

Woking Borough Council

# The Constitution

Shaping the *future* of our borough



The Constitution

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Part 1

# Introduction

## 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 for a period four years. The regular election of councillors will normally be held on the first Thursday in May during an election year 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.
- 2.3. 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.
- 2.4. 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.
- 2.5. 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.
- 2.6. 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.



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

### **How Decisions are Made**

- 2.8. 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.
- 2.9. 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**

- 2.10. 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**

- 2.11. 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.
- 2.12. 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**

- 2.13. 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**

- 2.14. 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.

- 2.15. The public have the right to:

- i) vote at local elections if they are registered;

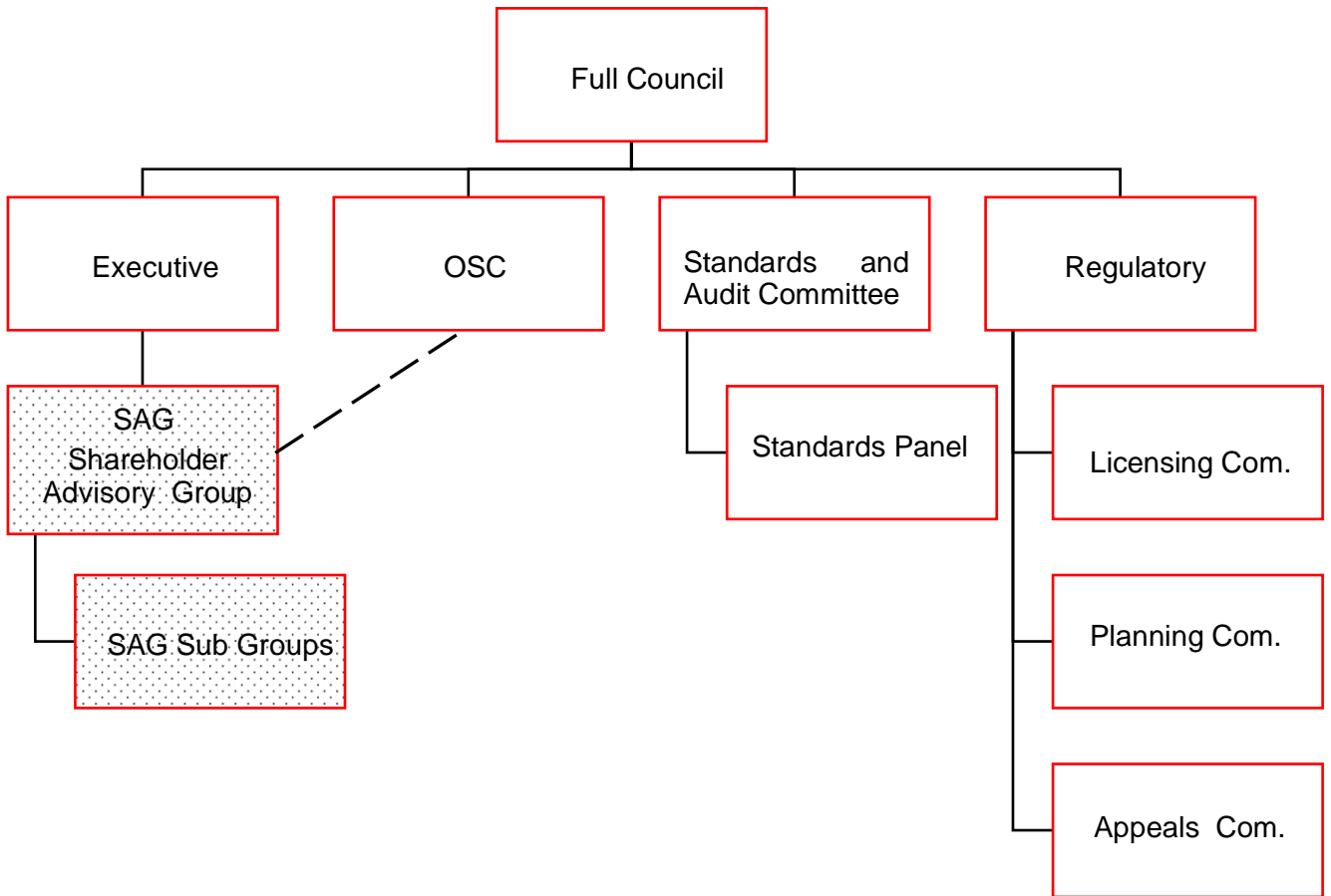
- i) contact their local councillor about any matters of concern to them;
- i) obtain a copy of the Constitution, which can be viewed on the Council's website;
- r) attend meetings of the Council and its Executive and committees except where, for example, personal or confidential matters are being discussed;
- r) present petitions to the Council in accordance with the adopted Petition Scheme
- i) ask questions or address meetings of the Council, Executive and committees;
- i) find out from the Forward Plan what major decisions are to be discussed and decided by the Leader/Executive and when;
- i) 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;
- c) complain to the Council about any aspect of its services;
- c) 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;
- i) 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
- i) 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](#)





1.

Part 2

# Articles

## **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;

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- (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

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- (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

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- (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

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- (iii) they are no longer councillors; or

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- (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.

7.5. 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

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- (iv) Drives improvement in public services

### **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;

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- (ii) make reports and/or recommendations to Full Council and/or the Leader/Executive;

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- (iii) consider any matter affecting the area or its inhabitants;

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- (iv) exercise the right to call-in, for reconsideration, Executive decisions made but not yet implemented; and

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(v) deal with crime and disorder matters referred to it under the Police and Justice Act 2006;

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(vi) consider any valid Councillor Call for Action.

### 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;

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(ii) conduct research, community consultation and other consultation in the analysis of policy issues and possible options;

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(iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

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(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

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(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

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;

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(ii) may review and scrutinise the performance of the Council in relation to 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

(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;
- 
- (iv) monitoring the operation of the Members' Code of Conduct;
- 
- (v) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- 
- (vi) determining allegations that there has been a breach of the Members' Code of Conduct in accordance with arrangements adopted by Council;
- 
- (vii) acting as the Council's Audit Committee. In performing this task the Standards and Audit Committee will:
- 
- approve the plans of Internal Audit and consider the External Audit plan;

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  - receive the Annual Audit and Inspection letter from External Audit;

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  - receive Internal Audit recommendations for improvements and assurance that action has been taken where necessary;

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  - review summary Internal Audit reports (located on the intranet);

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  - receive a half yearly and annual report from the Chief Internal Auditor on the work of Internal Audit;

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  - receive appropriate matters of concern raised by either External or Internal Audit or other agencies; and

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  - 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 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
- 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
- (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;
- (ii) due consultation and the taking of professional advice from officers;
- (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:

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- 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;
  - (ii) undertake an audit trail of a sample of decisions;
  - (iii) record and analyse issues raised by councillors, officers, the public and other relevant stakeholders; and
  - (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)



Part 3

# Responsibility for Functions

## **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> <li>x) Designate Head of Paid Service</li> <li>xi) Designate Monitoring Officer</li> </ul>

Who is responsible	Membership	Functions
		xii) Designate Chief Finance Officer xiii) Appoint Leader xiv) Appoint to Committees etc xv) Elect Mayor/Deputy Mayor
<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> <p>iii) Licensing Act 2003.</p>

Who is responsible	Membership	Functions
		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	<p>Functions:</p> <p>(a) Policy development and review.</p> <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> <p>(b) Scrutiny</p> <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 performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;</li> </ul>

Who is responsible	Membership	Functions
		<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>
<b>Joint Committee for the Oversight of Delivery of Surrey Public Authority Services (“Surrey First”)</b>	One Member appointed by Woking Borough Council to Joint Committee comprising the Surrey local authorities and the Surrey Police Authority	The governance arrangements for the Joint Committee are appended.
<b>Joint Waste Services Collection Committee</b>	One Member appointed by Woking Borough Council to Joint Committee, comprising Elmbridge Borough, Mole Valley District, Rushmoor Borough, Surrey County, Surrey Heath Borough and Woking Borough Council.	The governance arrangements for the Joint Committee are appended





Part 3

# Management Arrangements

## 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:

- i) act as the interface between the Council and its staff;
- r) lead, direct and support the staff, and
- r) 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:-

- i) Head of Paid Service (Section 4 Local Government and Housing Act 1989);
- i) Monitoring Office (Section 5 Local Government and Housing Act 1989), and
- i) 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:-

- c) 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;
- c) 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);
- i) 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

- i) 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:-

- i) 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
- r) External Audit to ensure that they enjoy complete and up-to-date information about the financial arrangements in operation within the Council.

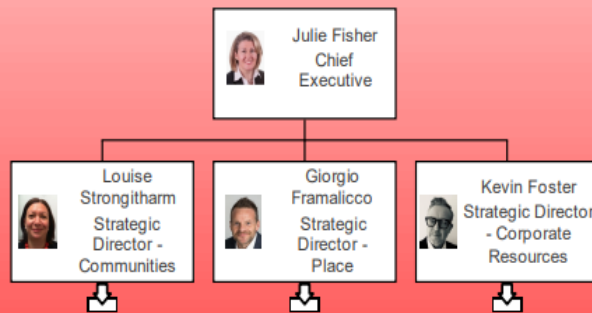
#### 4. Leadership Details

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

Part 3

# 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.
- 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 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 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.
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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.
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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.

	<b>Function</b>	<b>Delegated to</b>	<b>Sub delegation</b> -
1	<u>Emergency/Urgency Powers</u> Each CLT Member is authorised to act in an emergency, or in relation to an urgent matter, arising in respect of any of the Council's powers, duties or functions. The exercise of this delegation shall, where practicable, be in consultation with the Leader of the Council or (in his/her absence) the Deputy Leader of the Council.	CLT	
2	<u>Local Government (Miscellaneous Provisions) Act 1976, Section 16</u> Each CLT Member is authorised to serve a notice to seek from individuals the nature of their interest in land subject to statutory action.	CLT	
3	<u>Head of Paid Service</u> To act as the Council's Head of Paid Service under section 4 of the Local Government and Housing Act 1989 and to be responsible for the general management of the Council's workforce and the general management of the authority.	Chief Executive	
4	<u>Elections</u> To act as Electoral Registration Officer in maintaining the Electoral Register and as Returning Officer in conducting Local Government Elections.	Chief Executive	
5	<u>Powers of Entry</u> The Chief Executive may authorise named officers to enter land for the purposes specified in Section 324 of the Town and Country Planning Act 1990.	Chief Executive	
6	<u>Conferences</u> The Chief Executive is authorised to attend all conferences, assemblies, seminars and meetings of the Local Government Association (LGA) and to respond to consultations by the LGA on any aspect of such conferences, in consultation with the Group Leaders.	Chief Executive	
7	<u>Christmas and New Year Holiday Arrangements</u> The Chief Executive is authorised, in consultation with the Leader of the Council, to agree appropriate business arrangements over the Christmas and New Year period.	Chief Executive	
8	<u>Regulation of Investigatory Powers Act 2000</u>	Chief Executive	

	<p>The Chief Executive is authorised to appoint Senior Officers as authorising officers for the purposes of the Regulation of Investigatory Powers Act 2000.</p> <p>The Chief Executive and, in her absence, the Director of Legal and Democratic Services are authorised to approve the use of “juvenile sources”, “vulnerable individuals”, and directed surveillance and/or the use of a CHIS which is likely to result in confidential information being acquired.</p> <p>The Chief Executive is the Council’s “Senior Responsible Officer” for the purposes of the Regulation of Investigatory Powers Act 2000.</p>		
9	<p><u>Thameswey Housing Limited</u></p> <p>The Chief Executive is authorised to approve, from time to time, the acquisition of further share capital in the company on a project by project basis.</p>	Chief Executive	
10	<p><u>Staffing Levels</u></p> <p>In consultation with the Leader of the Council, to vary staffing levels in accordance with business needs, provided that any variation complies with any limits determined by Council.</p>	Chief Executive	
11	<p><u>Temporary Staff</u></p> <p>To employ staff, from a temporary bank, as required in relation to vacant posts</p>	Chief Executive	
12	<p><u>Petitions</u></p> <p>In consultation with the Leader of the Council, to determine whether a petition is vexatious, abusive or otherwise inappropriate and, therefore, not covered by the Petition Scheme adopted by the Council on 28 June 2010.</p>	Chief Executive	
13	<p><u>Woking Community Safety Anti Social Behaviour Policy</u></p> <p>Authority be delegated to the Chief Executive to review the Anti Social Behaviour Policy from time to time, in consultation with the Portfolio Holder, to ensure that it is updated to reflect good practice, current legislation and case law (with any updates being reported to Council for information).</p> <p>Authority be delegated to the Chief Executive in consultation with the Police and/or other appropriate consultees, to issue Closure Notices under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>Authority be delegated to the Chief Executive to:-</p> <ol style="list-style-type: none"> <li>a. issue Community Protection Notices;</li> <li>b. authorise registered social landlords to issue Community Protection Notices;</li> </ol>	Chief Executive	

	<p>c. issue Fixed Penalty Notices for breach of a Community Protection Notice;</p> <p>d. authorise any persons to issue Community Protection Notices and issue Fixed Penalty Notices for breach of a Community Protection Notice;</p> <p>e. take remedial action when a Community Protection Notice has not been complied with.</p> <p>under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 (9E/Council/30.07.20/73).</p>		
1	<p><u>Chief Finance Officer</u></p> <p>To act as the officer responsible for the administration of the Council's financial affairs, appointed as such pursuant under Section 151 Local Government Act 1972, and to perform the functions of 'Chief Finance Officer' specified in section 114 of the Local Government Finance Act 1988.</p>	Director of Finance / Section 151 Officer	
2	<p><u>Internal Audit</u></p> <p>The Chief Finance Officer is authorised to maintain an adequate and effective system of internal audit under the Accounts and Audit Regulations 1996 and in accordance with appropriate professional standards.</p>	Director of Finance / Section 151 Officer	
3	<p><u>Council Tax</u></p> <p>To carry out the functions required by the Local Government Finance Act 1992 and subsequent legislation for administration, billing, collection and recovery of Council Tax.</p>	Director of Finance / Section 151 Officer	
4	<p><u>Non-Domestic Rates</u></p> <p>To carry out the functions required by the Local Government Finance Act 1988 and subsequent legislation for administration, billing, collection and recovery of NDR.</p>	Director of Finance / Section 151 Officer	
5	<p><u>Council Mortgages</u></p> <p>To approve transfers of mortgages / additional mortgagees</p>	Director of Finance / Section 151 Officer	
6	<p><u>Housing Benefits</u></p> <p>To administer a system of housing benefits including provision for payment pursuant to the Social Security and Housing Benefits Act 1982 and subsequent and amending legislation.</p>	Director of Finance / Section 151 Officer	
7	<p><u>Banking Arrangements:</u></p> <p>To operate such banking accounts as she/he considers necessary. Applications to open new bank accounts shall be countersigned by the Chief Executive.</p>	Director of Finance / Section 151 Officer	

8	<u>Mortgage Interest Rates:</u> To determine the local average rate and the rate to be applied to variable rate loans	Director of Finance / Section 151 Officer	
9	<u>Council Property – Option to Tax.</u> To opt to tax on Council property.	Director of Finance / Section 151 Officer	
10	<u>Thameswey Housing Limited</u> To approve, from time to time, the investment of further loans in the company on a project by project basis provided always that such investment is within the prudential arrangements authorised by the Council.  To approve, from time to time, the making of further grants to the company, on a project by project basis, provided they are financed from the S.106 commuted sums secured by the Council for affordable housing.	Director of Finance / Section 151 Officer	
11	<u>Housing Revenue Account Service Charges</u> To vary Housing Revenue Account service charges in line with external factors.	Director of Finance / Section 151 Officer	
12	<u>Housing Revenue Account Rents</u> To set rents for new Housing Revenue Account properties.	Director of Finance / Section 151 Officer	
13	<u>Fees and Charges</u> To agree any necessary in-year changes to fees and charges levied/charged by the Council.	Director of Finance / Section 151 Officer	
14	<u>Treasury Management</u> The Chief Finance Officer is responsible for the execution and administration of Treasury Management decisions. The Chief Finance Officer shall act in accordance with the Council's policy statement, Treasury Management practices and CIPFA's Standard of Professional Practice on Treasury Management.	Director of Finance / Section 151 Officer	
15	<u>Council Tax Recovery Policy</u> The Finance Director be delegated authority to issue civil penalties under Schedule 3 to the Local Government Finance Act 1992 (and subsequent Orders) (10/Council/18.10.18/148).	Director of Finance / Section 151 Officer	
1	<u>Sealing of Documents:</u> As Director of Legal and Democratic Services, to attest and execute documents giving effect to decisions of the Council, the Executive, a Committee or Member/Officer exercising delegated powers (SO 14)	Director of Legal and Democratic Services / Monitoring Officer	
2	<u>Legal Proceedings:</u>	Director of Legal and	

	As Director of Legal and Democratic Services , to institute, carry on, defend, compromise or settle legal proceedings (civil or criminal) or other disputes in connection with any of the Council's powers, duties or functions, including the enforcement of any judgement or order obtained (SO 15.2).	Democratic Services / Monitoring Officer	
3	<u>Authentication of Documents:</u>  As Director of Legal and Democratic Services, to authenticate any document which will be a necessary step in legal proceedings, or shall otherwise need to be authenticated, on behalf of the Council (unless any enactment requires otherwise or the Council has given the necessary authority to some other person for the purpose of such other proceedings) (SO 15.1).	Director of Legal and Democratic Services / Monitoring Officer	
4	<u>Authority to Appear in Court:</u>  As Director of Legal and Democratic Services, to authorise officers to appear in Court for the Council.	Director of Legal and Democratic Services / Monitoring Officer	
5	<u>Planning Enforcement</u>  (references to the 1990 Act are to the Town and Country Planning Act 1990): As Director of Legal and Democratic Services,  (a) Seeking of information: to seek to obtain by Notice information as to interests in land or activities on land (for the purposes of Section 16 of the Local Government Act (Miscellaneous Provisions) Act 1976 and Sections 171C and 330 of the 1990 Act); and to prosecute in the event of non-compliance;  (b) Emergency Enforcement/Stop Action: to issue Enforcement/Stop Notices in an emergency, take all necessary steps in relation thereto, and to prosecute in the event of non-compliance;  (c) Breach of Condition Notices: to issue Notices alleging Breach of Condition pursuant to Section 187(A) of the 1990 Act, to take all necessary steps in relation thereto, and to prosecute in the event of non-compliance;  (d) Injunctions: to seek injunctive relief, in consultation with the Chairman of the Planning Committee (where practicable), to restrain actual or apprehended Breaches of Planning Control (Section 187B of the 1990 Act) Tree Preservation Control (Section 214A of the 1990 Act) or Listed Building Control (Section 44A of the Planning (Listed Building and Conservation Areas) 1990 Act);  (e) Obstruction: to prosecute persons wilfully obstructing officers acting in pursuance of the enforcement function (Section 178(6) of the 1990 Act), in the exercise of a right of entry (Section 196C(2) and 214D(3) of the 1990 Act), in the carrying out of operations in default of a planning obligation (Section 106(8) of the 1990 Act), in executing works in default pursuant to a Listed Building Enforcement Notice (Section 88B(3) Planning (Listed Buildings and Conservation Areas) Act 1990), or in enforcing	Director of Legal and Democratic Services / Monitoring Officer	

	<p>the duty to plant replacement trees (Section 209(6) of the 1990 Act); and</p> <p>(f) Misstatement/Deception: to prosecute persons who, in response to a planning contravention notice (Section 171D(5) of the 1990 Act), in the course of an application for a Certificate of Lawful Use or Development (Section 194(2) of the 1990 Act) or in providing evidence that an application for planning permission has been properly publicised (Section 65(6) of the 1990 Act) make false or misleading statements or with intent to deceive, use any document which is false or misleading or withhold any material information.</p> <p>(g) Breach of Condition Enforcement Notices: to issue Enforcement Notices (failing to comply with a condition or limitation subject to which planning permission has been granted) under Section 172 of the 1990 Act, and to take all necessary steps to secure compliance with such Enforcement Notices including (without limitation) direct action under Section 178 of the 1990 Act and prosecution under Section 179 of the 1990 Act.</p>		
6	<p><u>Officer Interests:</u></p> <p>As Director of Legal and Democratic Services, to maintain a register of officer interests and to record the receipt by officers of gifts/hospitality.</p>	Director of Legal and Democratic Services / Monitoring Officer	
7	<p><u>Regulation of Investigatory Powers Act 2000:</u> As Director of Legal and Democratic Services to amend the RIPA policy and procedures to keep them up-to-date and/or to take account of emerging good practice. Amendments shall be reported to the Executive in the annual RIPA report.</p>	Director of Legal and Democratic Services / Monitoring Officer	
8	<p><u>Freedom of Information</u></p> <p>As Director of Legal and Democratic Services, to make any appropriate amendments to the publication scheme required (a) to incorporate good practice or (b) to keep the scheme up-to-date.</p> <p>To make any appropriate amendment to the procedures for dealing with requests for information under the Act, and the records management policy, required (a) to incorporate good practice; or (b) to keep the documents up-to-date; and</p> <p>To determine the fees that will apply to requests for information under the Freedom of Information Act 2000.</p>	Director of Legal and Democratic Services / Monitoring Officer	
9	<p><u>Environmental Information Regulations</u></p> <p>As Director of Legal and Democratic Services to deal with requests for environmental information under the Environmental Information Regulations 2004, primarily on a “business as usual” basis (i.e. outside the procedure for dealing formally with requests that require a great deal of research, or which are otherwise outside the “norm”), and is responsible for monitoring that requests are dealt with consistently across the Council.</p>	Director of Legal and Democratic Services / Monitoring Officer	

	To settle the detail of the procedure for dealing with requests for environmental information in accordance with emerging guidance from the Information Commissioner, the Secretary of State and other bodies, and thereafter to make appropriate amendments to the procedure required to incorporate good practice or to keep it up-to-date.		
10	<p><u>Assets of Community Value</u></p> <p>As Director of Legal and Democratic Services:</p> <p>(i) To determine a review into the listing of land as an Asset of Community Value.</p> <p>(ii) To review and amend the procedure and process for dealing with a nomination to list an Asset of Community Value in line with good practice and case law.</p>	Director of Legal and Democratic Services / Monitoring Officer	
11	<p><u>Housing Benefit Overpayments</u></p> <p>As Director of Legal and Democratic Services , to recover Housing Benefit overpayments under the Social Security (Overpayments and Recovery) Regulations 2013 and any subsequent and amending legislation.</p>	Director of Legal and Democratic Services / Monitoring Officer	
12	<p><u>Monitoring Officer:</u></p> <p>Subject to appointment by the Council, to act as Monitoring Officer pursuant to section 5(1) Local Government and Housing Act 1989.</p>	Director of Legal and Democratic Services / Monitoring Officer	
13	<p><u>Executive Arrangements:</u></p> <p>As Monitoring Officer, to act as Proper Officer for the purposes of the Local Authorities (Executive Arrangements) Access to Information (England) Regulations 2000, the Local Authorities (Standing Orders) (England) Regulations 2001 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.</p>	Director of Legal and Democratic Services / Monitoring Officer	
14	<p><u>Confidential Reporting Policy:</u></p> <p>As Monitoring Officer, overall responsibility for the maintenance and operation of this policy, including the keeping of a record of concerns raised and outcomes (para.9.1 of the Policy).</p> <p>Applications for a dispensation under Section 33 of the Localism Act 2011 (allowing a Member to participate in an item in which he/she has a disclosable pecuniary interest) shall be made to, and determined by, the Monitoring Officer.</p>	Director of Legal and Democratic Services / Monitoring Officer	
15	<p><u>Elections</u></p> <p>To act as Deputy Electoral Registration Officer in maintaining the Electoral Register.</p>	Director of Legal and Democratic Services / Monitoring Officer	
16	<u>Regulation of Investigatory Powers Act 2000</u>	Director of Legal and	



	In the absence of the Chief Executive, the Director of Legal and Democratic Services is authorised to approve the use of “juvenile sources”, “vulnerable individuals”, and directed surveillance and/or the use of a CHIS which is likely to result in confidential information being acquired.	Democratic Services / Monitoring Officer	
17	<u>Data Protection Officer</u> To act as the Council’s Data Protection Officer.	Director of Legal and Democratic Services / Monitoring Officer	
18	<u>Coronavirus Regulations</u> The Director of Legal and Democratic Services be authorised to make designations of authorised persons under the current Coronavirus Regulations and any further coronavirus regulations which may be enacted from time to time in response to the current pandemic (3/Executive/08.10.20/134).	Director of Legal and Democratic Services / Monitoring Officer	
19	<u>Housing Standards Enforcement Policy</u> The Director of Legal and Democratic Services be delegated authority to issue financial penalties under the Housing and Planning Act 2016. The Director of Legal and Democratic Services be delegated authority to issue financial penalties under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015. The Director of Legal and Democratic Services be delegated authority to issue financial penalties under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Regulations 2014.	Director of Legal and Democratic Services / Monitoring Officer	
20	<u>Proper Officer</u> Subject to proper officer appointments by virtue of position, the Director of Legal and Democratic Services shall be authorised to act as the proper officer for any statutory responsibilities.	Director of Legal and Democratic Services / Monitoring Officer	
1	<u>Circuses and Fairs:</u> To agree the best possible charges for hiring facilities to circuses, fairs, etc.	Strategic Director – Communities	
2	<u>Small Grants Scheme (Arts, Sport and Youth):</u> To approve small grants up to the value of £500, after consultation with the appropriate community group.	Strategic Director – Communities	
3	<u>Accredited User Status:</u> To approve applications for accredited use of the Rhoda McGaw Theatre, subject to applicants meeting prescribed grant criteria.	Strategic Director – Communities	

4	<p><u>Staffing Levels:</u></p> <p>To recruit and/or vary staffing levels to meet front-line business needs, provided that such changes are within any limits determined by Council.</p>	Strategic Director – Communities	
5	<p><u>Safeguarding of Children, Young People and Vulnerable Persons:</u></p> <p>To act as Lead Officer for the Council and accordingly be authorised to:- (a) share personal information relating to service users with other agencies, all in accordance with agreed information sharing protocols and for the purposes of safeguarding and protecting individuals; and (b) in consultation with other relevant Officers and Human Resources, as necessary, make determinations as to the appropriateness of undertaking DBS checks against applicants for employment or persons seeking to carry out work for the Council, and in doing so ensure that such compliance measures and appropriate training are put in place and carried out.</p>	Strategic Director – Communities	
6	<p><u>Access to Personal Files Act 1987:</u></p> <p>To determine at first instance applications for information made pursuant to the Housing Regulations of 1989.</p>	Strategic Director – Communities	
7	<p><u>Housing Act 1985 (Part III):</u></p> <p>To set a weekly charge for bed and breakfast with reference to the current cost of a normal unit of temporary accommodation and the current local rent threshold.</p>	Strategic Director – Communities	
8	<p><u>Intentional Homelessness:</u></p> <p>To determine decisions on intentional homelessness subject to a consultative procedure where members of the Appeals Committee shall receive details of a proposed decision and be afforded a right to call in the decision or determination by the Committee.</p>	Strategic Director – Communities	
9	<p><u>Home Repair Assistance (HRA):</u></p> <p>To approve Discretionary applications for HRA from elderly (over 60) owner occupiers and elderly private tenants in receipt of specified benefits (maximum £2,000). A maximum limit of total assistance of up to £4,000 in respect of the same dwelling in any three year period. To approve disabled adaptations, regardless of age of applicant, provided works would attract a Disabled Facilities Grant with a means tested contribution of zero.</p>	Strategic Director – Communities	
10	<p><u>Discretionary Renovation Grants:</u></p> <p>To approve discretionary renovation grants:</p> <ul style="list-style-type: none"> <li>(i) to bring a dwelling up to the standard of fitness, where renovation is the most satisfactory course of action; and</li> <li>(ii) for necessary repairs in conjunction with a mandatory disabled facilities grant.</li> </ul>	Strategic Director – Communities	

11	<p><u>Home Insulation Grants:</u></p> <p>To determine applications and approve as necessary.</p>	Strategic Director – Communities					
12	<p><u>Houses in Multiple Occupation (HMO):</u></p> <p>To approve Discretionary HMO grants where:</p> <p>(i) there are inadequate means of escape from fire; and/or</p> <p>(ii) there are inadequate other fire precautions; and</p> <p>(iii) these works would qualify for a notice being served under section 352(I) Housing Act 1985 (maximum £15,000).</p>	Strategic Director – Communities					
13	<p><u>Review of Housing Policies:</u></p> <p>To approve changes to Housing Policies where they:</p> <p>(i) consolidate new legislation</p> <p>(ii) give effect to statutory obligation; or</p> <p>(iii) reflect changes to organisation structure (19/Executive/15.04.04/405).</p>	Strategic Director – Communities					
14	<p><u>Homelessness.</u></p> <p>To approve other initiatives to prevent homelessness in individual cases at reasonable cost to the Council and within approved budget limits.</p>	Strategic Director – Communities					
15	<p><u>Housing Act 2004</u></p> <p>(i) Authority to implement mandatory licensing of Houses in Multiple Occupancy, including hearing of representations under Schedule 5 of the Act in respect of the granting, refusal, variation or revocation of licences and Schedule 6 of the Act relating to the making of Management Orders;</p> <p>(ii) Authority to review the existing charges for enforcement action and make any necessary changes to the fees.</p> <p>(iii) Authority to take enforcement action under Section 265 of the Housing Act 1985 to make a Demolition Order;</p> <p>(iii) Authority to take enforcement action under Parts 1, 2, 3, 4 and 7 of the Housing Act 2004 as described in, but not limited to, the table below.</p> <table border="1" data-bbox="156 1809 935 2000"> <tr> <td data-bbox="156 1809 347 1899">Housing Act 2004</td> <td data-bbox="347 1809 935 1899"></td> </tr> <tr> <td data-bbox="156 1899 347 2000">Sections 11, 12, 14, 16, 17 &amp; 18</td> <td data-bbox="347 1899 935 2000">Relating to the service of improvement notices and follow up action</td> </tr> </table>	Housing Act 2004		Sections 11, 12, 14, 16, 17 & 18	Relating to the service of improvement notices and follow up action	Strategic Director – Communities	
Housing Act 2004							
Sections 11, 12, 14, 16, 17 & 18	Relating to the service of improvement notices and follow up action						

Sections 20, 21, 23, 25, 26 & 27	Relating to the service of prohibition orders and follow up action			
Sections 28 & 29	Relating to the service of hazard awareness notices			
Sections 30 & 31	Relating to the enforcement of improvement notices			
Sections 32	Relating to the enforcement of prohibition orders			
Sections 40, 41, 42 & 43	Relating to emergency remedial action and emergency prohibition orders			
Sections 49 & 50	Relating to powers to charge for certain enforcement action and recovery of charges			
Section 62	Relating to temporary exemption from licensing			
Sections 72,73 & 74	Relating to the granting and refusal of HMO licences and the revocation and variation of licences.			
Sections 102, 103, 106 & 110	Relating to the making and operation of interim management orders			
Sections 111 & 112	Relating to the variation and revocation of interim management orders			
Sections 113, 115, 119 & 120	Relating to the making and operation of final management orders			
Sections 121 & 122	Relating to the variation and revocation of final management orders, procedural requirements and appeals relating to interim and final management orders			
Sections 127, 129 & 130	Relating to the management and termination of final management orders			
Section 131	Relating to Management orders: power of entry to carry out work			
Section 139 & 144	Relating to overcrowding notices in certain houses in multiple occupation not required to be licensed			
Section 234	Relating to enforcement of management regulations			
Sections 235	Relating to the power to require documents to be produced			
Section 240	Relating to warrant to authorise entry			
Section 242	Relating to notice requirements for the protection of owners			
Section 245	Relating to powers to dispense with notices			

	Section 255 & 256	Relating to HMO declarations & revocation of HMO declarations		
16	<u>Housing Assistance Policy 2015-18</u> To agree minor amendments to the Housing Assistance Policy in consultation with the Portfolio Holder.		Strategic Director – Communities	
17	<u>Assisted Moves</u> In consultation with the Leader of the Council, to approve targeted incentives of up to £1,000 in respect of difficult to let properties.		Strategic Director – Communities	
18	<u>Rent Act 1977:</u> Section 68: To make application to the Rent Office for the consideration of a fair rent.		Strategic Director – Communities	
19	<u>Policy on Discharging the Council's Homelessness Duty into the Private Rented Sector</u> The Strategic Director - Communities be delegated authority to agree minor amendments to the Policy on discharging the Council's homelessness duty into the Private Rented Sector in consultation with the Portfolio Holder. The Housing Needs Manager be delegated authority, in consultation with the Portfolio Holder, to determine reviews under this Policy and that consequential changes to the Council's Constitution are undertaken to accommodate such (7/Council/09.02.17/265).		Strategic Director – Communities	
20	<u>Homelessness and Rough Sleeping Strategy</u> The Strategic Director - Communities, in consultation with the Portfolio Holder for Housing, be delegated authority to make minor amendments to the Strategy and to update the action plan as required (8/Council/13.02.20/240).		Strategic Director – Communities	
21	<u>Next Steps Accommodation Programme</u> The Strategic Director - Communities, in consultation with the Portfolio Holder for Housing, be authorised to take all necessary actions to secure the grant funding and deliver the scheme (9B/Council/03.12.20/202).		Strategic Director – Communities	
22	<u>Safeguarding – Policy and Procedure – A Guide to Safeguarding Vulnerable Adults and Children</u> The Strategic Director responsible for safeguarding be delegated authority to agree minor amendments to the Policy in consultation with the Lead Member for Safeguarding (9/Council/06.04.17/230).		Strategic Director – Communities	
23	<u>Housing Standards Enforcement Policy</u> The Strategic Director - Communities be delegated authority to agree minor amendments to the Housing Standards Enforcement Policy in consultation with the Portfolio Holder.		Strategic Director – Communities	

	<p>The Strategic Director be delegated authority to apply for Banning Orders proposed in the Housing and Planning Act 2016 from the implementation date.</p> <p>The Strategic Director be delegated authority to enter relevant private landlord details onto the Rogue Landlord Database proposed in the Housing and Planning Act 2016 from the implementation date (7/Council/20.07.17/46).</p>		
24	<p><u>Private Rented Sector Access Scheme Policy</u></p> <p>The Strategic Director - Communities be delegated authority to agree leases with private landlords for accommodation to be used in accordance with the Policy.</p> <p>The Strategic Director - Communities be delegated authority to make minor amendments to the Policy</p>	Strategic Director – Communities	
25	<p><u>Major Works Affecting Leaseholders and Arrangement for the Payment of Service Charges</u></p> <p>Delegated authority be given to the Strategic Director - Communities to make minor changes to the policy in consultation with the Portfolio Holder for Housing (6/Council/19.10.17/122).</p>	Strategic Director – Communities	
26	<p><u>Housing Allocations Policy 2018</u></p> <p>The Strategic Director, in consultation with the Portfolio Holder for Housing, be delegated authority to make minor amendments to the Policy as part of an annual review (7/Council/05.04.18/279).</p>	Strategic Director – Communities	
27	<p><u>Anti-Social Behaviour, Crime and Policing Act 2014</u></p> <p>(i) To issue Community Protection Notices;</p> <p>(ii) To authorise Registered Social Landlords to issue Community Protection Notices;</p> <p>(iii) To issue Fixed Penalty Notices;</p> <p>(iv) To authorise any persons to issue Fixed Penalty Notices, and</p> <p>(v) To take remedial action when a Community Protection Notice has not been complied with</p> <p>Under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.</p>	Strategic Director – Communities	
28	<p><u>Tenancy Policy</u></p> <p>To implement minor amendments to the Policy in consultation with the Strategic Director and the Portfolio Holder for Housing.</p>	Strategic Director – Communities	
29	<p><u>Allocations Policy</u></p>	Strategic Director – Communities	

	To implement minor amendments to the Policy in consultation with the Strategic Director and the Portfolio Holder for Housing.		
30	<p><u>Disabled Facilities Grant (DFG):</u> Authority to:</p> <p>(i) approve Mandatory DFG to allow for the purposes listed in Section 23 Housing Grants Construction and Regeneration Act 1996; and</p> <p>(ii) approve Discretionary DFG for other works up to £3,000 when in conjunction with a Mandatory DFG, in consultation with the Leader.</p>	Strategic Director – Communities	
31	<p><u>Tenancy Policy</u></p> <p>To implement minor amendments to the Policy in consultation with the Strategic Director and the Portfolio Holder for Housing.</p>	Strategic Director – Communities	
32	<p><u>Allocations Policy</u></p> <p>To implement minor amendments to the Policy in consultation with the Strategic Director and the Portfolio Holder for Housing.</p>	Strategic Director – Communities	
33	<p><u>Disabled Facilities Grant (DFG):</u></p> <p>Authority to:</p> <p>(i) approve Mandatory DFG to allow for the purposes listed in Section 23 Housing Grants Construction and Regeneration Act 1996; and</p> <p>(ii) approve Discretionary DFG for other works up to £3,000 when in conjunction with a Mandatory DFG, in consultation with the Leader.</p>	Strategic Director – Communities	
1	<p><u>Skin piercing, etc.:</u></p> <p>To register applicants engaged in the business of acupuncture, tattooing, ear piercing and electrolysis for registration under Sections 14-17 of the Local Government (Miscellaneous Provisions) Act 1982</p>	Strategic Director - Place	
2	<p><u>Advertisements:</u></p> <p>To remove posters and placards displayed in contravention of the Advertisement Regulations.</p>	Strategic Director - Place	
3	<p><u>Air Pollution Control:</u></p> <p>(i) to grant, vary and revoke authorisations to persons controlling prescribed processes under Schedule B of the Environmental</p>	Strategic Director - Place	

	<p>Protection (Prescribed Processes and Substances) Regulations 1991;</p> <p>(ii) to maintain a register of processes as required by Part I of the Environmental Protection Act 1990; and</p> <p>(iii) to grant, vary and revoke permits under the Pollution Prevention and Control (England and Wales) Regulations 2000</p>		
4	<p><u>Building Act 1984</u></p> <p>Section 59: To serve notice to require satisfactory drainage systems to be provided to buildings.</p> <p>Section 60: To serve notice to require the proper use of soil ventilation pipes.</p> <p>Section 64: To serve notice to require the provision of closets in a building.</p> <p>Section 65: To serve notice to require the provision of sanitary conveniences at certain work places.</p> <p>Section 66: To serve notice to require the replacement of earth closets.</p> <p>Section 67: To loan temporary sanitary conveniences.</p> <p>Section 76: To serve notice to remedy the defective state of premises when unreasonable delay would occur if the procedure provided in the Public Health Act 1936 were followed.</p> <p>Section 84: To serve notice to require the improvement of pavings and drainage to yards and passages.</p>	Strategic Director Place	–
5	<p><u>Caravan Site Licences:</u></p> <p>Authority to take action under the Caravan Sites and Control of Development Act 1960 as set out, but not limited to, below:-</p> <p>(i) To issue a site licence pursuant to section 3 of the Caravan Sites and Control of Development Act 1960.</p> <p>(ii) To attach conditions to a site licence pursuant to section 5 of the Caravan Sites and Control of Development Act 1960.</p> <p>(iii) To transfer a site licence pursuant to section 10 of the Caravan Sites and Control of Development Act 1960.</p> <p>(iv) To serve, revoke or vary compliance notices on site owners/occupiers where site licence conditions are breached pursuant to section 9A of the Caravan Sites and Control of Development Act 1960.</p>	Strategic Director Place	–



	<p>(v) To take action following conviction of an occupier for failing to comply with a compliance notice pursuant to section 9D of the Caravan Sites and Control of Development Act 1960.</p> <p>(vi) To take emergency action where there is a failure to comply with licence conditions and as a result there is imminent risk of serious harm to the health or safety of any person who is, or may be, on the land, pursuant to section 9E of the Caravan Sites and Control of Development Act 1960.</p>		
6	<p><u>Control of Pollution Act 1974:</u></p> <p>Section 60: To serve notice to control noise on construction sites.</p> <p>Section 61: To give prior consent, including limiting conditions for work on construction sites.</p>	Strategic Director Place	–
7	<p><u>Dog Controls:</u></p> <p>(i) to issue renewal licences under the Breeding of Dogs Act 1973 and, in consultation with the Chairman of the Licensing Committee to issue new licences under the Act ;</p> <p>(ii) to exercise the powers to deal with stray dogs under the provisions of Sections 149-151 Environmental Protection Act 1990 ;</p> <p>(iii) the Council's Dog Wardens are authorised to issue Fixed Penalty Notices under the Dogs (Fouling of Land) Act 1996 .</p>	Strategic Director Place	–
8	<p><u>Food Safety:</u></p> <p>Environmental Health staff, by reason of their appointment, are authorised to exercise the powers available under the provisions of:-</p> <ul style="list-style-type: none"> <li>o European Communities Act 1972</li> <li>o Regulation (EC) No.178/2002</li> <li>o Regulation (EC) No.852/2004</li> <li>o Regulation (EC) No.853/2004</li> <li>o Regulation (EC) No.2073/2005</li> <li>o Food Safety Act 1990</li> <li>o Products of Animal Origin (Third Country Imports) (England) (No.4) Regulations 2004</li> <li>o Food Hygiene (England) Regulations 2006</li> </ul> <p>All instruments and regulations made under or amending the above legislation</p> <p>The level at which an Officer may operate shall depend upon their competency, as stated in the Food Standards Agency Code of</p>	Strategic Director Place	–

	Practice and Practice Guidance, and outlined in the Environmental Health Service's policy and procedures.		
9	<u>Goods Vehicle Operating Centres:</u> To vet operators licence applications, in consultation with Surrey County Council (as appropriate) .	Strategic Director Place	–
10	<u>Local Government (Miscellaneous Provisions) Act 1976:</u>  Section 8: To give notice and to take action to secure the safety of certain unoccupied premises.  Section 16: To serve notice to seek from individuals the nature of their interest in land subject to statutory action.  Section 29: To give notice and to take action to secure the protection of certain unoccupied buildings.  Section 33: To take action to ensure the restoration or continuation of supplies of water, gas or electricity.  Section 35: To serve notice to require the clearance of a blocked private sewer.	Strategic Director Place	–
11	<u>Local Government (Miscellaneous Provisions) Act 1982:</u>  Section 27: To serve notice to require the repair of drains and to remedy stopped up drains.	Strategic Director Place	–
12	<u>Prevention of Damage By Pests Act 1949:</u>  Section 4: To serve notice requiring steps to be taken for the destruction of rats or mice, or for keeping land free from rats or mice.	Strategic Director Place	–
13	<u>Public Health Act 1936:</u>  Section 45: To serve notice to require the repair of defective closets.  Section 48: To examine and test drains believed to be defective.  Section 50: To serve notice to deal with overflowing and leaking cesspools.  Section 83: To serve notice to cleanse filthy and verminous premises.  Section 84: To cleanse verminous articles.  Section 85: To cleanse verminous persons and their clothing.	Strategic Director Place	–
14	<u>Public Health Act 1961:</u>  Section 17: Notice to clear blocked drains.	Strategic Director Place	–

	Section 34: To serve notice before clearing rubbish which is seriously detrimental to the amenities of the neighbourhood.		
15	<u>Contaminated Land:</u> Contaminated Land (England) Regulations 2000: authority to serve remediation notices.	Strategic Director Place	–
16	<u>Statutory Nuisances:</u> To serve Nuisance Abatement Notices under Section 80 of the Environmental Protection Act 1990 .	Strategic Director Place	–
17	<u>Sunday Trading Loading Control:</u> To determine applications for consent, and vary or revoke them, for the purposes of Section 2 and Schedule 2 of the Sunday Trading Act 1994.	Strategic Director Place	–
18	<u>Various Licences:</u> (i) to issue renewal licences under the Acts detailed below where no objections are received; and (ii) to issue new licences and register premises (as appropriate) under the Acts detailed below in consultation with the Chairman of the Licensing Committee: <ul style="list-style-type: none"><li>○ Animal Boarding Establishments Act, 1963</li><li>○ Dangerous Wild Animals Act, 1976</li><li>○ Guard Dog Act, 1975</li><li>○ Pet Animals Act, 1951</li><li>○ Riding Establishments Acts, 1964 and 1970</li><li>○ Game Act, 1831</li><li>○ Scrap Metal Dealers Act, 2013 (25/H&amp;H/14.3.91/691)</li></ul>	Strategic Director Place	–
19	<u>Appointment of Inspectors:</u> To appoint Inspectors from amongst the Council's Environmental Health Staff for the purposes of discharging the functions of the Health and Safety at Work Act 1974.	Strategic Director Place	–
20	<u>Control of Pesticides Regulations 1986:</u> (i) Environmental Health Officers, by reason of their appointment, be authorised to exercise the powers under the provisions of the Food and Environmental Protection Act 1985 (Part III), in particular to exercise their powers relating to entry and inspection and the service of notices contained in Section 19 of the Act; and	Strategic Director Place	–

	(ii) Environmental Health Officers, by reason of their appointment, be authorised to exercise the powers available under the Food and Environmental Protection Act 1985 for the carrying into effect of the powers of entry and inspection contained in Section 19 of the Act .		
21	<u>Dangerous Wild Animals Act 1976:</u> To carry out inspections and to request a veterinary surgeon to carry out initial annual inspections under the Act.	Strategic Director Place	–
22	<u>Documents:</u> To sign all documents/notices as may be required to be issued in respect of the discharge of the Council's Environmental Health functions.	Strategic Director Place	–
23	<u>Health and Safety at Work Act 1974:</u> (i) to authorise persons to accompany Inspectors appointed under Section 19 of the Health and Safety at Work Act 1974; (ii) to empower persons under Section 19 of the Health and Safety at Work Act to carry out a selected range of duties under Section 20(2) of the Health and Safety at Work Act as appropriate ; and (iii) Environmental Health staff by reason of their appointment be authorised to exercise the powers available under the Health and Safety at Work Act, regulations relating thereto and all other relevant legislation; in particular, to exercise the powers relating to entry and inspection, service of notices and institution of proceedings .	Strategic Director Place	–
24	<u>Public Health (Control of Diseases) Act 1984:</u> To make arrangements for burial and cremation where no suitable arrangements exist.	Strategic Director Place	–
25	<u>Clean Air Act 1993:</u> To approve or refuse chimney heights.	Strategic Director Place	–
26	<u>Appointment of Proper Officers (Public Health (Control of Disease) Act 1984, and National Assistance Acts 1948 and 1951:</u> To appoint and authorise named Surrey PCT (up to 31/3/13)/Public Health England (from 1/4/13) staff as proper officers for the relevant purposes under the Public Health (Control of Diseases) Act 1984 and associated regulations and the National Assistance Acts 1948 and 1951.	Strategic Director Place	–
27	<u>House to House Collections:</u> To licence charitable collections from house to house pursuant to Section 2 of the House to House Collection Act 1939 and to grant licences where no objections have been received.	Strategic Director Place	–

28	<u>Street Collections:</u> To approve applications for street collection permits, where no objections have been received, and to administer/regulate street collections made pursuant to Section 5 of Police, Factories etc (Miscellaneous Provisions) Act 1916 (and regulations thereunder).	Strategic Director Place	–	
29	<u>Health Act 2006: Enforcement of Smokefree Legislation.</u> To authorise any such persons as deemed necessary to enforce the smokefree provisions of the Health Act 2006 and associated regulations.	Strategic Director Place	–	
30	<u>Town Centre Policy.</u> To approve bookings that differ from the policy in exceptional circumstances.	Strategic Director Place	–	
31	<u>Christmas Car Parking:</u> In consultation with the Leader of the Council, to settle special parking arrangements in the Council's car parks during the months of November, December and the first two weeks of January each year.	Strategic Director Place	–	
32	<u>Fund-Raising Events:</u> In consultation with the Leader of the Council, to give or withhold permission for fund raising events by charitable organisations in Borough Council controlled car parks.	Strategic Director Place	–	
33	<u>Street Trading:</u> To issue consents for street trading in Commercial Way and in certain streets specified by the Highways Committee on 4 February 1992.	Strategic Director Place	–	
34	<u>Trading Licences:</u> To determine applications for trading licences, in consultation with the Leader of the Council and the appropriate Ward Councillors.	Strategic Director Place	–	
35	<u>Waste:</u> To authorise any persons to issue fixed penalty notices under Section 34A of the Environmental Protection Act 1990.	Strategic Director Place	–	
36	<u>Rights of Way:</u> To respond to the County Council on all matters concerning proposals to amend Rights of Way, in consultation with the relevant Ward Member(s) and Portfolio Holder, except in cases where a serving member of the Council or member of staff has an interest in the application, in which case the matter shall be determined by the Executive.	Strategic Director Place	–	
37	<u>Wheeled Bins.</u> To determine operational matters within the agreed Council Policy.	Strategic Director Place	–	

38	<u>Motor Salvage Operators Regulations 2002</u> To register operators pursuant to the Regulations.	Strategic Director Place	–	
39	<u>Signing Documents etc.</u> To sign all documents/notices as may be required to be issued in respect of the discharge of the Council's environmental health function.	Strategic Director Place	–	
40	<u>Consent Streets:</u> To advertise the Council's intention to designate newly adopted streets as consent streets.	Strategic Director Place	–	
41	<u>Litter:</u> (i) To issue Orders designating Litter Control Areas pursuant to Section 90(3) of the Environmental Protection Act 1990; (ii) To issue Street Litter Control Notices pursuant to Section 93(1) of the 1990 Act; and (iii) To serve Litter Abatement Notices pursuant to Section 92(1) of the 1990 Act. (iv) To authorise any persons to issue fixed penalty notices under Section 88 of the 1990 Act.	Strategic Director Place	–	
42	<u>Air Quality Management Areas</u> To declare an Air Quality Management Area where air quality does not meet the Government's objectives.	Strategic Director Place	–	
43	<u>Naming and Numbering of Streets and Properties</u> (i) to agree the naming of new streets or any amendment to a street name under the Public Health Act 1925; and (ii) to agree the numbering/naming of properties within a street or any amendments to a property name/number within a street under the Towns Improvements Clauses Act 1874.	Strategic Director Place	–	
44	<u>Land Drainage Act 1991</u> To exercise the necessary powers under Section 25 of the Land Drainage Act 1991 in respect of clearing watercourses.	Strategic Director Place	–	
45	<u>Fly Tipping Reward Scheme</u> To award rewards under the Fly tipping rewards initiative.	Strategic Director Place	–	
46	<u>Natural Woking Strategy</u> In consultation with the Portfolio Holder for Environment and Sustainability, to approve updates to the Natural Woking strategy and supporting information to reflect new information, including future steps in the Great Crested Newt pilot project and other initiatives to	Strategic Director Place	–	

	support specific species and habitats to favourable conservation status.		
47	<p><u>Transport and Highway Functions</u></p> <p>(i) To exercise any highway or traffic regulation power, duty or function vested in the Council under the Woking Town Centre Management Agreement with Surrey County Council dated 14<sup>th</sup> August 2014 (as may be amended from time to time). – <b>new regs??</b></p> <p><b>Also car park tickets??</b></p> <p>(ii) To exercise any highway power, duty or function vested in the Council under the Highways Act 1980 &amp; Traffic Management Act 2004 (both as amended).</p> <p>(iii) To exercise any traffic power, duty or function vested in the Council under the Road Traffic Regulation Act 1984 (as amended).</p> <p>(ii) Provision of bus shelters under the Local Government (Miscellaneous Provisions) Act 1953 (as amended).</p> <p>(iii) To grant street works licences and exercise any power, duty or function vested in the Council under the New Roads and Street Works Act 1991 (as amended).</p>	Strategic Director Place	–
48	<p><u>Woking Integrated Transport Package Camera Enforcement of bus lane restrictions</u></p> <p>Authority be delegated to Strategic Director - Place to negotiate terms and enter into an agreement with Surrey County Council to authorise Woking Borough Council to operate and enforce bus lane contraventions within Woking as Surrey County Council's agent.</p> <p>Upon completion of the agreement, the Strategic Director - Place is duly authorised to exercise any power, duty or function vested in the Council by virtue of the agreement with Surrey County Council to operate and enforce bus lane contraventions in Woking.</p> <p>Upon completion of the agreement, the Strategic Director - Place is duly authorised to authorise any persons to issue fixed penalty notices to enforce bus lane contraventions</p>	Strategic Director Place	–
49	<p><u>Climate Emergency - Planning for Carbon Neutrality</u></p> <p>Delegated authority be given to the Strategic Director - Place in consultation with the Portfolio Holder and Shadow Portfolio Holder for Environment and Sustainability to agree new actions as they are identified</p>	Strategic Director Place	–
50	<p><u>Coronavirus Regulations</u></p> <p>The Strategic Director - Place and Environmental Health Manager be designated under the Coronavirus Regulations as an authorised person.</p>	Strategic Director Place	–

51	<p><u>Adoption of Ordinary Watercourse Byelaws</u></p> <p>The Strategic Director - Place in consultation with the Portfolio Holder, be authorised to consider and seek to resolve any objection to the said byelaws being made (including amending the proposed byelaws).</p> <p>In the event these byelaws are adopted by the Council, authority be delegated to the Assistant Director (Place) to authorise or refuse any applications for consents submitted under the said byelaws.</p>	Strategic Director Place	–	
52	<p><u>Fixed Penalty Notice (FPN) Policy for Fly Tipping Offences</u></p> <p>Authority be delegated to the Strategic Director - Place, in consultation with the Portfolio Holder for Environmental and Well Being Services, to vary the level of all environmental fixed penalty notice charges in accordance with legislation.</p> <p>Authority be delegated to the Strategic Director - Place to authorise any persons to issue fixed penalty notices for fly tipping under the Environmental Protection Act 1990 (7/Council/08.02.18/220).</p>	Strategic Director Place	–	
53	<p><u>The Clean Neighbourhoods and Environment Act 2005</u></p> <p>Authority be delegated to the Strategic Director - Place, in consultation with the Portfolio Holder for Environmental and Well Being Services, to vary all environmental fixed penalty notice charges in accordance with the legislation.</p> <p>Authority be delegated to the Strategic Director - Place to authorise any persons to issue fixed penalty notices for an offence under Part 2 of Section 3 of the Clean Neighbourhoods and Environment Act 2005 (7/Council/05.04.18/278).</p>	Strategic Director Place	–	
54	<p><u>Fixed Notice (FPN) Policy for Littering From Vehicle Offences</u></p> <p>Authority be delegated to the Strategic Director - Place to authorise any persons to issue fixed penalty notices from 6 April 2018 for littering from vehicles under section 88A of the Environmental Protection Act 1990 (7/Council/05.04.18/279).</p>	Strategic Director Place	–	
55	<p><u>Sustainable Urban Drainage Systems (SUDS)</u></p> <p>To take all necessary steps to enable the Council to become the Sustainable Urban Drainage Systems adopting authority in accordance with the principles contained in paragraphs 4-9 of the report to the Executive on 19 March 2015.</p>	Strategic Director Place	–	
56	<p><u>Meeting Rooms</u></p> <p>To determine applications for consent to use meeting rooms in Civic Offices.</p>	Strategic Director Place	–	
57	<p><u>Advertising</u></p>	Strategic Director Place	–	



	<p>To determine the acceptability of companies and/or products as advertisers and/or sponsors in terms of advertising which falls within the following specific categories:</p> <p>a) is in bad taste;</p> <p>b) does not conform to the British Code of Practice of Advertising Practice; or</p> <p>c) with which it would be inappropriate for the Council to be associated</p>		
58	<p><u>Community Infrastructure Levy (CIL)</u></p> <p>Delegated authority be given to the Strategic Director - Place in consultation with the Portfolio Holder for Planning to administer CIL enforcement in accordance with Regulations 80 to 92 of the Community Infrastructure Levy Regulations 2010 (as amended)</p> <p>Delegated authority be given to the Strategic Director - Place in consultation with the Portfolio Holder for Planning to, when justified, withdraw a CIL Liability Notice issued by the Council in accordance with Regulation 65(7) of the Community Infrastructure Regulations 2010 (as amended).</p> <p>Delegated authority be given to the Director of Legal and Democratic Services to administer CIL enforcement in accordance with Regulations 93 to 111 of the Community Infrastructure Levy Regulations 2010 (as amended).</p> <p>Delegated authority be given to the Strategic Director - Place for the administration of Community Infrastructure Levy under Part 8 of the Community Infrastructure Levy Regulations 2010 (as amended)</p>	Strategic Director Place	-
59	<p><u>Housing Infrastructure Fund</u></p> <p>The Strategic Director - Place be authorised to undertake a review of Community Infrastructure Levy and to establish a Section 106 Tariff for town centre infrastructure associated with the HIF project</p> <p>The Strategic Director - Place, in consultation with the Leader of the Council and the Portfolio Holder, be authorised to agree terms for the purchase of properties comprised within the Triangle Site which are not owned by Prime Place (Woking Island Site) LLP</p>	Strategic Director Place	-
60	<p><u>Licensing Act 2003</u></p> <p>The Environmental Health Manager (or the Senior Environmental Health Officer (s) in her/his absence) is authorised to object to a proposed licence application on Environmental Health grounds.</p>	Strategic Director Place	- Environmental Health Officer
61	<p><u>Woking Borough Council Single Use Plastics (SUP) Policy</u></p> <p>Delegated authority be given to the Green Infrastructure Manager, in consultation with the Portfolio Holder for Environment and Sustainability, to approve future updates to the Borough Council's SUP Policy (9/Council/25.07.19/94).</p>	Strategic Director Place	- Green Infrastructure Manager

62	<u>Woking Borough Council Street Naming and Numbering Policy</u>  The Green Infrastructure Manager, in consultation with the Portfolio Holder for Environment and Sustainability, be given delegated authority to approve future updates to the Street Naming and Numbering Policies to reflect new information (9/Council/25.07.19/96).	Strategic Director Place –	Green Infrastructure Manager
63	<u>Property Disposal</u>  To appoint an agent to dispose of properties following approval by the Council of the sale.	Strategic Director Place –	Assistant Director (Property)
64	<u>Sale of Land</u>  The Strategic Asset Manager and the Chief Finance Officer are authorised to approve applications for the sale of areas of land held by either the Housing Revenue Account or the General Fund where there is no development potential or communal amenity value.	Strategic Director Place –	Assistant Director (Property)
65	<u>Land Management</u>  (i) to approve terms, etc., arising in the course of the following: <ul style="list-style-type: none"> <li>○ disposals and acquisitions, rent reviews, assignments, renewals of existing agreements and all other land transactions; and</li> <li>○ provided that in his/her opinion, the proposed transaction does not raise an issue of principle which, regardless of the pecuniary amount involved, ought properly to be referred to the Executive.</li> </ul> (ii) to approve terms for the sale of Council houses under the Right to Buy provisions of the Housing Act 1985, and the issuing of notices pursuant to these provisions.	Strategic Director Place –	Assistant Director (Property)
66	<u>Assets of Community Value</u>  To determine applications to list land as an Asset of Community Value.	Strategic Director Place –	Assistant Director (Property)
67	<u>Party Wall etc Act 1996</u>  To act as Appointing Officer for defined purposes.	Strategic Director Place –	Chief Building Control Officer
68	<u>Building Regulations:</u>  To determine applications, issue formal notices and decide on any type of relaxation of the Building Regulations.	Strategic Director Place –	Chief Building Control Officer
1	<u>Planning</u>	Local Planning	

	<p>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, for the avoidance of doubt, functions relating to the preservation of trees) except for (i) the functions listed in paragraph 5 below and (ii) the following functions which will be reported to the Planning Committee for determination:</p> <p>a) Applications for planning permission, where the recommendation would be for approval, involving:-</p> <p>(i) The provision of dwelling houses where the number of dwelling houses to be provided is more than five; or</p> <p>(ii) The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more, or</p> <p>(iii) Development carried out on a site having an area of 1 hectare or more.</p> <p>For the avoidance of doubt, the Development Manager is authorised to refuse such applications.</p> <p>b) Applications submitted by a member of staff</p> <p>c) Applications submitted by a Councillor</p> <p>d) Applications where the applicant is Woking Borough Council and any companies or entities 50% or more owned by Woking Borough Council, except for non-material amendments and minor material amendments (irrespective of whether they are major or non-major development).</p> <p>e) Any undetermined application can be requested by a Councillor for determination by the Planning Committee provided a planning reason is supplied in writing to the Development Manager</p> <p>f) Where ENFORCEMENT/STOP NOTICES are recommended to be served (except in cases of urgency, where the Development Manager is authorised to approve the issue of such Notices)</p> <p>g) Where objections have been received on the confirmation of a tree preservation order (TPO)</p> <p>h) Where in the opinion of the Development Manager planning issues raised warrant the consideration by the Planning Committee</p>	<p>Authority - Development Manager</p>	
<p>2</p>	<p><u>Protection and Preservation of Trees and Hedgerows</u></p> <p>To determine notifications for intended hedgerow removal; to approve or refuse consent, as appropriate, within the prescribed six week period; to issue or withdraw hedgerow retention notices in respect of hedgerows classified as "important" within the statutory criteria; to issue hedgerow replacement notices in appropriate cases; to take all necessary steps in connection with appeals.</p>	<p>Local Planning Authority - Development Manager</p>	

3	<u>High Hedges</u> To determine applications of complaint over high hedges under the Anti-Social Behaviour Act 2003.	Local Planning Authority - Development Manager	
4	<u>Historic Building Repair and Community Projects Grants</u> To approve grants in accordance with the agreed criteria, in consultation with the Chairman and the appropriate Ward Councillors	Local Planning Authority - Development Manager	
	Functions delegated to the Director of Legal and Democratic Services under the Council's May 2016 Scheme of Delegation in respect of Planning Enforcement ( <i>Note:- these functions primarily relate to the taking of legal action through the Courts</i> ).		
5	<u>Community Projects Grants:</u> To approve Community Projects Grants up to the value of £100, in consultation with the Chairman and Ward Councillors.	Local Planning Authority – Head of Planning	
6	<u>Village Centres Environmental Action Programme:</u> To give grant aid of up to £1,000 for minor improvements, in consultation with the Chairman and Ward Councillors.	Local Planning Authority – Head of Planning	
7	<u>Village Centre and Community Project Grants:</u> To give grant aid of up to £2,000 for minor improvements, in consultation with the Chairman and Ward Councillors.	Local Planning Authority – Head of Planning	
1	<u>Hardware and Software Purchases:</u> To purchase hardware and software replacements in maintenance of the Information and Communications Technology Asset Base.	Strategic Director – Corporate Resources	
2	<u>Caring for Children and Young People Policy - HR Policy for Woking Borough Council Employees</u> The Head of Human Resources, in consultation with Corporate Leadership Team and Unison, be delegated authority to make minor amendments to the Policy (9D/Council/30.07.20/72).	Strategic Director – Corporate Resources	
3	<u>Business Rates Relief Schemes</u> The Award of Discretionary Relief be delegated to the Revenues, Benefits and Customer Services Manager and, in his absence, his deputy (Revenues Manager) (6/Executive/14.09.17/77).	Strategic Director – Corporate Resources	
4	<u>Taxi and Private Hire Licensing Applications:</u> a. Applications: To approve applications for licences for private hire operators, private hire drivers and taxi drivers: b. New Applicant: To issue a “minded to” refuse letter to a new applicant in respect of an application for a private hire operator, private hire driver or a taxi	Strategic Director – Corporate Resources	

	<p>drivers licence and refer the matter to the Taxi Licensing Sub-Committee for determination as to whether or not the driver is “fit and proper” to hold a licence:</p> <p>c. Renewals: To approve or refuse applications for renewal of licences by existing licence holders:</p> <p>d. Penalty Points Scheme: To issue a formal notice to a licence holder that they have reached the requisite number of penalty points under the Penalty Points Scheme and refer the matter to a Taxi Licensing Sub-Committee for determination:</p> <p>e. Revocation/Suspension of Licences: In consultation with the Chairman of the Licensing Committee (or in his/her absence, the Vice-Chairman) to suspend or revoke private hire operators’ and drivers’ and taxi drivers’ licences in appropriate cases under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976</p> <p>f. Vehicles: To approve or refuse applications for private hire vehicles and taxis</p>														
5	<p><u>Licensing</u></p> <p>That authority be delegated to the Legal Services Manager to</p> <p>i) authorise named officers of the Licensing Team to be “authorised persons” for the purposes of the Licensing Act 2003; and</p> <p>ii) authorise named officers of the Licensing Team to be “authorised officers of the Council” for the purposes of the Local Government (Miscellaneous Provisions) Act 1976.</p>	Strategic Director – Corporate Resources													
6	<p><u>Licensing Act 2003.</u></p> <p>To determine applications and carry out functions of the Licensing Policy set out below.</p> <table border="1" data-bbox="134 1525 940 1993"> <thead> <tr> <th data-bbox="134 1525 453 1653">Matter to be Dealt With</th> <th data-bbox="453 1525 692 1653">Sub-Committee</th> <th data-bbox="692 1525 940 1653">Officers</th> </tr> </thead> <tbody> <tr> <td data-bbox="134 1653 453 1767">Application for personal licence</td> <td data-bbox="453 1653 692 1767">If a <b>Police</b> objection is made</td> <td data-bbox="692 1653 940 1767">If no objection made</td> </tr> <tr> <td data-bbox="134 1767 453 1881">Application for personal licence, with unspent convictions</td> <td data-bbox="453 1767 692 1881">All cases</td> <td data-bbox="692 1767 940 1881"></td> </tr> <tr> <td data-bbox="134 1881 453 1993">Application for premises licence / club premises certificate</td> <td data-bbox="453 1881 692 1993">If a <b>relevant</b> representation is made</td> <td data-bbox="692 1881 940 1993">If no representation made</td> </tr> </tbody> </table>	Matter to be Dealt With	Sub-Committee	Officers	Application for personal licence	If a <b>Police</b> objection is made	If no objection made	Application for personal licence, with unspent convictions	All cases		Application for premises licence / club premises certificate	If a <b>relevant</b> representation is made	If no representation made	Strategic Director – Corporate Resources	
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	Application for provisional statement	If a <b>relevant</b> representation is made	If no representation made		
	Application to vary premises licence / club registration certificate	If a <b>relevant</b> representation is made	If no representation made		
	Application to vary designated personal licence holder	If a <b>police</b> objection is made	All other cases		
	Request to be removed as designated personal licence holder		All cases		
	Application for transfer of premises licence	If a <b>police</b> objection is made	All other cases		
	Application for Interim Authorities	If a <b>police</b> objection is made	All other cases		
	Application to review premises licence / club premises registration	All cases			
	Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		All cases		
	Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases			
	Determination of a police representation to a temporary event notices	All cases			
7	<u>Gaming and Lotteries:</u>  To licence/register machines for gaming under the Gaming Act 1968 and lotteries under the Lotteries and Amusements Act 1976.			Strategic Director – Corporate Resources	
8	<u>Gambling Act 2005:</u>  To exercise licensing powers within arrangements permitted by Section 154 of the Act and under a scheme approved by the licensing authority and/or the Licensing Committee, such powers to include:-  o determining applications for premises licences where no representations have been received or representations have been withdrawn			Strategic Director – Corporate Resources	

	<ul style="list-style-type: none"> <li>○ determining applications for variations to premises licences where no representations have been received or representations have been withdrawn</li> <li>○ determining applications for transfers of licences where no representations have been received from the Gambling Commission</li> <li>○ determining applications for provisional statement (approval in cases where a premises licence cannot be issued because the building does not yet exist or has not yet been occupied) where no representations have been received or representations have been withdrawn</li> <li>○ determining applications for club gaming/club machine permits where no objections made or objections have been withdrawn</li> <li>○ determining application for other permits</li> <li>○ cancellation of licensed premises gaming machine permits</li> <li>○ consideration of temporary use notices</li> </ul>		
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Part 3

# Proper Officers



## 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 private (i.e. Minute)	Director of Democratic and 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 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

**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.

Part 3

# Standing Orders

## **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

- 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)** Codes and protocols
- f)**
- g)** Receive any announcements from the Mayor
- h)** Elect councillors to be the Leader and Deputy Leader for the next municipal year
- i)** Approve a programme of ordinary meetings of the Council for the year is one has not previously been agreed; and
- j)** Consider any business set out in the notice convening the meeting

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

### **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,
  - 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.
- 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 some matter of public, local or general concern or interest and 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).
  - f)** Extend the time limit for speeches (none).
  - g)** Suspend Standing Orders (two).
  - h)** Exclude press and public (subject to the provisions of sections 100A-100K of the Local Government Act 1972) (two).
  - i)** Approve a Closure Motion (none).
  - j)** Give consent where consent is required by any Standing Order (no limit).
  - k)** To continue the meeting beyond 3 hours (none)

## 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

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

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. Secunder's 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;
- 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.

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

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.

Part 4

# **Budget and Policy Framework Procedure Rules**

## 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:

- (xv) 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.
- (xvi) 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.
- (xvii) 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.
- (xviii) 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.
- (xix) 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.
- (xx) 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.
- (xxi) 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.
- (xxii) 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.
- 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

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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
- 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**

- 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.

Part 4

# Executive Procedure Rules

## 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:

- xxiii) The Executive as a whole;
- xxiv) a Committee of the Executive;
- xxv) an individual Member of the Executive;
- xxvi) an individual Member of the Council who may exercise powers in relation to his/her ward;
- xxvii) an Officer;
- xxviii) another Local Authority; or
- xxix) 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;
  - ii) is defamatory, frivolous or offensive;
  - iii) requires the disclosure of confidential or exempt information.

#### **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;

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ii) Whether a key decision is to be taken;

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iii) Whether the report contains confidential or exempt information;

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iv) A description of the issue to be decided;

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v) Any consultations undertaken, the method of consultation and a summary of any representations received;

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vi) The officer's recommendations and the reasons for them;

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vii) Implications arising from the decision; and

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viii) A list of background papers.

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- 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.
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### **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 consulted by the Member making the decision which relates to that decision;
    - xiii) a note of any dispensation granted in respect of any declared conflict of interest; and
    - 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.



Part 4

# 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. 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

Part 4

# **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:

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

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

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ii) 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
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- 
- reports relating to items when the meeting was open to the public.
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## **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).
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### **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.
  - 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.
- 
- Information in respect of which a claim to professional privilege could be maintained in legal proceedings.
- 
- 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**

- xliii) 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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- xliv) 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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- xlv) 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

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  - 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;

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

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- 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;

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

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- 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;

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- the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

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

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

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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;

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- 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

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- 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;
- ii) a record of the reasons for the decision;
- iii) details of any alternative options considered and rejected at the meeting;
- 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
- v) 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**

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;
- any decision taken by an individual member; or
- any executive decision by an Officer acting under powers delegated by the Leader/Executive.

### **Limit on Rights**

20.2. The Overview and Scrutiny Committee will not be entitled to:

- any document that is in draft form, or
- 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**

### **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;
- 
- any decision taken by an individual member; or
- 
- any executive decision by an Officer acting under powers delegated by the Leader/Executive.
- 

### **Limit on Rights**

21.2. Members will not be entitled to:

- i) any document that is in draft form; or
- 
- 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
- 
- 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 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.

Part 5

# Public Participation at Planning Committee

## 1.0. PRINCIPLES

- 1.1. The Council resolved to introduce public participation at Development Control Sub-Committee which was brought into operation on 25 February 1997. The principles now apply to the Planning Committee which was established in May 2000 as a result of the introduction of new Council democratic structures at that time.
- 1.2. It is first necessary to clarify the criteria which will determine which planning applications should be the subject of representations to be made in person.
- 1.3. The number of objectors required before a planning application qualifies for public speaking at the Planning Committee is 10.

## 2.0. DEFINITIONS

### 2.1. Applications on Which the Public May Speak:

The public speaking scheme applies only to planning applications. It does not include Certificates of Lawful Use and Development or applications for work to trees covered by Tree Preservation Orders.

Any application which attracts 10 (see paragraph 1.3. above) or more individual objections (a petition will be regarded as one objection) prior to the designated cut-off date which will be **14 DAYS** prior to the meeting or, if later, the expiry of the 21 day period for receipt of representations.

In addition the public will have the right to address the Committee on any of the following types of applications (see (i) - (iv)) irrespective of the number of objections made:

- (i) Any application which in the opinion of the Borough Planning Officer raises major policy issues which is at variance with approved planning policies, or is of such a magnitude that significant planning issues are raised.
- (ii) Any application for development requiring an Environmental Statement under the provisions of Schedule I and II of the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 and any subsequent amending regulations.
- (iii) Applications for major commercial (retail, industrial or business development) development with a floor space exceeding 2500 sq. metres (outline or detailed applications), but not reserved matters.
- (iv) Applications for residential developments of over 50 dwellings (outline or detailed applications), but not reserved matters.

**(NOTE:** Council applications are also subject to the same criteria set out above.)

### 2.2. Applications which officers will normally give a presentation to the Committee

This category will be of the type currently included on Section A and B of the Planning Committee agenda which would include:

- (i) developments proposing in excess of one dwelling;
- (ii) certain applications for change of use;
- (iii) non-controversial business or industrial/warehouse or retail proposals;
- (iv) all development proposals (including Minor applications) submitted by the Council;
- (v) applications involving a Member of the Council or staff.

**NOTE:** Presentation will also be given on any application where the public exercise a right to speak.

2.3. Applications which will not be formally presented to the Committee unless specifically requested by Members on which the public will not be invited to speak

This will normally be other minor applications which have been referred to the Committee at the request of Borough Planning Officer which would normally be dealt with under delegated powers.

Also minor applications where enforcement action is being recommended will not normally be presented by officers but will be included on this section of the Planning Committee agenda.

### 3.0. PROCEDURES

#### 3.1. Informing the Public

The letters which are sent to persons identified under the Council's neighbour notification procedure will also include advice that objectors may have a right to speak at Committee meetings, and will enclose an information leaflet explaining what happens at the Committee meeting.

3.2. The agenda is normally published by the Tuesday evening prior to the Committee meeting and sent out to Councillors. The 'cut-off' point for receipt of letters which would fall into the criteria of allowing public speaking shall be 14 days prior to the meeting or, if later, the expiry of the 21 day period for receipt of representations.

3.3. At the end of the working day, 14 days prior to the meeting at which the application is to be considered or later (as the case may be), the case officers/team leaders will advise the Borough Planning Officer of those applications intended for inclusion on the agenda which have attracted 10 (see paragraph 1.3. above) or more objections (and, of course, those applications which the right to speak arises irrespective of the number of objections).

3.4. If the representations received exceed 10 (see paragraph 1.3. above) individual letters (a petition would count as one objection but standardised letters will be treated as individual letters) then notification will be sent to all those persons advising them of their right to speak (in the case of a petition the first named person). The letter will be sent first class **no later than the Wednesday following the dispatch of the agenda which is normally received by Councillors on the Tuesday evening preceding** (also letters need to be sent to any objectors to major applications with less than 10 (see paragraph 1.3. above) objections which are to be included on the first part of the agenda).

3.5. The current letter sent to applicants or agents has been revised advising them of the date of the meeting and that they also have the right to make an oral presentation if objectors have given notice that they wish to make representations.

3.6. A list of the objectors (in all the categories where the right to speak exists) will be advised to the Democratic Services Officer together with details (and a contact number if known) of the agent or applicant.

3.7. In the letter advising the representors that they may speak at the meeting they will be required to register an interest no later than 4.00 p.m. on the Monday prior to the day of the Committee meeting (or 9.00 a.m. on the Tuesday following Bank Holidays). Representors will be required to leave their details on a 24hr answerphone which will be open from 9.00 a.m. on the day after the agenda goes out. Democratic Services will have responsibility for monitoring and actioning calls.

3.8. The enquirer will be advised of the arrangements for the procedure at the Committee and the agent or applicant will be contacted and advised that representations are to be made.

3.9. Only one representor of the objectors will be allowed to make an oral representation. This should be done on a 'first come first served' basis, i.e. the first person to register on the dedicated answerphone. Any subsequent representors wishing to speak will be advised by the Democratic Services Officer to contact the person who will be appearing so that representations can be combined if necessary.

### 4.0. PROCEDURE AT COMMITTEE

4.1. All speakers will be required to report to the Democratic Services Officer in the Council Chamber no later than 6.45 p.m. on the night of the Committee. The Democratic Services Officer will meet the speakers and explain procedures and also give directions as to where to sit in the Chamber. If the objector fails to appear then the applicant/agent will not be entitled to speak.

**(NOTE:** Where more than one person has registered an interest to speak the second named representor will be entitled to speak if the first named speaker is not in attendance five minutes before the start of the meeting.)

- 4.2. Officers will introduce the application and advise Members on the recommendations.
- 4.3. Representors views will then be heard in the following order: representative of the objectors and agent/applicant. Each speaker will be allocated three minutes.
- 4.4. Whilst objectors and the agent have a right to speak, applications will not be deferred because one side is unable or does not wish to be present.
- 4.5. Members will not ask questions of the representatives at the end of the address. The representor will then be asked to move back to an allocated seating area behind the press bench.
- 4.6. Officers will then be asked by the Chairman whether they have anything to add by way of clarification.
- 4.7. The Committee will then debate the application (no more representors' views will be taken once the debate has started).
- 4.8. Representors will not have the right to speak or question the Members or Officers once they have made their submission.
- 4.9. Members will have the opportunity of asking further questions of the Officers and if necessary ask Officers to make a brief summary of the planning issues, at the end of the debate.
- 4.10. If the speakers wish to present documentary material this should be made available to the Democratic Services Officer before 12.00 noon on the day of the Committee.
- 4.11. The right to speak will only be exercised at the first Council meeting at which the application is considered and will not normally be the subject of further representors presentations at any subsequent meeting.

Exceptionally, where significant changes have taken place after a deferral by the Committee then a further presentation may be allowed.

- 4.12. In the event that a representor does not get the opportunity to speak as a result of the deferral of an application (either by the Borough Planning Officer or at the request of the applicant) before it is presented to the Committee, their chance to speak when the application is referred back to the Committee for consideration will be protected (i.e. they will be offered the opportunity first).

**NOTES:**

- (1) Representors will be allocated space behind the area normally occupied by the Press and come forward to the end of the outer horseshoe' (nearest to where the Democratic Services Officer sits) when speaking. A lectern will be placed in this position prior to the meeting.
- (2) The format of the revised agenda will include the following headings:
  - Section A: Applications on which the public are eligible to speak.
  - Section B: Applications which will be the subject of a presentation by Officers.
  - Section C: Other applications where no presentations will be made unless requested by a Member of the Council.

Part 4

# 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](mailto:memberservices@woking.gov.uk)  
Website: [www.woking.gov.uk](http://www.woking.gov.uk)

## **2. What are the Guidelines for Drawing Up a Petition?**

- 2.1. Petitions submitted to the Council must include:
- 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.

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- Holding a consultation.

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- Holding a meeting with petitioners.

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- Calling a referendum.

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- 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 about a petition, that is already being considered by 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

- 
- a lead councillor, or
- 

- 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.

Part 5

# Members' Code of Conduct

**Note: The Council agreed to exercise the option of including “any unpaid directorship” in the description of “Disclosable Pecuniary Interests” in Table 1 of this Code of Conduct.**

## **1. Joint Statement**

- 1.1. The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.
- 1.2. As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 1.3. Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.
- 1.4. This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **2. Introduction**

- 2.1. The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.
- 2.2. All councils are required to have a local Councillor Code of Conduct.
- 2.3. The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **3. Definitions**

- 3.1. For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who:

xlvi) is a member of any committee or sub-committee of the authority, or;

xlvii) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

- 3.2. and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

3.3. For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

#### 4. Purpose of the Code of Conduct

4.1. The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

#### 5. General principles of Councillor conduct

5.1. Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

5.2. Building on these principles, the following general principles have been developed specifically for the role of councillor.

5.3. In accordance with the public trust placed in me, on all occasions:

i) I act with integrity and honesty

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ii) I act lawfully

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iii) I treat all persons fairly and with respect; and

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iv) I lead by example and act in a way that secures public confidence in the role of Councillor

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5.4. In undertaking my role:

v) I impartially exercise my responsibilities in the interests of the local community

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vi) I do not improperly seek to confer an advantage, or disadvantage, on any person

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vii) I avoid conflicts of interest

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viii) I exercise reasonable care and diligence; and

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ix) I ensure that public resources are used prudently in accordance with my local authority’s requirements and in the public interest.

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#### 6. Application of the Code of Conduct

6.1. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

6.2. This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

i) you misuse your position as a Councillor

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- ii) your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;
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6.3. The Code applies to all forms of communication and interaction, including:

- i) at face-to-face meetings
  - ii) at online or telephone meetings
  - iii) in written communication
  - iv) in verbal communication
  - v) in non-verbal communication
  - vi) in electronic and social media communication, posts, statements and comments.
- 

6.4. You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

6.5. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## 7. Standards of Councillor conduct

7.1. This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

7.2. Guidance is included to help explain the reasons for the obligations and how they should be followed.

## General Conduct

### 8. Respect

#### 8.1. As a Councillor

- i) I treat other councillors and members of the public with respect.**
  - ii) I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**
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8.2. Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

8.3. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

8.4. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

## **9. Bullying, harassment and discrimination**

### **9.1. As a Councillor:**

**i) I do not bully any person**

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**ii) I do not harass any person**

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**iii) I promote equalities and do not discriminate unlawfully against any person**

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9.2. The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

9.3. The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

9.4. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's

9.5. identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

9.6. The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **10. Impartiality of officers of the Council**

### **10.1. As a Councillor:**

**i) I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority**

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10.2. Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

## **11. Confidentiality and access to information**

### **11.1. As a Councillor:**

**i) I do not disclose information:**

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**a. given to me in confidence by anyone**

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**b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**

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- 1. I have received the consent of a person authorised to give it;**
  - 2. I am required by law to do so;**
  - 3. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - 4. the disclosure is:**
    - a. reasonable and in the public interest; and**
    - b. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - c. I have consulted the Monitoring Officer prior to its release**
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**ii) I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

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**iii) I do not prevent anyone from getting information that they are entitled to by law.**

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**11.2.** Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **12. Disrepute**

### **12.1. As a Councillor**

**i) I do not bring my role or local authority into disrepute.**

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**12.2.** As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

**12.3.** You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **13. Use of Position**

### **13.1. As a Councillor:**

**i) I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

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**13.2.** Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **14. Use of local authority resources and facilities**

### **14.1. As a Councillor:**

**i) I do not misuse council resources.**

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**ii) I will, when using the resources of the local or authorising their use by others:**

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**a. act in accordance with the local authority's requirements; and**

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**b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

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14.2. You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

14.3. Examples include:

- Office support

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- Stationary

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- Equipment such as phones, and computers

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- Transport

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- Access and use of local authority buildings and rooms

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14.4. These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **15. Complying with the Code of Conduct**

**15.1. As a Councillor**

**i) I undertake Code of Conduct training provided by my local authority.**

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**ii) I cooperate with any Code of Conduct investigation and/or determination.**

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**iii) I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

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**iv) I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

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15.2. It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

**15.3. Protecting your reputation and the reputation of the local authority**

## **16. Interests**

**16.1. As a Councillor:**

**i) I register and disclose my interests.**

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16.2. Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

16.3. You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be

held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

16.4. You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

16.5. **Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## 17. Gifts and hospitality

17.1. **As a Councillor:**

**i) I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

**ii) I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

**iii) I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

17.2. In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"**Disclosable Pecuniary Interest**" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"**Partner**" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative, close associate; or
  - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.



**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. Any unpaid directorship.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the
	councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's

	<p>knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>
	<p>spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Part 5

# Standards Protocols

## 1. Standards Protocols

1.1. On 8 April 2021, the Council resolved that compliance with Standards Protocols shall be deemed to be a requirement of the Local Government Association's Model Code of Conduct, as adopted by the Council. A breach of a Standards Protocol could constitute a breach of the Model Code.

1.2. Council has formally adopted two Standards Protocols:

- i) Protocol for Complaints Submitted by Members
  - ii) Protocol for Members' Access to Confidential Information of Council-Owned Companies
-

# Woking Borough Council

## **MEMBERS' CODE OF CONDUCT**

### **Protocol for Complaints submitted by Members**

#### **1. Introduction**

- 1.1 The Council has adopted a Members' Code of Conduct that sets out the standards of behaviour expected of Members.
- 1.2 The Council has also adopted "Arrangements for dealing with Standards Allegations under the Localism Act 2011" ("Arrangements").
- 1.3 This Protocol applies to complaints submitted, under the Members' Code of Conduct, by a Member against another Member.

#### **2. Confidentiality**

- 2.1 Member complaints against another Member shall be confidential to:-
  - (i) the two Members concerned (i.e. the Member submitting the complaint and the Member who is the subject of the complaint);
  - (ii) the Monitoring Officer, and
  - (iii) the persons notified of the complaint by the Monitoring Officer in accordance with the Arrangements.

#### **3. Breach of Protocol**

- 3.1 On 8 April 2021, Council resolved that compliance with Standards Protocols shall be deemed to be a requirement of the Local Government Association's Model Members' Code of Conduct.
- 3.2 Failure to comply with this Protocol could constitute a breach of the Members' Code of Conduct.

Adopted by the Council on 4 April 2019

Amended May 2021 (reference made to the Local Government Association's Model Members' Code of Conduct).

# Woking Borough Council

## **MEMBERS' CODE OF CONDUCT**

### **Protocol for Members' access to confidential information of Council-owned companies**

#### **1. Introduction**

- 1.1 The Council has adopted a Members' Code of Conduct that sets out the standards of behaviour expected of Members.
- 1.2 The Council has also adopted "Arrangements for Dealing with Standards Allegations under the Localism Act 2011" ("Arrangements").
- 1.3 This Protocol applies to Members' access to the confidential information of Council-owned companies. Such information includes, but is not limited to, confidential Board papers and confidential information imparted at Board meetings.

#### **2. Confidential Information of Council-Owned Companies**

- 2.1 The Members' Code of Conduct imposes obligations on Members in respect of confidential information. In particular, paragraph 11.1 of the Members' Code of Conduct provides:-

##### **18. Confidentiality and access to information**

###### **18.1. As a Councillor:**

###### ***iv) I do not disclose information:***

***c. given to me in confidence by anyone***

***d. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless***

***5. I have received the consent of a person authorised to give it;***

***6. I am required by law to do so;***

***7. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or***

***8. the disclosure is:***

***d. reasonable and in the public interest; and***

***e. made in good faith and in compliance with the reasonable requirements of the local authority; and***

***f. I have consulted the Monitoring Officer prior to its release***

- 2.2 The provisions of paragraph 11.1 of the Members' Code of Conduct shall apply to confidential information of Council-owned companies (note: "Council-owned company" shall be substituted for "local authority" in paragraph 4.1b.iv.2).

#### **3. Breach of Protocol**

- 3.1 On 8 April 2021, Council resolved that compliance with Standards Protocols shall be deemed to be a requirement of the Local Government Association's Model Members' Code of Conduct.
- 3.2 Failure to comply with this Protocol could constitute a breach of the Members' Code of Conduct.

Adopted by the Council on 30 July 2020.  
Amended May 2021 (reference made to the Local Government Association's Model Members' Code of Conduct).



Part 5

# **Arrangements for dealing with Allegations of Misconduct by Councillors under the Localism Act 2011**

## **1. Context**

- 1.1. It is expected that elected members of Woking Borough Council (the Council) uphold the highest standards of public office. However, in the event that there is a complaint, it is important that this is handled effectively to ensure public confidence is maintained.
- 1.2. These arrangements describe how the public can make a complaint that a Member of the Council has failed to comply with the Council's Member Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Code of Conduct.
- 1.3. Under Sections 28(6) and (7) of the Localism Act 2011, the Council must have "arrangements" under which allegations that a Member, or co-opted Member, has failed to comply with the Council's Code of Conduct can be investigated, and decisions made on such allegations. Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated. The Independent Person's views can also be sought by the Council at any other stage, or by a Member against whom an allegation has been made.
- 1.4. The terms capitalised in these arrangements are as defined within the text or at paragraph 2, Interpretation, below.

## **2. Interpretation**

- 2.1. 'Code of Conduct' means the code of conduct for councillors and co-opted members adopted by the Council.
- 2.2. 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.3. 'Subject Member' means an elected or co-opted member of the Council against whom a complaint has been made alleging a breach of the Code of Conduct.
- 2.4. 'Independent Person' means a person or persons appointed by the Council under section 28(7) of the Localism Act 2011 who has the functions set out in section 28(7) of the Localism Act 2011.
- 2.5. 'Independent Member' means a co-opted person who is not a Councillor or Officer of the Council who sits on the Standards Panel in an advisory capacity but who is not entitled to vote.
- 2.6. 'Informal Resolution' means the procedure described in these Arrangements at paragraph 7.
- 2.7. 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior officer of the Council, an officer of another authority or an external investigator.
- 2.8. 'Monitoring Officer' means a statutory officer appointed by the Council under the Local Government and Housing Act 1989 ss 5 and 5A who has a role in the assessment of complaints and the promotion and maintenance of high standards of conduct within local authorities and his or her deputy or representative.
- 2.9. The Standards Panel is a sub-committee of the Council's Standards and Audit Committee. The Independent Person is invited to attend all meetings of the Standards Panel and his/her views

are sought and taken into consideration before it takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

### **3. The Code of Conduct**

- 3.1. The Council has adopted a Code of Conduct for Members. This is available for inspection on the Council's website ([www.woking.gov.uk](http://www.woking.gov.uk)) and on request from the Council's Monitoring Officer.

### **4. Making a Complaint**

- 4.1. All complaints must be made in writing and shall be on the official complaint form. Completion of the complaint form will enable the Council to process the complaint efficiently and transparently. A copy of the complaint form can be found at Appendix 1A. The complaint form can be posted or e-mailed to the Council's Monitoring Officer whose contact details are:

Joanne McIntosh  
The Monitoring Officer,  
Woking Borough Council,  
Civic Offices,  
Gloucester Square,  
Woking,  
Surrey,  
GU21 6YL  
[Joanne.mcintosh@woking.gov.uk](mailto:Joanne.mcintosh@woking.gov.uk)

- 4.2. Complainants who find difficulty in making their complaint in writing (e.g. because of a disability) will be offered assistance. A request for assistance should be made in the first instance by contacting the Monitoring Officer.

### **5. Anonymous Complaints**

- 5.1. Anonymous complaints will not normally be investigated, and will only be accepted in exceptional circumstances where the Monitoring Officer (in consultation with the Independent Person) concludes that the balance of the public interest lies in doing so, and the fairness of the procedure is maintained.
- 5.2. As a matter of fairness and natural justice and in order to preserve the probative value of any evidence given, the Subject Member will usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the identity of a Complainant or witness where the Monitoring Officer is satisfied that the Complainant has reasonable grounds for believing that they, or any witness relevant to the complaint, may be at risk of serious harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.
- 5.3. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, the Complainant will be notified of the Monitoring Officer's decision with reasons. At this stage the Complainant will be given the option to withdraw the complaint.
- 5.4. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

- 5.5. If the Complainant's request for confidentiality is upheld, the Monitoring Officer will inform the Complainant that confidentiality may be retained but is subject to review by the Monitoring Officer as the matter progresses.
- 5.6. The Monitoring Officer will acknowledge receipt of a complaint within five working days of receiving it, and will keep the Complainant informed of the progress of their complaint.
- 5.7. The Monitoring Officer will, within five working days of receipt, normally advise the Subject Member that a complaint has been received (together with the name and address of the complainant and brief details of the complaint unless it is subject to confidentiality). The Member shall not make any representations to the Monitoring Officer at this stage of the process.
- 5.8. The Monitoring Officer will, within the same timescale, normally advise the Leader of the Council, the Member's Group Leader and the Chief Executive of the receipt of the complaint (together with the name and address of the complainant and brief details of the complaint unless it is subject to confidentiality). The Leader of the Council, the Member's Group Leader and Chief Executive shall not make any representations to the Monitoring Officer at any stage of the process.
- 5.9. The Monitoring Officer may decide not to advise the Subject Member, Leader of the Council, Member's Group Leader or Chief Executive of the receipt of the complaint if this might prejudice a subsequent investigation. The Monitoring Officer shall have the discretion to notify other persons of the receipt of the complaint as he/she considers appropriate. The Monitoring Officer shall inform the Complainant and Subject Member should he/she exercise discretion.

## **6. Assessment of Complaint**

- 6.1. The Monitoring Officer will assess every complaint received and, after consultation with the Independent Person, make a decision as to the most appropriate action to be taken in relations to the complaint. This decision will normally be taken within ten working days of receipt of the complaint. Details of how the Monitoring Officer will assess the complaint can be found at Appendix 1B.
- 6.2. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may refer back to the Complainant for such information, and may also request information from the Subject Member.
- 6.3. The following decisions can be taken by the Monitoring Officer in consultation with the Independent Person:
  - i) No further action;
  - ii) Attempt Informal Resolution;
  - iii) Recommend Formal Investigation;
  - iv) Referral to the Police or other regulatory agency if the complaint identifies criminal conduct or breach of other regulation.
- 6.4. Where the Monitoring Officer has taken a decision, he/she will inform the Complainant, the Independent Person, the Subject Member, and where appropriate the Chairman of the Standards and Audit Committee, all Group Leaders, the Chief Executive, of his/her decision

and the reasons for that decision. The Monitoring Officer shall have the discretion to notify other persons of his/her decision (and the reasons for that decision) as he/she considers appropriate.

## **7. Informal Resolution**

7.1. In appropriate cases, the Monitoring Officer may seek to resolve the complaint without the need for a formal investigation by way of Informal Resolution, which may be appropriate for example:

- v) Where it is apparent that the Subject Member is relatively inexperienced as a Member or has admitted making an error, was not actuated by any malicious intent, and the matter would not warrant a more serious sanction;
- vi) Where training or conciliation would be a more appropriate response.

7.2. Types of Informal Resolution might include:

- vii) An explanation by the Subject Member of the circumstances surrounding the complaint;
- viii) An apology from the Subject Member;
- ix) An agreement from the Subject Member to attend relevant training or to take part in a mentoring process;
- x) Offering to engage in a process of mediation or conciliation between the Subject Member and the Complainant; or
- xi) Any other action capable of resolving the complaint.

7.3. Where the Monitoring Officer seeks to resolve the complaint informally, he or she will provide the Subject Member with recommendation together with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 20 working days following a decision to seek informal resolution) or to engage in a process of informal resolution organised by the Monitoring Officer.

7.4. Before deciding upon a course of action, the Subject Member may seek guidance from the Leader of their political group, the Independent Person, and/or the Monitoring Officer. The Monitoring officer may also seek the Complainant's views to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.

7.5. At the end of the 20 working day period the Monitoring Officer will, in consultation with the Independent Person, seek to establish whether the Subject Member has resolved the complaint to the Complainant's satisfaction.

7.6. Where it has been possible to agree a form of resolution between the Subject Member and the Complainant, there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the Complainant and the Subject Member of this decision.

7.7. Where it has not been possible to agree a form of resolution between the Subject Member and the Complainant, the Monitoring Officer will decide if the complaint merits formal investigation.

7.8. Where the Subject Member makes a reasonable offer of informal resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in his or her decision and may impose the Informal Resolution.

7.9. Where Informal Resolution is proposed, the Monitoring Officer may direct that the Subject Member maintains confidentiality as to the matters discussed, and parties involved.

## **8. Formal Investigation**

8.1. If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer.

8.2. The Investigating Officer will decide whether he/she needs to meet or speak to the Complainant to understand the nature of the complaint, and so that they can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

8.3. The Investigating Officer will normally write to the Subject Member and provide him/her with a copy of the complaint, and ask the Subject Member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep the Complainant's identity confidential or disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer can delete the Complainant's name and address from the papers given to the Subject Member, or delay notifying the Subject Member until the investigation has progressed sufficiently.

8.4. At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Subject Member concerned, to give both an opportunity to identify any factual matter in the draft report which is disputed or requires further investigation. A copy of the draft report will also be sent to the Monitoring Officer.

8.5. Having received and taken account of any comments that may be made on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

8.6. The Monitoring Officer will, within 10 working days of the receipt of the Investigating Officer's report, review the report.

8.7. The Monitoring Officer will, in consultation with the Independent Person, determine whether:

xii) The report is complete, or (where incomplete) should be referred back to the Investigating Officer or a newly appointed Investigating Officer; or,

xiii) No further action is required, because the report finds no breach of the code of conduct; or

xiv) The matter may be reasonably resolved by way of Informal Resolution; or,

xv) The matter should proceed to the Standards Panel.

8.8. A copy of the final report shall be sent to the Complainant, Subject Member, and at the discretion of the Monitoring Officer where appropriate to the Leader, Members Group Leader, Chairman of the Standards and Audit Committee and the Chief Executive.

## **9. Standards Panel**

- 9.1. If the Monitoring Officer considers that Informal Resolution is not appropriate, or the Subject Member concerned is not prepared to undertake any proposed remedial action, the Monitoring Officer will report the Investigating Officer's report to the Standards Panel before deciding whether the Subject Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
- 9.2. The Standards Panel, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Standards Panel concludes that the Subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Subject Member of this finding and the Standards Panel will then consider what action, if any, it should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Standards Panel will give the Subject Member an opportunity to make representations to it and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter. Separate guidance this procedure can be found at Appendix 1C.

## 10. Sanctions

- 10.1 The Standards and Audit Committee has delegated to the Standards Panel power to take action in respect of individual Members who have breached the Code of Conduct. Accordingly the Standards Panel may –

- xvi) Publish its findings in respect of the Member's conduct. This might comprise issuing a press release and/or inserting a public notice in the local newspaper(s);
- xvii) Report its findings to Council for information;
- xviii) Censure or reprimand the Member;
- xix) Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council for such period as the Standards Panel considers appropriate;
- xx) Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from particular Portfolio responsibilities for such period as the Standards Panel considers appropriate;
- xxi) Instruct the Monitoring Officer to arrange training for the Member;
- xxii) Recommend to the Council that the Member be removed from all outside appointments to which he/she has been appointed or nominated by the Council for such period as the Standards Panel considers appropriate;
- xxiii) Withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access for such period as the Standards Panel considers appropriate; or
- xxiv) Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as are necessary for attending Council, Committee and Sub-Committee meetings for such period as the Standards Panel considers appropriate.

- 10.2 The Standards Panel has no power to suspend or disqualify the Member or to withdraw Members' allowances.

## 11. Notification of Decision



- 11.1. At the end of the Standards Panel, the Chairman will state the decision of the Standards Panel as to whether the Subject Member failed to comply with the Code of Conduct and as to any actions which it resolves to take.
- 11.2. Following consultation with the Chairman of the Standards Panel and Independent Person the Monitoring Officer shall issue the formal written decision notice to the Subject Member and send a copy to the Complainant. The decision notice shall include reasons for the decision. The Monitoring Officer will also make the summary of the decision notice available for public inspection and report the decision to the next convenient meeting of the Standards and Audit Committee.

## **12. Appeals**

- 12.1. There is no right of appeal for as Complainant or for the Subject Member against a decision of the Monitoring Officer or the Standards Panel.
- 12.2. There is a right of complaint to the Local Government and Social Care Ombudsman.

## **13. Discontinuance of Complaints by Monitoring Officer**

- 13.1 The Monitoring Officer has a discretion to discontinue a complaint or terminate an investigation if they consider it appropriate to do so, having regard to whether the balance of the public interest lies in continuing to action the complaint, where the Subject Member:
  - (a) ceases to be a Member of the Council,
  - (b) has a long term or serious illness and is unable to participate in the procedure, or
  - (c) dies.
- 13.2 Where a complaint is discontinued, the Monitoring Officer will write to the Complainant and the Subject Member setting out the reasons for their decision. (Should a Subject Member become seriously ill or die, the Monitoring Officer shall exercise discretion in regards to contacting the Subject Members and/or their next of kin)

## **14. Confidentiality**

- 14.1 Unless otherwise permitted under these arrangements or required by legislation, a complaint (and all associated information and documents) that a Member has breached the Code of Conduct shall remain confidential until such time that the Monitoring Officer or Standards Panel consider it appropriate (if at all) to disclose the complaint (and all associated information and documents).
- 14.2 Unless, otherwise determined, the findings of the Standards Panel shall be made public in accordance with the guidance set at Appendix 1C.

## **15 Timescales**

- 15.1 The investigation shall be carried out promptly, with the expectation that all investigations and resolutions of the Standards Panel will be completed within a maximum period of four months. All those involved in the complaint should do their utmost to ensure that this can happen.



- 15.2 Key dates in relation to the administration of the arrangements are set out in the body of the arrangements, and shall act as targets to facilitate the swift administration of the arrangements but which, if missed, will not invalidate the procedure comprised herein.
- 15.3 The Complainant and the Subject Member will be informed should there be a delay in completing any stage of the process.

## **16 Complaint Support**

- 16.1 Assistance and support shall be provided to the Complainant and Subject Member throughout this process by the Deputy Monitoring Officer or Head of Human Resources as appropriate.

## **17 Annual Report**

- 17.1 The Monitoring Officer shall submit an annual report to the Standards and Audit Committee. The report should include appropriate details of all complaints received (including those where no breach was found).

Adopted by Woking Borough Council on 31 March 2022.

## APPENDIX 1A

### COMPLAINT FORM: CODE OF CONDUCT FOR MEMBERS

**To: The Monitoring Officer  
Woking Borough Council**

#### **A. Your details**

1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

<b>Title:</b>	
<b>First Name:</b>	
<b>Last Name:</b>	
<b>Address:</b>	
<b>Contact Telephone:</b>	
<b>Email:</b>	
<b>Signature:</b>	
<b>Date of Complaint:</b>	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this form:

- the Council's Independent Person advising the Standards Panel
- Monitoring Officer of the Borough Council
- the Chairman of the Standards and Audit Committee, if the matter proceeds to investigation
- the Standards Panel, if the matter proceeds to a Standards Panel

A brief summary of your complaint may also be shared, with the Member(s) you are complaining against. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete Section C of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.

2. Please tell us which complainant type best describes you:

- A member of the public
- An elected or co-opted Member of the Council
- A Member of Parliament
- A Monitoring Officer
- Other council employee, contractor or agent of the Council
- Other (please state)

**B. Making your Complaint**

For a brief summary of sanctions available to the Standards Panel, please see information at the end of this Form.

3. Please provide us with the name of the member(s) you believe have breached the Borough Council's Code of Conduct.
4. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

Title	First Name	Last Name	Summary of alleged breach of Code of Conduct

It is also important that you provide all the evidence you wish to have taken into account by the Monitoring Officer when he/she decides whether to take any action on your complaint or not. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- If the allegation(s) being made occurred over **28** days from the alleged behaviour or conduct, clearly explain why the complaint was not made during that period of time.

Please provide us with the details of your complaint and the evidence you want the Monitoring Officer to consider. Continue on a separate sheet if there is not enough space on this form.

**C. Confidentiality of complainant and the complaint details**

**(Only complete this next section if you are requesting that your identity is kept confidential.)**

5. In the interests of fairness and in compliance with the rules of natural justice, we believe members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him/her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that you have justifiable grounds, for example:-
- you believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same); or
  - you feel you may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender/contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of the personal and complaint details will not automatically be granted. The Monitoring Officer will consider the request with the

Independent Person alongside the substance of your complaint and the Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

**D. Additional Information**

6. Frivolous, vexatious and politically-motivated tit-for-tat complaints are likely to be rejected.
7. Complaints must be submitted in writing. In line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
8. If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

**E. Process from here**

9. Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer, it will be considered by the Monitoring Officer with the Independent Person. You and the member against whom the complaint has been made will not be allowed to attend these deliberations, as the matter will be considered in private.
10. The Monitoring Officer, in consultation with the Independent Person, may resolve to:
  - (a) dismiss your complaint, with reasons;
  - (b) ask you for additional information, with reasons; or
  - (c) refer your complaint for investigation (or other action).
11. You will be notified once the decision is made and given information on any further stage(s) in the process at that time.

Monitoring Officer  
Woking Borough Council  
Civic Offices  
Gloucester Square  
Woking  
GU21 6YL

[monitoring.officer@woking.gov.uk](mailto:monitoring.officer@woking.gov.uk)

01483 743038

## **Annex 1AA: Sanctions available to the Standards Panel**

The Standards and Audit Committee has delegated to the Standards Panel power to take action in respect of individual Members who have breached the Code of Conduct. Accordingly the Standards Panel may –

- a) Publish its findings in respect of the Member's conduct. This might comprise issuing a press release and/or inserting a public notice in the local newspaper(s);
- b) Report its findings to Council for information;
- c) Censure or reprimand the Member;
- d) Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council for such period as the Standards Panel considers appropriate;
- e) Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from particular Portfolio responsibilities for such period as the Standards Panel considers appropriate;
- f) Instruct the Monitoring Officer to arrange training for the Member;
- g) Recommend to the Council that the Member be removed from all outside appointments to which he/she has been appointed or nominated by the Council for such period as the Standards Panel considers appropriate;
- h) Withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access for such period as the Standards Panel considers appropriate; or
- i) Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as are necessary for attending Council, Committee and Sub-Committee meetings for such period as the Standards Panel considers appropriate.

The Standards Panel has no power to suspend or disqualify the Member or to withdraw Members' allowances.

## APPENDIX 1B

### Assessment of the Complaint

The Monitoring Officer will, within 10 working days of the acknowledgement of receipt of a complaint, apply the following questions to determine whether a Complaint falls within the jurisdiction of these arrangements.

The Monitoring Officer shall do so in consultation with the Independent Person.

#### **Stage 1 - Initial Jurisdiction Test**

The complaint will be assessed by the Monitoring Officer against an Initial Jurisdiction Test as follows:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the Subject Member a member of the Borough Council at the time of the alleged conduct?
- (c) Was the Subject Member acting in an official capacity as a councillor at the time of the alleged conduct? (The case law and legislative position is that Code of Conduct matters can only be dealt with when the allegation is about something that a Councillor did in his or her role as a councillor when acting in an official capacity.)
- (d) Did the alleged conduct occur when the Subject Member was acting as a member of another authority?
- (e) If the facts, could be established, as a matter of evidence, could or would the alleged conduct be capable of a breach of the Code of Conduct?
- (f) Is the complaint limited to dissatisfaction with the Borough Council's decisions, policies and priorities, etc.?

If the complaint fails one or more of the initial jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons. There is no internal right of appeal against the Monitoring Officer's decision.

If the complaint satisfies the Initial Jurisdiction Test the Monitoring Officer the Monitoring Officer will then proceed to assess the complaint. The Assessment Test aids the Monitoring Officer in reaching a decision on the complaint by enabling the Monitoring Officer to consider the following criteria, whilst taking into account the nature of the complaint and the need to adopt a proportionate response:

#### **Stage 2 - The Assessment Test:**

##### *General*

- (1) Has the Complainant submitted enough information as regards the allegation and alleged misconduct to sustain a potential breach of the Code of Conduct?
- (2) Is an investigation likely to prove on the balance of probability whether or not a breach took place?
- (3) Does the complaint appear to be too trivial to warrant further action?
- (4) Is the evidence sufficiently reliable i.e. is it first-hand evidence or hearsay evidence?
- (5) Is the evidence relevant to the alleged breach?
- (6) Could any further evidence be revealed by an investigation?
- (7) Would an investigation serve any useful purpose?
- (8) Is the allegation serious enough to warrant further action?

##### *Mitigating factors (tending to make further action less likely)*

- (9) The substance of the complaint has already been the subject of an investigation or other action relating to the Code of Conduct;
- (10) The allegation took place more than 28 days prior to receipt of the complaint and there would be little benefit in taking action now;
- (11) The Subject Member took appropriate advice on the matter and followed that advice;
- (12) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (13) It is likely that an investigation will prove only a technical or inadvertent breach;



- (14) The complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
- (15) The Complainant has involved the press in relation to the alleged complaint;
- (16) The member has already provided (or tried to provide) a suitable remedy (such as apologising);
- (17) The breach occurred in all innocence i.e. without knowledge;
- (18) There was unreasonable provocation;
- (19) The complaint involves a Subject Member who is seriously ill and it would not be in the public interest to pursue;
- (20) The complaint is about a deceased person;
- (21) The complaint is about a person who is no longer a borough councillor.

*Aggravating factors (tending to make further action more likely)*

- (22) The complaint involves allegations of bullying or intimidation of a Complainant;
- (23) The allegation if proven could have a serious effect upon the reputation of the Council or parish council, upon staff relations or upon public trust and confidence;
- (24) The Subject Member holds a position of seniority and/or a position of influence;
- (25) There is a pattern of individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disruptive to the business of the Council;
- (26) the Council;
- (27) The Subject Member took appropriate advice on the matter but did not follow that advice;
- (28) The complaint involves an allegation that the behaviour may cause the Council to breach an equality enactment;

The criteria set out in the Assessment Test is not an exhaustive or prescriptive list and the Monitoring Officer can take into account other criteria dependent on the circumstance of the complaint. The existence of such criteria does not fetter the discretion of the Monitoring Officer. A written record of the assessment decision will be provided aiding robust and transparent decision-making.

## APPENDIX 1C

### STANDARDS PANEL GUIDANCE

#### **The need for a Standards Panel**

The Standards Panel will seek to hold a Standards Panel in relation to an allegation within 28 working days of receiving the Investigation Report.

#### **Before the Standards Panel**

The Standards Panel process

The Panel will use a written Standards Panel process in order to allow the Standards Panel to proceed fairly and efficiently.

The Subject Member will be asked to provide the following information to the Monitoring Officer within 5 working days from the notification of the Standards Panel:

- to identify those paragraphs in the Investigating Officer's Report which the Subject Member agrees with and those paragraphs in the Report that the Subject Member disagrees with and the reasons for such disagreement;
- to identify any further documentary evidence which the Subject Member would like to rely upon at the Standards Panel;
- to ascertain if they are going to attend the Standards Panel and if they are going to represent themselves or whether they are going to employ someone to represent them in which case they should provide the details of their representative prior to the Standards Panel;
- to give reasons whether the whole or any part of the Panel should be held in private and whether any of the documentation supplied to the Standards Panel should be withheld from the public.

The Investigating Officer will also be asked to comment on the Subject Member's response within a set time to say whether or not he or she:

- wants to call witnesses to give evidence to the Standards Panel;
- wants any part of the Panel conducted in private and why;
- wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public and why.

The Monitoring Officer will endeavour to accommodate the availability of the parties attending the Standards Panel before notifying the parties of the date, time and place for the Standards Panel.

The Complainant will be asked to provide the following information to the Monitoring Officer:

- the Investigator's report forms basis of the case that the Code of Conduct has been breached. The Complainant asked to identify those paragraphs in the Investigating Officer's Report which the Complainant agrees with and those paragraphs in the Report that the Complainant disagrees with and the reasons for such disagreement. to ascertain if they wish to attend the Standards Panel and whether or not they wish to make representations to the Standards Panel. It should be noted that the Investigating Officer shall advocate that the Code of Conduct has been breached. The Complainant, at the discretion of the Chairman of the Standards Panel, may request the opportunity to rebut any matters raised within the Standards Panel to which they disagree.
- to give reasons whether the whole or any part of the Standards Panel should be held in private and whether any of the documentation supplied to the Standards Panel should be withheld from the public.

#### **The Standards Panel**

### **The Order of *Business***

The order of business will be as follows, subject to the Chairman exercising discretion and amending the order of business where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter:

- Appointment of a Chairman/Vice Chairman.
- Apologies for absence.
- Declarations of interests.
- The Chairman shall confirm that the Standards Panel is quorate.
- In the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the Standards Panel.
- Introduction by the Chairman, of Members of the Standards Panel, the Independent Person, the Monitoring Officer or Legal Advisor to the Standards Panel, Investigating Officer, Complainant(s) and the Subject Member and their representative (if appointed).
- To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.
- Conduct of the Standards Panel. The Standards Panel may adjourn the Standards Panel at any time.

### ***Presentation of the Complaint***

The Investigating Officer presents their report including any documentary evidence or other material and calls any complainant witnesses.

The Standards Panel will give the Subject Member the opportunity to ask any questions regarding the evidence presented through the Chair.

The Standards Panel may question the Investigating Officer upon the content of his or her report and any complainant witnesses.

### ***Presentation of the Subject Member's case***

The Subject Member or their representative presents their case and calls their witnesses.

The Standards Panel will give the Investigating Officer the opportunity to ask any questions regarding the evidence presented through the Chair.

The Standards Panel may question the Subject Member upon the contents of their case and any Subject Member witnesses.

### ***Summing up***

The Investigating Officer sums up the complaint.

The Complainant to have the opportunity to rebut any matters raised within the Panel to which they disagree.

The Subject Member or their representative sums up their case.

### ***Views/Submissions of the Independent Person***

The Chairman will invite the Independent Person, to express their view on whether they consider that on the facts presented to the Standards Panel there has been a breach of the Code of Conduct or no breach as the case may be.

### ***Deliberations of the Standards Panel***

The Standards Panel will adjourn the Standards Panel and deliberate in private (assisted on matters of law by a legal advisor) to consider whether on the facts found, the Subject Member has failed to comply with the Code of Conduct.

The Standards Panel may, at any time, come out of private session and reconvene the Standards Panel in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Standards Panel cannot be presented, then the Standards Panel may adjourn the Standards Panel and issue directions as to the additional evidence required and by whom.

The Standards Panel will make its decision on the balance of probability, based on the evidence before it during the Standards Panel.

Where the complaint has a number of aspects, the Standards Panel may reach a finding, apply a sanction and /or make a recommendation on each aspect separately.

Having deliberated on its decision the Standards Panel will reconvene the Standards Panel in public and the Chairman will announce that, on the facts presented, the Standards Panel considers that there has been a breach of the Code of Conduct, or no breach, as the case may be.

If the Standards Panel considers that there has been **no breach of the Code of Conduct** the Standards Panel will set out the principal reasons for the decision. The Chairman will also announce that the Sub- Committee's full decision and reasons will be issued by the Monitoring Officer, in writing within approximately 10 working days following the close of the Standards Panel.

If the Standards Panel decides that there has been **a breach of the Code of Conduct**, the Chairman will announce the principal reasons for the decision.

The Chairman will then invite the Investigating Officer and the Subject Member, to make their representations as to whether any sanction(s) or recommendations should be applied and what form any sanction(s) or recommendation(s) should take.

In reaching its decision the Standards Panel may make any recommendations it considers may facilitate and enhance ethical standards within the relevant authority. The Independent Person will then be invited to express their view on any sanction(s) or recommendation(s).

Having heard the representation/views, the Standards Panel will adjourn and deliberate in private.

Having deliberated on the application of any sanctions(s), and having taken into account the Independent Person's views the Standards Panel will reconvene the Standards Panel in public and the Chairman will announce:

- whether any sanctions are to be applied
- Whether any recommendations will be made to the Council or the Monitoring Officer.
- That the Standards Panel's full decision and reasons will be issued by the Monitoring Officer, in writing within approximately 10 working days following the close of the Standards Panel.
- That the decision will be published on the Borough Council's website; and
- That there is no internal right of appeal against the Standards Panel decision(s) and/or recommendations(s).

### ***Range of Possible Sanctions***

The Standards Panel may:

- Publish and report its findings in respect of the Subject Member's conduct to
- a meeting of the full Council
- Recommend to Council that the Subject
- Member be requested to apologise;
- Recommend to the Subject Member's political group leader (or in the case of
- an un-grouped Subject Member, recommend to Council or to Committees) that they be removed from any or all Committees or Standards Panels of the Council for a specified period;
- Recommend to the Leader of the Council, in the case of an Executive Subject Member, that the Subject Member be removed from the Executive, or removed from particular portfolio responsibilities;
- Recommend to Council that the Subject Member be requested to participate in appropriate training or participation in conciliation or mediation;
- Recommend to Council or the relevant Parish Council that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the Council for a specified period;
- Withdraw facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and internet access for a specified period;
- Exclude the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-
- Committee meetings;
- Issue a formal letter to the Subject Member;
- Issue a formal reprimand to the Subject Member.

The Standards Panel cannot suspend a Subject Member, withdraw a Subject Member's allowance, impose financial penalties, award compensation or make an award of costs.

### ***Matters to Consider when Applying a Sanction***

When deciding whether to apply one or more sanctions referred to above the Standards Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour and that any sanction does not unduly restrict the Subject Member's ability to perform the functions of a councillor. The Panel will consider the following questions along with any other relevant circumstances raised at the Standards Panel:

- What was the Subject Member's intention and did they know that they were failing to follow the Council's Code of Conduct?
- Did the Subject Member receive relevant advice from officers before the incident and was that advice acted on in good faith?
- Has there been a relevant breach of trust?
- Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
- What was the result/impact of failing to follow the Council's Code of Conduct?
- How serious was the incident?
- Does the Subject Member accept that they were at fault?
- Did the Subject Member apologise to the relevant persons?
- Has the Subject Member previously been warned or reprimanded for similar misconduct?
- Has there been a relevant previous breach by the Subject Member of the Council's Code of Conduct?
- Is there likely to be a repetition of the incident?
- Was it a deliberate breach of the code or was it inadvertent (i.e. the Member thought that he/she was acting in a private capacity)? If capacity is an issue the Standards Panel will need to give reasons for its decision that the Subject Member was or was not acting publicly.

### ***The written decision***

The Chairman will announce its decision on the day. The Committee will issue a full written decision approximately 10 working days after the end of the Standards Panel to:

- The Subject Member; and
- The Complainant;

### ***Making the findings public***

A summary of the decision and reasons for that decision to be published on the Council's website.

If the Standards Panel finds that a Subject Member did not fail to follow the Council's Code of Conduct, the public summary must say this, and give reasons for this finding.

If the Standards Panel finds that a Subject Member failed to follow the Code of Conduct, but that no action is needed, the public summary must say that the Subject Member failed to follow the Code of Conduct, outline what happened and give reasons for the Standards Panels decision not to take any action.

If the Standards Panel finds that a Subject Member failed to follow the Code of Conduct and it sets a sanction, the public summary must say that the Member failed to follow the Code of Conduct, outline what happened, explain what sanction has been set and give reasons for the decision made by the Sub- Committee.

### ***Costs***

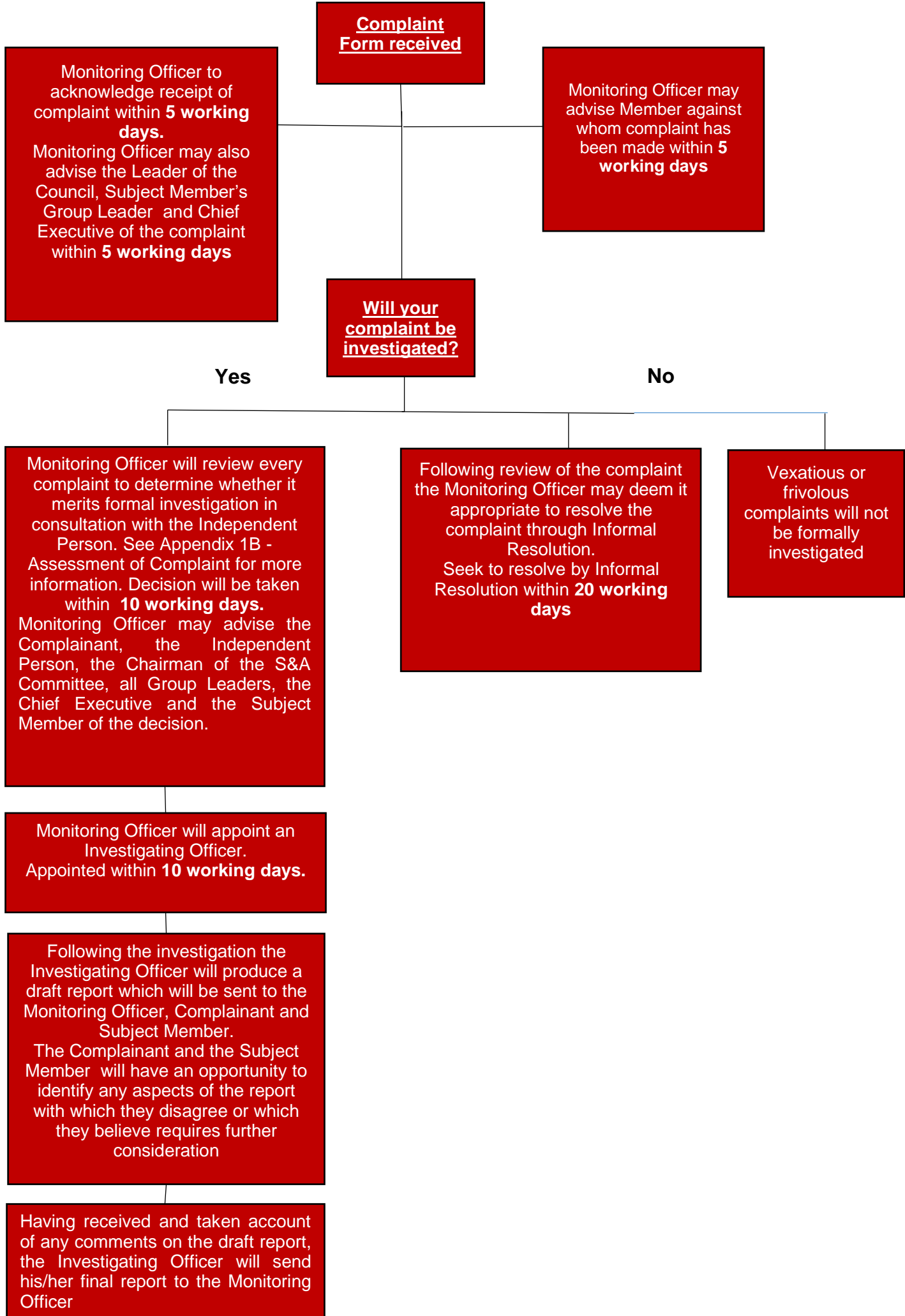
Subject Members are responsible for meeting the cost of any representation at a Standards Panel meeting. The Standards Panel cannot make orders as to costs. The Council cannot contribute to the Subject Member's costs or the Complainant's costs or indemnify a Subject Member or Complainant against costs which he or she may incur.

### ***Appeals***

There is no internal right of appeal for a Member against a finding by the Standards Panel following a Standards Panel.

### ***Variation***

The Monitoring Officer or the Chairman of the Standards Panel may vary this procedure in any particular instance where her she or they is/are of the opinion that such a variation is desirable and does not conflict with statutory requirements.



**Outcome of Complaint**

**Investigating Officer concludes there is no evidence of failure to comply with Code of Conduct?**

**Investigating Officer concludes there is evidence of failure to comply with Code of Conduct?**

Monitoring Officer will review the Investigating Officer's report within **10 working days** and, if satisfied (after consulting the Independent Person) that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the Complainant and to the Subject Member concerned to provide them with a final copy of the report and to notify them that he/she is satisfied that **no further action is required**

The Monitoring Officer shall send a copy of the final report to the Complainant, Subject Member, the Leader, Members Group Leader, Chairman of the Standards and Audit Committee and the Chief Executive

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report

Monitoring Officer will review the Investigating Officer's report within **10 working days** and will then either send the matter before the Standards Panel or, after consulting the Independent Person, seek **Informal Resolution**

**Informal Resolution**  
Monitoring Officer will consult Independent Person and Complainant to agree what they consider a fair resolution. If Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards and Audit Committee for information, but will otherwise take no further action

**Within 20 working days**

**Standards Panel**

Monitoring Officer will conduct the Standards Panel process. See Appendix 1C. The Investigating Officer and Subject Member will make representations to the Standards Panel and if the Panel finds the Subject Member failed to comply with the Code of Conduct the Chairman will inform the Member of this finding and the Standards Panel will then consider what action, if any, it should take as a result of the Member's failure to comply with the Code of Conduct

Monitoring Officer will prepare a formal decision notice in consultation with the Chairman of the Standards Panel.

**Within 10 working days**

The decision notice will set out the reason for the decision and be sent to the Complainant and to the Member

Part 5

# Member's Allowances Scheme



## 1. Introduction

- 1.1 This is a scheme for members' allowances made by the Council pursuant to the Local Authorities (Members' Allowances) (England) Regulations 2003 having regard to the recommendations of the Independent Remuneration Panel established for the purpose. The 2003 Regulations put in place a consolidated and simplified regime for allowances and all references in this scheme to regulations should be construed as references to the 2003 Regulations.
- 1.2 This scheme was initially approved by the Council on 17 July 2003, and is reviewed by Council from time to time.

## 2. Basic Allowance

- 2.1 The Basic Allowance is an amount paid to all members of the Council in respect of the year to which it relates (defined in the Regulations as being a period ending on 31 March in each year). The amount of the allowance is the same for all members.
- 2.2 The amount of entitlement to Basic Allowance for each member in respect of the 2022/23 Municipal Year is **£7,380**.
- 2.3 Where the term of office of a member begins or ends otherwise than at the beginning or end of a year, his/her entitlement shall be to payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during his/her term of office as member subsists bears to the number of days in that year.
- 2.4 Where a member is suspended or partially suspended from his/her responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of Basic Allowance payable to him/her in respect of the period for which he/she is suspended or partially suspended may be withheld by the Council.

## 3. Special Responsibility Allowance

- 3.1 This is an allowance that may be paid to such members as have special responsibilities in relation to their Council duties.
- 3.2 Special Responsibility Allowances for 2022/23 and future years to be prorated to the Leader Special Responsibility Allowance. The Leader Special Responsibility Allowance (SRA) for the 2022/23 Municipal Year is £12,000. Special Responsibility Allowances to be prorated as follows:

Deputy Leader of the Council	30% of Leader SRA (£3,600)
Leader of the Opposition	10% of Leader SRA (£1,200)
other Executive Members/Portfolio Holders	20% of Leader SRA (£2,400)
Planning Committee Chairman	20% of Leader SRA (£2,400)
Overview and Scrutiny Committee Chairman	10% of Leader SRA (£1,200)
Licensing Committee Chairman	5% of Leader SRA (£600)
Group Leader	5% of Leader SRA (£600)

## 4. Loss Allowance

- 4.1 A Member is eligible to apply for a Loss Allowance where he/she has been appointed by the Council or a Committee to attend a Conference or Seminar or any other approved duty necessitating absence from the Members normal employment. An allowance of £100 (one hundred pounds) per twenty four hour period will be payable provided, upon the submission of necessary documentary evidence, to take unpaid leave, or use paid leave entitlement. In cases where the Member's employer permits "public service days" the Member will need to provide

evidence that the days allowed by his/her employer have been utilised before claiming Loss Allowance.

## **5. Travelling and Subsistence**

- 5.1 Allowances and amounts as set out below shall be paid to members in respect of travelling and subsistence, including an allowance in respect of travelling by bicycle, undertaken in connection with such duties as may fall within the categories prescribed in Regulation 8(1). Receipts in respect of actual expenditure shall be produced where appropriate.

### Travelling Expenses

Payable for approved duties inside or outside the Borough:-

1. Public Transport (reimbursement of cost)
2. Members' own private vehicles:-  
Motor car (or tricar) - 45.0p per mile  
These rates shall be increased:-
  - (a) for each passenger carried (not exceeding 4) who would otherwise have been paid a travelling allowance:-  
5.0p per mile where any other rate is payable;
  - (b) by the amount of any expenditure on tolls or parking fees.
3. Bicycle – 20.0p per mile
4. Taxis - the rate of travel by taxi-cab or cab shall not exceed:-
  - (a) in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid; and
  - (b) in any other case, the amount of the fare for travel by appropriate public transport.
5. As a general rule, for journeys outside the Borough, where public transport is a reasonable alternative to the use of a car.
6. Expenses can be claimed for travelling to enable the undertaking of any approved duty from anywhere in the United Kingdom on the basis that the first 10,000 miles will be paid at the 45.0p per mile and all subsequent miles at the rate of 25.0p per mile.

### Subsistence Expenses

- 5.2 Payable on production of receipts and in respect of ACTUAL EXPENDITURE incurred for approved duties.

The rate of subsistence allowance shall not exceed:

- (a) in the case of an absence, not involving an absence overnight, from the usual place of residence;
  - (i) of more than 4 hours, before 11am, (breakfast allowance), £6.14;
  - (ii) of more than 4 hours, including the period between 12 noon and 2 pm, (lunch allowance), £8.39;

(iii) of more than 4 hours, including the period 3 pm to 6 pm, (tea allowance), £3.35; and

(iv) of more than 4 hours, ending after 7 pm, (evening meal allowance), £10.48.

(b) in the case of an absence overnight from the usual place of residence £84.42 and for such an absence overnight in London, or for the purposes of attendance at an annual conference (including or not including an annual meeting) of the Local Government Association or such other association or bodies as the Secretaries of State may for the time being approve of the purpose, £96.28.

5.3 For the purposes of paragraph 5.4 (b), London means the City of London and the London boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.

5.4 Any rate determined under paragraph 1 (b) above shall be deemed to cover a continuous period of absence of 24 hours.

5.5 The rates specified above shall be reduced by an appropriate amount in respect of any **meal provided free of charge** by an authority or body in respect of the meal or the period to which the allowance relates.

5.6 The attention of members is drawn to declaration (b) on the claim form, to the effect that entitlement to subsistence allowance can only arise to the extent that actual expenditure has been incurred, and that the sums shown on the previous page are maxima - i.e. only actual expenditure incurred can be reclaimed and any expenses in excess of those shown on the previous page CANNOT be reclaimed.

#### Members Surgeries

5.7 Members are entitled to claim reimbursement for surgery accommodation to enable them to perform approved duties as a Member of Woking Borough Council.

#### Meals on Trains

5.8 Where **main meals (i.e. breakfast, lunch or dinner) are taken on trains** during a period for which there is an entitlement to a day subsistence allowance, the reasonable cost of the meals (including VAT), may be reimbursed in full on production of the appropriate receipt, within the limits specified below. In such circumstances, reimbursement for the reasonable cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.

5.9 The limitations on reimbursement are:

(a) for breakfast, an absence of more than 4 hours, or where the authority permits, a lesser period, before 11am;

(b) for lunch, an absence of more than 4 hours, or where the authority permits, a lesser period, including the period between 12 noon and 2 pm;

(c) for dinner, an absence of more than 4 hours, or where the authority permits, a lesser period, ending after 7 pm.

## **6. Dependants' Carers' Allowance**

6.1 The scheme may provide for the payment to members of an allowance in respect of the expenses of arranging for the care of children or dependants as necessarily incurred in attending meetings or carrying out official duties, within the categories set out in Regulation 7(1).

- 6.2 Payment of the allowance will normally be made at a rate of up to £8.91 per hour. However, in special circumstances, e.g. where specialist nursing skills are required, consideration may be given to the payment of a higher rate, subject to presentation of proof of expense.
- 6.3 For members with sole responsibility for children or a dependant relative, payments will be made up to a level of £802 per annum (i.e. the equivalent of 30 x 3 hour meetings, allowing for travelling time). However, where responsibility is shared with a spouse or other adult member of the household, or where there are children in the household aged over 16 years, it would be expected that the need to pay for cover would be reduced. In these circumstances, members will be allowed to claim up to a total of £401 per annum.

## **7. ICT Services**

- 7.1 Members are provided with PC facilities for business use and a monthly allowance of **£28** which incorporates telephone line rental and Broadband connection costs.
- 7.2 The Chief Executive is authorised to adjust the ICT allowance appropriately when the Council moves to “paperless” meetings.

## **8. Co-optees**

- 8.1 The Council may pay co-optees’ allowances in respect of their attendance at conferences and meetings. “Co-optees” for these purposes are persons who are not members of the authority but are members of a committee or sub-committee of the authority. The person who qualifies at the present time as a co-optee is the co-opted (independent) member who sits on the Standards and Audit Committee.
- 8.2 The amount of entitlement to co-optees’ allowance for a co-optee in respect of the Municipal Year 2022/23 is a sum equal to **5% of the Basic Allowance (£369 in 2022/23)**.
- 8.3 Where the term of office of a co-optee begins or ends otherwise than at the beginning or end of a year, his/her entitlement shall be to payment of such part of the co-optees’ allowance as bears to the whole the same proportion as the number of days during his/her term of office as co-optee subsists bears to the number of days in that year.
- 8.4 Where a co-optee is suspended or partially suspended from his/her responsibilities or duties as a member of an authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of co-optees’ allowance payable to him/her in respect of the period for which he/she is suspended or partially suspended may be withheld by the Council.

## **9. Pensions**

- 9.1 With effect from 1 April 2014 a councillor’s eligibility for membership of the Local Government Pension Scheme within the Surrey Pension Fund (administered by Surrey County Council) was ended (Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014). A councillor who was a member of the Pension Scheme on 31 March 2014 will continue to accrue rights until the end of the term of office which that councillor was serving on 1 April 2014.

## **10. Indexing**

- 10.1 Regulation 10(4) permits a scheme to make provision for an annual adjustment of allowances by reference to an index. The Council may not rely on that index for longer than four years before seeking a further recommendation from the Independent Remuneration Panel. Annual adjustments to allowances by reference to the index do not count as amendments to the

scheme, although Regulation 16(2) requires advertisement in a local newspaper of the main features of the scheme every twelve months, whether amended or not.

- 10.2 The level of Basic Allowance shall be adjusted annually by reference to an index. The scheme shall identify that index as the annual cost of living salary increase for officers. The Basic Allowance shall be so indexed for a period of up to four years, after which it shall no longer be used without the further recommendation of the Independent Remuneration Panel.
- 10.3 On 11 February 2016, the Council resolved that the Basic Allowance and the Child Care and Dependant Carers' Allowances should be increased annually by the Chief Executive in line with the agreed pay award for the Council's staff.
- 10.4 On 11 February 2016, the Council resolved that the Chief Executive be authorised to determine Members' Allowances and Special Responsibility Allowances annually in consultation with the Independent Remuneration Panel and in accordance with an aggregate Member Allowances budget set annually by the Council. The Special Responsibility Allowances for future years should be increased in line with the balance of uplift in the total budget for Members' Allowances after deducting the uplift in Basic Allowance from the set basis in the 2016/17 Municipal Year.
- 10.5 On 22 May 2019 the Chief Executive, under delegated authority, determined that the framework for the overall budget for Members Allowances increase over the next 3 years by the percentage increase in the total Employee Budget.
- 10.6 On 22 May 2019 the Chief Executive, under delegated authority, determined that the Subsistence Allowance be linked to employee indexation.
- 10.7 On 22 May 2019 the Chief Executive, under delegated authority, determined that the Dependents' Carers' Allowance be linked to the National Living Wage.

## **11. General provisions**

### Elections to Forgo Allowances

- 11.1 A person may, by notice in writing to the Chief Executive of the Council, elect to forgo his/her entitlement to the whole or part of any allowance.

### Time-limits

- 11.2 Claims for payment for dependants' carers' allowance, travelling and subsistence allowance, and co-optees' allowance must be made within six months from the date on which entitlement arises, although the Council may make payment where the allowance has not been claimed within the specified period.

### Membership of other relevant authorities

- 11.3 A member of the Council who is also the member of another relevant authority (as defined in Regulation 3) shall not be paid an allowance from more than one authority in respect of the same duties.

### Amendments to Scheme

- 11.4 Where an amendment is made which affects an allowance payable for the year in which the amendment is made, the entitlement to the allowance as amended will apply with effect from the beginning of the year in which the amendment is made.

### Repayments

- 11.5 Where a member is suspended or partially suspended from responsibilities or duties as a member in accordance with Part III of the Local Government Act 2000 or regulations made thereunder, or ceases to be a member of the Council, or is any other way not entitled to receive an allowance, the Council may require that such part of an allowance paid in respect of a period of non-entitlement shall be repaid to the Council.

#### Taxation

- 11.6 Allowances other than travelling and subsistence are subject to income tax and national insurance contributions (where applicable). Deduction at the appropriate rate shall be made at source.

#### Claims

- 11.7 Allowances shall be paid automatically. Claims for expenses should be made on the Members' Expenses Application Form. Claims will be processed monthly and if received by the first working day of the month, will be paid on the 15<sup>th</sup> day of that month, or at longer intervals, if the member wishes.

## **12. Records and publicity**

#### Records of Allowances

- 12.1 The Council shall keep a record of the payments made by it in accordance with this scheme. The record shall:-
- specify the name of the recipient of the payment and the amount and nature of each payment;
  - be available, at all reasonable times, for inspection and at no charge by any local government elector for the area of the Council; and
  - be supplied in copy to any person who requests such a copy and on payment of a reasonable fee.

#### Publication of total sums paid

- 12.2 As soon as reasonably practicable after the end of a year to which the scheme relates, the Council shall make arrangements for the publication of the total sum paid by it in the year to each recipient in respect of each of the following:-
- basic allowance
  - special responsibility allowance
  - dependants' carers' allowance
  - travelling and subsistence allowance; and
  - co-optees' allowance

#### Publicising the scheme

- 12.3 As soon as reasonably practicable after making or amending a scheme, the Council shall make arrangements for its publication by:-
- ensuring that copies of the scheme are available for inspection by members of the public at the Council's principal office at all reasonable hours; and

- publishing in a local newspaper a notice advertising the scheme and providing the information required by Regulation 16(1)(b).

12.4 The newspaper notice referred to above shall be published in a local newspaper as soon as possible after the expiration of twelve months after its previous publication, irrespective of whether the scheme has been amended during that twelve-month period.

12.5 The Council shall provide a copy of this scheme to any person who requests a copy and on payment of a reasonable fee.

#### Publicity for Independent Remuneration Panel Reports

12.6 As soon as reasonably practicable after receiving the report of its Independent Remuneration Panel, the Council shall:-

- ensure that copies of the report are available for inspection by members of the public at the Council's principal office at all reasonable hours; and
- publish in a local newspaper a notice advertising the report and providing the information required by Regulation 22(1)(b).

12.7 The Council shall provide a copy of the report of the Independent Remuneration Panel to any person who requests a copy and on payment of a reasonable fee.

**WOKING BOROUGH COUNCIL  
MEMBERS CLAIM**



Name ..... Car Make / Model .....

Number ..... Exact CC's ..... Petrol / Diesel (delete as applicable)

Date	Place & Time of Departure	Place & Time of Return	Duties	Mileage	Fares / Tolls Parking	Subsistence	Loss Allowance	Care Allowance
<b>Please Enter Totals</b>								
				MTRA	MSUB	MAPT	MCON	MCRE

Please Turn Over .....

**Travelling and Subsistence**

I declare that:

- (i) I have necessary incurred expenditure on travelling and subsistence for the purpose of enabling me to perform approved duties as a member of Woking Borough Council;
- (ii) I have actually paid the fares and expenses and made the other payments shown in the relevant column;
- (iii) the amounts claimed are strictly in accordance with the rates determined by Woking Borough Council; and
- (iv) my insurance policy contains an endorsement indemnifying the Council against third party claims arising while the vehicle is in use on my official duties as a Councillor.

**Loss Allowance**

I claim Loss Allowance for the performance of approval duties as a Member of Woking Borough Council.

I declare that the statements above are correct. Except as shown below I have not made, and will not make, any claim under any enactment for travelling or subsistence expenses, or for loss allowance, in connection with the duties specified overleaf.

Signature of Member ..... Date / /

Signature of Member Services Officer ..... Date / /

Date sent to Human Resources / /



Part 5

# Financial Regulations

## **1. Financial Administration**

- 1.1 For the purposes of section 151 of the local government act 1972 the council shall designate an officer who shall be responsible for the administration of the council's financial affairs and for the purpose of these financial regulations this officer shall be referred to as the chief finance officer or person authorised by him/her to act on his/her behalf.
- 1.2 The chief finance officer shall be responsible for compliance with the requirements of the current accounts and audit regulations.
- 1.3 The corporate leadership team comprises the chief executive and four executive or strategic directors or such other composition as the council may from time to time determine. For the purpose of these financial regulations, the chief executive shall be regarded as an executive or strategic director.
- 1.4 Each business manager shall, in consultation with the chief finance officer, prepare instructions detailing the action to be taken within his/her business areas to ensure compliance with standing orders and financial regulations, and to implement procedures contained in accounting manuals.
- 1.5 It shall be the responsibility of each business manager to ensure that all staff within his/her service areas comply with the requirements of financial regulations.
- 1.6 Each business manager shall consult the chief finance officer with respect to any change in circumstances within his/her responsibility which is likely to affect the finances of the council before a commitment is made.
- 1.7 No report having financial or value added tax implications shall be submitted to the executive without prior consultation with the chief finance officer on the financial or value added tax implications.
- 1.8 The provision of these regulations shall also apply to services carried out under agency arrangements for any other authority or organisation, except where it is otherwise required by that authority or the chief finance officer.
- 1.9 These financial regulations shall be read in conjunction with contract standing orders.

## **2. Internal Audit**

- 2.1 A continuous internal audit shall be maintained under the independent control and direction of the chief finance officer, for the examination of accounting, financial and other operations of the council to include examination of internal control and checks and the achievement of economy, efficiency and effectiveness.
- 2.2 The chief finance officer shall have authority:
  - (a) to enter all establishments of the council;
  - (b) to have access to all records, documents and correspondence relating to any financial and other transactions of the council;
  - (c) to require and receive such explanations as he/she considers necessary for any matter under consideration; and
  - (d) to require any employee of the council to produce cash, stores or any other council property under his/her control.
- 2.3 Immediately an executive director or a business manager becomes aware of any possible irregularity affecting income, expenditure, cash, stores, or any of the resources of the council,

the chief finance officer shall be informed in order that an independent investigation of the alleged irregularity may be undertaken. Such independent investigation will be undertaken by the chief finance officer, who will have the authority to issue instructions in order to bring the investigation to a conclusion.

- 2.4 Where a fraud, theft or major irregularity is suspected the chief finance officer:
- (a) may remove and provide safe custody of books, records, vouchers or any other material where they may be used as evidence in an investigation; and
  - (b) shall be entitled to require the exclusion of staff from their normal place of work for a limited period.
- 2.5 Where, upon investigation, the chief finance officer believes that reasonable grounds exist for suspecting that a loss may have occurred as a result of misappropriation, irregular expenditure or fraud, the chief finance officer shall in consultation with the monitoring officer consider whether the circumstances require further investigation by the police.
- 2.6 Where, upon investigation, the chief finance officer believes that a loss may have occurred as a result of waste, extravagance or maladministration, the chief finance officer shall report the matter to the corporate leadership team.
- 2.7 In all cases, following a report on an investigation, the chief finance officer, together with the corporate leadership team shall consider the matter so that any possible breach of internal discipline may be dealt with according to the agreed procedure.
- 2.8 The chief finance officer shall report twice a year to the standards and audit committee on the work undertaken by internal audit.

### **3. Accounting**

- 3.1 The chief finance officer shall prepare the council's annual financial statements and accounts for publication in accordance with statutory requirements.
- 3.2 The chief finance officer shall be responsible for the timely submission of all grant claims for sums due to the council.
- 3.3 All accounting procedures and records of the council and its officers shall be subject to the approval and control of the chief finance officer and shall be periodically reviewed. The chief finance officer shall, in consultation with the corporate leadership team, prepare accounting manuals to document all accounting procedures.
- 3.4 No change shall be made in existing accounting procedures without the approval of the chief finance officer.
- 3.5 As soon as practicable after the end of each financial year the chief finance officer shall report to the executive on the annual accounts.
- 3.6 The following principles shall be observed in the allocation of accounting duties:
- (a) the duty of providing information regarding sums due to or from the council, and of calculating, checking and recording these sums shall be separated as completely as possible from the duty of collecting or disbursing them;
  - (b) officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

#### **4. Investment Programme**

- 4.1 The Corporate Leadership Team, in liaison with the relevant business managers, shall prepare and annually review a five-year investment programme, to include all projects or service development proposals irrespective of the method of finance, and report thereon to the executive.
- 4.2 Any scheme proposed to be included in an investment programme which was not contained in the preceding approved investment programme, shall be the subject of a business case which should be submitted to the executive for approval. Approval of the business case will enable a full appraisal to be carried out prior to the release of funding.
- 4.3 Before tenders or quotes are invited for any work, the relevant business manager shall prepare an estimate of the cost of the work, and submit it to the chief finance officer advising whether or not it is within the approved budgetary provision for the works, or if not, from where the additional cost is to be financed. The chief finance officer shall assess whether the new estimate and proposed financing is within the available budgetary provisions to enable the project to proceed to the invitation of quotations or tenders or whether it needs to be referred to corporate leadership team and where appropriate to the executive for approval.
- 4.4 The Chief Finance officer shall report on the proposed financing of the investment programme to the executive.

#### **5. Revenue Estimates**

- 5.1 The Chief Finance officer shall prepare the annual revenue estimates in consultation with budget managers, business managers and the corporate leadership team to be submitted to the executive in accordance with any guidelines set by the council.
- 5.2 Scales of charges for goods and services shall be kept under review by the appropriate business manager and agreed with the corporate leadership team before submission to the executive for consideration and approval. Such charges shall be reviewed not less frequently than once a year.
- 5.3 Virement up to £10,000 of a budgeted item of expenditure shall be delegated to the relevant budget manager in consultation with his/her business manager, with notification to the chief finance officer, provided that:
  - (a) the proposed reduction to the appropriate estimate expenditure head has not been caused by abandonment or reduction in the level of a service/item following a change in council or national policy;
  - (b) no net increase in total expenditure will arise in the initial or any subsequent years directly from the virement;
  - (c) the nature of any transfer shall be consistent with current accounting practice;
  - (d) virement from budget heads for staffing costs may only be made with the prior agreement of the corporate leadership team;
  - (e) the total fund (i.e. General fund or housing revenue account) budget, within which the transfer will be made, is and will remain, within the total budgetary provision for that fund.
- 5.4 Virement other than in accordance with the above shall be subject to the approval of the executive following a report by the relevant business manager.
- 5.5 Expenditure shall not be incurred nor a reduction of income authorised unless it is covered by special financial provisions or by the annual estimates.

## **6. Budgetary Control**

- 6.1 Each business manager subject to the approval of the chief finance officer and the corporate leadership team shall nominate budget managers and one or more support officers to deputise or provide management support on the budget manager's behalf for all services/functions under his/her control which incur expenditure and/or receive income.
- 6.2 Budget managers shall monitor and control those budgets for which they have been given responsibility.
- 6.3 Approval by the council of a revised estimate shall have the effect of substituting that revised estimate for the original estimate.
- 6.4 The Chief Finance officer shall make available to each budget manager information relating to expenditure and income within the relevant cost centres to enable comparison with the provisions included in the annual estimates.
- 6.5 Where it appears that the amount of any head of estimate of approved expenditure may be exceeded or the amount of any head of approved income may not be reached, by the greater of £10,000 or 5% of the budget provision it shall be the responsibility of the business manager concerned, after consultation with the chief finance officer, to report the matter to the corporate leadership team and the executive giving explanation for and the means of financing of the variation.

## **7. Orders for work, goods and services**

- 7.1 Official orders shall be in a form approved by the chief finance officer and are to be authorised only by the nominated officers. The names of officers nominated to authorise such records shall be notified to the chief finance officer by each business manager and shall be amended on the occasion of any change. Official orders generated via a computerised system shall be subject to procedures approved in advance by the chief finance officer.
- 7.2 Official orders shall be promptly issued or written contracts made, for all work, goods or services to be supplied to the council except for supplies for public utility services, for periodical payments such as rent or rates, ad-hoc purchases using the council's procurement card, for petty cash purchases or such other exceptions as the chief finance officer may approve.
- 7.3 Each order shall comply with the standing orders of the council, and in particular those relating to contracts.
- 7.4 Official orders shall not be issued for works, goods or services unless the cost is covered by an approved annual estimate or by special financial provisions.
- 7.5 Official orders, shall indicate clearly the nature and quantity of the work or services required, a contractual, quoted or estimated price, and, where material, the time for completion of the order.
- 7.6 Telephoned or verbal orders shall be confirmed on the same day by official orders, such orders indicating that they are to confirm instructions previously issued.
- 7.7 Where a general authority, which must be in writing or in an electronic form approved in advance by the chief finance officer, has been given by the council to perform specified works or services of an emergency nature in the absence of an official order from the council, an official order shall be issued, within one working day of receipt of notification that action has been required under that authority, confirming the action.
- 7.8 Official orders or the council's procurement card may not be used for the procurement of goods, materials or services for the personal use of an employee. An order once authorised

should be despatched direct to the supplier and not returned or made available to the officer originating the order.

- 7.9 On receipt of the goods, the authorising officer shall ensure that, without delay, appropriate entries are made against the relevant order and in inventories, stores records or stock books as required and that the chief finance officer is informed, where relevant, for insurance purposes.

## **8. Payment of Accounts**

- 8.1 The Chief Finance officer shall make proper arrangements for the payment of accounts as duly authorised.
- 8.2 The methods of payment of money due from the council shall only be as agreed by the chief finance officer.
- 8.3 An invoice received electronically in accordance with the procedures approved by the chief finance officer shall be paid without further reference back to the budget manager responsible for issuing the relevant order provided the receipt of the goods or services has been recorded electronically against the order, and the invoice matches the order.
- 8.4 Paper invoices, electronic invoices that do not match the relevant order, and electronic invoices not subject to an official order, shall be examined, verified and certified for payment by the officer who authorised the order. Any other payments, vouchers or accounts arising within the officer's responsibility shall be similarly examined, verified and certified before payment is made.
- 8.5 Before certifying an account (where manual certification is required) the certifying officer shall, save to the extent that the chief finance officer may otherwise determine, have satisfied himself that:
- (a) it conforms with the order;
  - (b) the work, goods or services to which the account relates have been received, carried out, examined and approved;
  - (c) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
  - (d) the relevant expenditure has been properly incurred, is within the relevant estimate provision, and is in accordance with the council's standing orders and financial regulations; and
  - (e) the account has not been previously passed for payment and is a proper liability of the council.
- 8.6 Where manual certification of accounts for payment is required, certification shall be carried out as soon as possible after receipt and processed under arrangements specified by the chief finance officer.
- 8.7 Statements shall not be paid.
- 8.8 Business managers shall ensure that proper arrangements are in place in their service areas for the certification of invoices. The chief finance officer is responsible for making safe and efficient arrangements for payment.
- 8.9 Accounts for payment in respect of purchases of land or property must be supported by particulars of the land or property, the location, the name of the vendor and the amount of the purchase money and expenses.

- 8.10 The chief finance officer shall be supplied by business managers with all documents for noting particulars of all monies payable by the council under contracts, leases or other agreements and shall register such particulars in the council's financial records.
- 8.11 Each budget manager shall, as required and as soon as possible after 31 March in each year, give to the chief finance officer schedules of all accounts within his/her responsibility that require manual certification and are outstanding for the previous financial year. When such accounts are subsequently certified for payment, budget managers shall identify them accordingly as directed. Outstanding electronic invoices shall be accrued into the previous financial year by the chief finance officer provided goods received notes have been recorded electronically against the relevant orders.

## **9. Advance accounts and petty cash payments**

- 9.1 The Chief finance officer shall provide such advance accounts, as he/she considers appropriate, for such officers of the council as may need them for the purpose of defraying petty cash and other expenses. Such accounts shall be maintained on the imprest system.
- 9.2 No income received on behalf of the council may be paid into an advance account but must be banked or paid into the council as provided elsewhere in these regulations.
- 9.3 Payments from petty cash accounts shall be limited to minor items of expenditure and, except with the prior approval of the chief finance officer no single item shall exceed £30 in amount. Payments shall not include sums due to any tradesman, for goods etc supplied, with whom the council has a current account or contract and must be supported where possible by a receipt and certified by the appropriate budget manager.
- 9.4 All items of expenditure from petty cash shall be entered on the appropriate claim form when reimbursement is required and at least at the end of each month the imprest account shall be reconciled and the actual cash in hand agreed with the balance shown on the account. The total petty cash expenditure for reimbursement shall be certified by the designated responsible officer as properly due and receipted and passed to the chief finance officer for reimbursement.
- 9.5 The chief finance officer shall ensure that safe and efficient arrangements are operated in respect of all petty cash, postage, floats or other cash in hand and the advance accounts shall be open to inspection and verification by internal audit.
- 9.6 An officer responsible for an advance account shall, when so requested, give the chief finance officer a certificate as to the state of his/her imprest advance. On leaving the employment of the council or otherwise ceasing to hold an imprest advance, an officer shall account to the chief finance officer for the amount advanced to him.

## **10. Management of Contracts under seal**

- 10.1 For the purpose of this section of financial regulations, the term 'contract' shall refer to 'any arrangement for the provision of services, execution of works of maintenance, repair or construction or for the engagement of the services of any architect, engineer, surveyor, or other consultant in connection with any contract as defined above for which the sum exceeds the higher amount quoted in contract standing order c.5.1.'
- 10.2 All contracts on behalf of the council shall be subject to the council's standing orders.
- 10.3 No contract shall be entered into unless the relevant business manager has satisfied himself, in consultation with other service heads as appropriate, as to the tenderer's ability to satisfactorily fulfil the contract. Enquiries as to the financial status of tenderers shall be made by the chief finance officer as requested to do so. Financial and technical appraisals and the take-up of previous client references to be undertaken for all contractors.



- 10.4 The chief finance officer shall be informed as soon as possible of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the council.
- 10.5 Where contracts provide for payments to be made by instalments the relevant business manager shall arrange for the keeping of a contract register to show the state of account on each contract between the council and the contractor, together with any other payments and related professional fees. The form of contract registers shall be determined by the chief finance officer.
- 10.6 Payment to contractors on account of contracts shall be authorised only on a certificate signed by the business manager or other duly authorised officer of the appropriate department, showing in addition to the normal certification, the committee reference authorising the project, the total amount of the contract, the value of work executed to date, value added tax and other taxes, fluctuations, retention money, amount paid to date and the amount now certified. Documents in support of each payment shall be forwarded to the payments section with the payment request, as soon as they can be obtained. The payment of electronic invoices and the use of electronic contract certificates shall be in accordance with procedures approved in advance by the chief finance officer.
- 10.7 Every variation on a contract for building, engineering, or other constructional works shall be authorised in writing, or electronically in accordance with arrangements approved by the chief finance officer, before works commence, unless in an emergency.
- 10.8 Any variation or addition to the original specification, the estimated cost of which exceeds the greater of either £10,000 or 5% of the total budget provision, will require a report to the corporate leadership team and the executive on reasons, and proposals, for financing the variations and seeking approval for additional expenditure and the financing thereof.
- 10.9 Quotations shall be obtained, in the same manner as is laid down in the council's standing orders with respect to contracts, in respect of prime cost items and provisional sums.
- 10.10 The Chief Finance officer shall be consulted as to the extent of insurance cover required to be provided by contractors to the council.
- 10.11 The final certificate on a contract or accepted estimate shall not be issued by the appropriate business manager, or other duly authorised officer of the appropriate service area, until he/she has produced a detailed statement of account together with such vouchers and documents as the chief finance officer may require relating to prime cost items and particulars of additions and omissions, and the chief finance officer shall have approved the amount to be certified or sought the instructions of the executive.
- 10.12 In the case of contracts for works entered into by the council and supervised and managed by architects or persons other than the council's own officers, the agreement with those persons must provide that they shall furnish to the council for inspection by the officers all vouchers and documents, including those relating to prime cost and provisional sums, and that the final certificate shall not be issued nor the balance under such contract paid until:
- (a) the chief finance officer (with the assistance of any other officer necessary) has examined the accounts, vouchers and documents; and
  - (b) if any question of propriety of payment arises, the council has directed payment.



- 10.13 Provision shall be made, if possible, in such agreements as are mentioned in the foregoing regulations, that the council shall be entitled to retain all accounts, vouchers and documents relating to the contract until after the accounts of the council have been audited by the council's auditors.
- 10.14 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the chief finance officer and the monitoring officer for consideration of the council's legal and financial liabilities before a settlement is reached.
- 10.15 Where completion of a contract is delayed such as to give rise to a claim for liquidated damages on behalf of the council, it shall be the duty of the technical officer concerned to take the appropriate action in respect of such a claim and to report thereon to the corporate leadership team
- 10.16 After the final account has been agreed by the chief finance officer the relevant business manager, or other duly authorised officer of the appropriate business area, shall report completion of the contract:
- (a) as a matter for information in those circumstances where the final cost is within the contract sum plus any approved variations;
  - (b) to the corporate leadership team in those circumstances where the final cost exceeds the original sum plus approved variations detailing in full the final cost and the reason for variations from those approved.

## **11. Salaries and Wages**

- 11.1 Business managers shall notify the chief finance officer and the chief executive as early as possible of all appointments, dismissals, resignations, absences from duty other than annual leave, transfers and changes in remuneration of officers.
- 11.2 The Chief Finance officer shall be provided by the business manager concerned with all information necessary to maintain records of service, superannuation, income tax and national insurance liability, and, in the case of officers leaving the council's employment, total leave granted during the year.
- 11.3 Timesheets shall be certified by a business manager or other duly authorised officer of the appropriate business area and passed to the chief finance officer for preparation of the payroll. Timesheets generated by computer systems shall be subject to procedures approved in advance by the chief finance officer. The names of officers authorised to certify salaries and wages shall be supplied to the chief finance officer and amended on the occasion of any change. Certifying officers must not sign their own claims; subordinate officers must not sign claims of senior officers except that any executive director may sign claims submitted by the chief executive.
- 11.4 The payment of all salaries, wages, pensions, compensation or other emoluments to employees or former employees shall be made under the control of the chief finance officer. Unclaimed wages shall be retained by the chief finance officer for seven days and then paid into the council's account at the bank.
- 11.5 The maintenance and control of national insurance records shall be the responsibility of the chief finance officer.
- 11.6 Any variation from national, provincial, or local agreements, awards and rates of pay shall be submitted to the executive for approval.

## **12. Income - Collection and Banking**

- 12.1 The collection of, and issue of receipts for, all accounts and monies due to or received by the council shall be under the direction of the chief finance officer.
- 12.2 The records of each department with regard to items of income shall be in the form approved by the chief finance officer.
- 12.3 each business manager shall promptly furnish the chief finance officer with such particulars in connection with work done, goods supplied or services rendered and all other amounts due to the council to ensure prompt rendering of accounts for the recovery of income due.
- 12.4 the chief finance officer shall, as early as possible, be supplied by each business manager with particulars of all monies due to the council under contracts, leases, tenancy agreements, conveyances, transfers of property and any other agreements entered into which involve the receipt of money by the council and shall register such particulars in the records of his/her department.
- 12.5 all monies received on behalf of the council shall, without delay, either be paid to the chief finance officer or, subject to his/her instructions, be banked in the council's name. No deduction may be made from such money except by specific authorisation of the chief finance officer.
- 12.6 each officer of the council who receives money on behalf of the council shall be accountable for that money and shall keep such records in connection therewith as are approved by the chief finance officer including an accurate and chronological account of all receipts and deposits either with the chief finance officer or the council's bankers.
- 12.7 each officer who banks money shall ensure that the paying-in slip contains in respect of each transaction a reference to the related debt or source of money or otherwise indicates the origins of any cheques.
- 12.8 arrangements for the control, issue and custody of all official receipt forms, books, tickets and other documents representing money or monetary value shall be subject to approval by the chief finance officer. A register shall be kept of all receipts and issues of such documents and each issue shall be acknowledged by the signature of the officer to whom the issue is made, the quantity issued to be governed by ascertained needs.
- 12.9 all cheques and payable orders shall be crossed to the account of the council immediately on receipt in the department receiving them.
- 12.10 cheques shall not be cashed out of money held on behalf of the council.
- 12.11 if any discrepancy is revealed between the amount deposited and the amount shown as received by a collector it shall be recorded and investigated. If in excess of £10, internal audit shall be immediately notified. If not corrected any deficiency shall be made good at a subsequent deposit subject to the discretion of the chief finance officer who shall report to the corporate leadership team on any deficiency of £1,000 or greater which has not been corrected.
- 12.12 every transfer of official money from one member of staff to another will be evidenced in the records of the departments concerned by the signature of the receiving officer.
- 12.13 any proposal involving new sources of income or amendments to existing sources of income (unless part of a series of transactions comprised within a previous report to the executive) shall be considered by the executive, the executive having received a report from the appropriate officer on the financial aspects of the proposal.

- 12.14 any debt due to the council may only be written-off with the authorisation of the executive except, insofar as an individual debt does not exceed £10,000, the initial authority may be given by the chief finance officer who shall be required to publish periodically reports of the debts that have been written off in accordance with the delegated authority.

### **13. Banking arrangements and cheques**

- 13.1 all arrangements with the council's bankers concerning the council's banking accounts and the issue of cheques shall be made through the chief finance officer. All bank accounts shall be in the name of the council.
- 13.2 the chief finance officer shall be authorised to operate such subsidiary banking accounts, including national giro, as he/she considers necessary, except that applications made to banks to open new accounts shall be countersigned by the chief executive.
- 13.3 all cheques, including national giro payment forms, shall be ordered only on the authority of the chief finance officer, who shall make proper arrangements for their safe custody.
- 13.4 all cheques drawn on behalf of the council shall bear the facsimile signature of the chief finance officer or be signed by the chief finance officer or other authorised signatory. Cheques for values over £10,000 shall be countersigned by an authorised signatory.
- 13.5 payments made from the council's bank account other than by cheque shall be subject to arrangements approved in advance by the chief finance officer. Payments other than by cheque for values over £50,000 shall require authorisation by an authorised signatory.
- 13.6 the chief finance officer shall maintain a list of authorised signatories, which may differentiate between different types of financial instruments and payment values, and shall report all changes in the monthly business briefing.

### **14. Borrowing, investments, leasing and property**

- 14.1 all borrowings and leasings shall be effected in the name of the council.
- 14.2 the chief finance officer shall arrange all borrowing and leasing to meet the council's requirements within statutory controls, shall maintain records of all borrowing, leasing and lending of money by the council, and shall publish details thereof monthly.
- 14.3 all investment of monies under the control of the council shall be made by the chief finance officer who shall publish details thereof monthly.
- 14.4 the asset manager shall maintain a terrier of all properties owned by the council, recording the statutory or other purpose for which they are held, their location and extent, and particulars and nature of any interest or tenancies granted.
- 14.5 the decision and authority to opt to tax on council property, for the purposes of vat, shall be made by any one of the following officers:
- chief finance officer  
financial services manager  
asset manager
- 14.6 all securities the property of or in the name of the council or its nominees, and the title deeds of all property in its ownership shall be held in the custody of the corporate services manager.

(see appendix to part 4 for extract from the cipfa code of practice for treasury management in local authorities which has been adopted by the council (58/resman/3.2.97/614).)

## **15. Stocks and stores**

- 15.1 each business manager shall be responsible for the care and custody of stocks and stores in his/her business area.
- 15.2 stocks shall not be held in excess of agreed maximum requirements.
- 15.3 stocks and stores records shall be kept in a form to be approved by the chief finance officer.
- 15.4 business managers shall arrange for periodical test examination of stocks by persons other than those directly controlling the stocks, and shall ensure that all stocks are checked at least once in every year.
- 15.5 the chief finance officer shall be entitled to check stocks and stores and be supplied with such information relating thereto as may be required for the accounting, costing and financial records of the council and shall be entitled to attend stocktakes. This is in addition to, and not substitution for, the business managers' responsibilities in 15.4.
- 15.6 adjustments to write-off deficiencies, or to bring surpluses into charge, shall be authorised by the chief finance officer, except that in the case of adjustments exceeding £10,000, the relevant business manager shall report to the corporate leadership team who shall seek the approval of the executive.
- 15.7 business managers shall be responsible for maintaining records of all vehicles and mobile equipment which are under their control and the chief finance officer shall be entitled to examine such records.
- 15.8 surplus materials, stores or equipment shall be subject to disposal by competitive tender, public auction or in such other reasonable manner at the discretion of the chief finance officer.

## **16. Insurances**

- 16.1 each business manager shall give prompt notification to the chief finance officer of all new risks or properties which require to be insured and of any alterations affecting existing risks or insurances.
- 16.2 the chief finance officer shall ensure that adequate insurance cover is effected in respect of all mortgaged properties, including those where the mortgagor has exercised the option to provide such cover with a company other than the council's own insurers.
- 16.3 the chief finance officer shall notify appropriate officers of the requirements of the insurer as to security precautions and other relevant conditions of policies. These officers shall be responsible for ensuring compliance with all such requirements. Before any contract is made, the chief finance officer shall examine the insurance cover to be furnished by the contractor in respect of any act or default and be satisfied as to the insurance company and extent and nature of coverage before approving it.
- 16.4 where any council-owned land/property is let for use by private parties for any function whatsoever, the business manager shall inform the hirer that they are responsible for insuring such functions in respect of third party claims. Evidence of such insurance must be produced for inspection by the chief finance officer. The sum insured to be such sum as may from time to time be approved by the chief finance officer.
- 16.5 each business manager shall keep records of all plant, vehicles, furniture and equipment under his/her control and such records shall be available for inspection by the chief finance officer.
- 16.6 the chief finance officer shall effect all insurance cover and negotiate all claims in consultation with appropriate officers.

- 16.7 the chief finance officer shall keep appropriate records containing particulars of all insurances effected by the council and shall give business managers all necessary information thereon.
- 16.8 the business manager concerned shall give prompt notification in writing to the chief finance officer, who shall inform the police where appropriate, of any liability, loss or other damage in respect of council property or of any other known circumstances likely to lead to a claim under any of the council's insurances.
- 16.9 all officials charged with or authorised to participate in the receipt, custody and/or disbursement of monies and property of the council shall be included in a fidelity guarantee insurance policy of the council.
- 16.10 the chief finance officer shall annually or at such other time as he/she may consider necessary, review insurances in consultation with the corporate leadership team and other officers as appropriate.
- 16.11 business managers shall consult the chief finance officer in respect of the terms of any indemnity which the council requests or is requested to give.

## **17. Security**

- 17.1 each business manager is responsible for maintaining proper security at all times for all buildings, stocks, stores, equipment, cash, documents and other assets under his/her control. He/she shall consult the chief finance officer in any case where security is thought to be inadequate or where he/she considers that special security arrangements may be needed.
- 17.2 maximum limits for cash holdings shall be agreed with the chief finance officer and shall not be exceeded without his/her express permission.
- 17.3 keys to safes and similar receptacles used for security of cash or cheques are to be carried on the person of those responsible at all times whilst on council business. The loss of any such keys must be reported to the chief finance officer forthwith. No new keys in respect of the above are to be cut without the agreement of the chief finance officer.
- 17.4 all officers shall be responsible for maintaining proper security and privacy with respect to any information held and for ensuring compliance with the data protection legislation.

## **18. Protection of private property**

- 18.1 each business manager shall notify the chief finance officer in writing of any case known to him where steps are necessary to prevent or mitigate loss or damage to moveable private property and shall forward to the chief finance officer an itemised inventory in each case prepared in the presence of two officers.

## **19. Inventories**

- 19.1 inventories shall be maintained by all departments recording an adequate description of furniture, fittings and equipment, plant and machinery in such form as may be agreed between the appropriate business manager and the chief finance officer. A current copy of each inventory shall be supplied to the chief finance officer.
- 19.2 each business manager shall be responsible for the care and custody of all equipment held within his/her department (including computer equipment).
- 19.3 each business manager shall be responsible for maintaining an annual check on the inventory. The chief finance officer should be notified and deficiencies treated as irregularities.

19.4 council property shall not be removed otherwise than in accordance with the ordinary course of the council's business or used otherwise than for the council's purposes, except in accordance with specific directions issued by a business manager and subject to the approval of the corporate leadership team.

19.5 the disposal of any items considered being obsolete or surplus to requirements shall be in consultation with the chief finance officer.

## **20. Travelling, subsistence and other such payments**

20.1 all claims for payment of car allowance, subsistence allowances, travelling and incidental expenses shall be submitted to the chief finance officer duly certified by a business manager or other duly authorised officer of the appropriate business area. The names of officers authorised to certify such records shall be notified to the chief finance officer and amended on the occasion of any change. Certifying officers must not sign their own claims, subordinate officers must not sign claims of senior officers except that any executive director may sign claims submitted by the chief executive.

20.2 the certification shall be taken to mean that the certifying officer is satisfied that the journeys were justified and authorised, the expenses properly and necessarily incurred and that the allowances are properly payable. Claims generated by computer systems shall be subject to procedures approved in advance by the chief finance officer.

20.3 officers' claims submitted more than six months after the expenses were incurred will be paid only with the express approval of the chief finance officer.

20.4 the allowances payable to members of the council shall be paid by the chief finance officer or under arrangements approved by the chief finance officer.

20.5 claims for the payment of allowances shall be submitted in a form approved by the chief finance officer and shall comply with statutory requirements. All claims for a financial year should be submitted within one month of 31 march.

20.6 the chief finance officer shall maintain the statutory records required in respect of members' allowances and make such records available for inspection, and provide such information about them as may be required by law.

**Appendix (mentioned in financial regulations 14)**

**Cipfa code of practice for treasury management in local authorities**

1. This council adopts cipfa's code of practice for treasury management in local authorities.
2. A treasury management policy statement setting out the matters detailed in cipfa's code of practice for treasury management in local authorities shall be adopted by the council and thereafter its implementation and monitoring be delegated to the executive.
3. All money in the hands of the council shall be under the control of the chief finance officer.
4. At or before the start of each financial year the chief finance officer shall report to the executive on the strategy for treasury management it is proposed to adopt for the coming financial year.
5. All executive decisions on borrowing, investment or financing shall be delegated to the chief finance officer who shall be required to act in accordance with cipfa's code of practice for treasury management in local authorities.
6. The chief finance officer shall report to each meeting of the executive on the activities of the treasury management operation and on the delegated exercise of treasury management powers. One such report shall comprise an annual report on treasury management presented as soon as practicable after the end of the financial year.
7. Should the chief finance officer wish to depart in any material respect from the main principles of the code, the reasons should be disclosed in a report to the executive.

Part 5

# Contract Standing Orders



**Note: following brexit and pending formal amendment, any reference in these contract standing orders to an eu procurement requirement shall apply to the corresponding uk requirement (if one exists).**

### **C.1.0 general rules and interpretation**

C.1.1 every contract made by the council shall, subject to the exceptions in c.12 below, comply with:

- (a) Contract standing orders and financial regulations;
- (b) The eu treaty;
- (c) Any relevant operative eu directive and regulations enacting the same;
- (d) The local authorities (functions and responsibilities) (england) regulations 2000 (as amended from time to time) ; and
- (e) The council's procurement strategy.

C.1.2 every officer of the council engaged in contract work shall, where relevant, consider:

- (a) The scope for innovation or added value, whether in sub-dividing or aggregating work or services, or in the adoption of alternative vehicles of service provision, including collaborating with others and the use of framework agreements;
- (b) The need to secure continuous improvement in the economy, efficiency and effectiveness of the council's functions and adherence to the principles of best value contained in the local government act 1999;
- (c) The adoption of good practice recommended in the cipfa code of practice "commissioning local authority work and services" as may be updated from time to time ("the cipfa code"), or in any other applicable guidance; and
- (d) The scope for furthering the council's objectives regarding sustainability.

C.1.3 any reference in contract standing orders to the corporate leadership team (clt) of the council means the chief executive, the monitoring officer (director of legal and democratic services), the chief finance officer (director of finance), strategic director - corporate resources, strategic director - communities and strategic director - place or such other composition as the council may from time to time determine.

C.1.4 any reference in contract standing orders to senior officer means the officer (which may be a member of clt) identified by clt from time to time as being responsible for, and heading, the relevant service or services.

C.1.5 any reference in contract standing orders to a contract value means an amount exclusive of vat.

C.1.6 these standing orders are made under section 135 local government act 1972 and apply to the making of contracts in the course of the discharge of the council's functions, including those functions which are the responsibility of the executive.

### **C.2.0 pre-contract considerations**

- C.2.1 every officer shall, before commencing a contractual process, consider:
- (a) The matters specified in c.1.2 above;
  - (b) Whether the type and value of the works, supplies or services are such that the european procurement regime and/or other provisions of the public contracts regulations apply to them; and
  - (c) Whether, having regard to estimated value and all other considerations, the works, supplies or services should be procured by official order, by competitive quotation or by competitive tender or by using an appropriate framework agreement complying with section 4 to part 2 of the public contract regulations 2015.
- C.2.2 if the works, supplies or services are subject to the european procurement regime, the rules set out in c.3 below shall apply.
- C.2.3 if the works, supplies or services are of a value enabling procurement by official order, the rules set out in c.4 below shall apply.
- C.2.4 if the works, supplies or services are of a value enabling procurement by competitive quotation, the rules set out in c.5 below shall apply.
- C.2.5 if the works, supplies or services are of a value requiring procurement by competitive tender, the rules set out in c.6-c.8 below shall apply.
- C.2.6 works, supplies or services may be procured/called-off utilising an appropriate framework agreement or other technique or instrument , in accordance with section 4 to part 2 of the public contract regulations 2015.
- C.2.7 save for a contract which has not otherwise been the subject of an advertisement inviting expressions of interest, quotation or tender, every contract, the estimated value of which exceeds £25,000, shall be advertised on contracts finder.

**C.3.0 european procurement**

- C.3.1 contracts for the carrying out of works, the provision of supplies and of services shall be tendered in accordance with relevant regulations and any relevant procedural guidance provided that such tendering procedures shall only apply in respect of contracts, the estimated values of which exceed the thresholds in force at the relevant time (as advised to senior officers by the director of legal and democratic services from time to time). In particular:
- (a) Works contracts (currently applying to those exceeding £4,733,252) shall comply with the public contracts regulations 2015 (“the regulations”);
  - (b) Supply contracts (currently over £189,330) shall comply with the regulations; and
  - (c) Services contracts (currently over £189,330) shall comply with the regulations.
- C3.2 eu statistical returns: all senior officers shall, in respect of each calendar year, record details of contracts advertised and/or awarded pursuant to the above procurement regime. The following details shall be recorded:
- (a) The value (estimated if necessary) of the consideration given or payable under the contract;
  - (b) Whether the open, restricted or negotiated procedure was used;

- (c) If the negotiated procedure was used, pursuant to which provision of the relevant regulation that procedure was invoked;
- (d) The type of goods purchased or hired, services provided, or works carried out; and
- (e) The nationality of the person to whom the contract was awarded.

#### **C.4.0 lower value contracts**

C.4.1 where the estimated amount or value of the contract does not exceed £5,000, the works, supplies or services may be procured by official order provided that:

- (a) The expenditure is within approved estimates;
- (b) An officer duly authorised by a member of the clt or by a senior officer shall have authorised the order; and
- (c) The appropriate member of the clt or senior officer is satisfied that the contract represents value for money.

#### **C.5.0 inviting quotations**

C.5.1 subject to the provisions relating to electronic processes ( see c.12.1(k)), where the estimated amount or value of the contract exceeds £5,000 but is under £50,000 including nominated sub-contracts, the works, supplies or services may be procured by competitive quotation provided that:

- (a) At least three written quotations are sought;
- (b) Quotations are opened at one time in the presence of two officers, both duly authorised by the appropriate member of the clt or senior officer, one of whom shall record in writing details of the quotations, provided that for the purposes of this rule the authorisation of officers by the member of the clt or senior officer shall be recorded in writing and notified to the director of legal and democratic services for entering in a register;
- (c) No quotation other than the lowest or most economically advantageous of at least two received is accepted (subject in the case of the acceptance of the most economically advantageous quotation to the application of any relevant criteria recommended in the cipfa code);
- (d) The contract is evidenced in writing (which may consist of a true copy of an official order authorised (by an officer duly authorised by the appropriate member of the clt or senior officer) and the order is retained for six years in paper or electronic form;
- (e) The expenditure is within approved estimates; and
- (f) The appropriate member of the clt or senior officer is satisfied that the quotation represents value for money.

C.5.2 invitations to quote should require quotations to be returned in a plain sealed envelope identifying the subject to which they relate but not the sender.

C.5.3 owing to the statutory prohibition on pre-qualification questionnaires being used for contracts below the eu threshold, the pre-qualification questionnaire process is only for use where estimated contract values would exceed that threshold.

#### **C.6.0 inviting tenders**

C.6.1 all contracts including nominated sub-contracts that are required to be the subject of competitive tender shall be invited in accordance with one of the three procedures set out below.

ad hoc list

C.6.2 this procedure shall apply in circumstances where the use of the standing list is considered inappropriate and where the council or a committee or an authorised officer have decided that invitations to tender are to be made to persons who have replied to a public notice which shall be given as follows:

- (a) On the council's website, south east business portal web-site, contracts finder and/or equivalent eu-approved portal websites; and
- (b) In the official journal of the european union (ojeu), where thresholds do or may apply; or
- (c) Where eu thresholds do not apply, in at least one newspaper or journal circulating among persons who undertake such contracts – where appropriate to the type of work and likely supply market this media may be used in addition to a notice in ojeu.

C.6.3 the public notice shall:

- (a) Specify details of the proposed contract;
- (b) Invite applications for permission to tender; and
- (c) Specify a time limit of at least 14 days, to submit applications.

C.6.4 after the expiration of the period specified in the public notice, the senior officer, seeking such assistance as may be necessary, will undertake a financial and technical appraisal of the persons who applied for permission to tender, applying such guidance as to evaluation contained in the cipfa code as may be relevant.

C.6.5 invitations to tender for the contract shall then be sent to not less than four persons who applied for permission to tender or, if fewer than four persons have applied and are considered suitable, to all such persons.

standing list

C.6.6 a standing list shall be used where a member of the clt or a senior officer decides that invitations to tender for a contract are to be limited to those persons or bodies who replied to a public notice, and whose names shall be included in a list compiled and maintained for that purpose by the senior officer. The senior officer shall apply such guidance as to evaluation contained in the cipfa code as may be relevant.

C.6.7 at least four weeks before a list is compiled, notices inviting applications for inclusion in it shall be published as follows:

- (a) on the council's website, south east business portal web-site, contracts finder and/or equivalent eu-approved portal websites; and
- (b) in the official journal of the european union (ojeu), where thresholds do or may apply; or
- (c) Where eu thresholds do not apply, in at least one newspaper or journal circulating among persons who undertake such contracts – where appropriate to the type of work and likely supply market this media may be used in addition to a notice in ojeu.

- C.6.8 the list shall be amended as required and reviewed at regular intervals not exceeding three years by the senior officer.
- C.6.9 at the time of a review each person whose name appears on the list shall be asked whether they wish to remain so, in which case retention on the list or otherwise shall follow the consideration by the senior officer of a performance report on tenders submitted and work performed by the applicant in the preceding twelve months.
- C.6.10 tenders shall be invited from:
- (a) at least four persons selected from the list by the senior officer in rotation; or
  - (b) where fewer than four persons are approved as mentioned above, all those persons.

open tendering

- C.6.11 this procedure shall apply where the council or a committee or an authorised officer have decided that tenders for a contract are to be obtained by open competition.
- (a) At least 14 days public notice, describing and inviting submission of tenders by a stated date and time, as follows; on the council's website, south east business portal website, contracts finder and/or equivalent eu-approved portal websites; and
  - (b) In the official journal of the european union (ojeu), where thresholds do or may apply; or
  - (c) Where eu thresholds do not apply, in at least one newspaper or journal circulating among persons who undertake such contracts – where appropriate to the type of work and likely supply market this media may be used in addition to a notice in ojeu.

**C.7.0 submission of tenders**

- C.7.1 subject to the provisions relating to electronic processes (see c.12.1(k)), every invitation to tender shall state:
- (a) That all tenders shall be enclosed in a plain sealed envelope bearing the word "tender" followed by the subject to which it relates (but no other names or mark identifying the sender); and
  - (b) That it must be received in accordance with arrangements made by the director of legal and democratic services by a stated date and time.
- C.7.2 an officer receiving tenders shall write on the envelope the date and time of its receipt.
- C.7.3 no tender shall be accepted unless it complies with the requirements of c7.1 above. Any tender received after the date and time indicated for receipt shall not be considered but shall be retained unopened by the director of legal and democratic services manager until after the list of tenders received has been made available and then be returned to the sender.
- C.7.4 tenders shall be kept in the custody of the director of legal and democratic services or in accordance with arrangements made by him until the time and date specified for their opening.
- C.7.5 each tenderer shall be required to give an undertaking which shall become a condition of the contract that the amount of the tender has not been calculated by agreement or arrangement with any other person other than the council; that the amount of the tender has not been communicated to any other person other than the council and that they have not entered into

any agreement or arrangement with any person which would result in that other person refraining from tendering.

C.7.6 where tenderers are required to submit priced bills of quantities with their tenders, failure to do so will result in the tender being disqualified.

### **C.8.0 opening and acceptance of tenders**

C.8.1 subject to the provisions relating to electronic processes (see c.12.1(k)), tenders shall be opened at one time and in the presence of:

- (a) The director of legal and democratic services or his/her duly authorised representative; and
- (b) A duly authorised representative of the appropriate senior officer.

C.8.2 the following details shall be recorded in writing:

- (a) The nature of the goods or materials to be supplied or the work to be executed;
- (b) The name of each person by or on whose behalf a tender was submitted;
- (c) The amount of each tender;
- (d) The date and time of opening of the tenders; and
- (e) The names of all the persons present at the time of opening the tenders.

C.8.3 a senior officer may accept the lowest tender (if payment is to be made by the council) or the highest tender (if payment is to be made to the council) or the most economically advantageous tender (subject in this case to the application of criteria prescribed in the relevant regulations or recommended in the cipfa code) provided in all cases that at least two tenders are received. In the event of only one tender being received the senior officer may seek a direction from the clt or invite fresh tenders.

(note: c.8.3 does not obviate the need to accord with financial regulation 10.9 as it may relate to proposed contracts).

C.8.4 in all cases where the senior officer is of the opinion that the lowest tender (or the highest with respect to income) or the most economically advantageous tender should not be accepted then approval of the clt shall be obtained before acceptance of another tender.

C.8.5 no alternative to the tender sum shall be permitted except where:

- (a) There is an obvious arithmetical error in the priced bill of quantities or schedule of rates, in which case the tender sum shall be corrected accordingly and the contractor notified in order to facilitate withdrawal of the submitted tender if the contractor so determines; or
- (b) Any change to the tender sum is the result of post-tender negotiation carried out strictly in accordance with the cipfa code.

as an alternative to amending the contract sum in (a) above, the tenderer may be given details of such error or errors and afforded an opportunity of confirming or withdrawing his/her offer.

C.8.6 prior to accepting a tender and entering into a contract the senior officer must be satisfied that the cost of the tender and the overall cost of the project are within approved estimates. This must be evidenced in a formal 'tender acceptance report' which clearly sets out the

delegation allowing the officer in question to enter into the contract. If the tender or project is not within approved estimates the senior officer must seek a direction from the clt.

C.8.7 the director of legal and democratic services shall ensure that a register (which may be in an electronic format) is kept of all contracts over £50,000 in value specifying the name of the contractor, the works to be executed or the goods to be supplied and the contract value. The register shall be open to inspection by any member of the council.

#### **C.9.0 nominated sub-contractors and suppliers**

C.9.1 where a sub-contractor or supplier is to be nominated to a main contractor and the estimated amount or value of the sub-contract exceeds £50,000, tenders shall be invited in accordance with c.6 above unless the council or a committee or an authorised officer decide in a particular case that competitive tenders cannot reasonably be obtained or are unnecessary.

C.9.2 c.6, c.7 and c.8 above shall apply to submitted tenders.

#### **C.10.0 contract conditions**

C.10.1 every contract exceeding £5,000 in value shall:

- (a) Specify the goods, materials or services to be supplied and work to be executed; the price to be paid together with a statement as to the amount of any discount or other deduction and the time for performance of the contract;
- (b) Where appropriate provide for the contractor to pay liquidated damages upon failure to complete the contract by the specified completion date; and
- (c) Contain such other conditions and terms as may be agreed between the parties, including where necessary provision as to adequate insurance.

C.10.2 every contract exceeding £50,000 in value shall be in writing and under seal, except contracts to supply motor vehicles, plant, equipment and furnishing goods and materials, which shall be in writing and signed by the appropriate senior officer.

C.10.3 every contract the estimated value of which exceeds £500,000 shall require the contractor to give sufficient security for the due performance of the contract. Where the estimated value of the contract is less than £500,000 such security shall not be required unless considered necessary.

C.10.4 where an appropriate british standard specification or british standard code of practice issued by the british standards institution or international equivalent acceptable standard, current at the date of the tender, every contract shall require that all goods and material used or supplied, and all the workmanship shall be of at least such a standard or european equivalent.

C.10.5 assignment or underletting of contracts shall not be permitted except at the discretion of the appropriate senior officer and only where a satisfactory vetting procedure has been carried out.

C.10.6 every contract shall contain a clause empowering the council to cancel the contract and to recover any loss resulting from such cancellation, in circumstances where any party to the contract or any person acting on their behalf or in their employ shall have offered, given or agreed to give any officer of the council any gift or consideration of any kind as an inducement or reward with respect to the contract, or shall have committed any offence under the bribery act 2010 or section 117(2) and (3) of the local government act 1972.

C.10.7 every contract shall require compliance with current legislation with respect to health and safety at work and sexual and racial equality.



- C.10.8 where a member or officer of the council has an interest pecuniary or otherwise in a company, firm or partnership and is also involved in the process of contract acceptance this shall be reported to the chief executive in the case of an officer and to the standards and audit committee in the case of a member.
- C.10.9 except with the prior approval of the chief executive, no contract shall be commenced until a contractual relationship with the contractor exists, the appropriate senior officer has indicated readiness to proceed and all other procedures have been completed to the satisfaction of the appropriate member of the clt and the director of legal and democratic services.
- C.10.10 those contracts of the value and description specified in c.10.2 above shall have the seal attested by the mayor or deputy mayor of the council or other appointed member of the council **and** by the director of legal and democratic services or an officer designated by him.

**C.11.0 persons engaged to supervise contracts**

- C.11.1 persons engaged to supervise or arrange contracts shall be required:
- (a) To comply with contract standing orders provided that the procedure to be followed in inviting and opening quotations or tenders shall be approved in advance by the appropriate senior officer; and
  - (b) At any time during the performance of the contract, to produce, on request, all records maintained by him or her in relation to the contract and on completion of the contract, to transmit all such records to the appropriate senior officer.

**C.12.0 exceptions**

- C.12.1 the following are the only permitted exceptions from all or part of contract standing orders:
- (a) Where a member of the clt is required to act in an emergency or other case of urgency, with the reason for the exception being fully documented and reported to the director of legal and democratic services;
  - (b) Where the executive so directs;
  - (c) Where the council is acting solely as an agent for another body in compliance with the contract standing orders of that other body or where the council participates in a joint procurement led by another body in compliance with the contract standing orders of that body. The council may enter into a contract with a person approved for the purpose of such contract by the principal authority. In such cases, contracts shall be sealed either at the request of the principal authority or if the senior officer so requires (and c.10.1(a) above shall be varied accordingly). In all other respects contract standing orders shall apply;
  - (d) Where a committee or a member of the clt or a senior officer is satisfied that the number of tenders or quotations required by contract standing orders cannot be obtained due to insufficient sources of supply or expertise, or where the need for standardisation or compatibility makes it necessary to obtain supplies or services from a particular source or to employ a particular contractor to carry out the work. Tenders or quotations shall be obtained from the sole or all available suppliers/persons who possess sufficient expertise or suitability;
  - (e) Where the contract is one of employment;
  - (f) Where the contract is for works carried out by statutory undertakers in circumstances where they have monopoly status, or where no genuine competition would exist, for example, because of fixed prices or prices controlled by trade organisations;



- (g) The extension of an existing contract (or the execution of work or materials necessary for maintenance repairs to existing machinery or plant) provided that the price for each item supplied or unit of work carried out is no higher than in the original contract and the value of the original contract is not increased by more than one third by the aggregate of extensions made under this exception; and one and two unit ad hoc refurbishment contracts may be extended by additional units up to a maximum of two, provided that the new works are at the same rates as for the original tender;
- (h) Where the contract is to appoint legal advisers, provided that the director of legal and democratic services shall be satisfied that the contract represents value for money;
- (i) Where the contract is for the disposal or acquisition of land or property;
- (j) Where the contract relates to a financing transaction, and
- (k) The paper processes and requirements relating to the invitation, submission and opening of tenders and quotations (standing orders c.5.0, c.7.0 and c.8.0), shall not apply to the operation of electronic processes, provided that those processes are undertaken within a system whose use has been authorised by the chief finance officer and which includes secure e-mail and document management environment to nationally approved standards and in compliance with recognised protocols.

note: the use of delta esourcing has been authorised, by the chief finance officer, for all tenders with an estimated value of £50,000 or more.

C.12.2 exceptions shall be recorded as follows:

- (a) A direction of the executive shall be reported to council; and
- (b) Exceptions made under c.12.1 (a), (d) and (g) shall be reported to the director of legal and democratic services who shall maintain a record of all such exceptions.

Part 5

# **Councillor and Officer Relationship Protocol**

## 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:

xxv) To work in partnership.

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xxvi) To have respect for each other's roles, workloads and pressures.

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xxvii) To display respect, dignity, courtesy, integrity, mutual support and appropriate confidentiality.

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xxviii) To undertake training and development in order to carry out their role effectively.

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xxix) To not subject the other to bullying or harassment.

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xxx) To have a common purpose; providing the best possible service to the residents and other stakeholders of Woking Borough.

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xxxi) 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).

## 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.

Part 5

# 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 vires 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



Part 5

# Code of Conduct for Employees

## **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:

xxii) They have been made in the course of the employee’s normal duties; or

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xxiii) 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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xxiv) 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
- 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.

## **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.

Part 5

# Officer Conflicts of Interest Protocol

## **1. Introduction**

- 1.1 The Council is a major public authority, active in its local community. As such, it is important that the Council ensures that its Officers do not act, on its behalf, when there is a conflict between an Officer's personal interests and those of the Council.
- 1.2 Provisions relevant to conflicts of interest are contained in the Local Government Act 1972, the Council's Officer Employment Procedure Rules and the Council's Code of Conduct for Employees Policy. This Protocol provides further guidance to Officers on how conflicts of interest are dealt with at the Council.
- 1.3 For the avoidance of doubt, this Protocol does not apply to the roles performed by Officers as Council appointed directors of companies in which the Council has an interest. In these circumstances, an Officer's role is no different to what it would be if the activity was directly managed by a department of the Council.



## **2. Existing Requirements**

### **2.1 The Local Government Act 1972**

2.2 Section 117 of the Local Government Act 1972 requires Officers to give notice to the Council of any Council contract in which he/she has a pecuniary interest.

2.3 Failure to comply with this obligation is punishable, on conviction, with a fine not exceeding £2,500.

### **2.4 Officer Employment Rules**

2.5 Section 4 of the Officer Employment Rules requires Officers to give notice of interests (pecuniary and non-pecuniary) to the Director of Legal and Democratic Services. The record of these interests is open for inspection by Members of the Council.

2.6 Section 4 of the Officer Employment Rules also requires reports to Council, Executive and Committees to include reference to Officers' interests.

### **2.7 Code of Conduct for Employees Policy**

2.8 Section 8 of the Code of Conduct for Employees Policy requires Officers to consider carefully which outside interests might give rise to a conflict in the performance of their normal duties and which ought to be disclosed to their manager and formally recorded.

2.9 Section 9 of the Code of Conduct for Employees Policy also reinforces the requirement for Officers to comply with the provisions of the Local Government Act 1972 and the Officer Employment Rules.

### 3. What is a Conflict of Interest?

3.1 For the purposes of this Protocol, a conflict of interest arises when:-

- an Officer's personal or professional interests compromise his/her integrity and/or ability to act in the best interests of the Council in respect of a particular matter, **or**
- a reasonable person, with knowledge of all relevant facts, would consider this to be the case.

3.2 The effect of this definition is that Officers should never do anything that is incapable of being justified to the public.

3.3 A consistent and corporate approach should be adopted in determining whether an Officer has a conflict of interest. If there is a conflict of interest, the Officer should not be involved in the transaction being undertaken by the Council. The following section of this Protocol outlines the procedure that should be followed.

## 4. Procedure

- 4.1 Officer interests shall be declared and recorded in accordance with the requirements of the Local Government Act 1972, Officer Employment Rules and Code of Conduct for Employees Policy.
- 4.2 An Officer who has declared an interest may only be involved in a transaction to which the declaration relates if one of the three Statutory Officers of the Council has, following (where practical) consultation with the Leader of the Council (or in his/her absence, the Deputy Leader of the Council), determined that the Officer does not have a conflict of interest. In the event that all three Statutory Officers are absent (or are otherwise unable to act), a Deputy Statutory Officer shall determine whether the Officer has a conflict of interest.
- 4.3 In the event that the Officer declaring an interest is a Statutory Officer, the determination may only be made by a Statutory Officer who does not have the same, or similar, interest.
- 4.4 Full details of Statutory Officers' Determinations shall be included in:-
  - (a) a Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol) maintained by the Monitoring Officer, and
  - (b) the Project Workbook, prepared under the Council's Project Management Framework, for the underlying proposal.

The Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol) and Project Workbook shall be available for inspection by Members of the Council.

- 4.5 The extent to which an Officer has a conflict of interest in respect of a Council transaction shall be reviewed on a three-monthly basis. This review shall, where practical, be undertaken by the Statutory Officer who made the initial determination. The provisions of paragraphs 4.2 and 4.3 of this Protocol shall apply to the review. The outcome of the review shall be recorded in the Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol).
- 4.6 The Monitoring Officer shall undertake a general review of the operation of this Protocol on a three-monthly basis. The Deputy Monitoring Officer will review any actions taken by the Monitoring Officer under this Protocol. The outcome of the review shall be recorded in the Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol).
- 4.7 An annual report shall be submitted to the Executive setting out details of the Statutory Officers' Determinations.

This Protocol was adopted by the Council on 15 October 2020.



Part 5

# **Planning Code of Practice for Councillors and Officers**

### 3. Purpose of the Code of Conduct

- 3.1. 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.

### 4. Context

- 4.1. 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.
- 4.2. 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.

### 5. General Roles and responsibilities

- 5.1. 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

- 5.2. 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.
- 5.3. 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

- 5.4. 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.

- 5.5. 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.
- 5.6. 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.
- 5.7. Councillors who are not members of the Committee do not act in any decision making role, but shall nonetheless act fairly and openly.
- 5.8. 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**

- 5.9. 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.

## **6. Code of Conduct**

- 6.1. 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.
- 6.2. 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.
- 6.3. 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.

## **7. Lobbying of Councillors**

- 7.1. 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.
- 7.2. 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.
- 

7.3. 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.

7.4. 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.

## **8. Lobbying by Councillors**

8.1. 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.

8.2. 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.

## **9. Meeting**

9.1. 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.

9.2. 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.

9.3. 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.

## **10. Presentations on likely development proposals**

10.1. 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.

10.2. 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.

## **11. Officer reports to Committee**



11.1. 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.

## **12. Committee site visits**

12.1. 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.

12.2. The Committee has adopted a procedure for site visits and this is set out at [Appendix A.](#)

## **13. Public participation at the Planning Committee**

13.1. 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.

13.2. The Public Speaking Rules at Part 4 of the Constitution provide the framework for public participation at the Planning Committee.

## **14. Planning Committee decisions contrary to officer recommendation**

14.1. 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.

14.2. 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.

## **15. Appeals against Council decisions**

15.1. 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.

15.2. 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.

## **16. Councillor and Officers as Applicants**

- 16.1. 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.
- 16.2. 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.
- 16.3. 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.
- 16.4. 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.

## **17. Training**

- 17.1. 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.
- 17.2. Suitable additional training opportunities will be arranged at regular intervals by the Head of Planning and/or the Monitoring Officer.

## **18. Review**

- 18.1. 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.



Part 6

# Wholly Owned Woking Borough Council Companies

## **Wholly Owned Company Protocols (“Company” or “Companies”)**

### **1. Introduction**

These protocols have been introduced to ensure good governance and management of all wholly owned companies. The Council owns a number of wholly owned companies. The operation and purpose of these companies aligns with the Council’s priorities. They create and deliver social value, address market failure, contribute to the Council’s finances and expand the overall service offering.

To the extent permitted by law, no wholly owned Company shall undertake any project or activity to the detriment of the Woking Borough Council (“Council” or “WBC”) or the wider interests of the communities which it serves.

### **2. Financial reporting and records**

Wholly owned companies prepare and maintain their accounts in accordance with the accounting and financial reporting standards which represent the generally accepted guidelines, principles, standards, laws and regulations of the UK. The Companies management practices and business conduct benefit the localities and communities in which it operates, to the extent possible and affordable, and are in accordance with the agreed strategies of the Council.

Internal accounting and audit procedures reflect all of the company’s business transactions and disposition of assets, and has internal controls to provide assurance to the company’s board, shareholders and stakeholders that the transactions are accurate and legitimate. All required information is accessible to company auditors and other authorised parties and the Council.

### **3. Performance and Financial Monitoring Information**

The Companies have been organised and resourced to prepare full financial activity reports as part of the statutory accounts and at Board meetings (currently 3 times a year). The Companies shall provide key information in respect of company performance against business plans, returns on investment and risk and opportunities to the Shareholder Advisory Group.

Key information in respect of the Thameswey Group is currently set out for inclusion in the Green Book.

### **4. Key Performance Indicators (KPIs) for all Companies**

With comparisons to approved budget:

- a. New lending
- b. Loan and Interest Payments
- c. Sales
- d. Capital Expenditure
- e. Employee numbers

### **5. Political non-alignment**

Subject to all applicable legal obligations, wholly owned Companies are committed to supporting the constitution and governance systems of the Council. The Companies do not support any specific political party or candidate for political office. The Company’s conduct precludes any activity that could be interpreted as mutual dependence / favour with any political body or person, and does not offer or give any company funds or property as donations to any political party, candidate or campaign.

### **6. Cooperation between wholly owned Companies**

Wholly owned companies shall cooperate with other group companies including applicable joint ventures, by sharing knowledge and physical, human and management resources. In the procurement of products and services, a group company gives preference to other group company entities, subject to relevant EU procurement rules, and as long as they can provide these on competitive terms relative to third parties.

## **7. Public representation of the company and the group**

The Companies, in all their public appearances (with respect to disclosing company and business information to public, constituencies such as the media, the financial community, employees and shareholders), may be represented by any director and/or specified employee as approved from time to time by the respective company board.

## **8. Third party representation**

Parties which have business dealings with the Companies but are not members of the group, such as consultants, contractors and suppliers, are not authorised to represent the company without the written permission of the respective board.

Third parties and their employees are expected to abide by the Group code of conduct in their interaction with, and on behalf of, a Company.

## **9. Use of the Company brand**

The use of the Company name and trademark shall be governed by manuals and agreements issued by the respective Companies. No third party or joint venture shall use the Companies brand to further its interests without specific authorisation from the board or its authorised officer.

The brand should be consistently used in all published material and communications. An administrator will be tasked to oversee the use of the brand identity to ensure consistency and training will be arranged if needed. Any new staff will be offered a short induction session on correct use.

## **10. Protecting company assets**

The assets of a Company shall not be misused; they shall be employed judiciously for the purpose of conducting the business for which they are duly authorised. These include tangible assets such as equipment and machinery, systems, facilities, materials and resources, as well as intangible assets such as information technology and systems, proprietary information, intellectual property, and relationships with customers and suppliers.

## **11. Group Policies**

The shareholders of each parent company shall recommend its board of directors adopt the policies and guidelines periodically formulated by the parent company board. Thameswey Limited operates and has approved a scheme of delegation which empowers officers of the group to make operational decisions, including committing to contracts and expenditure, within prescribed limits.

## **12. Intra Group Communications**

Members of the board of parent company board. will receive agendas, minutes and reports from each of its subsidiary's board meetings, as soon as they become available.

## **13. Shareholders**

All wholly owned companies shall be committed to enhancing shareholder value and complying with all regulations and laws that govern shareholder rights. The board of directors of the Companies shall inform its shareholders about all relevant aspects of the company's business.

## **14. Corporate citizenship**

All-Companies shall be committed to good corporate citizenship, not only in the compliance of all relevant laws and regulations but also by actively assisting in the improvement of quality of life of the people in the communities in which it operates. The company shall encourage collaboration with community groups.

No Company shall treat these activities as optional, but should strive to incorporate them as an integral part of its business plan.

## 15. Conduct

Each wholly owned Company supports the following principles of public life and the culture of the business is one of honesty and opposition to fraud and corruption. These principles are reflected in our procedures and ways of working.

There is an expectation and requirement that all individuals and organisations associated with the Companies in whatever way, such as contractors, partners and suppliers, will act with integrity and that directors and staff at all levels will lead by example in these matters ensuring adherence to legal requirements, financial regulations, codes of conduct, procedures and professional practice.

**Selflessness:** Thamesway should never improperly confer an advantage or disadvantage on any person.

**Honesty and Integrity:** Thamesway directors and staff should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

**Objectivity:** Thamesway directors and staff should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability:** Thamesway directors and staff should recognise that they are part of a body which is accountable to the public for their actions and the manner in which they carry out their responsibilities and should therefore co-operate fully and honestly with any scrutiny appropriate to their office.

**Openness:** Thamesway directors and staff should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

**Personal Judgment:** Thamesway directors and staff may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for Others:** Thamesway directors and staff should promote equality by not discriminating unlawfully against any person, and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the integrity of the statutory officers of WBC and all employees of Thamesway companies and WBC.

**Leadership:** Thamesway directors and staff should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves confidence in the actions and operations of the Thamesway Group.

## 16. Concurrent employment

Directors will be required to notify the company of external appointments but do not require prior approval. Where such appointments would put a director in a position where his interests would be conflicted, they may be approved in advance by either a resolution of the shareholders or, where a company's articles of association permit, by the board of the Company concerned.

## 17. Communication with the Shareholder Representative and Shareholder Advisory Group



The Board attaches great importance to maintaining good relationships with all shareholders, who are kept informed of significant company developments.

The Companies shall work closely with the Shareholder Representative and Shareholder Advisory Group. The Companies shall report to the SAG when requested and in accordance with the agreed work programme on matters including but not limited to, company performance against business plans, return on investment and risk and opportunities.

## **18. Reserved Matters**

The following matters are reserved to the Council for shareholder approval:

- a. Varying Articles of Association
- b. Varying ownership and structure
- c. Variations to shares (number of, rights, etc.
- d. Entering contracts that are outside of the business plan or do not relate to the business
- e. Material legal proceedings outside of ordinary business
- f. Adopting and amending business plans each year and strategic plans (3 years)
- g. Appointment, removal and the remuneration of directors (members of the company board)
- h. Selection of the chair of the board
- i. Appointment of auditors
- j. Issue of dividends
- k. as more particularly set out in a company's Articles of Association or Shareholder Agreement.

These matters shall in the first instance be considered by the Shareholder Advisory Board.

## **19. Board Governance**

A company board should not be so large as to be unwieldy. The boards should be of sufficient size that the balance of skills and experience is appropriate for the requirements of the business and that changes to the board's composition can be managed without undue disruption. As such, the composition of the Board may vary depending upon the circumstances of the entity.

To ensure that power and information are not concentrated in one or two individuals, there should be a strong presence on all boards of Independent directors. The Shareholder Representative shall attend the meetings of the Board.

The Company board shall appoint an Independent directors to be the Chairman of the Board. The Chairman will be accountable to the shareholder if it has concerns on any matter in respect of which contact through the normal channels of chief operating officer and chief financial officer, has failed to resolve or for which such contact is inappropriate. This provision is not applicable to Export House Limited and KCSC Limited.

- a. Subject to them having completed and submitted in advance, a Non-Disclosure Agreement:
  - i. The agendas of board meetings of Companies shall be available to Members of the Council; and

- ii. Members of the Council may attend board meetings as observers, by prior written notification to the Chairman of the relevant board.
- b. Subsidiary Company boards must submit any new proposals which cause changes to the Council Approved Parent Group Business Plan to the parent company which, if it supports the proposal, will recommend accordingly to the WBC Executive for consideration and recommendation thereon to the Council for approval.

## **20. Composition of the Boards**

The Composition of the Boards has been determined by Full Council. Any changes to the composition of the Boards shall be done so to ensure the directors appointed have sufficient skills and experience to run it. The composition of the Board may vary depending on the circumstance of the entity. Council Officers shall at all times be in a majority. Any changes to the composition of the Board shall be agreed by Full Council.

### Election of Chairman

The Companies shall ensure that an Independent Director shall be elected Chairman of the respective Company.

### Quorum

A quorum for each board meeting shall be at least one third of directors present which must comprise at least 1 Independent Director, and 1 Officer Director of the relevant board. In respect of those boards in which do not have an Independent Director (Export House Limited and KCSC Limited) both Officer Directors must be present.

### Alternate Directors

All Directors of subsidiary companies may appoint an Alternate Director of the same Director class (Independent, Councillor or Officer) in the event that he/she cannot attend a board meeting. The Alternate Director must be a Director of the parent company.

## **21. Company Board Meetings**

Company board meetings will usually be held in person. In the event that exceptional circumstances necessitate a paper, email, telephone, video, electronic or other form of meeting permitted by the Articles or Company law, the Company shall in the notice of the meeting state the reasons for the meeting in a different form and record in the minutes of the said meeting the reasons and the decision reached at the meeting. The minutes of the said meeting will be published as soon as possible and reported to the next normal board meeting of the Company.

## **22. Website communication**

To the extent possible to preserve commercial confidentiality, Company agendas and minutes will not be published.



**WOKING BOROUGH COUNCIL**  
**SHAREHOLDER ADVISORY GROUP - TERMS OF REFERENCE**

**Overview**

The purpose of the Shareholder Advisory Group is to advise the Leader in the exercise of his/her responsibility for the Council's functions as corporate shareholder of a company or group of companies and in their role to represent the interests of the Council as Shareholder Representative at meetings of a company.

**Decision making**

The Leader (or other Executive member appointed by the Leader for this purpose) may make decisions concerning companies in which the Council is or is proposed to become a shareholder, either:

- (a) in Executive; or
- (b) in the presence of the Shareholder Advisory Group.

**Membership and Arrangements**

The Shareholder Advisory Group shall consist of the Leader (or other Executive member appointed by the Leader for this purpose) in the presence of:

- (a) Such Members of the Executive as are appointed by the Leader (which shall be at least two);
- (b) One co-opted members, who will be an independent person providing relevant expertise and appointed on merit; and
- (c) Relevant senior officers of the Council as are appointed by the head of paid service (or their deputies); together with
- (d) The Chair of Overview and Scrutiny Committee, as a Member of the Council from outside of the Executive, to act in the capacity of Observer.

The Service Director for Finance (s151 officer) and the Service Director for Legal and Democratic Services (monitoring officer), or their deputies, will be advisors to the Group to provide open and strong advice.

Other members of the Executive (who are not directors of any of the companies concerned) may attend and vote as substitutes in the event that an appointed member of the Shareholder Advisory Group is unable to attend

**Restrictions on Membership**

As the Shareholder Advisory Group is to advise and discharge executive functions in relation to company matters and the role of the Shareholder Representative, only Executive members can be members of the Shareholder Advisory Group with voting rights, although other Executive members and non-Executive members can be invited to attend, without voting rights.

**Meetings**

The Shareholder Advisory Group shall meet on a basis agreed by itself and normally in private.

The quorum shall be the Leader (or other Executive member appointed by the Leader for this purpose) in the presence of a minimum of:

- (a) one other Executive Member;
- (b) one independent co-optee; and
- (c) one senior officer appointed to the Group (or their appointed deputy).

An invitation to attend must have been provided to the Chair of Overview and Scrutiny Committee (or their

nominated deputy) at least three clear days in advance of the meeting taking place. This notice period may be waived if the Chair of Overview and Scrutiny Committee (or their nominated deputy) so agrees.

An invitation to attend must also have been provided to the section 151 officer and the monitoring officer (or their nominated deputies), which will normally be at least three clear days in advance of the meeting taking place.

The Leader (or appointee) will chair the Shareholder Group and a Vice Chair will be selected from the elected members of the Shareholder Group.

## Sub Groups

To assist it in its functions the Shareholder Advisory Group :

1. may establish and consult standing sub-groups, such as might be required in respect of:
  - (a) Audit and Risk;
  - (b) Ethical practices; or
  - (c) Nominations and Remuneration
2. may establish and consult ad-hoc or task and finish sub-groups in respect of any matter; and
3. may establish and consult stakeholder groups on any particular aspect or the generality of the objects of the trading companies

A sub-group or stakeholder group may contain such co-opted members, advisors or observers as the Shareholder Advisory Group sees fit.

## Functions

1. Monitor the performance of a company in relation to its Business Plan and, in particular, the company's performance:
  - (a) in financial matters
  - (b) against the social goals of the company as set out in the company's Objects, Business Case or Business Plan; and
  - (c) against the values of the Council.
2. Evaluate and monitor:
  - (a) the financial and social returns on investment (be that shareholding, loans or direct investment); and
  - (b) risks and opportunities including those arising from joint ventures or new opportunities.
3. Consider matters reserved to the Council for shareholder approval, such as:
  - (a) Varying Articles of Association
  - (b) Varying ownership and structure
  - (c) Variations to shares (number of, rights, etc.
  - (d) Entering contracts that:

are outside of the business plan or do not relate to the business

- (e) Material legal proceedings outside of ordinary business
- (f) Adopting and amending business plans each year and strategic plans (3 years)
- (g) Appointment, removal and the remuneration of directors (members of the company board)

- (h) Selection of the chair of the board
- (i) Appointment of auditors
- (j) Issue of dividends

as more particularly set out in a company's Articles of Association or Shareholder Agreement.

### **Relationship**

The Shareholder Advisory Group as it considers appropriate in accordance with its functions described above, may:

1. report and make formal recommendations to the Leader, directly or to the wider Executive;
2. make reports to and consult Overview and Scrutiny (including full Council) or
3. make reports to and consult the Standards and Audit Committee, in relation to that Committee's particular functions.

## Directorships

### Thameswey

Thameswey Limited	<p>Independent (Individual Appointment) Paul Grimshare Terry Price William Prescott</p> <p>Council (Appointment by Role) Chief Executive Strategic Director of Place Strategic Director of Communities Strategic Director of Corporate Resource</p> <p>Clyde Secretaries Limited (Company Secretary)</p>
Thameswey Developments Limited	<p>Independent (Individual Appointment) Terry Price Recruit another Independent Director</p> <p>Council (Appointment by Role) Chief Executive Strategic Director of Communities Strategic Director of Place</p> <p>Clyde Secretaries Limited (Company Secretary)</p>
Thameswey Housing Limited Thameswey Guest Houses Limited	<p>Independent (Individual Appointment) Terry Price Recruit another Independent Director</p> <p>Council (Appointment by Role) Chief Executive Strategic Director of Corporate Resource Strategic Director of Communities</p> <p>Clyde Secretaries Limited (Company Secretary)</p>
Thameswey Energy Limited Thameswey Central Milton Keynes Limited	<p>Independent (Individual Appointment) William Prescott Paul Grimshare</p> <p>Council (Appointment by Role) Chief Executive Strategic Director of Corporate Resource Strategic Director of Place</p> <p>Clyde Secretaries Limited (Company Secretary)</p>

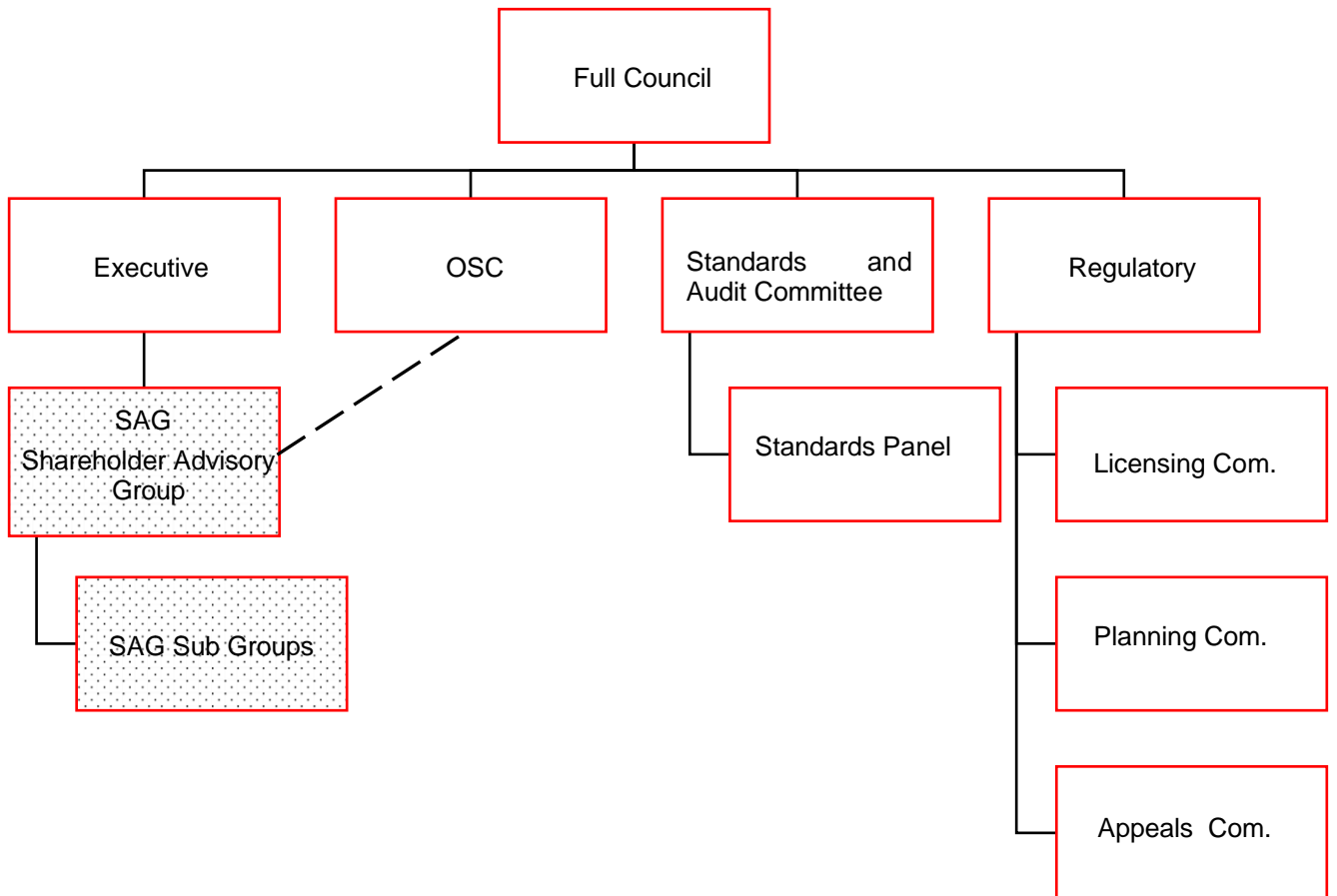
Thamesway Solar Limited Thamesway Sustainable Communities Limited	Independent (Individual Appointment) Paul Grimshare  Council (Appointment by Role) Chief Executive Strategic Director of Place  Clyde Secretaries Limited (Company Secretary)
Thamesway Maintenance Services Limited Energy Centre For Sustainable Communities Limited	Independent (Individual Appointment) Terry Price  Council (Appointment by Role) Chief Executive Strategic Director of Corporate Resource  Clyde Secretaries Limited (Company Secretary)
Joint Venture  Rutland (Woking) Limited Rutland Woking (Carhouse Lane) Limited Rutland Woking (Residential) Limited	Council (Appointment by Role) Chief Executive Strategic Director of Communities  Non Council James McAllister Marc Riggs  Jonathan Riddings (Company Secretary)

Woking Necropolis and Mausoleum Limited Brookwood Cemetery Limited Brookwood Park Limited	Independent (Individual Appointment) Chris Reid Shahid Azeem  Council (Appointment by Role) Chief Executive Strategic Director of Corporate Resource Strategic Director of Place  Clyde Secretaries Limited (Company Secretary)
Export House (Property holding company only – proposed to bring back in house)	Council (Appointment by Role)  Strategic Director of Place Assistant Director (Property)  Clyde Secretaries Limited (Company Secretary)
Kingfield Community Sports Centre Limited (Property holding company only – proposed to bring back in house)	Council (Appointment by Role)  Strategic Director of Place Assistant Director (Property)  Clyde Secretaries Limited (Company Secretary)

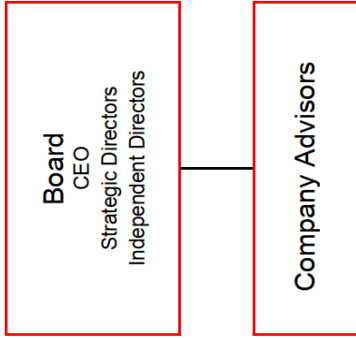


<p>Joint Venture Woking Shopping Limited</p>	<p>Council (Appointment by Role) Strategic Director of Place Assistant Director (Property)</p> <p>Non-Council Paul Hearn Peter Robinson</p>
<p>Joint Venture Victoria Square Woking Limited Victoria Square Residential Limited VSW Hotel limited</p>	<p>Council (Appointment by Role) Chief Executive Strategic Director of Corporate Resource</p> <p>Non-Council John Kingsbury</p> <p>John Robinson Peter Robinson</p> <p>Paul Hearn (Company Secretary)</p>
<p>Joint Venture LAC 2021 Limited (Dormant)</p>	<p>Council (Appointment by Role) Strategic Director of Place</p> <p>Non WBC Council Ray Lee (Elmbridge BC) Nicholas Stevens (Surrey Heath BC)</p>

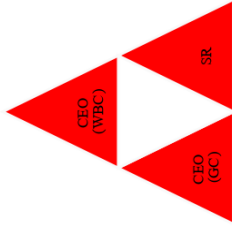
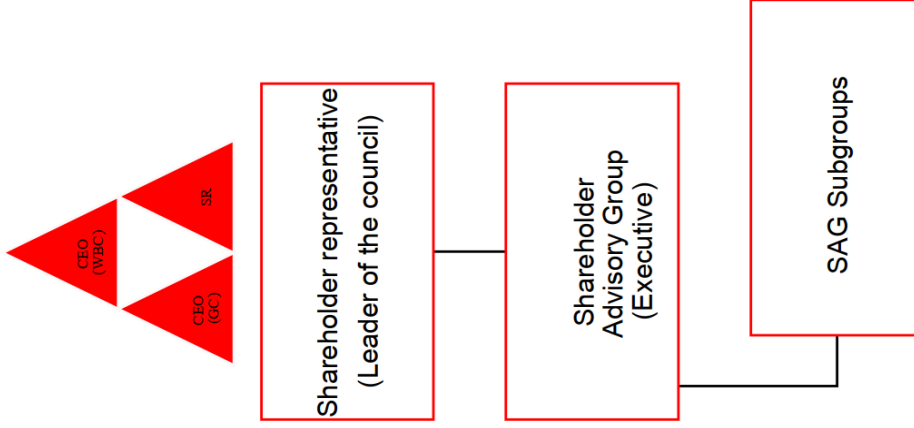
**VISUAL OVERVIEW OF THE MODEL**



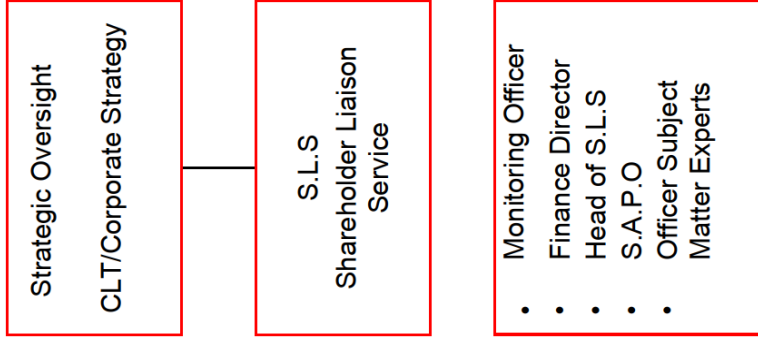
### Group Company



### Members



### Officer



# **Local Code of Corporate Governance**

### 1.1.1.1. Introduction

2. Woking Borough Council recognises the need to ensure that its affairs are managed in a way which achieves the highest standards of corporate governance.
3. This Code sets out for members and officers the main principles of good governance for Woking Borough Council.

#### 4. What is Corporate Governance?

5. Governance comprises the arrangements put in place to ensure the intended outcomes for stakeholders are defined and achieved.
6. Good governance is how the Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems, processes, cultures and values by which the Council is directed and controlled. Through effective governance the Council is accountable to, engages with and, where applicable, leads the community.

#### 7. What is the Purpose of the Code?

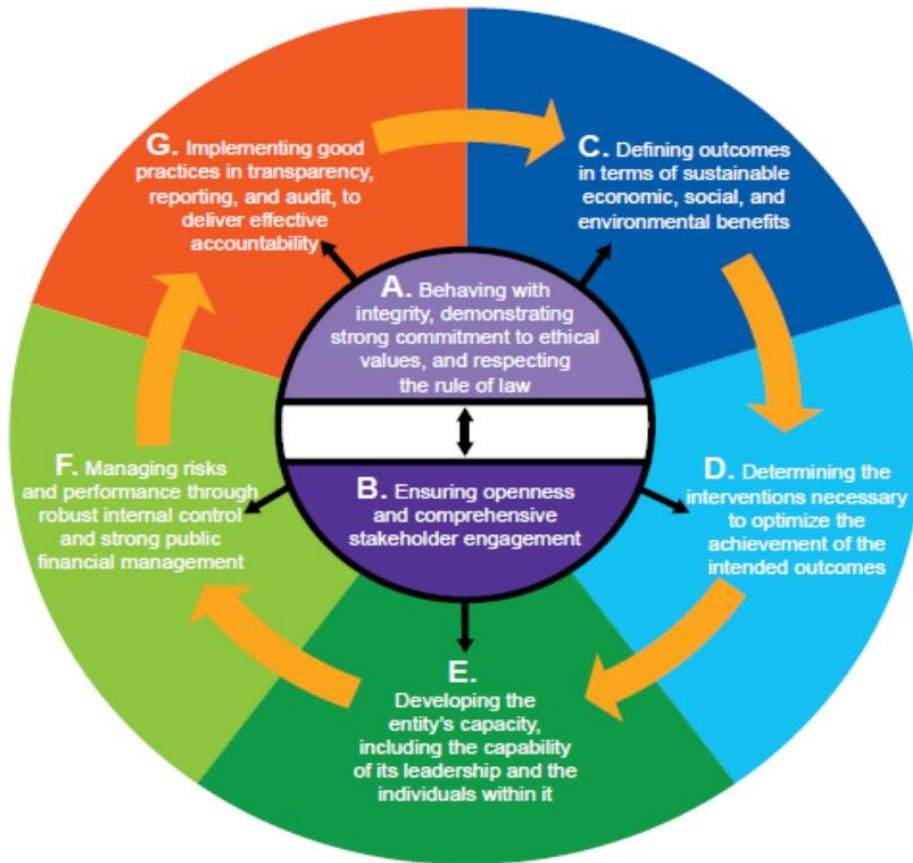
8. This Code is intended to support political and officer leadership with developing and maintaining robust governance across the whole governance system.
9. The Code is the framework within which the Council is accountable to its users, stakeholders and the wider community. It sets out and describes the way in which the Council carries out its functions through its members and officers, and the procedures and processes through which it undertakes its work, and through which it aims to establish and maintain public confidence.

#### 10. What is the Code based upon?

11. It is based on existing good practice within the Council and is consistent with the CIPFA framework for Delivering Good Governance in Local Government (CIPFA/Solace, 2016)
12. The Council is committed to the principles of good governance, and has adopted the seven core principles of the CIPFA and SOLACE framework as follows:

- Behaving with Integrity
- Ensuring Openness
- Defining Outcomes
- Determining effective interventions
- Developing Capacity
- Managing Risks and Performance
- implementing good practices
- Transparent and Effective Accountability

The diagram below, taken from the International Framework: Good Governance in the Public Sector (CIPFA/IFAC, 2014) (the 'International Framework'), illustrates how the various principles of good governance in the public sector relate to each other.



Full details of the seven principles with the respective sub-principles, together with the actions and behaviours that can demonstrate compliance is provided in Appendix 1.

### How does Woking ensure good governance?

The Council's approach to governance takes account of the environment in which it operates. The Council's aim is to ensure resources are directed in accordance with agreed policy and priorities; there is sound and inclusive decision making; and there is clear accountability for the use of those resources in order to achieve desired outcomes for service users and communities.

All Members have an important role to play in representing their constituents, as well as acting together as the Council. Officers serve the Council as a corporate body rather than any political group, combination of groups, or individual member.

Members and Officers should work in an atmosphere of mutual trust and respect. Members determine the Council's policies and Officers are responsible for implementing decisions taken by the Council, Leader, Executive and / or the appropriate committee as well as taking decisions delegated to them under the Scheme of Delegation. The Overview and Scrutiny Committee reviews and scrutinises the Council's performance.

In discharging these duties all parties should act in an open, honest and transparent manner.

The Council seeks to ensure the highest standards are met, and governance arrangements are not only sound but are seen to be sound.

### Who is accountable for corporate governance?

All members and officers are expected to commit to the Council's principles of good governance; however, there are specific responsibilities for the following individuals and groups:

The Corporate Leadership Team has a collective responsibility for good governance, but this is underpinned by the role of the three statutory officers of the Council:

- Head of Paid Service – Chief Executive
- Monitoring Officer – Director of Legal and Democratic Services
- Section 151 Officer – Finance Director

Chief officers are responsible for the policies and procedures which form part of this Code and that fall within their functional responsibilities. Each chief officer is supported by senior managers who are responsible for ensuring that the relevant policies and procedures are up to date, are being complied with and are effective in achieving good governance.

Most of the arrangements are set out in the Council's constitution and supporting policies and documentation. However, the Council recognises that these arrangements must be kept up-to-date and need to be kept under review to ensure that they remain appropriate and are improved where possible. Without proper monitoring, the effectiveness of the Council's arrangements could be compromised so the Council will ensure that systems are in place to monitor compliance with the agreed processes and procedures including the Annual Governance Statement.

### **Who has responsibility for maintaining the Code?**

To ensure the Code is effectively maintained, we will:

- Update the Code with developments in best practice and leading guidance
- Undertake an annual review of Corporate Governance that incorporates the Annual Governance Statement

The Standards and Audit Committee will have responsibility for providing assurance to Council in respect of:

- The effectiveness of the Council's Corporate Governance arrangements
- The approval of the Annual Governance Statement
- The effectiveness of the Council's financial and non-financial performance