to be the non-political representative of the Council; and

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  - (vii) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.3. Neither the Mayor nor the Deputy Mayor shall be members of the Executive.

## **6. Article 6 – The Leader**

### **Role**

6.1. The Leader of the Council will be a councillor elected to the position of Leader by the full Council. The Leader will be elected by Council at its post-election annual meeting (or, if the Council fails to elect the Leader at that meeting, at a subsequent meeting of Council).

6.2. The term of office of the Leader starts on the day of his/her election as Leader and ends on the day the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor unless:

- (i) he/she resigns as Leader; or

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- (ii) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or

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- (iii) he/she is no longer a councillor; or

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- (iv) he/she is removed from office by resolution of the Council before that day.

6.3. During their term of office as Leader, the Leader shall continue to hold office as a councillor.

6.4. If there is a vacancy in the position of Leader, the Leader will be elected at the first meeting of the Council following such vacancy for a term of office expiring on on the day the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor, subject to (i) to (iv) above.

6.5. The Leader will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution, unless otherwise delegated by him/her. All delegations by the Leader will be set out in Part 3 of this Constitution.

### **Functions of the Leader**

6.6. The Leader is responsible for maintaining a list (which the Monitoring Officer will compile on the Leader's behalf), in Part 3 of this Constitution, setting out who will authorise executive functions. Executive functions can be exercised by the Leader, the Executive, individual Executive Members or individual councillors exercising powers in relation to their wards or Officers. Any changes to Part 3 of the

Constitution in relation to Executive functions will be reported to the next appropriate meeting of the Council.

6.7. The Leader will be Chairman of the Executive.

6.8. Only the Leader will exercise the following functions:

- (i) appointing the Deputy Leader,

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- (ii) appointing the Executive, and

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- (iii) allocation of areas of responsibility (portfolios) to lead councillors.

6.9. The Leader may at any time:

- (i) remove lead councillors from the Executive, or

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- (ii) change lead councillors' areas of responsibility

6.10. The Leader shall report to the next appropriate meeting of the full Council on all appointments and changes to the Executive.

### **Deputy Leader**

6.11. The Leader shall appoint one of the lead councillors to be the Deputy Leader.

6.12. The Deputy Leader shall normally hold office until the end of the Leader's term of office unless that person:

- (i) is removed from office by decision of the Leader; or

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- (ii) is disqualified from being a councillor by order of a court under Section 34 of the Localism Act 2011; or

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- (iii) resigns as Deputy Leader; or

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- (iv) ceases to be a councillor before that day

6.13. In the event of any of the above occurring, the Leader shall appoint another lead councillor as Deputy Leader at the earliest opportunity.

### **Role of the Deputy Leader**

6.14. The Deputy Leader will be Vice-Chairman of the Executive and if, for any reason, the Leader is unable to act, or the office of the Leader is vacant, the Deputy Leader must act in his/her place and shall be entitled to exercise all functions reserved to the Leader until such time as the Leader is able to act or until a new Leader is elected by the Council.

6.15. If for any reason the Leader is unable to act, or the office of the Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the remaining members of the Executive must either act collectively in the Leader's place or they must arrange for a lead councillor to act in the place of the Leader.

## Removal of the Leader

- 6.16. The Council may remove the Leader by way of resolution by a simple majority. At any meeting of the full Council, a councillor may propose that “the Council has no confidence in the Leader”. The question shall, after debate, be put and, if carried by a simple majority of those councillors present, the Leader shall be removed from office.
- 6.17. In that event, a new Leader shall be elected:
- (i) at the meeting at which the Leader is removed from office, or
  - (ii) at a subsequent meeting.

## 7. Article 7 – The Executive

### Role of the Executive

- 7.1. The Executive will carry out all of the Council’s functions which are not the responsibility of any other part of the Council whether by law or under this Constitution, as delegated by the Leader.

### Form and Composition

- 7.2. The Executive will consist of the Leader, Deputy Leader together with not fewer than one, and up to five other Councillors appointed by the Leader who shall be known as Portfolio Holders.

### Portfolio Holders/Executive Members

- 7.3. Executive Members shall be appointed by the Leader. The Leader shall appoint councillors to specified areas of the Council’s work known as their Portfolio. They hold office until the end of the term of office of the Leader unless:
- (i) they resign from the Executive; or
  - (ii) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
  - (iii) they are no longer councillors; or
  - (iv) they are removed from office, either individually or collectively, by the Leader before that date.
- 7.4. The Leader may at any time alter the responsibilities of an Executive Member or discontinue their appointment and elect a replacement. Lead councillors shall be entitled to be consulted by the Corporate Leadership Team and service leaders when exercising delegated powers requiring such consultation. A lead councillor shall not be a member of the Overview and Scrutiny Committee.

### Deputy Portfolio Holders

- 7.5. Other councillors may, from time to time, be designated by the Leader as Deputy Portfolio Holders.
- 7.6. A Deputy Portfolio Holders shall not be a member of the Executive and will not participate in Executive decision-making but may work closely with a Portfolio Holder(s). A Deputy Portfolio Holders shall not be a member of the Overview and Scrutiny Committee.
- 7.7. Deputy Portfolio Holders will not have delegated powers and will not be entitled to vote at Executive meetings. The Leader may, at any time, discontinue the appointment of a designated Deputy Portfolio Holders. The Leader will report all appointments and discontinued appointments to the next meeting of the Council.
- 7.8. Key Duties and Responsibilities of Deputy Portfolio Holders:
- (i) To assist, support, and advise the relevant Portfolio Holders in carrying out their responsibilities.

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  - (ii) To lead on specific policy areas at the request of the relevant Portfolio Holders and/or Leader.

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  - (iii) To carry out tasks as agreed on behalf of the relevant Portfolio Holders.

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  - (iv) To maintain awareness of policy developments, and advise the Portfolio Holders of key developments.

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  - (v) To bring to the attention of the Portfolio Holders issues of concern to non Executive councillors.

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  - (vi) To undertake research and any other tasks under the direction of the Portfolio Holders.

### **Proceedings of the Executive**

- 7.9. Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

## **8. Article 8 – Overview and Scrutiny Committee**

### **Terms of Reference**

- 8.1. The Council will appoint the Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 and the functions of a crime and disorder committee under section 19 of the Police and Justice Act 2006.
- 8.2. The work of the Overview and Scrutiny Committee should focus on the Council's principles, practice, procedures and performance (rather than politics and personalities); the work will be informed by the following principles:
- (i) Constructive “critical friend” challenge

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  - (ii) Amplifies the voices and concerns of the Public

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- (iii) Led by independent people who take responsibility for their role; and
  - (iv) Drives improvement in public services
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### **General Role**

8.3. Within its terms of reference, the Overview and Scrutiny Committee will:

- (i) review and/or scrutinise decisions made (or to be made) or actions taken (or to be taken) in connection with the discharge of any of the Council's functions;
  - (ii) make reports and/or recommendations to Full Council and/or the Leader/Executive;
  - (iii) consider any matter affecting the area or its inhabitants;
  - (iv) exercise the right to call-in, for reconsideration, Executive decisions made but not yet implemented; and
  - (v) deal with crime and disorder matters referred to it under the Police and Justice Act 2006;
  - (vi) consider any valid Councillor Call for Action.
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### **Specific Functions**

(a) Policy development and review

8.4. The Overview and Scrutiny Committee may:

- (i) assist the Council and the Leader/Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
  - (ii) conduct research, community consultation and other consultation in the analysis of policy issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - (iv) question the Leader, members of the Executive and/or Committees and Corporate Leadership Team members about their views on issues and proposals affecting the Borough; and
  - (v) liaise with other external organisations operating in the Borough, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
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(b) Scrutiny

8.5. The Overview and Scrutiny Committee:

- (i) may review and scrutinise the decisions made or to be made by and performance of the Leader/Executive and/or Committees and Council officers, both in relation to individual decisions and over time;
  - (ii) may review and scrutinise the performance of the Council in relation to
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its policy objectives, performance targets and/or particular service areas;

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(iii) may question the Leader, members of the Executive and/or individual members (to the extent that the latter have been granted powers in relation to their ward) and/or Committees and Corporate Leadership Team members 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;

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(iv) may make recommendations to the Leader/Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;

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(v) may review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;

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(vi) may question and gather evidence from any person or organisation (with their consent) and require information from partner authorities;

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(vii) may review and scrutinise equality issues, and

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(viii) shall be responsible for ensuring effective scrutiny of the Treasury Management Strategy and Policies

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(c) Finance

8.6. The Overview and Scrutiny Committee have overall responsibility for the finances made available to them.

(d) Annual Report

8.7. The Overview and Scrutiny Committee shall publish an annual report outlining work undertaken during the year, and may make recommendations for future work programmes and amended working methods (if appropriate).

(e) Petitions

8.8. The Overview and Scrutiny Committee is responsible for considering petitions received under the Petition Scheme that fall into the following categories:

(i) Petitions requiring a Senior Officer to give evidence to the Overview and Scrutiny Committee;

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(ii) Appeals from Petitioners who are not satisfied with the response to a petition, and

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(iii) Where the petition has been referred to the Committee for further investigation.

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

8.9. The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **9. Article 9 – Regulatory and Other Committees**

### **Regulatory and Other Committees**

9.1. The Council will appoint the committees set out in Part 3 of this Constitution (Responsibility for Council Functions) to discharge the functions described.

## **10. Article 10 – The Standards and Audit Committee**

### **Standards and Audit Committee**

10.1. The Council meeting will establish a Standards and Audit Committee composition.

#### **Composition**

(a) Membership

10.2. The Standards and Audit Committee will comprise:

(i) 5 Councillors;

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(ii) 1 Independent Member;

(b) Independent Member

10.3. The Independent Members shall be appointed by the Council for an initial term of office of four years with serving independent members being eligible for re-appointment one further time.

10.4. At the end of the term of office, the Council will invite applications from the general public via its website for appointment as co-opted independent members of the Standards and Audit Committee.

10.5. To be eligible for appointment candidates must not be engaged in party political activity, or have been at any time in the preceding five years, a councillor or officer of Woking Borough Council or be a relative or close friend of a councillor or officer of the Council.

10.6. Ideally candidates will have significant experience of working at a senior level in a large, complex organisation and have a very good understanding of strategic or financial management or have sat previously on an Audit Committee.

10.7. The Monitoring Officer shall short-list candidates and invite them for interview by a panel comprising two members of the Standards and Audit Committee, the Monitoring Officer and Chief Finance Officer. The panel's recommendations as to appointment of co-opted independent members will be referred to full Council for approval.

(c) Chairing the Committee

10.8. The office of Chairman shall be filled by the co-opted (independent) member. In the absence of the Chairman, a meeting of the Committee shall be chaired by the Vice-Chairman.

(d) Votes

10.9. The Independent member is not entitled to vote at meetings.

10.10. In the case of an equality of votes, the Vice-Chairman may exercise a second or casting vote.

### **Role and Function**

10.11. The Committee has a dual purpose both as an audit committee and a standards committee.

10.12. The Committee is a key component of the authority's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

10.13. The purpose of the Committee is to provide independent assurance to councillors of the adequacy of the risk management framework and the internal control environment. It provides independent review of the authority's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.

10.14. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place. With regard to standards, the Committee promotes high standards of conduct by councillors and co-opted members and oversees the arrangements for dealing with allegations of misconduct.

10.15. The Standards and Audit Committee will have the following roles and functions:

(i) promoting and maintaining high standards of conduct by councillors and co-opted members in accordance with Sections 26-37 of the Localism Act 2011;

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(ii) assisting councillors and co-opted members to observe the Members' Code of Conduct;

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(iii) advising the Council on the adoption or revision of the Members' Code of Conduct;

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(iv) monitoring the operation of the Members' Code of Conduct;

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(v) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;

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(vi) determining allegations that there has been a breach of the Members' Code of Conduct in accordance with arrangements adopted by Council;

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(vii) acting as the Council's Audit Committee. In performing this task the Standards and Audit Committee will:

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- approve the plans of Internal Audit and consider the External Audit plan;
  - receive the Annual Audit and Inspection letter from External Audit;
  - receive Internal Audit recommendations for improvements and assurance that action has been taken where necessary;
  - review summary Internal Audit reports (located on the intranet);
  - receive a half yearly and annual report from the Chief Internal Auditor on the work of Internal Audit;
  - receive appropriate matters of concern raised by either External or Internal Audit or other agencies; and
  - ensure that there are effective relationships between Internal and External Audit and promote the value of the audit process;
- (viii) overseeing the Council's Risk Management, Anti-Fraud and Whistleblowing strategies, and Health and Safety policies and practices;
- (ix) receiving the Annual Governance Statement, and
- (x) oversight of payments in cases of maladministration which are neither disputed nor significant (which are dealt with by the Monitoring Officer).

### **Standards Panel**

- 10.16. The Committee will establish the Standards Panel. The Panel will comprise four councillors and the Independent ) Member.
- 10.17. A substitute for each councillor member of the Panel shall be appointed. A substitute member may attend any meeting of the Panel, with all the powers of the appointed councillor member in the event that the appointed councillor member is unable to attend a particular meeting.
- 10.18. The Panel will be chaired by the Independent Member (unless he/she is absent, in which case the Vice-Chairman will chair the meeting). The Independent Member is not entitled to vote at meetings. In the case of an equality of votes, the Vice-Chairman may exercise a second or casting vote.
- 10.19. The Panel will act on the Committee's behalf in determining allegations that there has been a breach of the Members' Code of Conduct in accordance with arrangements adopted by Council.

### **Election Review Panel**

- 10.20. The Chairman of the Standards and Audit Committee shall be the Chairman of the Council's Election Review Panel.

## **11. Article 11 – Officers**

### **Management Structure**

- (a) General
- 11.1. The Full Council may engage such staff (referred to as “officers”) as it considers necessary to carry out its functions.
- (b) Corporate Leadership Team
- 11.2. The Council’s Corporate Leadership Team will comprise the Chief Executive, the Monitoring Officer (Director of Legal and Democratic Services), the Chief Finance Officer (Director of Finance), Strategic Director of Corporate Resources, Strategic Director of Place and Strategic Director of Communities or such other composition as the Council may from time to time determine.
- (c) Statutory Officers
- 11.3. The Council will designate Officers to the following statutory posts:
- (i) Head of Paid Service

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  - (ii) Chief Finance Officer

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  - (iii) Monitoring Officer
- 11.4. Such posts will have the functions described in Article 11.02–11.04 below
- (d) Structure
- 11.5. The Head of Paid Service will determine and publicise a description of the overall service structure of the Council showing the management structure and deployment of officers. This is set out in Part 3 of this Constitution

### **Statutory Functions of the Head of Paid Service**

- (a) Discharge of functions by the Council
- 11.6. The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) Restrictions on functions
- 11.7. The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if they are a qualified accountant.

### **Statutory Functions of the Monitoring Officer**

- (a) Maintaining the Constitution
- 11.8. The Monitoring Officer 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.
- (b) Ensuring lawfulness and fairness of decision making

11.9. After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to Full Council, or to the Leader/Executive in relation to an executive function, if he/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.

(c) Supporting the Standards and Audit Committee

11.10. The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and Audit Committee.

(d) Alleged Breaches of the Members' Code of Conduct

11.11. The Monitoring Officer will be responsible for dealing with allegations that a Member has failed to comply with the Members' Code of Conduct in accordance with arrangements adopted by Council.

(e) Proper Officer for access to information

11.12. The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.

(f) Budget and Policy Framework

11.13. The Monitoring Officer will advise whether executive decisions are in accordance with the Budget and Policy Framework.

(g) Providing advice

11.14. The Monitoring Officer will provide advice on: the scope of powers and authority to take decisions; maladministration; financial impropriety; probity and Budget; and Policy Framework issues to all councillors.

(h) Restrictions on posts

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

### **Statutory Functions of the Chief Finance Officer**

(a) Ensuring lawfulness and financial prudence of decision making

11.16. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to Full Council, or to the Leader/Executive in relation to an executive function, and the Council's external auditor if he/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.

(b) Administration of financial affairs

11.17. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to corporate management

11.18. The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing advice

11.19. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all councillors and will support and advise councillors and officers in their respective roles.

(e) Give financial information

11.20. The Chief Finance Officer will provide financial information to the media, members of the public and the community.

11.21. Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer.

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

### **Conduct**

11.23. Officers will comply with the Officers' Employment Procedure Rules set out in Part 5 of this Constitution.

### **Employment**

11.24. The recruitment, selection and dismissal of officers will comply with the Officers' Employment Procedure Rules set out in Part 5 of this Constitution.

## **12. Article 12 – Decision Making**

### **Responsibility for Decision Making**

12.1. The Council will issue and keep up-to-date a record of what part of the Council, or individual, has responsibility for:

(i) particular types of decisions; or

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(ii) decisions relating to particular areas or functions

12.2. This record is set out in Part 3 of this Constitution.

### **Principles of Decision Making**

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

(i) the action must be proportionate to the desired outcome;

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(ii) due consultation and the taking of professional advice from officers;

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- (iii) respect for human rights;

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  - (iv) a presumption in favour of openness; and

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  - (v) clarity of aims and desired outcomes.

### **Types of Decision**

- (a) Decisions reserved to Full Council. Decisions relating to the functions listed in Article 4.02 will be made by Full Council, and not delegated.
- (b) Key decisions
  - (i) A 'key decision' means an executive decision which is likely:
    - to result in significant expenditure or savings of £250,000 or more; and/or ; or

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    - to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

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  - (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

### **Decision Making**

- 12.4. All decision making shall comply with the relevant Articles of, and Procedure Rules set out in, this Constitution.

### **Decision Making by Council Bodies Acting as Tribunals**

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

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

### **Financial Management**

- 13.1. The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 5 of this Constitution.

### **Contracts**

- 13.2. Every contract made by the Council will comply with the Contract Standing Orders set out in Part 5 of this Constitution.

### **Legal Proceedings**

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

#### **Authentication of Documents**

- 13.4. Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by him or her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- 13.5. Any contract (excluding contracts for property disposals and acquisitions) which amounts to or exceeds £100,000 in value must, unless the Monitoring Officer otherwise, be sealed with the common seal of the Council. In exceptional cases where the Monitoring Officer that a contract which amounts to or exceeds £100,000 in value does not require the common seal, it must be signed, subject to compliance with the Council's Financial Procedure Rules, by two Strategic Directors or the Monitoring Officer.
- 13.6. Contracts less than £100,000 in value must be signed by the relevant Strategic Director, Director, or service leader or, subject to compliance with the Council's Financial Procedure Rules, their nominee.

#### **Common Seal of the Council**

- 13.7. The common seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.
- 13.8. The common seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the common seal will be attested by a Member of the Corporate Leadership Team, or some other persons authorised by the Monitoring Officer. An entry of every sealing of a document will be made and consecutively numbered in a book kept by the Monitoring Officer for the purpose and shall be signed by the persons who have attested the seal.

#### **Land, Premises – Inspection**

- 13.9. A member of the Council, unless specifically authorised to do so by the Council or the Leader/Executive or the Committee concerned, shall not inspect any lands or premises which the Council has the right or duty to inspect, or enter upon any such lands or premises or issue any orders respecting any works which are being carried out by or on behalf of the Council.

### **14. Article 14 – Review and Revision of the Constitution**

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

- 14.1. The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 14.2. A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways

in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- (i) observe meetings of different parts of the councillor and officer structure;

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- (ii) undertake an audit trail of a sample of decisions;

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- (iii) record and analyse issues raised by councillors, officers, the public and other relevant stakeholders; and

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- (iv) compare practices in this Council with those in other comparable authorities, or national examples of best practice.

### **Changes to the Constitution**

#### (a) Minor Changes

14.3. The Monitoring Officer may generally update the Constitution, or make amendments consequential upon changes to operational arrangements (including, without limitation, amendments resulting from a decision by the Leader not to delegate responsibility for executive functions to the Executive), without report.

#### (b) Other Changes

14.4. Changes to the Constitution, other than minor changes, will be approved by Full Council.

#### (c) Proposals

14.5. The Monitoring Officer shall, before making any proposals for change to the Council, carry out consultation appropriate to the scale, scope and extent of the change proposed. The persons and bodies consulted may, without limitation, include the Corporate Leadership Team, the Leader and Executive, the Overview and Scrutiny Committee or the Standards and Audit Committee.

## **15. Article 15 – Suspension, Interpretation and Publication of the Constitution**

### **Suspension of the Constitution**

#### (a) Limit to suspension

15.1. The Articles of this Constitution may not be suspended. Other provisions of this Constitution may be suspended by Full Council to the extent permitted by those provisions and the law.

#### (b) Procedure to suspend

15.2. The extent and duration of suspension shall be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **Interpretation**

15.3. The ruling of the Mayor, the Leader or the Chairman of any Committee (as appropriate) as to the construction or application of this Constitution, or as to any

proceedings of the Council, shall not be challenged at any meeting of the Council, the Executive or Committee (as the case may be). Such ruling shall have regard to the purposes of this Constitution contained in Article 1.

## Publication

### 15.4. Table

- (i) The Monitoring Officer will ensure that where a councillor so wishes a printed copy of this Constitution is delivered to him or her following their election to the Council.

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- (ii) The Monitoring Officer will ensure that an up-to-date copy of the Constitution is available on the Council's web-site.

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- (iii) The Monitoring Officer will ensure that a copy of this Constitution is available for inspection at the Council Offices and can be purchased on payment of a reasonable fee.

## 16. **Schedule 1: Description of Executive Arrangements**

### 16.1. The following parts of this Constitution constitute the executive arrangements:

- (i) Article 8 (Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules;

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- (ii) Article 6 (The Leader);

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- (iii) Article 8 (The Executive) and the Executive Procedure Rules;

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- (iv) Article 12 (Decision making) and the Access to Information Procedure Rules;

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- (v) Part 3 (Responsibility for Functions)



Woking Borough Council

# Responsibility for Functions

Shaping the *future* of our borough



## **1. Responsibility For Functions**

1.1. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) require that certain parts of the structure of the Council must be responsible for certain decisions. The Regulations specify:

- i) functions which are not to be the responsibility of the Council's Executive;
- ii) functions which may but need not be the responsibility of the Executive ("local choice functions"); and
- iii) functions which are to some extent the responsibility of the Executive. All other functions not so specified are to be the responsibility of the Executive.

## **2. Responsibility for Council (Non Executive) Functions**

2.1. These functions, which are listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), may not be the responsibility of the Council's Executive. In accordance with legislation, certain decisions on these matters must be taken by the full Council, whilst others may be taken by the full Council, a committee appointed by the Council, officers, or jointly with other bodies under separate joint arrangements, provided that they are within the budget and policy framework approved by the full Council.

## **3. Responsibility for Executive Functions**

3.1. "Executive functions" are all the statutory functions of the Borough Council except those listed as Non Executive functions. In accordance with the Local Government Act 2000, decisions on these matters may be taken by the Leader, the Executive collectively, an individual lead councillor, committee of the Executive, individual local ward councillors, officers or jointly with other bodies under separate joint arrangements, provided that they are within the budget and policy framework approved by the full Council.

## **4. Responsibilities Delegated to Officers**

4.1. The extent to which the functions described above have been delegated to officers is shown in the Council's scheme of delegation in this Part of the Constitution.

Who is responsible	Membership	Functions
<b>Full Council</b>	30 members of the authority	<p>Council will:</p> <ul style="list-style-type: none"> <li>i) Approve: <ul style="list-style-type: none"> <li>○ Accounts</li> <li>○ Borrowing Limits</li> <li>○ Budget</li> <li>○ Codes of Conduct</li> <li>○ Community Strategy</li> <li>○ Constitution</li> <li>○ Council Tax</li> <li>○ Electoral Arrangements</li> <li>○ Financial Strategy</li> <li>○ Housing Strategy</li> <li>○ Housing rents etc</li> <li>○ Housing Investment Programme</li> <li>○ Housing Revenue Account Budget</li> <li>○ Investment Programme</li> <li>○ Local Agenda 21 Strategy</li> <li>○ Local Plan</li> <li>○ Local Transport Plan</li> <li>○ Programme of Best Value Reviews</li> <li>○ Service and Performance Plan</li> <li>○ Standing Orders/Financial Regulations</li> <li>○ Treasury Management Strategy</li> </ul> </li> <li>ii) Adopt new policy and new strategy</li> <li>iii) Approve material departures from policy</li> <li>iv) Consider recommendations of action from <ul style="list-style-type: none"> <li>○ Executive</li> <li>○ Standards and Audit Committee</li> </ul> </li> <li>v) Determine notices of motion</li> <li>vi) Deal with Corporate Leadership Team appointments</li> <li>vii) Receive reports of action taken by Executive</li> <li>viii) Carry out miscellaneous functions which are not the responsibility of the Leader: <ul style="list-style-type: none"> <li>○ making, amending, revoking or re-enacting by-laws</li> <li>○ functions relating to health and safety at work</li> <li>○ names and status of areas and individuals</li> <li>○ promoting or opposing local or personal Bills</li> <li>○ functions relating to local government pensions</li> <li>○ disputed/significant payments in cases of mal-administration</li> </ul> </li> <li>ix) Determine Members' allowances</li> </ul>

Who is responsible	Membership	Functions
		<ul style="list-style-type: none"> <li>x) Designate Head of Paid Service</li> <li>xi) Designate Monitoring Officer</li> <li>xii) Designate Chief Finance Officer</li> <li>xiii) Appoint Leader</li> <li>xiv) Appoint to Committees etc</li> <li>xv) Elect Mayor/Deputy Mayor</li> </ul>
<b>The Leader</b>		Appoint Members to the Executive
<b>The Executive</b>	The Leader, Deputy Leader and up to five other Members	<p>The Leader has appointed the Executive and delegated the following executive functions to it:</p> <ul style="list-style-type: none"> <li>i) Determine all proposals, within existing policy, which require Member approval for action to be taken</li> <li>ii) Determine the Council Tax - Tax Base.</li> <li>iii) Make recommendations to Council on: <ul style="list-style-type: none"> <li>o all the items under (i) to (iii) of the Council list above; and</li> <li>o Notices of Motion.</li> </ul> </li> <li>iv) Monitor and manage the effects of trends and developments affecting the Council's business</li> <li>v) Monitor and manage the effects of trends and developments for consistent application of corporate standards</li> <li>vi) Carry out all functions that are not otherwise reserved to the Council, its Committees or delegated to officers</li> <li>vii) Carry out the following 'local choice' functions permitted by Regulation 3 of and Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 except as may be delegated to officers: <ul style="list-style-type: none"> <li>o any functions conferred by local Acts;</li> <li>o functions relating to contaminated land;</li> <li>o functions relating to control of pollution or management of air quality; and</li> <li>o functions relating to statutory nuisances.</li> </ul> </li> <li>viii) Responsibility for Risk Management  Responsibility for the implementation and regular monitoring of Treasury Management policies and practices</li> </ul>

Who is responsible	Membership	Functions
<b>Standards and Audit Committee</b>	6 members (including 1 independent co-opted member).	<p>Committee responsible for:</p> <ul style="list-style-type: none"> <li>i) promoting and maintaining high standards of conduct by councillors and co-opted members;</li> <li>ii) assisting councillors and co-opted members to observe the Members' Code of Conduct;</li> <li>iii) advising the Council on the adoption or revision of the Members' Code of Conduct;</li> <li>iv) monitoring the operation of the Members' Code of Conduct;</li> <li>v) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;</li> <li>vi) determining allegations that there has been a breach of the Members' Code of Conduct in accordance with arrangements adopted by Council;</li> <li>vii) act as the Council's Audit Committee. In performing this task the Standards and Audit Committee will: <ul style="list-style-type: none"> <li>o approve the plans of Internal Audit and consider the External Audit plan;</li> <li>o receive the Annual Audit and Inspection letter from External Audit;</li> <li>o receive Internal Audit recommendations for improvements and assurance that action has been taken where necessary;</li> <li>o review summary Internal Audit reports (located on the intranet);</li> <li>o receive a half yearly and annual report from the Chief Internal Auditor on the work of Internal Audit;</li> <li>o receive appropriate matters of concern raised by either External or Internal Audit or other agencies; and</li> <li>o ensure that there are effective relationships between internal and external audit and promote the value of the audit process;</li> </ul> </li> <li>viii) overseeing the Council's Risk Management, Anti Fraud and Whistleblowing strategies, and Health and Safety policies and strategies;</li> <li>ix) the receipt of the Annual Governance Statement, and</li> <li>ix) oversight of payments in cases of maladministration which are neither disputed nor significant (which are dealt with by the Monitoring Officer).</li> </ul>

Who is responsible	Membership	Functions
<b>Planning Committee</b>	10 members	<p>Committee responsible for:</p> <p>i) All functions relating to Town and Country Planning and Development Control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) including:</p> <ul style="list-style-type: none"> <li>○ planning applications</li> <li>○ enforcement action</li> <li>○ planning agreements</li> <li>○ lawful use or development</li> <li>○ advertisement control</li> <li>○ listed buildings</li> <li>○ conservation areas</li> <li>○ tree preservation</li> <li>○ minerals and waste disposal</li> <li>○ hazardous substances</li> <li>○ development proposals by County Council and Borough</li> </ul> <p>ii) All matters relating to Building Control functions not otherwise delegated to officers.</p>
<b>Licensing Committee</b>	10 members	<p>i) All functions relating to licensing and registration functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) including:</p> <ul style="list-style-type: none"> <li>○ public entertainments</li> <li>○ cinemas and theatres</li> <li>○ hackney carriage and private hire vehicles</li> <li>○ animal welfare</li> <li>○ sex establishments</li> <li>○ betting, gaming and lotteries</li> <li>○ caravan and camping sites</li> <li>○ food preparation</li> <li>○ markets and street trading</li> <li>○ night cafes and take-away food shops</li> <li>○ registration of door-staff</li> <li>○ licensing of hypnotism</li> <li>○ licensing of premises for acupuncture, tattooing, ear-piercing and electrolysis</li> <li>○ health and safety (other than in Council's capacity)</li> </ul> <p>ii) Hearing of representations against cancellation or refusal to register an applicant pursuant to the Motor Salvage Operators Regulations 2002.</p>

Who is responsible	Membership	Functions
		iii) Licensing Act 2003. iv) Power to make an Order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption pursuant to section 13 Criminal Justice and Police Act 2001.
<b>Appeals Committee</b>	3 members	Housing appeals.
<b>Overview and Scrutiny Committee</b>	10 members	Functions: (a) Policy development and review. <ul style="list-style-type: none"> <li>i) assist the Council and the Leader/Executive in the development of its budget and policy framework by in-depth analysis of policy issues;</li> <li>ii) conduct research, community and other consultation in the analysis of policy issues and possible options;</li> <li>iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;</li> <li>iv) question the Leader, members of the Executive and/or Committees and Corporate Leadership Team members about their views on issues and proposals affecting the Borough; and</li> <li>v) liaise with other external organisations operating in the Borough, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.</li> </ul> (b) Scrutiny <ul style="list-style-type: none"> <li>i) review and scrutinise the decisions made or to be made by and performance of the Leader/Executive and/or Committees and Council officers both in relation to individual decisions and over time;</li> <li>ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;</li> <li>iii) question the Leader, members of the Executive, individual members exercising ward functions, Committees and Corporate Leadership Team members about their decisions and</li> </ul>

Who is responsible	Membership	Functions
		<p>performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;</p> <ul style="list-style-type: none"> <li>iv) make recommendations to the Leader, Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;</li> <li>v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;</li> <li>vi) question and gather evidence from any person (with their consent) or require information from partner authorities;</li> <li>vii) review and scrutinise equality issues; and</li> <li>viii) effective scrutiny of the Treasury Management Strategy and Policies. .</li> </ul> <p>c) Discharge the functions of a crime and disorder committee under Section 19 Police and Justice Act 2006.</p>
<p><b>Joint Committee for the Oversight of Delivery of Surrey Public Authority Services (“Surrey First”)</b></p>	<p>One Member appointed by Woking Borough Council to Joint Committee comprising the Surrey local authorities and the Surrey Police Authority</p>	<p>The governance arrangements for the Joint Committee are appended.</p>
<p><b>Joint Waste Services Collection Committee</b></p>	<p>One Member appointed by Woking Borough Council to Joint Committee, comprising Elmbridge Borough, Mole Valley District, Rushmoor Borough, Surrey County, Surrey</p>	<p>The governance arrangements for the Joint Committee are appended</p>



<b>Who is responsible</b>	<b>Membership</b>	<b>Functions</b>
	Heath Borough and Woking Borough Council.	



Woking Borough Council

# Management Arrangements

Shaping the *future* of our borough



## 1. Management Arrangements

1.1. This document sets out the Council's general management arrangements.

### Management Structure

## 2. Corporate Leadership Team (CLT)

2.1. The Council's Corporate Leadership Team comprises the Chief Executive, the Monitoring Officer (Director of Legal and Democratic Services), the Chief Finance Officer (Director of Finance), Strategic Director – Corporate Resource, Strategic Director- Communities, and Strategic Director or Place or such other composition as the Council may from time to time determine.

2.2. The Corporate Leadership Team will:

- act as the interface between the Council and its staff;
- lead, direct and support the staff, and
- deliver the agenda set by the Council

2.3. The Corporate Leadership Team performs a strategic and service role with senior managers responsible for day-to-day operations. Individual members of the Corporate Leadership Team will contribute to the effective collective work and responsibility of the Corporate Leadership Team; they will ensure cross-unit collaboration and will hold senior managers to account for delivery of the Council's objectives, services and priorities.

2.4. Individual members of the Corporate Leadership Team are accountable for ensuring that the fullest empowerment possible, including self-service by members of the public, is achieved within the areas subject to their oversight.

2.5. The designation of one of the Director posts as Deputy Chief Executive is within the personal discretion of the Chief Executive.

## 3. Statutory Officers

3.1. The Council designates officers to the following statutory positions:-

- Head of Paid Service (Section 4 Local Government and Housing Act 1989);
- Monitoring Office (Section 5 Local Government and Housing Act 1989), and
- Chief Finance Officer (Section 151 Local Government Act 1972)

3.2. The statutory officers shall exercise the statutory functions set out in Article 11 of this Constitution.

3.3. The Monitoring Officer and the Chief Finance Officer shall, at all times, enjoy unfettered rights to:-

- Report direct to the Council, the Leader, the Executive, the Overview and Scrutiny Committee and all other Committees of the Council in exercise of their statutory functions, or where they consider it appropriate to do so;
- Attend meetings of the Corporate Leadership Team when issues relevant to their areas of responsibility are being considered (Note: this right will apply in the event that Council determines that the Monitoring Officer and/or the Chief Finance Officer should

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not be a member of the Corporate Leadership Team);

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- Contribute to papers for Corporate Leadership Team meetings in advance with access to decisions made (Note: this right will apply in the event that Council determines that the Monitoring Officer and/or the Chief Finance Officer should not be a member of the Corporate Leadership Team), and
  - Advise, consult with or report to the Chief Executive, the Corporate Leadership Team or to Councillors whenever they consider it appropriate to do so.
- 

3.4. The Chief Finance Officer shall at all times enjoy unfettered access to:-

- Internal Audit, including the ability to influence and control those parts of its work programme that relate to the discharge of her/his statutory duties, and
  - External Audit to ensure that they enjoy complete and up-to-date information about the financial arrangements in operation within the Council.
- 

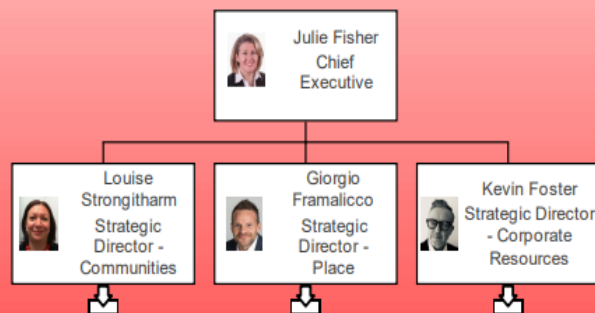
#### 4. Leadership Details

4.1. Further information in respect of the Council's Leadership team can be found on the Council's website using the below link:-

[Council's senior officers | Woking Borough Council](#)



### Woking Borough Council - Organisational Chart



Refreshed 03/02/2023



Woking Borough Council  
**Scheme of Delegations**

Shaping the *future* of our borough



## 1. Introduction

- 1.1. Under section 101 of the Local Government Act 1972 the Council may delegate its functions to a committee of the Council or to a member of staff, other than those matters reserved to the full Council meeting.
- 1.2. This document sets out the functions which have been delegated to members of staff.
- 1.3. The references to members of staff are to the posts as currently titled but these will equally apply to the holder of an equivalent post in the future.
- 1.4. This document deals only with the standard delegations made by the Council and Committees and does not cover temporary delegations for a particular purpose.

## 2. General Conditions and Limitations

- 2.1. The functions, powers and duties in this scheme are delegated to staff as set out. These include the power to do anything which is calculated to facilitate, or is conducive to, the discharge of these functions.
- 2.2. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
- 2.3. All staff exercising these delegations are to act in accordance with the Council's Constitution, Contract Standing Orders, Financial Regulations and any other protocols or other arrangements approved in pursuance to them.
- 2.4. The following are not delegated to any member of staff:
  - i) Any matter reserved to Council, or any Committee or a member body having decision making powers.;
  - ii) Any function which by law cannot be delegated to a member of staff; and
  - iii) The adoption of new policy or significant variation to existing policies and any matter which is contrary to the policy framework and budget of the Council.
- 2.5. The Council, relevant committee or other member body with decision making powers may at any time resume responsibility for the function and may therefore exercise the function despite the delegation.
- 2.6. A member of staff may decide not to exercise any function in relation to a particular matter and invite the Council, or relevant Committee or subCommittee having decision making powers, as appropriate, to do so instead. It is open to a member of staff to consult with appropriate councillors on the exercise of delegated powers or in deciding whether or not to exercise any delegated powers where the matter is likely to be controversial or contentious.
- 2.7. A member of staff with line management responsibility for the member of staff named in the delegation may exercise the power instead of the member of staff so designated and may direct or negate any course of action proposed.



- 2.8. A decision delegated to a member of staff by Council or Committee can be taken by a staff member with line management responsibility for that staff member in his/her absence.
- 2.9. A member of staff to whom a power, duty or function is delegated may nominate or authorise another member of staff to exercise that power, duty or function, provided that officer reports to or is responsible to the delegator. Any such delegation must be recorded in writing and a copy provided to the Monitoring Officer.
- 2.10. With respect to any reference to a delegation being exercised following consultation with any councillor, the decision is vested with the member of staff so delegated who shall be responsible and accountable for the decision. The member of staff so delegated is required to bring independent judgement to bear on the decision and the decision shall be his/hers alone and not the members being consulted. If those councillors disagree with the member of staff, the matter should be referred to the Leader/ Executive for agreement to exercise such delegated power if lawful and so allowed under this Constitution.
- 2.11. In exercising any delegated powers, officers must ensure that their decisions are consistent with Council policy, within approved spending limits and in the best interests of residents and the Council as a whole. Relevant councillors should also be informed/consulted as appropriate depending on the nature and sensitivity of the decision.
- 2.12. Each officer is responsible for ensuring that decisions which they take are adequately recorded, and that the record of that decision is available to other Officers, to councillors and to the public as required by statute and this Constitution, particularly if the decision relates to a change in policy or practice, or a financial commitment. Every officer is responsible for ensuring that any decision which he/she takes is implemented in accordance with that decision.
- 2.13. Every officer is accountable for each decision which he/she takes and may be called to provide an explanation of his/her reasons for the decision and account for its implementation to other officer, councillors and statutory regulators.
- 2.14. The Chief Executive may remove from an Officer at any time a power to take delegated decisions and upon doing so in writing shall within 24 hours notify the Monitoring Officer. If appropriate, the Chief Executive shall also notify the Council of this removal of powers.
- 2.15. The Director of Legal and Democratic Services shall have the power to amend delegations to reflect re-organisations, changes in job titles and vacancies, where the changes result in redistributing existing delegations and not the creation of new ones.
- 2.16. The Director of Legal and Democratic Services shall have the power to amend delegations to reflect changes in legislation, or references to legislation where such changes do not alter the nature of the existing delegation.

### **3. Interpretation**

- 3.1. All enquiries about this scheme of delegations should be made to the Director of Legal and Democratic Services and all matters of interpretation will also be determined by the Director of Legal and Democratic Services

- 3.2. Any reference to a statute or statutory instrument shall be deemed to include and be construed as if it contained a reference to any subsequent statute or statutory instrument for the time being replacing, amending or extending the same or containing related provisions.
- 3.3. The expressions 'officer', 'staff' or 'employee' includes any person employed by the Council irrespective of the particular scheme under which they are employed.
- 3.4. The expression Chief Officer shall mean any member of the Corporate Leadership Team.

#### **4. General Delegations to Chief Officers**

- 4.1. Subject to all specific delegations contained in this scheme, Chief Officers may take action on behalf of the Council where the proposed action conforms to any policy, strategy or development plan approved by the Council or one of its committees and there is a budget provision.
- 4.2. To delegate further, in writing, all or any of their delegated functions to other members of staff to exercise in their own name.
- 4.3. To advise on policy development and formulation. Emergencies
- 4.4. In order to enable an urgent decision to be made, the Chief Executive has delegated power to take any decision which is so urgent that it cannot wait until the next scheduled meeting of the Council or relevant Committee and where the decision is not in contravention of established policies.
- 4.5. In following this procedure, the Chief Executive is required to consult with the relevant Portfolio Holder.
- 4.6. The use of such urgent action must be reported to the next relevant Committee meeting.
- 4.7. The Chief Executive and all Chief Officers have power to take all necessary actions including incurring expenditure with regards to any emergency involving serious danger to life, property and public welfare.
- 4.8. Any action taken under this provision shall be reported as soon as practicable to the Council or relevant Committee as appropriate. If necessary and where legally possible Contract Standing Orders and Financial Regulations shall be suspended during such emergencies. All expenditure incurred should be reported to the Chief Finance Officer who will report such expenditure to the Council or relevant Committee where necessary under Financial Regulations.

#### **5. Recording of Decisions**

- 5.1. All delegated decisions shall be a matter of public record unless containing exempt information under Schedule 12A to the Local Government Act 1972 and, in respect of executive decisions taken by officers under delegated powers, shall be available for inspection on the Council's website and at the Council's offices (including by access to the Council's website at the Council's offices) in accordance with Regulation 14 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

5.2. An Officer exercising a delegation in respect of an Executive function (i.e. a decision on a matter which would otherwise be made by the Executive/Leader) shall, as soon as reasonably practicable after making the decision, prepare a written record which includes:

- i) a record of the decision including the date it was made;
- ii) a record of the reasons for the decision;
- iii) details of any alternative options considered and rejected when making the decision;
- iv) a record of any conflict of interest declared by any Member of the Executive who is consulted by the Officer which relates to the decision, and
- v) a note of any dispensation granted in respect of any declared conflict of interest.

5.3. An Officer exercising a delegation in respect of a non-Executive function (i.e. a decision on a matter which would otherwise be made by full Council or a Committee) must produce a written record of any decision which was made:

- i) under a specific express authorisation, or
- ii) under a general authorisation and the effect of the decision is to:
- iii) grant a permission or licence;
- iv) affect the rights of an individual, or
- v) award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

5.4. The written record must be produced as soon as reasonably practicable after the decision was made, and shall include the following information:

- i) the date the decision was taken;
- ii) a record of the decision taken along with the reasons for the decision;
- iii) details of alternative options, if any, considered and rejected, and
- iv) where the decision was taken under a specific express authorisation, the names of any Member who has declared a conflict of interest in relation to the decision.

5.5. The written record must be forwarded to Democratic Services who will arrange for it to be available for public inspection at the Civic Offices and on the Council's website.

5.6. The Officer shall also forward to Democratic Services, for publication in the same manner, a copy of any report considered by the Officer which is relevant to the decision made.

5.7. These requirements do not extend to confidential or exempt information.

6. TABLE TO BE INSERTED



Woking Borough Council

# Proper Officers

Shaping the *future* of our borough



## 1. Proper Officers of the Council

- 1.1. The following officers are appointed proper officers and will carry out functions in relation to the statutory provisions specified. This list is not necessarily exhaustive and any omission shall not affect the validity of any action or decision taken by the proper officer.
- 1.2. Subject to the proper officer appointments set out below, the Chief Executive be authorised to act as the proper officer for the statutory responsibilities which fall within their area.
- 1.3. In any case where an officer is appointed or authorised, he or she may delegate such authorisations to such officer as he or she may determine and may make such arrangements for the carrying out of functions in the event of his or her absence or otherwise being unable to act by any other officer of the Council as he or she considers appropriate, subject to such arrangements being made in written form indicating the officers in power to exercise the functions and the functions involved.
- 1.4. Any reference in this document to an enactment is to be taken as including a reference to any enactment for the time being amending or replacing it.

Statute	Function	Proper Officer
<b>Local Government Act 1972</b>		
Section 83	To witness, and to receive, declarations of acceptance of office.	Chief Executive or the Monitoring Officer
Section 84	To receive notices from Members of resignation from office.	Chief Executive
Section 86	To declare any vacancy in any office under this section	Chief Executive
Section 87	To publish a notice of vacancy	Chief Executive
Section 88	To convene if necessary a meeting of the Council when the office of Mayor is vacant.	Chief Executive
Section 89	To receive notice by local government electors of a casual vacancy in the office of Borough Councillor.	Chief Executive
Section 100B	To take decisions as to whether information is likely to be "exempt" when coming before the Council, the Cabinet or a Committee.  To decide if other copy documents supplied to councillors should be supplied to the press	Director of Democratic and Legal Services
Section 100C	To produce a written summary of proceedings taken by the Council, the Cabinet or a Committee in	Director of Democratic and

	private (i.e. Minute)	Legal Services
Section 100D	To compile a list of background papers for a Cabinet or a Committee report.	Director of Democratic and Legal Services
Section 100F	To decide if a requested document appears to contain exempt information	Director of Democratic and Legal Services
Section 115	To receive money due from Officers.	Finance Director
Section 146	To sign declarations and certificates with regard to securities.	Finance Director
Section 191	To receive applications made by the Ordnance Survey Office for assistance in determining boundaries	Chief Executive
Section 210	To exercise any power with respect to a charity exercisable by any officer of a former authority.	Chief Executive
Section 223	Authorising officers to attend court and appear on behalf of the Council under the Local Government Act 1972 and County Courts Act 1984	Director of Democratic and Legal Services
Section 225	To receive and retain any document deposited with the Council for custody.	Director of Democratic and Legal Services
Section 228	To keep accounts open for inspection by any member of the Authority.	Finance Director
Section 229	To certify, for the purpose of any legal proceedings, photographic copies of documents.	Director of Democratic and Legal Services
Section 233	The officer to receive documents required to be served on the authority	Director of Democratic and Legal Services
Section 234	To authenticate notices, orders or other documents on behalf of the Council.	Director of Democratic and Legal Services
Section 236	To send copies of confirmed byelaws made by the Council to the County Council.	Director of Democratic and Legal Services
Section 238	To certify copies of bye-laws.	Director of Democratic and Legal Services

Section 248	To keep the rolls of Honorary Aldermen and Honorary Freeman.	Chief Executive
Schedule 12(4)	To sign, and send to all Members of the Council, the summons to attend meetings of the Council.	Chief Executive
Schedule 14(25)	To certify resolutions under this paragraph for the purpose of legal proceedings.	Director of Democratic and Legal Services

### **Local Land Charges Act 1975**

Section 9	To act as local registrar for the registration of local land charges and the issue of official certificates of search.	Finance Director
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### **Representation of the People Act 1983**

Section 8	To be the Electoral Registration Officer for the purpose of the registration of electors	Chief Executive
Section 24	To be the Acting Returning Officer for the conduct of Parliamentary Elections.	Chief Executive
Section 35	To be the Returning Officer for the conduct of Local Elections.	Chief Executive
Section 67	To receive appointments of Election Agents	Chief Executive
Section 67	To publish a notice of Election Agents	Chief Executive

### **Local Government And Housing Act 1989**

Section 2	To retain on deposit a list of politically restricted posts.	Head of Human Resources
Section 3A	In consultation with the Monitoring Officer, to determine applications for exemption from political restriction or for designation of posts as politically restricted	Chief Executive
Section 4	Designation as the Head of Paid Service	Chief Executive
Section 5	Designation as the Council's Monitoring Officer	Director of Democratic and Legal Services
Section 9, 15, 16 and 17	To undertake all matters relating to the formal establishment of political groups within the membership of the Council.	Chief Executive



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

Section 12	To produce a written statement of Cabinet decisions made at Meetings.	Director of Democratic and Legal Services
Section 13	To record executive decision made by individuals	Director of Democratic and Legal Services
Section 14	To make available for inspection by the public a copy of written statements of Cabinet decisions and associated reports.	Director of Democratic and Legal Services
Section 15	To make available for inspection a list of background papers	Director of Democratic and Legal Services
Section 9	To publish key decisions of the Authority	Director of Democratic and Legal Services

**Local Government Finance Act 1988**

Section 116	Notification to the Council's auditor of any meeting held under section 115 if the 1988 Act	Finance Director
Section 139A	Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required	Finance Director

**Other Miscellaneous Proper Officer Functions**

Any other miscellaneous proper or statutory officer functions not otherwise delegated by the authority	Chief Executive or his/her nominee
Any references to designations in legislation predating the 1971/1972 Session of Parliament, other than the Local Government Act 1972, and in Statutory Instruments made prior to 26th October 1972.	The Chief Executive or the Finance Director, whichever is most appropriate to their departmental responsibilities.



Woking Borough Council

# Standing Orders

Shaping the *future* of our borough



## **1. Meetings of the council**

### **1.1. Time and Place**

- 1.2. All meetings of the Council shall be held in the Council Chamber, Civic Offices, Gloucester Square, Woking on a Thursday commencing at 7 pm unless otherwise notified by the proper officer in the summons to the meeting.

### **1.3. Notice and Summons**

- 1.4. The Chief Executive will notify 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, (unless the law requires the business to be transacted by a particular date) the Chief Executive will send a summons signed by him/her to every councillor giving the date, time and place of the meeting and specifying the business to be transacted and will be accompanied by any reports which are available.
- 1.5. The Chief Executive may cancel a meeting of the Council or its Committees where the agenda has already been issued if it is considered expedient to do so. The Chief Executive shall not exercise such power without prior consultation with the Mayor or the Committee Chair (as appropriate). Any outstanding business will be held over to the next scheduled meeting on a date to be arranged.

## **2. Chairing the meetings**

- 2.1. The Mayor, if present, will chair the meeting. If the Mayor is absent the Deputy Mayor will take the chair. If both the Mayor and Deputy Mayor are absent, the councillors present will elect a councillor to take the Chair for the meeting. The person presiding at the meeting may exercise any power of duty of the Mayor.

## **3. Quorum for Council meetings**

- 3.1. The quorum of the Council is one quarter of the total number of councillors and no business shall be considered unless a quorum is present. For the avoidance of doubt the quorum for Council meetings shall be rounded up to 8 Councillors.
- 3.2. If there is no quorum present at the beginning of a meeting, there shall be a wait of up to thirty minutes. If there is still no quorum at the end of thirty minutes, the Chief Executive shall record the fact in the Minute Book and the names of the members then present. The meeting will stand adjourned to another day.
- 3.3. During the course of a meeting, the Mayor, or any member, may call for a count. If there is no quorum, there shall be a wait of up to five minutes. If there is still no quorum at the end of five minutes, the Chief Executive shall record the fact in the Minute Book and the names of the members then present. The meeting will stand adjourned to another day.
- 3.4. Any business remaining shall be dealt with on a date and time fixed by the Mayor or if a date and time is not found, at the next ordinary meeting of the Council.
- 3.5. It shall not be necessary for the wait to run its course if, in the meantime, a quorum is present.

#### **4. Duration of meeting**

- 4.1. The Chief Executive or her representative at any Council meeting will indicate to the councillors present when any meeting has lasted for 3.5 hours.
- 4.2. Unless the majority of councillors present then agree that the meeting should continue, it will automatically be adjourned. Any business not considered will be considered at a time and date fixed by the Mayor. If the Mayor does not fix a date the remaining business will be considered at the next ordinary meet

#### **4.3. Order of Business**

- 4.4. Subject to Standing Order 4.5, the order of business at every meeting of the Council shall be:

- a) To choose a person to preside if the Mayor and Deputy Mayor are absent.
- b) To approve the Minutes of the last Council meeting.
- c) To receive declarations of interest.
- d) To receive apologies for absence.
- e) Receive any announcements from the Mayor, Leader (or his nominated spokesperson), Committee Chairs and/or the Chief Executive
- f) To consider any urgent business.
- g) Written questions under Standing Order 8.1.
- h) To receive, and consider, recommendations or other matters referred to Council by the Leader/Executive, Overview and Scrutiny Committee, Standards and Audit Committee, Planning Committee, or Licensing Committee.
- i) To receive and consider reports from Council officers.
- j) To deal with notices of motion under Standing Order 5 in the order in which they were received.
- k) Any other business of which notice has been given in the summons.

- 4.5. With the exception of items a, b, c, and d in Standing Order 4.4, the Mayor may vary the order of business if he/she considers it desirable to do so.

#### **5. Extraordinary Meetings**

##### **5.1. Calling Extraordinary Meetings**

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

- a) The Council by resolution
- b) The Mayor; and
- c) The Monitoring Officer

#### **6. Annual Meeting**

##### **6.1. Timing and business**

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

6.3. The annual meeting will:

**a)** Elect a person to preside if the Mayor is not present

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**b)** Elect a councillor to be the Mayor of the Council

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**c)** Elect a councillor to be Deputy Mayor of the Council

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**d)** Approve the minutes of the last ordinary meeting

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**e)** Receive any declarations of interest

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**f)** Receive any announcements from the Mayor

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**g)** Elect councillors to be the Leader and Deputy Leader for the next municipal year

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**h)** Approve a programme of ordinary meetings of the Council for the year if one has not previously been agreed; and

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**i)** Consider any business set out in the notice convening the meeting

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#### **6.4. Selection of Councillors on Committees and Outside Bodies**

6.5. At the Annual meeting, the Council will:

**a)** Decide which committees to establish for the municipal year

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**b)** Decide the size and terms of reference for those committees

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**c)** Decide the allocation of seats to political groups in accordance with the political balance regulations

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**d)** Appoint the Chairs and Vice-Chairs committees on a politically proportionate basis, and where feasible these positions on any one Committee being filled by members from different political groups

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**e)** Appoint the Chairs and Vice-Chairs of sub-committees, where necessary

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**f)** Appoint to such outside bodies not delegated to a Committee, that require a Council decision

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### **7. Declarations of Interest**

7.1. Where in relation to an item on the agenda, a councillor has a Disclosable Pecuniary Interest, that interest should be declared at the start of the meeting by giving full details of the interest and the item to which it relates.

7.2. The councillor must thereafter leave the room when that matter falls to be discussed and take no part in the debate or the vote for that business.

7.3. Where in relation to an item on the agenda, a councillor has:

**a)** a Non-Pecuniary interest arising under paragraph 9 and detailed in Appendix B of the Code of Conduct for Councillors and Co-opted Members (the "Members' Code of Conduct") (membership of outside bodies etc.), or,

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b) any other Conflict of Interest then such interest should be declared at the start of the meeting by giving full details of the interest and the item to which it relates.

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7.4. A councillor is not required to leave the room when the item is debated but may do so if, in the opinion of the councillor concerned, it is advisable in all the circumstances of the case. A councillor with such an interest, who has remained for the debate, is entitled to speak and vote on the matter to which it relates.

## **8. Council Minutes**

### **8.1. Signing the Minutes**

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

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

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

## **9. Motions at Council Meetings**

9.1. Motions may be made either with notice under Standing Order 10 or without notice under Standing Order 11, but not otherwise.

## **10. Notices of Motion on Notice**

10.1. Any councillor may give notice of a motion for consideration at any ordinary meeting of the Council.

10.2. Every Motion must relate to matters in which the Council has powers or duties and must not include declaratory statements relating to matters outside the ambit of the Council. Motions should be about something for which the Council has responsibilities, or which affects the Borough. Motions should be about a single discreet issue and not be in the opinion of the Chief Executive (or Monitoring Officer in her absence) defamatory, frivolous, offensive or otherwise out of order.

10.3. Notices of motion under this Standing Order shall be in writing and delivered to the Chief Executive's office by noon on the day, ten days before the meeting of the Council at which the motion is intended to be moved. No motion shall exceed 100 words in length.

10.4. A notice of motion may not be given by a Member with a disclosable pecuniary interest in the subject matter of the motion. If the disclosable pecuniary interest arises after a notice of motion has been given, the notice shall be of no further effect, and no further action shall be taken in respect of the notice or the motion under Standing Order 5.

- 10.5. Notices delivered in accordance with Standing Order 6.3 shall be dated and numbered in the order in which they were received. The record of receipt shall be open to inspection by any member of the Council.
- 10.6. Every valid notice of motion shall be included in the summons for the next meeting of the Council unless:
- a)** the member who gave it has indicated that it is to be moved at some later meeting; or
  - b)** it is withdrawn in writing.
- 
- 10.7. If a motion set out in the summons is not moved, either by the councillor who gave notice or by some other councillor on their behalf, it shall, unless the Council agrees otherwise, be treated as withdrawn. The motion may not be moved without fresh notice.
- 10.8. After a motion under this Standing Order has been moved and seconded, it shall, be dealt with at the meeting of the Council to which it is brought, unless the Monitoring Officer and/or S151 Officer considers that it would be conducive to the despatch of business to, refer the motion without debate to a meeting of the Executive falling before the next ordinary meeting of Council for consideration and report.
- 10.9. If a motion is referred to the Executive for consideration and report, the member who moved it shall (if he/she is not a member of the Executive) be entitled to receive notice of the meeting when the motion is to be considered, and to attend and speak on it (but not to vote).
- 10.10. The Executive shall report back to the Council and shall recommend the Council either to adopt the motion as originally moved or subject to some amendment or otherwise as it thinks fit. A motion may be referred by the Executive to another Committee for consideration.
- 10.11. If a motion is recommended for adoption with amendments or is recommended to have no action taken on it, the member who gave the notice may, at the meeting of the Council at which it is considered, pursue his/her motion in its original form (provided it is moved and seconded). The member who gave the notice may speak twice; once to move his/her original motion, and secondly to have the right of reply to the debate. The Leader/member in charge of the Executive recommendation may only speak once (immediately before the member who gave the notice).

## **11. Motions without Notice**

- 11.1. The following motions may be moved without notice and will then be followed by no more than the number of speakers in brackets.

- a)** Appoint a Chairman for the meeting (none).
- b)** Correct the Minutes (no limit).
- c)** Alter the order of business (none).
- d)** Refer the matter to a Committee (no limit).
- e)** Amend a motion (no limit).



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- f) Extend the time limit for speeches (none).

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  - g) Suspend Standing Orders (two).

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  - h) Exclude press and public (subject to the provisions of sections 100A-100K of the Local Government Act 1972) (two).

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  - i) Approve a Closure Motion (none).

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  - j) Give consent where consent is required by any Standing Order (no limit).

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  - k) To continue the meeting beyond 3 hours (none)

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## **12. Petitions**

12.1. Petitions to the Council shall be dealt with in accordance with the Scheme for Petitions (see Part 4 of the Constitution).

### **12.2. General**

12.3. Meetings of the Council will allow for a period not exceeding 15 minutes during which time members of the public may ask the Leader or Committee/Sub-Committee Chairs, questions relating to matters over which the Council has powers or duties or which affect the Borough.

### **12.4. Order of Questions**

12.5. Questions will be asked in the order received, except that the Mayor may group together similar questions. If more than two questions are submitted by the same person, the third and subsequent questions shall be moved to the end of the agenda item.

### **12.6. Notice of Questions**

12.7. A question may only be asked if notice has been given by delivering the question in writing to the Chief Executive no later than 12 noon eight working days prior to the day of the Council meeting. Each question must give the name and address of the questioner and indicate the councillor to whom it is to be put.

### **12.8. Length of Questions**

12.9. No question shall exceed 100 words in length in order to allow all members of the public submitting questions to have a fair and equitable opportunity to ask their question within the time allotted as stipulated at 12.3. The question may be accompanied by a statement of context which must not exceed 250 words and must be clearly separated from the text of the question. The statement of context and the question will be included in the agenda of the meeting.

12.10. The Chief Executive, or her representative, shall request that a question exceeding 100 words in length is re-submitted to meet this requirement, within one working day of the request being made.

12.11. Any question that fails to be re-submitted in accordance with 12.10 will receive a written response only, within 5 working days of the Council meeting for which it was submitted.

### **12.12. Number of Questions**

12.13. A member of the public may not submit more than 3 questions for any Council meeting.

#### **12.14. Scope of Questions**

12.15. The Chief Executive (or representative) may reject a question if it:

- a) Is not about a matter for which the Council has a responsibility or which affects the Borough;
- b) Is defamatory, frivolous or offensive; or
- c) Requires the disclosure of confidential or exempt information.

#### **12.16. Record of Questions**

12.17. The Chief Executive will keep a record of each question and will, on receipt, send a copy of the question to the Councillor to who it is to be put. Rejected questions will include reasons for rejection. Questions, (and statements of context) including those dealt with under Standing Order 12.11, and the answers given will be recorded in the minutes of the meeting.

#### **12.18. Asking the Question at the Meeting**

12.19. The Mayor will invite the questioner to put the question to the councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf and indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with. No supplementary questions will be allowed.

#### **12.20. Written Answers**

12.21. Any question which cannot be dealt with during public question time, either due to lack of time, or the non-attendance of the councillor to whom it was to be put, or because not all the information was available, will be dealt with by a written answer.

### **13. Council Meetings – Questions by Members**

13.1. Provided that the Chief Executive has received a copy of the question to be asked before 12 noon seven working days prior to the day of the Council meeting, a councillor may:

- a) ask the Leader or the relevant Chair of any Committee or Sub Committee, about an issue in the councillor's ward; or
- b) ask the Leader or the relevant Chair of any Committee or Sub Committee about some issue in which the Council has powers or duties or which affects the Borough; or
- c) ask the Chair of a Committee about something for which their Committee has responsibility.

13.2. The procedure for dealing with written questions shall be as follows:

- a) The questions and draft replies shall be tabled at the Council meeting;
- b) All first questions submitted by Members will be taken serially and taken as read first. Second questions will follow, then third questions and so on.
- c) The draft reply shall (without further comment) be taken to be the reply to the question unless the Leader (or member answering on his/her behalf) indicates otherwise.
- d) A member may ask one supplementary question. The supplementary question must be one which either directly arises out of the answer given or is required to clarify some part of the answer.
- e) The total time for written questions shall be 15 minutes, or such longer time as the Mayor may allow.

13.3. A question and answer shall not be the subject of discussion or debate.

13.4. The person to whom a question, or a supplementary question, is put may:

- a) decline to answer.
- b) refer the questioner to a Council document or publication where the answer may be found.
- c) undertake to supply an answer (either to the questioner or to all the members of the Council) if an answer cannot conveniently be given when it is asked and circulate within 7 working days.
- d) refer the question for answer to another member of the Executive.

13.5. Notice of a question may not be given by a Member with a disclosable pecuniary interest in the subject matter of the question. If the disclosable pecuniary interest arises after notice has been given, the notice shall be of no further effect, and no further action shall be taken in respect of the notice or the question under Standing Order 13.

## 14. Voting

### 14.1. Majority

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

### 14.3. Show of Hands

14.4. Unless a named vote is taken, voting at Council meetings shall be by a show of hands, or if there is no dissent, affirmation at the meeting.

### 14.5. Named Vote

14.6. A named vote shall be taken if:

- a) The Mayor considers one is necessary, or

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**b)** A member requests one before a “show of hands” vote is taken.

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14.7. The names of members voting for and against the motion, and abstaining from voting on it (“present but not voting”), will be recorded when there is a named vote.

14.8. A named vote shall be taken at a meeting of the Council on business to approve the Budget or set Council Tax. In such matters, there shall be recorded in the minutes of the meeting, the names of members who cast a vote for the decision or against the decision or who abstained from voting (“present but not voting”).

**14.9. Result of Votes**

14.10. The Mayor shall ascertain the number of votes for and against any motion, and declare the result. The Mayor’s declaration shall be final provided that, in the case of a named vote, the number of names and of votes for and against, and abstentions, must tally.

**14.11. Recording of Individual Vote**

14.12. Immediately after a vote is taken, any member may require that the Minutes record how they cast their vote, or that they abstained from voting (“present but not voting”).

**14.13. Casting Vote**

14.14. In the case of an equality of votes, the Mayor may, provided he/she has cast a first vote, cast a second or casting vote. Where there is an equality of votes, and the Mayor has not exercised a second or casting vote, the motion is not carried.

**15. Consideration of Recommendations**

15.1. Where the Executive or Committee is reporting a matter which is reserved to Council the relevant Portfolio Holder or Committee Chair (or a member of the relevant committee nominated by the chair of that committee) will introduce the report. The recommendation of the Executive or Committee in the report is deemed to be moved and seconded and the motion shall operate (without further words being necessary) as a motion. The normal rules of debate will apply to any debate on the recommendations.

**16. Conflicting Recommendations**

16.1. Where the reports of the Leader/Executive and/or one or more Committees contain conflicting recommendations on the same subject matter, all such recommendations shall be dealt with together when the first recommendation is reached.

16.2. The Mayor shall call for a motion or motions in respect of the second and any later recommendation(s). These motion(s), when seconded, shall operate as motion(s) to amend the recommendation in the first report.

16.3. No member shall speak more than once in the debate except on successive amendments, or to exercise a right of reply under Standing Order 16.4

- 16.4. Where the recommendation of the Executive is under consideration, the Leader shall have the right of reply at the close of the debate. In other cases, the Chairman of the second (or last) Committee (or the member having charge of that Committee's report) shall have the right of reply at the close of the debate, with the Chairman or Chairmen (or other member in charge) of the first or preceding Committee having the right to speak immediately before.

## **17. Council Meetings – Rules of Debate**

### **17.1. Motions and Amendments**

- 17.2. A motion or amendment shall not be discussed unless it has been proposed and seconded.
- 17.3. The Mayor shall satisfy himself/herself that Council understands the terms of a motion or amendment before it is discussed or voted on.

### **17.4. Seconders' Speech**

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

### **17.6. Speeches**

- 17.7. A member may indicate his/her wish to speak, but the Mayor has an absolute discretion as to whether, and when, to call that member (except when a member is exercising a right of reply).
- 17.8. A member shall direct his/her speech to the matter under discussion.
- 17.9. Unless the Mayor agrees otherwise, no speech shall exceed five minutes.
- 17.10. The Leader's Statement at the first ordinary Council meeting of the Municipal Year and his/her annual Budget speech, and Group Leaders' responses, are not subject to a time limit.
- 17.11. When a member may speak again:
- 17.12. A councillor who has spoken on a motion or an amendment may not speak again whilst it is the subject of debate, except:

- a) In exercise of a right of reply
- b) On a point of order, or
- c) By way of personal explanation.

### **17.13. Amendments to Motions**

- 17.14. An amendment shall be relevant to the motion and will either be:

- a) to refer the matter to the Leader/Executive, an appropriate committee or other body for consideration or reconsideration;
- b) to leave out words;

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- c) to leave out words and insert or add others; or
  - d) to insert or add words; as long as the effect of (ii) to (iv) above is not to negate the motion.
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17.15. The Mayor may require the amendment to be written down and handed to the Chief Executive before it is discussed. If he or she deems it necessary, the Mayor shall read out the amended motion before the amendment is put.

17.16. Only one amendment may be moved and discussed at any one time and no further amendment shall be moved until the amendment under discussion has been disposed of, provided that the Mayor may permit multiple amendments to be discussed together if he/she thinks that this will facilitate the proper conduct of business, subject to separate votes being taken in respect of each amendment.

17.17. If an amendment is lost, other amendments to the original motion may be moved.

17.18. If an amendment is lost, no other amendment having a similar effect may be moved at the same meeting of the Council.

17.19. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion to which any further amendments may be moved.

17.20. The original or substantive motion, or any recommendation before the Council, shall at the close of debate be put to the vote. No amendment may be moved after the original or substantive motion has been voted upon and no further discussion may then take place.

17.21. A diagram showing how decisions can be made is at [Appendix 1](#).

#### **17.22. Right of Reply**

- a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
  - b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
  - c) If an amendment has already been carried, the mover of that is deemed to be the mover of the substantive motion and therefore has the right of reply at the close of the debate on a further amendment.
  - d) The mover of an amendment has no right of reply to the debate on his or her amendment
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17.23. A councillor exercising a right of reply shall confine him or herself to answering previous speakers and shall not introduce new matters or material. The Mayor's ruling on this shall be final and not open to discussion.

17.24. A decision shall be taken immediately after the right of reply has been exercised.

#### **17.25. Alteration and Withdrawal of Motions**

17.26. A member may with the consent of his/her seconder and of the Council, which shall be signified without discussion, alter a motion which he/she has proposed or of which notice has been given, if the alteration is one which could have been moved as an amendment.

17.27. A motion or amendment may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Council, which shall be signified without discussion, and it shall not be competent for any member to speak upon it after the proposer has asked and been given permission for its withdrawal.

**17.28. Motions which may be moved during debate**

17.29. 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 out;
- f) that a member be not further heard;
- g) that a member leave the meeting;
- h) the exclude the public, under Section 100A of the Local Government Act 1972.

**17.30. Points of Order and Personal Explanation**

17.31. Point of Order

A councillor may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Standing Orders or the law. The councillor must indicate the Standing Order or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

17.32. Personal Explanation

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

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

**17.33. Closure Motions**

17.34. A councillor may move, without comment, the following Closure Motions at the end of a speech of another councillor;

a) To proceed to the next business;

b) That the question be now put;

c) To adjourn a debate; or

d) To adjourn a meeting.

17.35. If a Closure Motion is seconded and the Mayor thinks the item has been sufficiently discussed, the Mayor will put the procedural motion to the vote. If it is passed the Mayor will give the mover of the original motion a right of reply before putting the motion to the vote

17.36. A second Closure Motion, shall not be made within a period of half an hour except by leave of the Mayor.

17.37. The Mayor may, at his/her discretion, adjourn the meeting, at any time, for such period of time that he/she considers reasonable and conducive to the dispatch of business.

**17.38. Rescission of Preceding Resolution (“Six Months’ Rule”)**

17.39. No motion to rescind any resolution of the Council passed within the preceding six months, and no motion or amendment to the same effect as one which has been negated within the preceding six months, shall be proposed unless notice is given under Standing Order 10 and bears the names of at least ten members of the Council.

17.40. This Standing Order shall not apply to:

a) motions to receive and adopt the report or recommendation of the Executive or a Committee, or

b) motions arising from a recommendation or report from a Statutory Officer.

**17.41. Officers speaking during debates**

17.42. Any member of the Corporate Leadership Team or his representative may signify his/her wish to speak.

17.43. The Mayor shall then use his discretion to call upon the Officer at an appropriate point during the debate.

17.44. The subject matter on which an Officer may speak shall be confined to:

a) providing relevant information; or

b) explanation or interpretation of any law, regulation, protocol or procedure

17.45. The Mayor may, at his discretion, permit a councillor to seek, through the Chair, the opinion of any Officer present at the meeting on a particular point.

17.46. Any Officer may be called upon to speak by the Mayor who shall indicate the subject matter.



17.47. Where an Officer is presenting a report of which prior notice has been given, the above rules do not apply, in relation to the presentation.

## **18. Councillor Conduct**

### **18.1. Role of Mayor**

18.2. The Mayor is required to ensure that the meeting is conducted in a calm atmosphere of decorum.

### **18.3. Remaining Seated to Speak**

18.4. When councillors speak at Council they may remain seated and address the meeting through the Mayor.

### **18.5. Attire**

18.6. Members and Officers shall dress appropriately at meetings of the Council, Executive and Committees. This should be business dress. Any comments in respect of dress at meetings shall be raised with Group Leaders.

### **18.7. Mayor Standing**

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

## **19. Misconduct by a Member**

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

### **19.2. Continuing Misconduct by a Named Member**

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

### **19.4. General Disturbance**

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

### **19.6. Disturbance by Members of the Public**

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

### **19.8. Confidentiality of Business**

19.9. All agendas, reports and other documents circulated to Council, but not made available to members of the public under Section 100B(2) of the Local Government Act 1972 and marked "Not for Publication" under section 100B(5) shall not be disclosed to any persons, but may be communicated after the meeting to members of the Council.

19.10. The proceedings of Council shall be open to the press and public, subject to the right of any Committee to exclude the press and public pursuant to the Local Government Act 1972.

## **20. Application to all Committees and Sub Committees**

20.1. All of these Standing Orders apply to meetings of the Council.

20.2. Reference to the Mayor shall be read as reference to the Chairman.

20.3. Standing Orders 3,4,7,8,14,16 and 19 apply to meetings of Committees and to meetings of the Executive.

20.4. The Committees shall receive a presentation from officers and be afforded the opportunity to raise any clarification questions following which the Committee shall move to the debate.

## **21. Planning Committee – Speaking by the Public and Ward Councillors**

21.1. The Planning Committee will receive representations from members of the public and applicants in accordance with procedures agreed from time to time by the Committee.

21.2. Any councillor may attend meetings of the Planning Committee but must sit separately from the members of the Committee so that it is clear to members of the public who are the members of the Committee.

21.3. Any councillor may seek the permission of the Chairman of the Committee of which they are not a member to speak at the meeting in relation to an item relating to his ward.

## **22. Licensing Committee - Speaking by the Public and Ward Councillors**

22.1. Any councillor may attend meetings of the Licensing Committee but must sit separately from the members of the Committee so that it is clear to members of the public who are the members of the Committee.

22.2. Any councillor may seek the permission of the Chairman of the Committee of which they are not a member to speak at the meeting in relation to an item relating to his ward.

## **23. Standards and Audit Committee – attendance by non-Committee Councillors**

23.1. Any councillor may attend meetings of the Standards and Audit Committee of which he/she is not a member but shall sit separately from the members of the Committee so that it is clear to members of the public who are the members of the Committee.

- 23.2. Any councillor may seek the permission of the Chairman of the Committee of which they are not a member to speak at the meeting in relation to an item relating to his ward.

#### **24. Exclusion of Public**

- 24.1. Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or under Standing Order 19.6 (Disturbance by public).

#### **25. Photography and audio/visual recording of meetings**

- 25.1. Audio/visual recording at Council meetings is permitted in accordance with the Openness of Local Government Bodies Regulations 2014.

#### **26. Motions Affecting Persons Employed by the Council**

- 26.1. If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, it shall be dealt with following a motion to exclude the press and public under Section 100A(4) of the Local Government Act 1972 on the grounds that otherwise there would be disclosure of exempt information within the meaning of paragraph 1, Schedule 12A of that Act.

#### **27. Committees – Composition**

- 27.1. Except where otherwise provided by statute, the Mayor shall be an ex-officio non-voting member of every Committee appointed by the Council.
- 27.2. The Mayor and Deputy Mayor shall not be appointed to the Executive.
- 27.3. Members of the Executive may be appointed to the Planning and Licensing Committees, but no other Committee.
- 27.4. The membership of a Committee shall not exceed thirteen members (excluding ex-officio members and co-optees).

#### **28. Convening of Committees**

- 28.1. The summons, agenda paper, reports and documents prepared for a Committee shall be circulated to the Committee members as long before as reasonably possible, and not less than the statutory minimum period before the meeting.
- 28.2. The Chairman of a Committee, or in his/her absence the Vice-Chairman, shall be authorised, after consultation with the Chief Executive, to cancel a meeting of a Committee in cases where he/she is satisfied that the amount of business to be conducted at the meeting is such that it could conveniently be left over until the next ordinary meeting of the Committee.
- 28.3. The Chairman of a Committee, or the Mayor, may summon a special meeting of the Committee at any time. A special meeting shall also be summoned on the requisition in writing of not less than a quarter of the members of the Committee. The summons shall set out the business to be considered at the special meeting and no business other than that set out shall be considered at that meeting. Provided that such a special meeting, except by permission of the Chairman of the

Committee, shall not be called to deal with any matter which has within the previous six months been considered or in respect of which consideration has been adjourned by the Committee.

## **29. Powers, Duties and Responsibility for Functions**

- 29.1. The powers, duties and responsibility for functions of the Council, the Executive and the Council's Committees shall be as set out in the Articles and in Part 3 of the Constitution.
- 29.2. In the exercise of their powers or duties or tasks the Leader/Executive, an individual Member exercising delegated powers and every Committee shall:
- a) formulate and keep under review objectives and standards for the provision of services within its terms of reference;
  - b) monitor and keep under review the economy, efficiency and effectiveness with which those services are provided and the functions of the Council are discharged; and
  - c) take such action or make such recommendations as may be necessary or appropriate.
- 29.3. The powers and duties which may be delegated to any Special Committee shall be at large and may include any matter already the subject of delegated authority to another Committee.

## **30. Standing Orders**

### **30.1. Variation and Revocation**

- 30.2. The Leader/Executive may make recommendations to vary or revoke these Standing Orders. Any other motion to do so shall, when proposed and seconded, stand adjourned without discussion to the Leader/Executive for report to the next ordinary meeting of the Council.

### **30.3. Copies for Members**

- 30.4. The Chief Executive shall give a printed copy of this Constitution to each member of the Council upon that member being elected.

### **30.5. Suspension of Standing Order**

- 30.6. Any of the preceding Standing Orders may be suspended so far as regards any business at the meeting where its suspension is moved, if the Council is satisfied that it is conducive to the effective despatch of business.

### **30.7. Interpretation of Standing Orders**

- 30.8. The ruling of the Mayor as to the construction or application of any of these Standing Orders, or as to any proceedings of the Council, shall be final.

### **30.9. Construction of Standing Orders**

- 30.10. Reference in these Standing Orders to the masculine gender shall include the feminine; and the singular shall include the plural, and vice versa.

30.11. Save where specified to the contrary in this Constitution, the expression “clear days” means that the time is to be reckoned exclusive both of the day on which the notice is given and of the day of the meeting. A Saturday, Sunday or public holiday will not count as one of the clear days.

### **31. Appointments to Outside Bodies**

31.1. In any case where the Council is entitled to nominate representatives to outside bodies, any contested appointments shall be decided by election. The election shall be conducted by ascertaining the number of votes in favour of each candidate. Each member shall have a maximum number of votes equal to the number of vacancies.



Woking Borough Council

# Budget and Policy Framework Procedure Rules

Shaping the *future* of our borough



## 1. The Framework for Executive Decisions

1.1. The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Leader/Executive to implement it.

## 2. Process for Developing the Framework

2.1. **The process by which the budget and policy framework shall be developed is:**

- i) The Leader/Executive will publicise by including in the forward plan a timetable in accordance with which it will make proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework. Within this timetable the Overview and Scrutiny Committee will conduct such research, consultation with stakeholders and investigations as are necessary to enable it to develop proposals for a budget and policy framework for the forthcoming year.
- ii) The Overview and Scrutiny Committee will present its recommendations for the policy and budget framework to the Leader/Executive. The Leader/Executive will finalise their proposals for the Council to consider having taken into account the proposals from the Overview and Scrutiny Committee. The Leader's/Executive's report to Council will show their response to those proposals.
- iii) The Council will consider the proposals of the Leader/Executive and may adopt them, amend them, refer them back to the Leader/Executive for further consideration, or substitute its own proposals in their place.
- iv) The Council's decision will be publicised within five working days and a copy shall be given to the Leader/Executive. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Leader's/Executive's proposal without amendment) or (if the Leader's/Executive's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader/Executive formally objects to it in that period.
- v) If the Leader/Executive objects to the decision of the Council, then the Leader/Executive shall give written notice to the Proper Officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Proper Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- vi) The Council meeting must take place within five working days of the receipt of the Leader's/Executive's written objection. At that Council meeting, the previous decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- vii) The Council's decision, if not in accordance with the recommendation of the Leader/Executive, shall require a simple majority of those voting at the meeting.
- viii) The decision shall then be made public and shall be implemented immediately.

## 3. Decisions Outside the Budget or Policy Framework

- i) Subject to the provisions of Financial Regulations as they apply to virement, the Leader/Executive, Committees of the Executive, individual members and any officers discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in



accordance with the budget approved by Full Council, then that decision may only be taken by the Council, subject to 4 below.

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- ii) If the Leader/Executive, Committees of the Executive, individual members and any officers discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.
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#### **4. Urgent Decisions Outside the Budget or Policy Framework**

4.1. (a) The Leader/Executive, a Committee of the Executive, an individual member or officers discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. Decisions to commit urgent expenditure may be taken in cases of civil emergency or where there is a compelling and urgent need for immediate action. In all other cases, the decision may only be taken:

- i) if it is not practical to convene a quorate meeting of the Full Council; and
  - ii) if the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.
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4.2. The reasons why it is not practical to convene a quorate meeting of Full Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Committee the consent of the Mayor and in the absence of both the Deputy Mayor will be sufficient.

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

#### **5. In-Year Changes to Policy Framework**

5.1. The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Leader/Executive, a Committee of the Executive, an individual member or officers discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes necessary to ensure compliance with the law, ministerial direction or government guidance.

#### **6. Call-In of Decisions Outside the Budget or Policy Framework**

6.1. (a) Where the Overview and Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

6.2. (b) In respect of functions which are the responsibility of the Leader/Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the

Leader/Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Leader/Executive must decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

6.3. (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 Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within five days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:

- i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

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- ii) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

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- iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Leader/Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

## **7. Financial Regulations**

7.1. The Council shall make, and from time to time review, financial regulations to determine the responsibilities of members and officers in the administration of its financial affairs, and there shall be delegated to the Chief Finance Officer authority to exercise the functions described in the regulations.

## **8. Investment Programme**

8.1. Each year, the Leader/Executive shall prepare a five year Investment Programme and shall consider the aggregate effect of the Investment Programme on the Council's financial resources and make recommendations thereon to the Council.

8.2. Any scheme proposed to be included in an Investment Programme which was not contained in the preceding approved Investment Programme shall be considered by the Leader/Executive having received a report from the appropriate officer on the financial implications of the proposal.

## **9. Revenue Estimates**

- 9.1. The Leader/Executive shall keep the Council's financial strategy under review and shall consider and determine annual revenue estimates for submission by way of recommendation to Council having received a report thereon from the Chief Finance Officer.
- 9.2. Any proposal to incur expenditure which is not provided for in the previously approved revenue estimates and which cannot be financed by way of virement in accordance with financial regulation 5.3 shall be considered and determined by the Leader/Executive for submission by way of recommendation to Council having received a report thereon from the appropriate officer on the financial implications of the proposal.

#### **10. Expenditure - Exceptional**

- 10.1. Any motion which is moved at a Council meeting otherwise than in pursuance of a recommendation or report of the Leader/Executive and if carried would, by the lesser of 5% or £5000, increase the expenditure upon or reduce the revenue of any service or would involve capital expenditure, shall when proposed or seconded, stand adjourned without discussion to the next ordinary meeting of the Council, and the Leader/Executive shall report on the financial implications of the proposal.



Woking Borough Council

# Executive Procedure Rules

Shaping the *future* of our borough



## **1. Executive Procedure Rules**

### **How does the Executive operate?**

#### **Who may make executive decisions?**

1.1 The Leader has responsibility for the discharge of all executive functions and may delegate any or all of these functions to:

- i) The Executive as a whole;
- ii) a Committee of the Executive;
- iii) an individual Member of the Executive;
- iv) an individual Member of the Council who may exercise powers in relation to his/her ward;
- v) an Officer;
- vi) another Local Authority; or
- vii) under joint arrangements.

#### **Allocation of Political Accountabilities by Leader**

1.2 The Leader may allocate to individual members of the Executive particular areas of political accountability. Any such individual will take responsibility for the explanation of identified areas of policy or service themes, but will not exercise executive functions in that respect. These individuals become known as Portfolio Holders.

#### **Sub-Delegation of Executive Functions**

1.3 The Executive, Committee of the Executive or an individual Member of the Executive may further delegate functions to an officer, in which case the Responsibility for Functions in Part 3 of the Constitution and the Scheme of Delegations to Officers shall be amended accordingly.

#### **Conflicts of Interest**

1.4 Conflicts of interest affecting the Leader or any member of the Executive shall be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **Executive Meetings**

1.5 The Executive will meet at such times as the Leader shall determine. The Executive shall meet at the Civic Offices or another location to be agreed by the Leader.

#### **Quorum**

1.6 The quorum for a meeting of the Executive, or a Committee of it, shall be one-third of the number of members of the Executive (with such rounding-up as may be necessary to achieve whole numbers) or two (whichever is the greater).

#### **How are decisions to be taken by the Executive?**

1.7 Executive decisions which have been delegated to the Executive will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

## **2. How are Executive Meetings Conducted?**

### **Who presides?**

- 2.1 If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. In the absence of the Leader and the Deputy Leader, a person appointed to do so by those present shall preside.

### **Who may attend?**

- 2.2 Meetings of the Executive will be held in accordance with the Access to Information Rules in Part 4 of this Constitution

### **What is the order of business?**

- 2.3 At each meeting of the Executive, the following business will be conducted:

i) consideration of the minutes of the last meeting;

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ii) declarations of interest, if any;

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iii) matters referred to the Executive (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Executive 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;

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iv) consideration of reports from the Overview and Scrutiny Committee; and

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v) ; matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

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### **Consultation**

- 2.4 All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **Who sets the Agenda?**

- 2.5 The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive, a Committee of it or any member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

Any member of the Council may ask the Leader to arrange that an item is placed on the agenda of the next available meeting of the Executive for consideration. The Leader is not obliged to comply with such requests.

The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Executive where the Overview and Scrutiny Committee or the Full Council have resolved that an item be considered by the Executive.

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of an Executive meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties.

### **3. Can members of the public ask questions?**

**3.1** Members of the public, which for these purposes shall mean persons living or working in the Borough, may ask questions of members of the Executive at meetings of the Executive.

#### **What is the procedure for asking questions?**

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

#### **How do I raise a question?**

**3.3** A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than 12 noon, seven days before the day of the meeting. Each question must give the name and address of the questioner and should specify the member to whom the question is to be put.

#### **How many questions can I raise?**

**3.4** At any one meeting no person may submit more than three questions and no more than three questions may be asked on behalf of one organisation.

#### **What questions can I ask the Executive?**

**3.5** The Chief Executive may reject a question if it:

i) is not about a matter for which the Council has a responsibility or which affects the Borough;

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ii) is defamatory, frivolous or offensive;

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iii) requires the disclosure of confidential or exempt information.

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#### **How are the questions recorded?**

**3.6** The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the Leader and the member to whom the question is to be put. If no particular member has been specified as the person to whom the question is to be put, the question shall be put to the Leader. Rejected questions will include reasons for rejection.

Copies of all questions and the draft replies shall be prepared, laid round the table and made available to the public attending the meeting.



### **Can I ask my Question at the Meeting?**

- 3.7** The Leader will invite the questioner to put the question to himself/herself or the specified member. If a questioner who has submitted a written question is unable to be present, they may ask the Leader to put the question on their behalf. The Leader may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

The Leader or the specified member may state that his/her reply is in the terms of the draft or otherwise as he/she thinks fit.

The total time for public question-time shall be 30 minutes or such longer time as the Leader shall in his/her discretion allow.

### **Can I raise a supplementary question?**

- 3.8** A questioner who has put a question in person may also put one supplementary question without notice. A supplementary question must arise directly out of the original question or reply. The Leader may reject a supplementary question on any of the grounds in Rule 3.5 above.

The Leader or the specified member may reply to the supplementary question as he/she thinks fit.

### **Written Answers**

- 3.9** Any question which cannot be dealt with during public question-time through lack of time will be dealt with by a written answer.

### **Reference Elsewhere**

- 3.10** Unless the Leader decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to another Committee. Once seconded, such a motion will be voted on without discussion.

## **4. How are individual decisions made and documented?**

- 4.1** The Leader, or an individual Member, taking a decision on a matter shall comply with the following parts of the Executive Procedure Rules.

- 4.2** A clear audit trail of decision-making must be maintained for future reference.

### **Forward Plan**

- 4.3** Subject to the provisions of Access to Information Procedure Rules 15 (General Exception) and 16 (Special Urgency), a key decision shall not be taken by an individual Member unless details have been included in the Forward Plan.

### **Requirement for a Written Report**

- 4.4** A written report on the proposed decision shall be prepared by the relevant officer on his or her own initiative, or at the request of the Member.

- 4.5** The officer's report shall set out the following:

- i) The date of the proposed decision;
- ii) Whether a key decision is to be taken;
- iii) Whether the report contains confidential or exempt information;
- iv) A description of the issue to be decided;
- v) Any consultations undertaken, the method of consultation and a summary of any representations received;
- vi) The officer's recommendations and the reasons for them;
- vii) Implications arising from the decision; and
- viii) A list of background papers.

**4.6** Subject to the provisions on confidential and exempt information and special urgency set out in the Council's Access to Information Procedure Rules, the Proper Officer shall at least five clear days prior to the date that the proposed decision is scheduled to be taken:

- i) forward a copy of the report by e-mail to the relevant Member and all other councillors; and
- ii) make the report publicly available.

### **Taking the Decision**

**4.7** The decision shall be taken by the Member on the scheduled date in the presence of the relevant officers (which shall always include a Democratic Services Officer).

**4.8** Prior to taking the decision, the Member will be required to disclose any personal and/or prejudicial interests in the matter under consideration.

### **How is the decision recorded?**

**4.9** After a decision has been taken by the Member, the Democratic Services Officer will prepare a record, including details of:

- iii) whether it was a key or non-key decision;
- iv) the title of the item;
- v) the name of the decision-maker;
- vi) the date on which the decision was made;
- vii) the date on which the decision will be implemented;
- viii) any declarations of interest;
- ix) the decision;
- x) the reasons for the decision;
- xi) details of any alternative options considered and rejected by the Member when making the decision;
- xii) a record of any conflict of interest declared by any Executive member who is

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consulted by the Member making the decision which relates to that decision;

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xiii) a note of any dispensation granted in respect of any declared conflict of interest; and

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xiv) a list of the documents taken into account by the decision-maker, including the report of the relevant officer.

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**4.10** The decision shall be published by the Democratic Services Officer in draft form electronically, and shall otherwise be available at the Civic Offices, within 24 hours of the decision being made. All members of the Council shall receive electronic notification of such decision within the same timescale. This will enable Councillors to consider whether they wish to “call-in” the decision in accordance with Overview and Scrutiny Procedure Rules.

**4.11** The Proper Officer will maintain records of all decisions made, together with associated reports and background papers, in accordance with the Council’s Access to Information Procedure Rules.



Woking Borough Council

# Overview and Scrutiny Procedure Rules

Shaping the *future* of our borough



The role that overview and scrutiny can play in holding an authority's decision-makers to account makes it fundamentally important to the successful functioning of local democracy.

## **1. General Arrangements**

**1.1** The Council will have the Overview and Scrutiny Committee as set out in **Article 6** and will appoint to the Committee at its first ordinary meeting in accordance with **Standing Order 20.**

**1.2** The terms of reference of the Committee will be as provided in Article 6 and in the **Responsibility for Functions in Part 3** of this Constitution and shall include the functions of a crime and disorder committee under Section 19 Police and Justice Act 2006.

## **2. Membership**

**2.1** The membership shall comprise ten elected councillors.

**2.2** All councillors except members of the Executive may be members of the Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

## **3. Co-optees**

**3.1** The Committee shall be entitled to recommend to Council the appointment of individuals as non-voting co-optees.

## **4. Meetings**

**4.1** There shall be between eight and ten ordinary meetings of the Committee in each year.

**4.2** In addition, extraordinary meetings may be called from time to time as and when appropriate.

**4.3** A meeting of the Committee may be called by the Chairman of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

## **5. Quorum**

**5.1** The quorum for the Committee shall be as set out in Standing Order 20.10. i.e. one-third of the number of members of the Committee (with such rounding-up as may be necessary to achieve whole numbers).

### **Chairman**

**5.2** The Committee shall normally be chaired by a councillor who is not a member of the largest political party group on the council.

**5.3** The Vice-Chairman shall not be from the same political group as the Chair.

**5.4** The appointment of the Chairman and Vice-Chairman of the Committee shall in accordance with Standing Order 20.9.

## **6. Work Programme**

**6.1** The Overview and Scrutiny Committee shall be responsible for setting its own work programme. and the Committee shall have particular regard to the time and resources (including officer time) needed to deliver the programme. The Committee shall be assisted in its work by sight of the Leader's draft Forward Plan for the whole year.

**6.2** Members wishing to suggest items for the work programme shall complete a Scrutiny Topic Proposal form referencing the Scrutiny Topic Selection Flowchart in the Toolkit. The form must then be submitted to the Proper Officer for consideration to the draft work programme. If the Membership of the Committee agrees, the item shall be added to the work programme.

### **Pre-decision Scrutiny**

**6.3** As part of its ordinary process, the Committee will consider upcoming decisions of the Executive by way of pre-decision scrutiny.

## **7. Agenda Items**

**7.1** The usual method for requesting inclusion of Agenda items for the Committee will be via the Work Programme. However, any member of the Council shall be entitled to give written notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. The written notice must specify the reasons for the proposed item, reasons why it cannot be progressed as a part of the work programme and the outcome sought by the member from Committee. On receipt of such a valid request the Proper Officer will ensure that it is included on the next available agenda.

## **8. Task and Finish Groups and Standing Working Groups**

**8.1** The Committee work programme and/or the development of a pertinent/relevant theme/topic during the year may require the establishment of a group to undertake detailed work for a specific item. The Committee will determine the membership, terms of reference, timescales and reporting by the Task and Finish Group ("Task Group").

**8.2** A Task and Finish Group shall be established as follows:

- i) The Committee may appoint any Task and Finish Group at its own discretion. The Committee must have regard to the Toolkit when commissioning work for Task and Finish Group.
- ii) The Committee shall define the broad theme for the work of the Task and Finish Group. The Task and Finish Group shall define the detailed focus of the agreed item and create its terms of reference.
- iii) The Committee shall receive draft terms of reference for consideration. These shall be debated and agreed as necessary at the Committee.

### **Membership**

**8.3** The Committee shall consider the number of persons to be appointed to the Task and Finish Group and its political balance; usually the composition of the Task and Finish Group shall take into account proportionality however flexibility needs to be applied as necessary. . Nominations to the Task and Finish Group shall be agreed by the Committee and, if necessary, determined by voting.

**8.4** Subject to approval by the Committee, Task and Finish Groups may co-opt councillors and non-councillors as may assist them in their work. Non-councillors shall be eligible for the reimbursement of their expenses.

#### **Meetings**

**8.5** The recommended number of meetings for a Task and Finish Group is between one and three (inclusive), unless otherwise directed by the Committee.

#### **Reporting**

**8.6** Task and Finish Groups shall submit a report to the Committee .

**8.7** Task and Finish Group members shall be entitled to attend and speak at Committee meetings where the work of their Group is under consideration.

#### **Officer resource**

**8.8** Subject to availability of officer resources, an Officer from within Democratic Services may be made available to assist, support and coordinate the work of the Task and Finish Group set up by the Committee.

#### **Standing Working Groups**

**8.9** A Standing Working Group (“Working Group”) shall consider the financial aspects of the Council’s business.

The establishment of other Working Groups shall be considered by the Committee as necessary.

#### **Terms of Reference**

**8.10** Terms of Reference will be made for any Group that is deemed necessary to be formed.

### **9. Policy Review and Development**

**9.1** The role of the Committee in relation to the development of the Council’s budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

**9.2** In relation to the development of the Council’s approach to other matters not forming part of its policy and budget framework, the Committee may make proposals to the Leader/Executive for developments in so far as they relate to matters within their terms of reference.

**9.3** The Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist the Members in this process. The Committee may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it



reasonably considers necessary to inform its deliberations. The Committee may ask witnesses to attend to address it on any matter under consideration.

## **10. Reports from Overview and Scrutiny Committee**

**10.1** Once it has formed recommendations on proposals for development, the Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Leader/Executive if the proposals are consistent with the existing budgetary and policy framework, or to the Council as appropriate. The Committee may publish its report or recommendations.

**10.2** If the Committee cannot agree on one single final report to the Council or Leader/Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Leader/Executive with the majority report.

**10.3** The Committee shall by notice in writing require the Council or the Leader/Executive:-

- i) to consider the report or recommendations,
- ii) to respond to the Committee indicating what action (if any) the Council or the Leader/Executive proposes to take,
- iii) if the Committee has published the report or recommendations, to publish a response,
- iv) if the Committee provided a copy of the report or recommendations to a member of the Council under section 21A(8) of the Local Government Act 2000, to provide the member with a copy of the response,

and to do so within two months beginning with the date on which the Council or the Leader/Executive received the report or recommendations or (if later) the notice.

## **11. Overview and Scrutiny Reports: Consideration by the Executive**

**11.1** Once a report of the Committee on any matter which is the responsibility of the Leader/Executive has been completed, it shall be referred to the Leader/included on the agenda of the next available meeting of the Executive unless the matter which is the subject of the report is already scheduled to be considered by the Leader/Executive on an agreed date.

**11.2** The Committee will in any event have access to the forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Committee meeting following a consideration of possible policy/service developments, the Committee may respond in the course of the Leader/Executive's consultation process in relation to any key decision.

## **12. Rights of Overview and Scrutiny Committee Members to Documents**

**12.1** In addition to their rights as councillors, members of the 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.

12.2 Nothing in this paragraph prevents more detailed liaison between the Leader/Executive and Chairman of the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### 13. Members and Officers Giving Account

13.1 The 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, it may require the Leader, any member of the Executive allocated particular political accountability, or any councillor exercising functions of the Council in relation to their ward, or any senior officer, to attend before it to explain in relation to matters within their remit:

13.2 any particular decision or series of decisions;

- i) the extent to which the actions taken implement Council policy; and/or
- ii) their performance.

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

13.3 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.

### 14. Attendance by Others

14.1 The Committee may invite people other than those referred to in the above section, 'Members and Officers Giving Account', to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

14.2 The Committee shall have rights under Section 22A Local Government Act 2000 and regulations made thereunder to call for information from partner authorities.

### 15. Call-In

15.1 When a decision is made by the Leader, the Executive, or its Committee, an Executive member, a Councillor exercising powers in relation to their ward, or a key decision is made by an Officer with delegated authority from the Leader, the decision shall be published in draft form electronically, and shall otherwise be available at the main offices of the Council, within 24 hours of the decision being made. All members of the Council shall receive electronic notification of such decisions within the same timescale by the person responsible for publishing the decision.

15.2 Non-key decisions and recommendations to Council from the Executive may not be called in.

15.3 That notice will bear the date on which it is published and will specify that the decision will come into force, subject to urgency provisions as detailed in paragraph (15.9), and may then be implemented:

- i) on the expiry of five working days after the publication of the decision in the case of decisions taken by the Leader, individual lead councillors or key

decisions taken by an officer with delegated authority from the Leader or Executive; or

- ii) on the expiry of five working days after the date of the meeting in the case of decisions taken by the Executive collectively

unless the Committee objects to it and calls it in.

**15.4** During the call-in period, as referred in (15.3), the Chairman or any three members of the Committee, may request in writing to the Proper Officer who shall then notify the decision-taker of the call-in.

- i) The notice to the Proper Officer shall state the reasons for the call-in, and these reasons shall be made available to all members of the Council. The call-in must meet one of the following criteria:
  - o that there was insufficient, misleading, or inaccurate information available to the decision-maker;
  - o that all the relevant facts had not been taken into account and/or properly assessed;
  - o that the decision is contrary to the budget and policy framework and is not covered by urgency provisions; or
  - o that the decision is not in accordance with the decision-making principles set out in the Constitution.
- ii) The Proper Officer shall call a meeting of the Committee on such date as may be determined, where possible after consultation with the Chairman of the Overview and Scrutiny Committee, and in any case within five working days of the decision to call-in.

**15.5** If, having considered the decision, the Committee wishes to take action it may refer the decision back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the next ordinary meeting of Full Council. If referred back to the Executive, it shall be reconsidered at the next ordinary meeting of the Executive's Committee or earlier if the Leader determines. Where the decision was made by an individual, the individual will reconsider within five working days of the request. The decision-making person or body shall reconsider the decision, amending the decision or not as the case may be, before adopting a final decision.

**15.6** If following an objection to the decision, the Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Committee meeting, or the expiry of the five day period, whichever is the earlier.

**15.7** If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary, and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus 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-making person or body, together

with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive or by its Committee of it, a meeting will be convened to reconsider within five working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.

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

**15.9** The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would be seriously prejudicial to the Council's or the public's interests. The notice by which the decision or proposed decision is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The notice shall state that the decision, if agreed, shall take immediate effect. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## **16. Questions**

**16.1** Members of the Council may ask questions of the Chairman of the Overview and Scrutiny Committee at meetings of the Committee regarding matters that come within the remit of the Committee.

### **Notice of Questions**

**16.2** Notice of a question must be given by delivering it in writing or by electronic mail to the Chief Executive no later than 5.00pm, five days before the day of the meeting (e.g. 5.00pm Wednesday for a meeting on the following Monday). Each question must give the name of the Councillor.

### **Number of Questions and Length of Question-Time**

**16.3** At any one meeting, no Councillor may submit more than three questions. The total time for question-time shall be 30 minutes or such longer time as the Chairman shall in his/her discretion allow.

### **Scope of Questions**

**16.4** The Chairman may reject a question if it:

- i) is not about a matter for which the Council has a responsibility, or which affects the Borough;
- ii) is defamatory, frivolous, or offensive; or
- iii) requires the disclosure of confidential or exempt information

### **Procedure at the Meeting**

**16.5** Copies of all questions and the draft replies shall be prepared, laid round the table and made available to the public attending the meeting. The Chairman shall ask

the Councillor if he/she is satisfied with the answer. A Councillor who has put a question in person may put one supplementary question without notice. It will be at the Chairman's discretion whether supplementary questions may be put by other members of the Committee or whether a discussion on the topic takes place.

#### **Written Answers**

**16.6** Any question which cannot be dealt with during question-time through lack of time will be dealt with by a written answer.

#### **Reference Elsewhere**

**16.7** Any member may move that a matter raised by a question be referred to another Committee. Once seconded, such a motion shall be voted on without discussion.

### **17. Councillor Call for Action**

**17.1** The Committee will consider a Councillor Call for Action (CCfA) that:

- i) has been submitted in relation to a matter that affects a single Ward;
- ii) has been submitted by a Councillor from the Ward affected;
- iii) is in relation to a Local Government matter (including the "well-being" powers under the Local Government Act 2000);
- iv) demonstrates that all existing avenues have been exhausted and that it is a matter of a "last resort";
- v) has been submitted on the CCfA Request Form; and
- vi) states:
  - the nature of the issue;
  - what action has been taken to resolve the issue;
  - an outline of the resolution to the problem being sought; and
  - an indication of any other organisations involved in the CCfA.

**17.2** The Committee will not consider a CCfA that:

- i) is a vexatious, persistent, unreasonable or discriminatory request, or
- ii) is in relation to a planning, licensing or regulatory application

**17.3** Details of requests for a CCfA which have been rejected by the Chairman will be reported to the Committee. The Committee will consider any representations by the Member responsible for the request and determine whether to uphold the Chairman's decision or agree that the CCfA be taken forward to step 4 – Initial Report to the Committee.

### **18. Crime and Disorder**

**18.1** The Committee shall have power:

- i) to review or scrutinise decisions made, or action taken, in connection with the discharge by the Council, Surrey Police and Surrey County Council (“responsible authorities”) of their crime and disorder functions
- ii) to make reports or recommendations to the Council with respect to the discharge of those functions

**18.2** If the Committee makes a report or recommendations, it shall provide a copy:

- i) to each of the responsible authorities; and
- ii) to each of the persons with whom the responsible authorities have a duty to cooperate under Section 5(2) of the Crime and Disorder Act 1998 (“the cooperating persons”)

**18.3** Where a member of the Council is asked to consider a crime and disorder matter by a person who lives or works in the area that the member represents:

- i) the member shall consider the matter and respond to the person who asked him/her to consider it, indicating what (if any) action he/she proposes to take;
- ii) the member may refer the matter to the Committee

**18.4** Where a member of the Council declines to refer a matter to the Committee the person who asked him/her to consider it may refer the matter to the Leader/Executive.

**18.5** Where a matter is referred to the Leader/Executive under (d) above:

- i) the Leader/Executive shall consider the matter and respond to the person who referred the matter to it, indicating what (if any) action he/she/it proposes to take;
- ii) the Leader/Executive may refer the matter to the Committee

**18.6** The Committee shall consider any crime and disorder matter:

- i) referred to it by a member of the Council (whether under (c) above or not) or
- ii) referred to it by the Leader/Executive under (e) above

and may make a report or recommendations to the Council with respect to it.

**18.7** Where the Committee makes a report or recommendations under (f) above, it shall provide a copy to such of the responsible authorities and to such of the cooperating persons as it thinks appropriate.

**18.8** An authority or person to whom a copy of a report or recommendations is provided under (b) or (g) above shall:

- i) consider the report or recommendations;
- ii) respond to the Committee indicating what (if any) action it proposes to take;
- iii) have regard to the report or recommendations in exercising its functions

Woking Borough Council

# Access to Information Procedure Rules

Shaping the *future* of our borough



## **Access to Information Procedure Rules**

### **1. Scope**

- 1.1. These Procedure Rules allow the public rights of access to meetings and information to reflect the Council's commitment to its residents of being open and accountable. These rules apply to all meetings of the Council, the Executive and Committees (together called meetings) unless otherwise specified in this Constitution or by legislation.

### **2. Additional Rights To Information**

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

### **3. Rights To Attend Meetings**

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

### **4. Notices Of Meeting**

- 4.1. The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Civic Offices, Gloucester Square, Woking (the designated office) and on its website. Where the meeting is convened at shorter notice, the notice shall be given at the time the meeting is convened.

### **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. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

### **6. Supply Of Copies**

- 6.1. The Council will supply copies of:

- any agenda and reports which are open to public inspection;

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

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- if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item.

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

### **7. Access To Minutes Etc After The Meeting**

- 7.1. The Council will, as soon as reasonably practicable, arrange for electronic publication and 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, 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**

### **List of Background Papers**

- 8.1. The Proper Officer 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 10).
- 

### **Public Inspection of Background Papers**

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

## **9. Summary Of Public's Rights**

- 9.1. This written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL.

## **10. Exclusion Of Access By The Public To Meetings**

### **Confidential Information – Requirement to Exclude Public**

- 10.1. 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.

### **Exempt Information – Discretion to Exclude Public**

- 10.2. The public may be excluded from meetings or parts thereof whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of

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

### **Meaning of Confidential Information**

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

### **Meaning of Exempt Information**

- 10.4. Exempt information means information falling within the following 7 categories (subject to any qualification):

- Information relating to any individual.

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

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

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- 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.

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

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- Information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person or (b) to make an order or direction under any enactment.

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

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### **Qualifications**

- Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under the Companies Act 1985, the Friendly Societies Acts of 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 1993.

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- Information falling within any of paragraphs 1-7 is not exempt by virtue of those paragraphs if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

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- Information which (a) falls within any of paragraphs 1-7 above and (b) is not prevented from being exempt by virtue of qualifications 1 or 2 above is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
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## **11. Exclusion Of Access By The Public To Reports**

- 11.1. If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## **12. Application Of Rules To The Executive**

**Rules 13 – 22** apply to the Executive and its Committees (in addition to Rules 1-11).

## **13. Procedure Before Taking Key Decisions**

- 13.1. Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision, as defined in Article 11.03 of this Constitution, may not be taken unless:

- a document (called a “forward plan”) has been published in connection with the matter in question; and
  - at least twenty-eight clear days (which may include Saturdays, Sundays and public holidays) have elapsed since the publication of the forward plan and the date of the meeting at which the key decision is to be made.
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## **14. The Forward Plan**

### **Period of Forward Plan**

- 14.1. Forward plans will be prepared to cover a period of four months, beginning with the first day of any month. A forward plan will be prepared in respect of each meeting of the Executive.

### **Contents of Forward Plan**

- 14.2. The forward plan will contain matters which the Proper Officer has reason to believe will be subject of a key decision to be taken by the Leader/Executive, a Committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- that a key decision is to be made on behalf of the Council;
  - the matter in respect of which the decision is to be made;
-

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

Exempt information and confidential information may not be included in a forward plan.

## **15. General Exception**

15.1. Where the publication of a forward plan in respect of a key decision is impracticable, that decision may only be made:

- where the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee or, if there is no such person, each member of the Overview and Scrutiny Committee, by notice in writing of the matter about which the decision is to be made;
- 
- where the Proper Officer has made available at the Civic Offices for inspection by the public, and published on the Council's website, a copy of the notice given under sub-paragraph (a) above; and
- 
- after five clear days have elapsed following the day on which the Proper Officer made available the notice referred to in sub-paragraph (b) above.
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15.2. As soon as reasonably practicable after complying with sub-paragraphs (a) and (b) above, the Proper Officer shall make available at the Civic Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why it was impracticable to include the item in a forward plan.

## **16. Special Urgency**

16.1. Where the date by which a key decision must be made makes compliance with Rule 15 (General Exception) impracticable, the decision may only be made where the decision maker has obtained agreement from:

- the Chairman of the Overview and Scrutiny Committee; or
- 
- if there is no such person, or the Chairman of the Overview and Scrutiny Committee is unable to act, the Mayor; or
- 
- where there is no Chairman of the Overview and Scrutiny Committee or Mayor, the Deputy Mayor,
- 

that the making of the decision is urgent and cannot reasonably be deferred.

- 16.2. As soon as reasonably practicable after the decision maker has obtained agreement under the applicable sub-paragraph above, the Proper Officer shall make available at the Civic Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why the meeting was urgent and could not reasonably be deferred.

## **17. REPORT TO COUNCIL**

### **When an Overview and Scrutiny Committee Can Require a Report**

- 17.1. If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:
- included in the forward plan; or
- 
- the subject of the general exception procedure under Rule 15; or
- 
- the subject of the special urgency procedure under Rule 16;
- 

the Committee may require the Leader/Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### **Executive's Report to Council**

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

### **Annual Reports on Special Urgency Decisions**

- 17.3. In any event, the Leader/Executive will submit annual reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding year. The report will include the number of decisions so taken,

particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

## **18. Record Of Decisions**

18.1. After any meeting of the Executive or any of its Committees, the Proper Officer will produce a record of every decision taken at that meeting as soon as reasonably practicable. The record will include:

- i) a record of the decision including the date it was made;

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- ii) a record of the reasons for the decision;

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- iii) details of any alternative options considered and rejected at the meeting;

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- iv) a record of any conflict of interest relating to the matter decided which is declared at the meeting by any Member of the Executive or any of its Committees; and

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- v) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

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## **19. Decisions By Individual Members Of The Executive/Individual Members Exercising Powers In Relation To Their Wards**

19.1. Decisions by individual Members shall comply with the relevant provisions of the Executive Procedure Rules.

## **20. Overview And Scrutiny Committee Access To Documents**

### **Rights to Copies**

20.1. Subject to Rule 20.2 below, the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:

- any business transacted at a meeting of the Executive or its Committees;

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- any decision taken by an individual member; or

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- any executive decision by an Officer acting under powers delegated by the Leader/Executive.

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### **Limit on Rights**

20.2. The Overview and Scrutiny Committee will not be entitled to:

- any document that is in draft form, or

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- any part of a document that contains exempt or confidential information, unless that information is relevant to (i) an action or decision they are reviewing or

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scrutinising or intend to scrutinise or (ii) any review contained in any programme of work of the Overview and Scrutiny Committee.

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## **21. Additional Rights Of Access For Members**

### **Rights to Copies**

21.1. Subject to Rule 21.2 below, all Members will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:

- any business transacted at a meeting of the Executive or its Committees;

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  - any decision taken by an individual member; or

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  - any executive decision by an Officer acting under powers delegated by the Leader/Executive.
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### **Limit on Rights**

21.2. Members will not be entitled to:

- i) any document that is in draft form; or

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  - ii) any document that contains exempt information as defined in paragraphs 10.4(1), (2) (3) 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, (4), (5) and (7) of these Access to Information Procedure Rules.
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### **Nature of Rights**

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

## **22. Part II Meetings Of The Executive**

22.1. At least twenty-eight clear days' notice (which may include Saturdays, Sundays and public holidays) must be given before the Executive meets in private (i.e. on a Part II basis). Such notice shall give the reasons for the meeting being held in private, and shall be available for public inspection at the Civic Offices and on the Council's website.

22.2. At least five clear days before the private meeting of the Executive, a further notice of the intention to hold a private meeting shall be published at the Civic Offices and on the Council's website. Such notice shall give the reasons for the meeting being held in private, details of any representations received about why the meeting should be open to the public and a statement in response to any such representations.

22.3. Where the date by which a meeting must be held makes compliance with paragraphs 22.1 and 22.2 impracticable, the meeting may only be held in private if agreement has been obtained from:

- the Chairman of the Overview and Scrutiny Committee; or

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- if there is no such person, or the Chairman of the Overview and Scrutiny Committee is unable to act, the Mayor; or

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- where there is no Chairman of the Overview and Scrutiny Committee or Mayor, the Deputy Mayor,

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that the meeting is urgent and cannot reasonably be deferred.

22.4. As soon as reasonably practicable after the agreement required under paragraph 22.3 has been obtained, the Proper Officer shall make available at the Civic Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why the meeting was urgent and could not reasonably be deferred.



Woking Borough Council

# Petitions

Shaping the *future* of our borough



## Petitions

### 1. Introduction

- 1.1. The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Anyone who lives, works or studies in the Borough may sign or organise a petition and trigger a response. This includes anyone under the age of 18.
- 1.2. All petitions submitted to the Council will receive a written acknowledgement from the Council within ten working days of receipt. This acknowledgement will set out what we plan to do with the petition.
- 1.3. E-petitions must be created, signed and submitted online through the Council's e-petitions facility
- 1.4. Petitions can be submitted to Woking Borough Council either on-line through the Council's e-petitions facility or on paper. If you wish to submit a paper petition, or have any questions relating to the Borough Council's Petitions Scheme, please contact Democratic Services as follows:

Democratic Services  
Civic Offices  
Gloucester Square  
Woking, Surrey GU21 6YL  
Tel: 01483 743863  
E-mail: memberservices@woking.gov.uk  
Website: www.woking.gov.uk

### 2. What are the Guidelines for Drawing Up a Petition?

- 2.1. Petitions submitted to the Council must include:
  - i) a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take; and

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  - ii) the name and address and signature of any person supporting the petition.

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- 2.2. Petitions should be accompanied by contact details, including an address, for the petition organiser. The petition organiser can be anyone who lives, works or studies in Woking. This includes anyone under the age of 18. This is the person the Council will contact to explain how it will respond to the petition.
- 2.3. The contact details of the petition organiser will not be placed on the website. In the event that the petition does not identify a petition organiser, the Council will contact the signatories to the petition to agree who should act as the petition organiser.
- 2.4. In the period immediately before an election or referendum, the Council may need to deal with a petition differently – if this is the case, the Council will explain the reasons and discuss the revised timescale which will apply.
- 2.5. If a petition does not follow the guidelines set out above, the Chief Executive Officer shall may decide not to do anything further with it. In such cases, the Council will

write to the petition organiser to explain the reasons. A copy of the notification will be published on the Council's website.

### **3. What types of petitions are excluded?**

- 3.1. The Council will not take action on any petition which is considered to be vexatious, abusive or otherwise inappropriate. The petition organiser will be advised of the reasons for the Council's decision in such situations, and a copy of the notification will be published on the Council's website.
- 3.2. If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.
- 3.3. Where a petition is received on the same or similar topic as one the Council has received in the last six months, it will not be treated as a new petition. The Council will acknowledge receipt of the petition within fourteen days and include details of its response to the previous petition on the topic.
- 3.4. Where the Council is still considering a petition on the same or similar topic, the new petition will be amalgamated with the first received petition.

### **4. What will the Council do when it receives my petition?**

- 4.1. The Council will acknowledge the receipt of a petition within fourteen days of receiving it. The acknowledgement will indicate what the authority has done or proposes to do in response to the petition and associated timescale. It will also be published on the Council's website, except in cases where this would be inappropriate.
- 4.2. The Council will write to the petition organiser at each stage of the petition's consideration. If the petition has been submitted online, all information will be sent to the petition organiser's e-mail account. The Council will only contact the petition organiser in matters relating to the petition.

### **5. How will the Council respond?**

- 5.1. The Borough 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:
  - Giving effect to the request in the petition ('taking the action requested').

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  - Considering the petition at a meeting of the Overview and Scrutiny Committee, Executive or Council.

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  - Holding an inquiry into the matter.

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  - Holding a public meeting.

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  - Undertaking research.

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  - Giving a written response to the petition organiser setting out the Council's views about the request in the petition.

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- Referring the petition to the Council's Overview and Scrutiny Committee for consideration.
- Holding a consultation.
- Holding a meeting with petitioners.
- Calling a referendum.

5.2. The relevant local Ward Councillors will be advised when a petition has been received and will be consulted on the appropriate response. The type of response the Council provides may be dependent on the number of signatories to the petition. The table below summarises the Council's approach:

Number of signatories	Response
Fewer than 50	Response from Officer (treated as standard correspondence).
50 – 150	Response from relevant Portfolio Holder.
At least 200	Referred to the Executive for a response.
At least 200	Officer(s) called to provide evidence at a meeting of the Overview and Scrutiny Committee. This threshold only applies where such action is requested in the petition.
At least 400	Debated at a meeting of full Council.

5.3. If the Council is able to take the action requested in the petition, the acknowledgement may confirm that the action requested has been undertaken and that the petition will be closed. If the petition has enough signatures to trigger a debate at a meeting of the Council, or a senior Officer giving evidence, then the acknowledgment will confirm this, setting out when and where the meeting will take place. If the petition needs more investigation, the acknowledgement will outline the intended steps.

5.4. Where the petition is referred to the relevant Portfolio Holder for a response, the petition organiser will be invited to make a written statement in support of the petition.

5.5. Where the petition is referred to a meeting of the Council, the petition organiser will be allowed three minutes to present the petition, following which the petition will be discussed by Councillors.

5.6. If a petition is about something over which the Council has no direct control, consideration will be given to making representations on behalf of the community to the relevant body. The Council works with a large number of partner organisations and where possible will work with these partners to respond to a petition. If the Council is not able to do this for any reason, notification will be sent to the petition organiser setting out the Authority's reasons.

- 5.7. If a petition relates to a service or responsibility of a different Council, Woking Borough Council will give consideration to what the best method is for responding to it. This may consist of simply forwarding the petition to the other Council but could involve other steps. The petition organiser will again be notified of the action taken by the Council.

## **6. Full Council Debates**

- 6.1. If a petition contains at least 150 signatures it will be referred to a meeting of the Executive for consideration. If more than 400 signatures have been added to the petition, it will automatically be referred to a meeting of the full Council for debate. The only exception would be in those cases where the petition asks for a senior Council Officer to give evidence at the Overview and Scrutiny Committee.
- 6.2. The Council will refer the petition to the next available meeting of Full Council. No more than two petitions shall be presented at any one Council meeting. If this is the case, the petition shall be referred to the next meeting thereafter. The Council may not hear petition in the Pre-Election Period. If this is the case, the Council shall contact you to discuss the matter.
- 6.3. The Council will contact the petition organiser before the meeting and if the organiser or their nominee wishes to present the petition at the meeting, confirmation must be given at least ten working days before the meeting.
- 6.4. The presentation of a petition is limited to not more than three minutes, and should be confined to reading out, or summarising, the purpose of the petition, indicating the number and description of signatories, and making supporting remarks relevant to the petition. Councillors may then proceed to ask questions of the petition organiser.
- 6.5. At a meeting of an Overview and Scrutiny Committee, the Chairman may permit the petition organiser to participate in the Committee's consideration or debate of the issues raised by the petition.
- 6.6. The Council will consider all the specific actions it can potentially take on the issues highlighted in a petition and the Councillors will decide how to respond to the petition at this meeting. A motion suggesting a formal response to the petition shall be proposed and seconded at the meeting and dealt with under the normal rules of debate, provided that any such motion must respond explicitly to the request in the petition i.e. that part of the petition which asks the Council to take some form of action. They may decide to support the action the petition requests, or not, or refer the matter to another meeting, such as the Executive or Overview and Scrutiny Committee, for further consideration. The petition organiser will receive written confirmation of this decision.

## **7. Deputations or Lobby Groups**

- 7.1. Associations or groups who wish to present a petition to the Council about a Council service or initiative or about an issue which affects the Borough can do so as a deputation. The request must be made at least ten working days before the meeting at which the petition will be presented and should include all details of the issue, the number of people forming the deputation (no more than five) and their names and addresses and names of the people who will speak about the petition.

- 7.2. The Chairman will ask the members of the deputation who are presenting the petition to speak about it for up to five minutes. Councillors may then ask members of the deputation questions about the petition.

## **8. Petitions Asking Senior Officers to Provide Evidence**

- 8.1. A petition may ask for a senior Council Officer to give evidence at a meeting of the Overview and Scrutiny Committee about something for which the Officer is responsible as part of their job. For example, a petition may ask a senior Council Officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.
- 8.2. If a petition requests such action and contains at least 200 signatures, the relevant senior Officer will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. Only Officers of the Council's Corporate Leadership Team can be petitioned to give evidence. However, the Overview and Scrutiny Committee may decide that it would be more appropriate for another Officer to give evidence instead of any Officer named in the petition – for instance if the named Officer has changed jobs. The Committee may also decide to call the relevant Councillor to attend the meeting.
- 8.3. The Members of the Committee will ask the questions at the meeting, but the petition organiser will be able to suggest questions to the Chairman of the Committee. These questions must be received by Democratic Services at least ten working days before the meeting.

## **9. E-petitions**

- 9.1. An e-petition facility will be available on the Council's website through which residents of the Borough can create petitions for submission to the Council. The same guidelines apply to e-petitions as to paper petitions.
- 9.2. Under the scheme, the petition organiser will need to provide their name, postal address and email address. Furthermore, the petition organiser needs to decide how long they would like the petition to be open for signatures, up to a maximum of 12 months.
- 9.3. When an e-petition is created, it may take up to five working days before it is published online. During this time, the Council will check that the content of the petition is suitable before it is made available for signature.
- 9.4. If it is felt that the Council cannot publish a petition for some reason, the petition organiser will be advised of the reasons. Petition organisers will be able to change and resubmit a petition. If this is not done within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the website.
- 9.5. When an e-petition has closed for signature, it will automatically be submitted to Democratic Services. In the same way as with a paper petition, the petition organiser will receive an acknowledgement within fourteen working days of receipt of the petition. A copy of the petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on the Council's website.

## **10. How do I sign an e-Petition**

10.1. Details of all the e-petitions currently available for signature will be available on the Council's website. Those wishing to add their support to a petition will be asked to provide their name, postcode and valid email address. Once the information has been added, an e-mail will be sent to the email address provided which contains a link which must be clicked on in order to confirm that the email address is valid. Once this has been done, the 'signature' will be added to the petition. People visiting the e-petition will be able to see all 'signatures' but will not have access to the contact details.

## **11. What can I do if I feel my petition was not handle correctly?**

11.1. The petition organiser has the right to request that the Council's Overview and Scrutiny Committee reviews the steps that the Council has taken in response to their petition. The petition organiser will be asked to provide a short explanation of the reasons why the Council's response is not considered to be adequate.

11.2. The petition organiser must exercise this right within 21 days of receipt of the Council's formal response to the petition

11.3. The Overview and Scrutiny Committee will endeavour to consider such requests 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 the Council has not dealt with a petition adequately, it may investigate the matter, make recommendations to the Executive or arrange for the matter to be considered at a meeting of full Council.

11.4. The procedure for conducting the review at the meeting shall be as follows:

i) The petition organiser (or any person authorised by them) shall be invited to address the Committee for no more than five minutes in respect of their request for review.

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ii) Councillors to ask the petition organiser any questions relevant to the review arising from their statement to the Committee.

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iii) The Committee to review the steps taken by the Council in responding to the petition and to consider whether the Council has dealt with the petition adequately.

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11.5. Dependent on whether the formal response to the petition was given by:

- A strategic director or senior manager

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- a lead councillor, or

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- full Council

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this may include asking the relevant strategic director/senior manager or relevant lead councillor to attend and answer questions from the Committee.

- Prior to making a decision on the review, the petition organiser (or any person authorised by them) shall have a right of reply on the debate, for which they will be given five minutes.
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- The Committee to formally determine the review – deciding either that the Council has dealt with the petition adequately or that it has not. If the latter, the Committee must then decide one of the following options:
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- to investigate the matter further;
  - to make recommendations to the Leader/Executive; or
  - to arrange for the matter to be considered at a meeting of full Council.
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11.6. The question as to whether implementation of any decisions pertinent to a petition under review by overview and scrutiny should be deferred pending completion of the review process shall be dealt with by the Chief Executive on a case-by-case basis including, where necessary, convening special meetings of the Overview and Scrutiny Committee and/or full Council for this purpose.

11.7. Once the Committee has completed its review the petition organiser will be informed of the results within five working days. The results of the review will also be published on the Council's website.

## **12. What happens to my petition or e-petition following a formal response by the Council?**

12.1. Following a period of 21 days after the Council has responded formally, a paper petition will be destroyed, and all e-signatories on an e-petition will be erased, unless during that period, the petition organiser requests a review in which case it shall be destroyed 21 days after the review has been completed.



Woking Borough Council

# Councillor and Officer Relationship Protocol

Shaping the *future* of our borough



## Woking Borough Council Protocol On Councillor/Officer Relations

### 1 Introduction

- 1.1 Mutual understanding and basic respect between councillors and officers are the greatest safeguard of the integrity of the Council.
- 1.2 Copies of this protocol will be issued to all councillors upon their election to the council and to all staff upon their recruitment to the council and included in all induction training and refresher sessions.
- 1.3 Questions on interpretation of this protocol will be determined by the Monitoring Officer in consultation with the Chairman of the Corporate Governance and Standards Committee, unless the provision in question relates to a matter to be determined by the Joint Chief Executive, in which case it will be determined in consultation with the Leader of the Council.
- 1.4 The Standards and Audit Committee will be responsible for reviewing the practical application of this protocol and will make appropriate suggestions for its improvement and development.
- 1.5 This protocol is supplementary to the Councillors' Code of Conduct and Staff Code of Conduct contained in **Part 5** of this Constitution.

### 2 Roles

- 2.1 Both councillors and officers serve the public, but their responsibilities are distinct. This protocol seeks to guide councillors and officers in their relations with one another.
- 2.2 Councillors are responsible to the electorate. Their job is to represent their constituents, to agree policy and to take all non-delegated decisions. They serve as long as their term of office lasts.
- 2.3 Officers are responsible for day-to-day managerial and operational decisions within the authority. Their job is to give advice to councillors and the public, to take all delegated decisions and to carry out the council's work in a professional manner.
- 2.4 The role of officers is to seek to assist councillors within the restrictions of their levels of authority and in regard to the rules governing access to information. They also have a role to ensure that councillors are properly informed about information to which they have a right of access. Officers should not use professional expertise to discourage or intimidate councillors from pursuing lines of inquiry. There may be service level agreements set out regarding the timescales for responding to particular queries or referrals from individual councillors. These may vary dependent on the 'level' of a councillor or the topic in question.
- 2.5 For example, responses to the leader of the council or the leader of any political group may need to be given more speedily than a referral from a backbench councillor. Responses to matters of urgency, for example regarding the safeguarding of vulnerable adults or children can require a prompter response due to the immediacy of the issue and the need to take action within a short timeframe. Both officers and councillors have to prioritise their work. When their priorities do not coincide, they should discuss and agree a mutually acceptable timescale for response.

2.6 Officers must not allow their own personal or political opinions to interfere with their work.

### **3 Mutual Responsibilities Of Councillors And Officers**

3.1 The Mutual responsibilities are as follows:

i) To work in partnership.

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ii) To have respect for each other's roles, workloads and pressures.

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iii) To display respect, dignity, courtesy, integrity, mutual support and appropriate confidentiality.

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iv) To undertake training and development in order to carry out their role effectively.

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v) To not subject the other to bullying or harassment.

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vi) To have a common purpose; providing the best possible service to the residents and other stakeholders of Woking Borough.

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vii) To have a commitment to collaborative, non-adversarial resolution of disputes.

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### **4 Relations With Statutory Officers**

4.1 In reaching their decisions, councillors must have regard to the advice given by officers and in particular, that offered by the:

i) the Director of Finance, whose duties are prescribed under section 114 of the Local Government Finance Act 1988.

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ii) The Monitoring Officer's duties are set out under section 5 of the Local Government and Housing Act 1989. The Monitoring Officer should be consulted when there is any doubt as to the Council's power to act; or in determining whether any action proposed lies within the policy framework agreed by the Council; or where the legal consequences of action or failure to act by the Council might have important repercussions.

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iii) The statutory officers of the Council are the Head of Paid Service (the Chief Executive), the Monitoring Officer and the Finance Director (or Section 151 Officer). All have a duty to advise the council as a corporate body. The ability of these officers to discharge their duties depends not only on effective working relations with their councillor colleagues, but also on the flow of information and access to the debating processes of politicians. As such, it is crucial that you have a good working relationship with your statutory officers that are based on a clear understanding of their roles and responsibilities.

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## **5 Effective Collaborative Working Is Essential**

5.1 In establishing an effective working relationship, there should be clarity about the respective roles of councillors and officers. This is often made easier if:

i) Both parties discuss and agree the values and behaviours they expect from each other in a relationship of mutual trust.

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ii) Councillors identify their priorities, assisted by officers.

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iii) Officers provide clear advice and offer alternative courses of action where they exist.

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iv) Councillors and officers communicate clearly and openly, avoiding ambiguity and the risk of misunderstanding.

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v) Everyone works in a spirit of partnership, to turn the council's core values and priorities into practical policies for implementation.

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vi) While councillors and officers may have their own specific roles and responsibilities, there are clearly some grey areas in which both groups have a shared responsibility, e.g. agreeing workable policies and monitoring performance. In addition to this, councillors and officers both face the same public service agenda, i.e. delivering quality services to local people in a climate of tough challenges and constraints (budgets and timescales).

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## **6 General Rules**

6.1 All dealings between councillors and officers will be courteous and neither party will seek to take unfair advantage of their position.

6.2 A councillor will not raise matters relating to the conduct or capability of an officer at any public session of a meeting.

6.3 If a councillor has a concern regarding an officer's conduct or behaviour that is not resolved through respectful mutual discussion then they may raise the matter with the officer's Head of Service or Strategic Director.

6.4 If after receiving a written report from the Head of Service or Strategic Director, a councillor remains concerned, the Chief Executive will be advised.

6.5 Should any further action with regard to an officer's conduct or behaviour be undertaken, it will be in accordance with the appropriate employment rules and procedures.

6.6 An officer will not raise matters relating to the conduct or capability of a councillor at any public session of a meeting.

6.7 If an officer has a concern regarding a councillor's conduct or behaviour that is not resolved through respectful mutual discussion then they may raise the matter with their Head of Service, Strategic Director or the Chief Executive.

6.8 The Head of Service, Strategic Director or Chief Executive will take the appropriate action by approaching the councillor concerned and/or his or her group leader.

6.9 Officers should endeavour to provide councillors with sufficient notice of meetings to allow them to prepare and balance their diaries and commitments

## **7 Officer Advice To Councillors And Political Groups**

7.1 Officers serve the council as a whole and not any individual political group or any individual councillor.

7.2 An officer briefing meeting prior to a committee meeting or such support in whatever form it takes will be available to all councillors and all party groups.

7.3 The rules for providing advice to councillors include:

i) Officer advice and support must relate only to matters of council business and never include advice on political issues.

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ii) Officers may refuse to provide advice to a councillor/group until guidance has been sought from their Strategic Director or the Chief Executive if that advice might be considered inappropriate.

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iii) Decisions made at party group meetings are not decisions of the Council and must not be treated or acted upon as such by either councillors or officers.

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iv) Officers should not normally attend formal meetings of political groups.

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v) If a councillor requests information from an officer, the officer will inform the councillor at the time if that information is to be made available to any other councillors.

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vi) Councillors should not consider an officer supportive of a policy because they have helped to construct it.

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vii) Councillors should contact report authors for any further information in advance of a committee meeting.

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## **8 Support Services To Councillors And Political Groups**

8.1 Support services will be provided to assist councillors only in discharging their role as councillors.

8.2 Councillors will ensure they are up to date with and in compliance with all council policies

## **9 Councillors' Access To Information And Council Documents**

9.1 Cooperation between Councillors and Officers is vital to ensure a good service to the public. A free flow of information between Officers and Councillors is an essential part of this cooperation.

- 9.2 All confidential information held by the Council, in whatever form, remains confidential to the council and subject to the requirements of the Data Protection regulations, unless and until such confidentiality is waived by the Monitoring Officer. Any dispute will be determined by the Monitoring Officer in consultation with the Chair of the Standards and Audit Committee.
- 9.3 Officers and elected Members are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Data Protection Act 2018 and to familiarise themselves with their obligations under the 2018 Act accordingly.
- 9.4 Officers and councillors who require advice or assistance in relation to their duties under the Data Protection Act 2018 should take advice from the Monitoring Officer or the Information Rights Officer as appropriate.
- 9.5 Councillors can approach any Head of Service to ask for information or seek advice. In the event of any difficulty, councillors should approach the relevant Strategic Director or the Chief Executive.
- 9.6 All councillors have a statutory right to inspect any council documents which contain material relating to any business which is to be transacted at a Council, Executive, committee or sub-committee meeting.
- 9.7 The over-riding principle is that Councillors should be given access to all documents , unless there is a justifiable reason for refusal. This reason must be clearly explained. Councillors wishing to view confidential information will be required to justify the request in specific terms.
- 9.8 Councillor access to council documents is a common law right in so far as access to the document in question is reasonably necessary to enable the councillor to perform their duties. This is commonly known as “the need to know” principle. Where information is being withheld the Executive Head of Service will advise the councillor why it is being withheld.
- 9.9 In case of difficulty, the Head of Service or councillor may seek the advice of the Monitoring Officer.
- 9.10 Members should be kept fully informed and consulted by Officers on all significant matters affecting their Ward or other area of responsibility. If a matter is urgent or sensitive, Officers must ensure Members are made aware as soon as reasonably possible and before the matter is made public.
- 9.11 All information permitted to a councillor will be provided under the terms of the Council documents in whatever format Councillors’ Code of Conduct and must be provided only for the reason requested and will not be shared except under terms set out in the Code.
- 9.12 Any councillor found to be or suspected of being in breach of the requirement to keep the confidentiality of items taken ‘in committee’ may be the subject of a Code of Conduct complaint.

## **10 Councillor/Officer Relationships**

- 10.1 Working relationships between councillors and officers must always remain and appear professional and impartial.

- 10.2 Members of the Corporate Leadership Team will be responsible for the contents of a report. Councillor queries about report contents will be addressed to the report author. Issues arising between a councillor and a report author will be referred to the appropriate member of the Corporate Leadership Team. If unresolved the matter will pass to the Chief Executive for resolution, in consultation with the Council Leader.
- 10.3 Officers work closely with councillors, but they are accountable to their Head of Service or Strategic Director and cannot go beyond the bounds of whatever authority they may have been given by their Head of Service, Strategic Director or by the Council.
- 10.4 It is appropriate for members of the Overview and Scrutiny Committee to ask officers to explain and justify advice given to councillors, whether on the Executive or otherwise, and to justify decisions officers have taken under delegated powers.
- 10.5 Where requested to provide information to the Overview and Scrutiny Committee, officers will provide that information in as a comprehensive and timely fashion as if the request had come from the Executive.

## **11 Correspondence**

- 11.1 Correspondence between a councillor and an officer, will not be copied by the officer to any other councillor, unless the councillor who initiated the correspondence copied it to other councillors in which case the officer shall copy his correspondence to those other councillors.
- 11.2 If it is necessary to copy correspondence to another councillor, this should be made clear to the original councillor through notation on the correspondence.
- 11.3 A system of 'silent copies' (Bcc) should never be employed. Correspondence sent to all councillors or groups of councillors will make the circulation list clear.
- 11.4 Official letters on behalf of the Council will be sent in the name of the appropriate officer rather than in the name of a councillor. Letters which create obligations or give instructions on behalf of the Council will never be sent out in the name of a councillor.
- 11.5 Councillors and officers will undertake training in the principles of the General Data Protection Regulation and will apply those principles when producing and storing personal information.

## **12 Ward Councillors**

- 12.1 Whenever a significant meeting is organised by the Council to consider a local issue, all councillors representing the ward or wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, ward councillors will be notified at the outset of the exercise.
- 12.2 Officers will not normally attend meetings arranged by councillors unless this has been discussed and agreed with the appropriate Head of Service or Strategic Director in advance in order that proper representation and briefing can be arranged.

### **13 Ceremonial Events**

- 13.1 The Mayor, or in his/her absence the Deputy Mayor, will be the appropriate person to lead/ represent the Council at ceremonial events which are of particular significance or are not specifically associated with the office of the Leader, a particular Portfolio/ Committee/Sub-Committee.
- 13.2 Local Councillors should always be informed of, and, where possible, invited to ceremonial events taking place within their own Wards.
- 13.3 Any Councillor taking part in a ceremonial event must not seek disproportionate personal publicity nor use the occasion for party political advantage bearing in mind that the Councillor is representing the Council as a whole.

### **14 Access To Officers**

- 14.1 Officers will always be available to ward councillors to discuss any issues of concern in their ward or area of responsibility.
- 14.2 With the Council-wide use of e-mail, Councillors 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 Councillor should seek to telephone the Officer and if required, arrange a convenient meeting
- 14.3 Ward councillors are encouraged to contact relevant officers in advance of committee meetings to discuss any concerns.

### **15 Undue Pressure**

- 15.1 To ensure that the business of the Council is carried out effectively, Councillors and Officers should endeavour to create a cordial working relationship with each other. Councillors should:

- i) Be aware of how they speak with and relate to officers, avoiding undue pressure;

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- ii) Avoid personal attacks on officers, particularly in publications, press statements or meetings attended by the public;

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- iii) Avoid words or actions which could undermine respect for officers by the public;

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- iv) Never require an officer to carry out work on a matter which is not justified in terms of budgetary controls, council policy or the officer's duties and responsibilities Officers should:

- Be aware of how they speak with and relate to Councillors;

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- Remember at all times that they work in a political environment;

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- Any Officer who is personally connected to a Councillor must notify his/her Strategic Director. Officers must not use undue influence over a Councillor, nor develop close personal friendships that could compromise or be perceived to compromise the integrity of their actions.



## **16 Summary**

- 16.1** The working relationship between councillors and officers is integral to the successful operation of an effective local authority. Politicians and managers have vital roles to play in providing a form of joint leadership which is based on shared knowledge, skills and experience. And at the heart of this relationship should be a common vision, shared values and mutual respect



Woking Borough Council

# Monitoring Officer Protocol

Shaping the *future* of our borough



## MONITORING OFFICER PROTOCOL

### 1. General Introduction to Statutory Responsibilities

1.1 The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989 and is accountable to the Council. That Act, the Local Government Act 2000 and the Local Government, Public Involvement in Health Act 2007 and the Localism Act 2011 place personal obligations on the appointee in respect of the Council, which are summarised as a schedule in the appendix to this protocol. This protocol provides some general information on how those statutory requirements will be discharged at Woking Borough Council.

1.2 The current responsibilities of the Monitoring Officer role rest with the Director of Legal and Democratic Services, who undertakes to discharge his/her statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the council. In doing so s/he will also safeguard, so far as is possible, members and officers whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.

1.3 The main functions of the Monitoring Officer at Woking Borough Council are:

- To report to the council and to the executive in any case where s/he is of the opinion that any proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989;
- To investigate any matter, which s/he has reason to believe may constitute, or where s/he has received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89;
- To act as the principal adviser to the authority's Standards and Audit Committee;
- To act as the principal adviser to the authority's Standards Panel;
- To maintain the register of members' interests;
- To maintain the register of Part II items and undertake an annual review of the same;
- To act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the council and its committees;
- To have responsibility for responding to complaints to the Local Government Ombudsman;
- To undertake, with others, investigations in accordance with the council's Whistleblowing procedures;
- To act as Proper Officer for the Data Protection Act 1998 and the Freedom of Information Act 2000

1.4 It is the Monitoring Officer's duty to consult with both the Head of Paid Service (the Chief Executive) and the Chief Finance Officer (the Director of Finance and Section 151 Officer) during the preparation of a report under paragraph 1 above, and as soon as practicable after its preparation to arrange for a copy of it to be sent to each

member of the council. The full council must consider the report within 21 days of the Monitoring Officer having sent it to members. Once the Monitoring Officer has sent out the report, the council cannot implement any proposal or decision to which it relates until the end of the first business day after they have considered it.

- 1.5 The Monitoring Officer is bound to perform all of his or her duties personally, save that during absence, unavailability or illness, a deputy nominated by him or her may undertake them.
- 1.6 In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on members and officers:
  - complying with the law (including any relevant Codes of Conduct);
  - complying with any general guidance issued, from time to time, by the Standards and Audit Committee and the Monitoring Officer;
  - making lawful and proportionate decisions;
  - complying with the council's constitution and standing orders;
  - generally, not taking action that would bring the council, their offices or professions into disrepute;
  - communicating effectively with the Monitoring Officer and seeking advice on any issues relating to constitutional or ethical matters.

## **2. Working Arrangements**

- 2.1 It is important that members and officers work together to promote the corporate health of the council. The Monitoring Officer plays a key role in this and it is vital therefore that members and officers work with the Monitoring Officer (and his/her staff) to enable him/her to discharge his/her statutory responsibilities and other duties.
- 2.2 The following arrangements and understandings between the Monitoring Officer, members and senior officers (Corporate Leadership Team) are designed to ensure the effective discharge of the council's business and functions. The Monitoring Officer will:
  - be alerted by members and officers to any issue(s) that may become of concern to the council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the council at which a binding decision of the council may be made (including a failure to take a decision where one should have been taken) at or before the council, committee meetings and/or strategic directorate (or equivalent arrangements);
  - have the right to attend any meeting of the council (including the right to be heard) before any binding decision is taken by the council (including a failure to take a decision where one should have been taken) at or before the council, committee meetings and/or strategic directorate (or equivalent);

- in carrying out any investigation(s) have unqualified access to any information held by the council and to any member or officer who can assist in the discharge of his/her functions;
- ensure the other statutory officers (Head of Paid Service and the Chief Finance Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- report to the council, from time to time, on the constitution and any necessary or desirable changes following consultation, in particular, with the Corporate Governance Working Group, Standards and Audit Committee, the Head of Paid Service and Chief Finance Officer;
- in accordance with statutory requirements, make a report to the council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions;
- have an appropriate relationship and good communication with the Leader of the council, the Mayor, political group leaders, the Chair of the Standards and Audit Committee, and the Corporate Governance Working Group, with a view to ensuring the effective and efficient discharge of council business;
- develop effective working liaison and relationship with the council's auditors, the Local Government and Social Care Ombudsman and the Housing Ombudsman (including having the authority, on behalf of the council, to complain to them, refer any breaches to them or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the council in consultation with the Chief Executive;
- maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
- give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by the Monitoring Officer) and, if appropriate, make a written report to the Standards Committee (unless the Chair of the Standards and audit Committee agrees a report is not necessary) if, in the opinion of the Monitoring Officer, there is a serious breach of Woking Borough Council's Members' Code of Conduct;
- in consultation, as necessary, with the Leader of the council and the Standards and Audit Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues;
- advise on all applications from council employees (or prospective employees) for exemption from political restriction in respect of their posts and where

appropriate sign the certificate of opinion required by the independent adjudicator;

- appoint a deputy(ies) and keep him/her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer. The deputy(ies) will only act in the absence of the Monitoring Officer if urgent action is required which cannot await the return of the Monitoring Officer.
- 2.3 To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, members and officers will report any breaches of statutory duty or council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
  - 2.4 The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality etc., or by identifying alternative and legitimate means of achieving the objective of the proposal.
  - 2.5 Where the Monitoring Officer receives a complaint of a potential reportable incident, s/he shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.
  - 2.6 In appropriate cases, the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue.
  - 2.7 In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his/her written advice to the report of any other officer of the authority.
  - 2.8 Notwithstanding the above, the Monitoring Officer retains the right in all cases to make a statutory report where, after consultation with the Chief Executive and the Chief Finance Officer, s/he is of the opinion that this is necessary in order to respond properly to a reportable incident. In addition, in appropriate cases, the Monitoring Officer may refer matters to the police for investigation.
  - 2.9 The Monitoring Officer is available for members and officers to consult on any issues of the council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc).
  - 2.10 To ensure the effective and efficient discharge of this protocol, the Council will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the council and the proper discharge of the Monitoring Officer role.

## APPENDIX

### Summary of Main Monitoring Officer Functions

1	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3	Appointment of Deputy(ies)	Section 5 Local Government and Housing Act 1989
4	Report on resources	Section 5 Local Government and Housing Act 1989
5	Investigate allegations of misconduct of councillors under the Council's Member Code of Conduct in compliance with the Council's adopted arrangements	Localism Act 2011 Section 28 and associated regulations and guidance
6	Establish and maintain registers of members interests and gifts and hospitality	Section 29 of the Localism Act 2011 and Code of Conduct for Members
7	Advising on appropriateness of compensation for maladministration	Section 92 Local Government Act 2000
8	Act as the qualified person	S36 Freedom of Information Act 2000 and Information Commissioner's Office Awareness Guidance No. 25
9	Key role in promoting and maintaining high standards of conduct through support to the Standards and Audit Committee. Advice to members on interpretation of Code of Conduct Members' Code of Conduct.	Constitution/Code of Conduct



Woking Borough Council

# Code of Conduct for Employees

Shaping the *future* of our borough



## **Code of Conduct for Employees Policy**

### **1.0 Introduction**

- 1.1 The Council's employees are responsible to the Council for carrying out its work. Their jobs are paid, and paid employment brings with it certain obligations. These obligations may be statutory; for instance, if an employee knows that a contract in which he/she has a financial interest is being considered by the Council, notice of that interest must be given.
- 1.2 Employees should never do anything that is incapable of being justified to the public. It is the responsibility of local government employees to give the highest possible standard of service to the public. This means that employees must do nothing that might give rise to suspicion, however ill-founded, that they are in any way influenced by improper motives.
- 1.3 This Code of Conduct contains formal guidelines to employees covering matters such as the acceptance of gifts and hospitality, private work and the use of the Council's time and materials. This Code is intended to offer broad advice to employees in these areas of activity and, in limited cases, to prescribe rules for future conduct. These rules must be followed unless the Director of Legal and Democratic Services has agreed, in writing, that exceptional circumstances justify otherwise.
- 1.4 This Code takes into account 'The Seven Principles of Public Life' which are included in the Localism Act 2011. They are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.5 References in this Code to the Director of Legal and Democratic Services, Chief Finance Officer and Head of Human Resources include their respective deputies, who may act in their absence.
- 1.6 An e-form for reporting (i) receipt of gifts and hospitality and/or (ii) details of private work/employment is available on ewokplus in the Human Resources forms section.

### **2.0 Gifts and Hospitalities**

- 2.1 Employees should treat with caution any offer of a gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision.
- 2.2 Employees should bear in mind the importance of avoiding the appearance of improper conduct or undue influence, any suggestion of which damages public confidence in local government. Openness is important, and in the limited cases where gifts are considered acceptable their receipt should be put on record.
- 2.3 As a general rule employees should decline offers of gifts from persons or organisations who may provide works/goods/services to the Council or who may benefit from some decision of the Council (for example applicants for planning permission, those seeking to agree terms in property transactions etc.).
- 2.4 In limited circumstances, it may be acceptable to depart from the general rule in paragraph 2.3 above. These circumstances include the following:

- 2.5 Gifts of promotional stationery (e.g. diaries, pens and calendars) with a value of less than £10 may be accepted and do not need to be recorded in the register referred to in paragraph 2.7 below.
- 2.6 At Christmas time, gifts of a modest value (e.g. sweets, biscuits and alcohol with a value of less than £25) may be accepted. This is because of the custom and practice that such gifts are routinely given at this time of year, which provides a justifiable context for their acceptance.

**A gift of cash should not be accepted in any circumstances.**

- 2.7 Where a gift is considered acceptable, its receipt should be recorded via the e-form described in 1.6 above and will be kept in an open register kept by the Director of Legal and Democratic Services. The register entry shall describe the gift and its approximate value, identify the person or organisation making the gift, the officer to whom it was given, and the date of its receipt.
- 2.8 Employees should also exercise caution in accepting hospitality. "Hospitality" includes both attendance at events and meals. The provision of hospitality may, of course, be incidental to the carrying on of legitimate business activity (for instance, during business lunches). If so, such hospitality is acceptable and should merely be put on record (see paragraph 2.9 below). However, employees need to consider carefully whether the benefit is reasonable in scale to the work under discussion and be satisfied that its provision is genuinely "work-related".
- 2.9 Details of hospitality received by employees should be recorded via the e-form described in 1.6 above and will be kept in an open register kept by the Director of Legal and Democratic Services. The register entry shall describe the hospitality and its approximate value, identify the person or organisation providing the hospitality, the officer to whom it was provided and the date of its receipt.
- 2.10 Every effort will be made to deal with your complaint as speedily as possible. Please remember that some cases need time to investigate fully. If within a period of ten working days the matter has not been dealt with at any stage of this procedure, you will be entitled to proceed to the next stage.
- 2.11 Employees should always exercise care in the provision of gifts or hospitality to outside bodies, whenever this is to be paid for by the Council. Broadly-speaking, the same tests that apply to the receipt of gifts and hospitality apply to their provision. It is important to avoid the appearance of improper conduct. The provision of hospitality should always be funded from a budget specifically established for the purpose, and its use must, where appropriate, be properly authorised by the appropriate officer. The provision of the benefit must be reasonable in scale to the matter under discussion and it must be genuinely relevant to the business in hand. The purpose of the provision must be capable of justification by reasonably objective standards. For instance, the justification for the provision of limited hospitality may be that it facilitates, or is conducive to, the carrying on of legitimate and important business activity.

**3.0 Private Work**

- 3.1 The Council recognises that with the changing pattern of employment (in particular the increase in part-time, reduced hours and flexible working) it would not be appropriate to prevent employees of the Council from taking other employment (that is in addition to their role with the Council, or indeed more than one position with the

Council). The Council therefore does not apply a blanket prohibition on staff accepting other employment or carrying out private work. However, it does require such employment or work to be authorised, in writing, by a member of the Corporate Leadership Team. This is to ensure that the work does not conflict with the Council's interests or weaken public confidence in the conduct of the Council's business. Details of such employment or work should be recorded via the e-form described in 1.6 above and will be kept recorded in an open register kept by the Director of Legal and Democratic Services.

- 3.2 The requirements of paragraph 3.1 above to obtain the approval of a member of the Corporate Leadership Team do not apply to any employment or private work an employee was carrying out before he/she was employed by the Council provided such employment or private work was made known to the Council before the employee was employed by the Council. Details of such employment or work do still need to be recorded in the open register kept by the Director of Legal and Democratic Services.
- 3.3 If an employee's role at the Council changes materially, he/she is required to seek further written authority from a member of the Corporate Leadership Team to continue with the other employment/private work.
- 3.4 The Council expects employees to carry out other work only to the extent that it does not interfere with the performance of their normal duties and provided, of course, that such work is undertaken outside normal working hours for that employee. The Council accepts that, in some instances, the carrying on of "freelance" work (for instance, by participating in seminars or contributing articles to professional journals) can be of mutual benefit to the Council and the employee alike; they may reflect credit upon the Council (for instance, by publicising service initiatives) whilst assisting in the development of the employee's expertise. Although these factors may encourage flexibility in individual cases, employees should be concerned to ensure that private work does not conflict with their work obligations. It is important to consider whether the work is being undertaken on behalf of the Council, and therefore in an official role, or alternatively in the employee's private capacity. Articles written for private gain should be composed in the employee's own time, and the same rule applies to time spent in preparation for and presentation at seminars. If services are to be delivered on behalf of the Council or during work hours, any fees received should be passed to the Council. Fees received that are not the result of work carried out in the Council's time and satisfying the above tests may be retained by the employee.
- 3.5 Unless expressly authorised by the Chief Executive in writing on an exceptional basis, it is not permissible for an employee to undertake private work in connection with plans or applications intended for consideration by the Council. An employee engaged in work on his or her own application is not to be treated as undertaking "private work" for these purposes.

#### **4.0 Use of Council time and materials**

- 4.1 Unless expressly permitted by other policies of the Council, employees should always make sure that any facilities (such as stationery, telephones, IT, photocopying or secretarial services) provided by the Council for use in performance of their duties are used strictly for those duties and for no other purpose. It has been made clear above that private work should not be undertaken in the Council's time, and it is equally important that any such work is carried out without using the Council's materials or services. The Council's materials may only be used for such work if the

Chief Finance Officer agrees in writing and the full cost of provision of the material/service is paid by the employee.

## **5.0 Copyright**

5.1 It is important to set out some broad principles relevant to copyright and intellectual property created during employment. Intellectual property is a generic term that includes inventions, creative designs, writings and drawings.

5.2 If these are created by an employee during the course of employment, then as a general rule they belong to the employer. However, statutory rules may provide otherwise. In particular, the Patents Act 1977 provides that inventions are only the property of the employer if:

i) They have been made in the course of the employee's normal duties; or

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ii) They have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or

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iii) They were made in the course of the employee's duties and at the time the employee had (because of the nature of his duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

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5.3 In the unlikely event of a dispute arising between the Council and employee as to the ownership of information or material, it will be important to establish the ambit of the employee's "normal duties" (recourse will naturally be made to the individual's contract of employment).

## **6.0 Confidentiality of Information**

6.1 The law requires that certain types of information must be available to councillors, auditors, government departments, service users and the public. In general, employees should act on the assumption that open government serves the public better than secrecy.

However, employees should recognise that certain information is confidential to the Council. This includes information which is stated to be "Part II" for the purpose of a report to Council or a committee, and information which is classified under the Council's information classification scheme as not being open to the public.

6.2 Employees should not use information obtained in the course of their employment for personal gain or benefit, nor should they pass it to others who may use it in that way.

## **7.0 Working with Councillors**

7.1 Employees are in the service of the Council. It follows that they have a duty to serve all councillors, not just councillors of a controlling group. The basic rule is that councillors should be briefed and consulted on any matter where they have an interest or entitlement to know what is going on and, in particular, on committee business. Employees should ensure that all necessary help and support is given without restriction. Advice to councillors, whether given in committee or in briefings or otherwise, should be firm, clear and consistent.

7.2 Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage this relationship and prove embarrassing to other employees and councillors, and should therefore be avoided.

7.3 Employees should ensure that at all times they adhere to the Councillor and Officer Protocol.

#### **8.0 Declaration of External Interests (as may be relevant to employment)**

8.1 Employees are obliged by statute to disclose financial interests, whether direct or indirect, in contracts which have been, or are proposed to be, entered into by the Council. The Council's Standing Orders go further and require disclosure of interests in non-financial matters (drawing a parallel with councillors' "code of conduct" interests). The point is that interests that are not financial may be just as important and employees must not allow the impression to be created that they are using their position to promote a private or personal interest. Non-financial interests include those arising from membership of bodies exercising functions of a public nature, bodies directed to charitable purposes and bodies one of whose principal purposes includes the influence of public opinion or policy.

8.2 Employees will need to consider carefully which outside interests may give rise to conflict in the performance of their normal duties and which therefore ought to be disclosed to their manager and formally recorded. It may be, for instance, that a purchasing officer, regularly required to choose between competing companies, will have a family connection with a potential supplier. Another example might be an employee whose membership of an organisation not open to the public (characterised by commitments of allegiance and secrecy of membership) would call into question his or her objectivity in selecting applicants for employment.

8.3 Employees shall disclose details of interests relevant to their employment with the Council (whether direct or indirect, financial or otherwise) which will be recorded in an open register kept by the Director of Legal and Democratic Services. Such interests shall include those arising from membership of the bodies described in paragraph 8.1 above. The requirements of this rule are in addition to the statutory duty of disclosure contained in s.117 Local Government Act 1972 (financial interests in contracts) and the general requirements of Rule 3.0 of the Officer Employment Procedure Rules (which can be found in the Council's Constitution).

#### **9.0 Confidential Reporting**

9.1 If you believe or suspect that a colleague in the Council is involved in corrupt or questionable practices, you should refer to the guidance under section 7.0 of the Confidential Reporting Policy.

#### **10.0 Politically Restricted Posts**

10.1 Some posts in the Council are politically restricted under the Local Democracy, Economic Development and Construction Act 2009. Employees undertaking these posts will be prevented from having any politically active role either in or outside the workplace. Employees will not be able to hold or stand for elected office and will also be prevented from:

- i) Participating in political activities, publicly expressing support for a political party or undertaking other activities such as canvassing on behalf of a person who

seeks to be a candidate; and

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- ii) Speaking to the public at large or publishing any written or artistic work that could give the impression of advocating support for a political party.
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**11.0 Disciplinary Policy**

11.1 This code forms part of the Council's Disciplinary Policy. Any failure to comply with it may be dealt with under that policy.

**12.0 Further Advice**

12.1 Further advice on the acceptance of gifts and hospitality may be sought from the Director of Legal and Democratic Services. Further advice on other aspects of this Code may be sought from the Head of Human Resources.





Woking Borough Council

# Planning Code of Practice for Councillors and Officers

Shaping the *future* of our borough



## 1. Purpose of the Code of Conduct

- 1.1. This Code of Practice is intended to provide clear guidance to Councillors and officers about how they should carry out their duties in relating to planning matters so as to ensure openness, transparency and consistency in decision making and to set standards of probity and conduct which the residents of Woking can expect.

## 2. Context

- 2.1. This town and country planning system involves the Council taking decisions about the development and use of land in the public interest. Planning law requires that all planning applications are determined in accordance with the approved Development Plan unless material planning considerations, such as the National Planning Policy Framework, indicate otherwise.
- 2.2. Planning is often highly contentious because its decisions affect the lives of everyone, be they applicant, objector, supporter or local resident. This is heightened by the system actively inviting public opinion on applications before decisions are taken. It is essential, therefore, that the planning process is characterised by transparent, consistent and open decision-making.

## 3. General Roles and responsibilities

- 3.1. Councillors and Officers have different, but complementary, roles in the planning process. Likewise members of the Planning Committee have different roles from other Councillors when exercising the functions of the Local Planning Authority. All Councillors are, however, bound by the terms of the Council's Code of Conduct.

### Members of the Planning Committee

- 3.2. Whilst the determination of a planning application is not a 'quasi-judicial' process, it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.
- 3.3. In addition to complying with the Council's Code of Conduct, Councillors who sit on the Planning Committee must: -

- i) act fairly and openly
- ii) avoid inappropriate social contact with applicants and their agents,
- iii) objectors and other interested parties
- iv) despite any views expressed publicly, approach decision-making with
- v) an open mind, and have regard to all material planning considerations
- vi) and be prepared to change their view if persuaded they should
- vii) make decisions purely on planning grounds in the public interest and
- viii) not favour, or appear to favour, any person, company, group or locality
- ix) not decide how to vote on each application on the basis of any political
- x) "whip", but solely on the planning merits
- xi) ensure that the reasons for their decisions are clearly stated at the
- xii) meeting.

### Other Councillors

- 3.4. Councillors who do not sit on the Planning Committee represent their wards and the Borough as a whole and may exercise their right to attend meetings of the Planning Committee to speak, although not vote, on any planning matter.
- 3.5. Councillors should particularly note that they have the same duty as members of the Committee in respect of compliance with the Code of Conduct when they attend any meeting and should always declare any pecuniary or non pecuniary interests at the appropriate stage in the proceedings.
- 3.6. In order to avoid confusion for the public attending meetings of the Planning Committee, Councillors, who are not members of the Committee, must not sit with those who are and must sit in the area designated for non members. The Chairman, at the beginning of the meeting will identify the members of the Committee and any other councillors present who are not members of the Committee.
- 3.7. Councillors who are not members of the Committee do not act in any decision making role, but shall nonetheless act fairly and openly.
- 3.8. In certain circumstances, the full Council carries out the functions of the Planning Committee and Councillors should be aware that in those circumstances they should comply with the provisions of this Code of Practice.

#### **Officers**

- 3.9. Officers are responsible to the Council as a whole. They must always act openly and impartially and provide consistent professional advice based on planning policies and procedures and planning law, ensuring that members of the Committee are aware of all relevant material planning considerations before decisions are made. Officers must comply with any professional codes of conduct that may be applicable; for Planning Officers this is the Royal Town Planning Institute's (RTPI) Code of Professional Conduct Officers must also conscientiously carry out the decisions of the Committee.

#### **4. Code of Conduct**

- 4.1. The Council has adopted a Members' Code of Conduct at Part 5 of this Constitution. The Code of Conduct requires the open disclosure of any Disclosable Pecuniary Interest or non-pecuniary interest in issues being considered by the Council or its Committees.
- 4.2. Training and guidance on the Code has been provided to all Councillors and will be regularly updated. Members of the Planning Committee must be particularly careful to ensure that they are familiar with the requirements of the Code. It is the personal responsibility of individual Councillors to ensure they comply with the Code and make all appropriate declarations. If in any doubt, Councillors should seek advice in advance of the meeting either from the Monitoring Officer or from the legal adviser to the Committee.
- 4.3. Although "Declaration of Interests" appears as a separate item on the Agenda for every meeting of the Planning Committee, the Chairman normally asks whether any Councillor wishes to make a declaration of interest prior to the consideration of each individual planning application so that it is clear for which application interests are being declared. This does not, however, preclude a Councillor declaring any interest under the specific item on the Agenda.

#### **5. Lobbying of Councillors**

- 5.1. It is a legitimate part of the planning application process for applicants, neighbours and other interested parties to approach Members. However, the rules of natural justice mean that planning applications should be determined in an open and fair manner and taking account of all relevant information and arguments. It is only at the meeting of the Committee that Members will have, and be able to consider, all the relevant information and considerations pertaining to the application.
- 5.2. It is therefore important that to maintain the integrity both of individual Councillors and of the Council as a whole that all Members should: -
  - i) If lobbied, explain the potentially conflicting position they are in. When expressing an opinion, make clear that this opinion is provisional and that they will only be able to come to a final view at the Committee meeting after hearing all the relevant information and arguments.
  - ii) Avoid giving constituents planning advice, save in relation to general planning procedures, for example, how the constituent can make a representation on the application, how the decision will be made (delegated or Committee) etc.
- 5.3. Members of the Planning Committee often receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. It is good practice for Councillors to forward a copy of the correspondence to the Head of Planning. Merely forwarding the correspondence in this way does not preclude the Councillor from being involved in the determination of the application.
- 5.4. Should a member of the Planning Committee be directly lobbied by any third party, they should notify the Monitoring Officer if they feel they have been exposed to undue or excessive lobbying. They should also indicate at the appropriate stage of the Committee proceedings that they have notified the Monitoring Officer of this lobbying.

## **6. Lobbying by Councillors**

- 6.1. If a Councillor becomes a member of, leads or represents an organisation whose primary purpose is to lobby the promotion or opposition to planning proposals, they may have an interest and may have to withdraw from the meeting during consideration of that proposal.
- 6.2. A Councillor should not lobby fellow Councillors excessively regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of a meeting at which any planning decision is to be taken.

## **7. Meeting**

- 7.1. Officers frequently hold meetings with applicants and objectors to discuss applications. These are part of the normal planning process but are, and must be clearly stated to be, without prejudice to the professional recommendation that may be made to the Committee and the decision of the Committee. Councillors will not normally attend such meetings.
- 7.2. If a Councillor wishes to arrange a meeting with Planning Officers for themselves and/or a small number of constituents about a planning application, this will be arranged at the Council Offices.
- 7.3. Officers will not normally attend public meetings unless their attendance has been agreed with the Head of Planning and representatives of both the applicant and objector

are given the opportunity to be present. Members of the Committee and Ward Councillors will be advised of any public meeting either organised by Officers or which Officers have agreed to attend.

## **8. Presentations on likely development proposals**

- 8.1. The Council may itself organise presentations to keep Councillors informed generally on matters which appear to have or are likely to have strategic importance for the Borough. At such presentations, Councillors should maintain an impartial role, listening to what is being said and asking questions but not expressing an opinion.
- 8.2. Councillors may sometimes be invited to attend presentations/open days etc on likely development proposals by developers. Councillors should consider the appropriateness of accepting such invitations and give consideration to how their attendance might be perceived. Councillors should notify the Monitoring Officer of attendance at any such event.

## **9. Officer reports to Committee**

- 9.1. All applications requiring a decision by the Planning Committee will be the subject of full written reports from the Head of Planning or such other planning officer acting under delegated authority. The report will provide a clear outline of the site history, the relevant Development Plan policies, the response of consultees and the substance of objections. The report will include a clear recommendation with a technical appraisal justifying it. Any objections or other relevant issues arising after the Agenda has been published will be the subject of an oral report to the Committee at the meeting.

## **10. Committee site visits**

- 10.1. Committee site visits are fact-finding exercises which allow the Planning Committee to make a more informed decision than would otherwise be possible from reading the Officer's report and considering the views expressed at the Committee meeting. They are not part of the formal consideration of any application and therefore public rights of attendance and speaking do not apply.
- 10.2. The Committee has adopted a procedure for site visits and this is set out at [Appendix A](#).

## **11. Public participation at the Planning Committee**

- 11.1. Members of the Planning Committee must not allow members of the public, applicants, agents or public speakers to communicate with them during the Committee meeting either orally or in writing, other than under the adopted public participation scheme, as this may give the appearance of bias to other observers.
- 11.2. The Public Speaking Rules at Part 4 of the Constitution provide the framework for public participation at the Planning Committee.

## **12. Planning Committee decisions contrary to officer recommendation**

- 12.1. From time to time, members of the Committee will disagree with the professional advice given by Officers and may determine an application contrary to that advice. When this happens Councillors must clearly express the planning reasons for their decision, such that a person observing the meeting would understand why the recommendation has not been followed. Officers will be given an opportunity to explain to the Committee any

planning and / or legal implications arising from their intended decision before the decision is confirmed.

- 12.2. The reasons given by the Committee for the decision will be recorded in the minutes of the meeting and the Head of Planning will be asked to finalise the wording of the decision notice, normally after consultation with the Chairman and Vice Chairman of the Committee.

### **13. Appeals against Council decisions**

- 13.1. Generally, Officers will organise and appear as witnesses at planning appeals on behalf of the Council. Officers will have overall management and responsibility for the conduct of planning appeals. In giving evidence, Officers will present the best possible case on behalf of the Council, whilst complying with the RTPI Code of Professional Conduct\* and taking into account cost/benefit analysis. In some circumstances it may be necessary to appoint consultants to appear on behalf of the Council; for example, where the Committee has decided an application contrary to the Officer recommendation. Where the overall strategy for a planning appeal is contrary to, or unsupportive of, the Planning Application Committee's decision in the first instance, the Head of Planning must consult with the Chairman and the Vice Chairman of the Planning Committee and relevant ward Councillors.
- 13.2. If a Councillor intends to make representations to the Planning Inspectorate on any appeal either in writing or in person at any hearing / public inquiry, they should advise the Head of Planning and indicate whether these representations will be in support of the Council's case.

### **14. Councillor and Officers as Applicants**

- 14.1. Where a Councillor is the (prospective) applicant for planning permission, he or she must appoint a professional agent to act on their behalf in dealing with Planning Officers. Whilst this might appear to place an undue financial burden on the Councillor, regard should be had to the Members' Code of Conduct Part of this Constitution.
- 14.2. Any application submitted by a serving Councillor, or a partner as defined in the Members' Code of Conduct, or persons who were Councillors within the previous 4 years, will not be dealt with by Officers under delegated powers but will be the subject of a decision by the Planning Committee. The Committee will be advised that that the application has been submitted by a Councillor, or former Councillor, and will also be advised whether the application is one that would normally have been dealt with under the Scheme of Delegation.
- 14.3. In the case of serving Councillors, the Monitoring Officer should be notified by the Councillor concerned in writing of the application no later than the date of its submission.
- 14.4. The same rules apply in respect of any officer, or a partner as defined in the Members' Code of Conduct, who is currently employed by the Council or who has been employed by the Council within the previous 4 years.

### **15. Training**

- 15.1. Councillors may not sit on the Planning Committee unless they have attended at least the annual mandatory planning training prescribed by the Council. Where the Full Council determines a major planning application, all Councillors must have attended the prescribed planning training as determined by the Head of Planning.

15.2. Suitable additional training opportunities will be arranged at regular intervals by the Head of Planning and/or the Monitoring Officer.

## **16. Review**

16.1. It is important that decisions, and the decision-making process, are regularly reviewed to improve the quality and consistency of decision making, thereby strengthening public confidence. Arrangements will normally be made for Councillors to visit, on an annual basis, a sample of implemented planning permissions to assess the quality of the decision. These visits will include a range of developments (major, minor, departures, upheld appeals, listed building works etc). The Committee will also receive an annual review of appeal decisions from the Head of Planning.

## **APPENDIX A**

### **COMMITTEE SITE VISITS**

#### **General**

1. The purpose of a site visit is to ascertain facts and to ask questions of the planning officers, not to debate the merits of the planning application. Members, at the site visit, must not indicate which way they intend to vote at the Planning Committee meeting.
2. The applicant will be notified in advance in writing of the time and date of the visit and of any requirements in respect of the site visit (such as the pegging out of the development proposal). If applicants, or their agents, attend for site access purposes they will be advised at the start of the site visit that the purpose of the visit is to gather information and that they may not address the meeting or individual councillors.
3. The public does not have a right of attendance at the site, other than from public vantage points, and cannot address the meeting or individual councillors.
4. A Planning Officer will accompany Councillors to explain the development proposal and to answer any questions. Councillors should only allow themselves to be addressed by Officers or by fellow Councillors. Where a Councillor is approached by any other person, they should inform the Planning Officer present.
5. The Chairman of the Committee, or his representative, must maintain control over the conduct of each site visit which, whilst not part of a formal meeting of the Committee, will be conducted as a single meeting and in an orderly fashion.
6. Councillors must not normally enter planning application sites except on the formal Committee Site Visit. If a Councillor considers that a personal site visit is essential, they should contact the Head of Planning, who may, in exceptional circumstances, make appropriate arrangements. Councillors must at all times remember that to enter any land without the consent of the landowner is a trespass. This does not preclude the Councillor from viewing the application site from any public vantage point.

#### **Site Visits Prior to Consideration of an Application by the Planning Committee**

7. Members of the Planning Committee and local ward members may make a request for a site visit upon receipt of the agenda. Requests must be made in writing, explaining the reason for the request, to the Development Manager with a copy forwarded to the Head of Planning and the Democratic Services Officer by 4 pm four clear working days before the Planning Committee meeting.

#### **Applications Deferred by the Planning Committee for a Site Visit**

8. Only in exceptional circumstances will a request for a Committee Site Visit made at the Planning Committee meeting, outside the above procedure, be entertained by the Committee.
9. Where the Planning Committee has commenced the consideration of an item but decides to defer an application because it considers that a site visit is necessary in order for it to determine the application.