

# FAREHAM

BOROUGH COUNCIL

## CONSTITUTION

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## **Introduction (Pages 7 - 12)**

The purpose of this Constitution is to set out how Fareham Borough Council works, how its decisions are taken and what procedures will be followed to make sure that Council is efficient, transparent and accountable to local people.

## **PART ONE - The Constitution**

The formal part of the Constitution which is divided into 16 Chapters that set out the basic rules governing the way the Council operates.

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# Introduction to the Constitution of Fareham Borough Council and Summary Overview

## Purpose

The purpose of this Constitution is to set out how Fareham Borough Council works, how its decisions are taken and what procedures will be followed to make sure that Council is efficient, transparent and accountable to local people.

## Background

The Council is responsible for a wide range of services. Some of these must be provided by law – others are discretionary. The Council is a statutory body – that is, a body created under an Act of Parliament. A statutory body can only do things that it is specifically to do by law, by statutory regulations or by decisions of government ministers, who have been authorised to make them by Parliament.

## The Council's Job

The Council's job is to deliver local government services to the people of Fareham. Currently, it provides the following main services:

- Planning and Development Control
- Housing
- Environmental Health
- Refuse Collection
- Street Cleansing
- Leisure Facilities, Parks, Recreation Grounds and Public Open Spaces
- Cemeteries
- Economic Development
- Conservation and Protecting the Environment
- Community Funding

## How are they paid for?

Money for local government services comes from:

- Income from Fees and Charges
- Central Government Grants
- Reserves and Balances
- National Business Rates
- Council Tax

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## What's in the Constitution?

For ease of reference, the Constitution has been divided into eight parts. Parts one, two and three form the main part of the Constitution. They are sub-divided into chapters that set out the basic rules governing the way that the Council operates. Parts four to eight are supporting documents that describe more detailed procedures. These include the Council's Standing Orders, Codes of Conduct and the Scheme of Delegations to Officers.

A more detailed description of each Part is as follows:

**Part One** is the formal Constitution of the Council. It is divided into the following Chapters:

Chapter 1 – Purpose and Interpretation of the Constitution – describes the contents of the Constitution and explains the terms and phrases used in the document.

Chapter 2 – Members of the Council – explains the composition of the Council, the terms of office of Members, their role and their right to receive appropriate allowances

Chapter 3 – Citizens and the Council – explains the rights of access of Members of the public to information and involvement in the Council's business.

Chapter 4 – The Role of the Council – sets out the role of the Council in setting policies, strategies and budgets and in allocating functions to its Executive, Committees and Officers.

Chapter 5 – The Mayor and Deputy Mayor – describes the roles of the Mayor and Deputy Mayor

Chapter 6 – The Executive – gives information about the roles and responsibilities of the Executive, the Executive Leader of the Council and the way in which the Executive should carry out its duties.

Chapter 7 – Overview and Scrutiny – explains how the Council organises the overview and scrutiny of executive decisions.

Chapter 8 – Non-Executive (Regulatory) Functions – contains information about the way that the Council deals with those functions that are not the responsibility of the Executive.

Chapter 9 – Audit and Governance Standards Sub-Committee – includes details of the arrangements that have been made to ensure that the Council's members and Officers adopt high standards of behaviour.

Chapter 10 – The Council's Officers – gives details of the Council's officer structure.

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Chapter 11 – Decision Making – explains how the Council makes its decisions.

Chapter 12 – Joint arrangements – sets out the rules which apply where the Council sets up joint arrangements with other local authorities to undertake any of its functions.

Chapter 13 – Legal, Financial and Contract Matters – provides the formal power for the Council to make Standing Orders for Meetings, contracts, legal matters and Financial Regulations.

Chapter 14 – Review and Revision of the Constitution – explains the arrangements the Council must follow for the review of and revision to, the Constitution.

Chapter 15 – Interpreting the Constitution: Suspending the Constitution – explains how the Constitution can be suspended, its interpretation and the way in which it must be published.

Chapter 16 – Codes of Conduct – provides for the making of Codes of Conduct, protocols and rules relating to the standards of behaviour applicable to all Council members and officers.

**Part Two** contains details of the allocation of functions between different parts of the Council. It also provides an explanation of powers delegated to the Executive, the Scrutiny Panels, other Committees and Officers.

**Part Three** contains the rules about the way in which the Council must operate and make decisions. It makes provision for consultation both within the Council and with Members of the public and specifies how and when information will be made available to the public.

**Part Four** contains the ‘stand-alone’ documents including documents such as the Council’s Standing Orders, Financial Regulations and the Scheme of Delegations to Officers.

**Part Five** contains the Codes of Conduct specifying the standards of behaviour required of Members and Officers.

**Part Six** explains the scheme of allowances payable to Members.

**Part Seven** gives details of the Council’s current officer management structure.

**Part Eight** gives the current names and addresses of all the Council’s Members and shows the membership of the Executive, Scrutiny Board and its Panels and Committees of the Council.

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## How the Council operates

The Council is made up of 31 Members who are normally elected for a four-year term. They make all major decisions, meeting as either full Council, in an Executive of six Members, or in a Committee. All these meetings are normally open to the public. Most decisions are taken collectively, although some decision making has been delegated to individual Members of the Executive or to the Council's Officers.

Members are democratically accountable to the residents of their ward. They have a special duty to their constituents, including those who did not vote for them, but their overriding duty is to the whole community. Their responsibility is to deliver services to the people of the Borough in an open and cost-effective way, acting in the best interests of Fareham. This sometimes means that the 'greater good' has to take precedence over the interests of a particular individual or group, but this is how the democratic system works.

At meetings of Council, it is the responsibility of Members to:

- Decide the Council's overall policies
- Set the Council's budget each year
- Appoint the Executive Leader
- Decide the roles of Members serving on the Executive
- Determine the arrangements to scrutinise policies and budgets proposed by the Executive
- Hold the Executive and Committees of the Council (and any Members and Officers acting on behalf of the Executive) to account for the decisions they take
- Receive any petitions and/or deputations submitted by Members of the public.

## How decisions are made

The Executive is part of the Council that is responsible for most of its day-to-day decisions. Usually, the political party having the greatest number of Members on Council will form the Executive and will decide the Council's policies.

The Executive is made up of six Members, one of whom is the Executive Leader of the Council. When major decisions are to be made, these have to be published by the Executive Leader in the Executive's Notice of Key Decisions in so far as they can be anticipated. The Executive can only make decisions that are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the Council's budget or policy framework, this must be referred to Council to decide.

The work of the Executive and of the Council is supported by 6 Scrutiny Panels, which are directly associated with each of the 6 Executive Portfolios. The purpose of these Scrutiny Panels is to hold the Executive Portfolio Holders' and Senior Officers to account, in the delivery of the service and the Improvement Actions identified in the Council's Corporate Priorities and Corporate Vision.

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The Scrutiny Panels will undertake an external scrutiny function as well and can invite external organisations operating within the Borough to attend meetings to present information and respond to questions. Scrutiny Panel Members are able to directly support local projects and initiatives by suggesting that these are added to the policy development work of the relevant Scrutiny Panel. Any Executive decisions subject to the formal Call-In process will be considered by the relevant Scrutiny Panel.

*A 'relevant Scrutiny Panel' is that Panel for which the item of business for consideration falls within the remit of the associated Executive Portfolio for that Scrutiny Panel.*

Decisions on certain legally defined matters such as planning and licensing applications, certain financial matters and election procedures are taken by the Planning, Audit and Governance and Licensing and Regulatory Affairs Committee as appropriate.

## The Council's Officer

Officers are employed by the Council to give advice, implement decisions and manage the day-to-day delivery of its service. Some officers have a prescribed duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationship between officers and Members of the Council.

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## The Constitution - Part One

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## Part One: Chapter 1 - Purpose and Interpretation of the Constitution

- 1.1 The Borough Council is committed to exercising its powers, duties and responsibilities:
- a) lawfully;
  - b) fairly and equitably;
  - c) openly and transparently;
  - d) in accordance with the interests of the community of Fareham as a whole, taking account of more local interests as appropriate; and
  - e) in accordance with this Constitution.

### Constitution Document

- 1.2 This document, with its various attachments, is the Constitution of Fareham Borough Council ('the Constitution').

### Purpose of the Constitution

- 1.3 The purpose of the Constitution is to set out in a single document how the Borough Council works and how it makes decisions. It also provides the Council with an operational framework to do its job and to meet its Corporate Objectives.
- 1.4 Setting out in the Constitution the way in which the Council works is intended to:
- a) enable the Council to provide appropriate leadership to the community in partnership with local people, businesses and other organisations;
  - b) support the involvement of local people in the process of local authority decision-making;
  - c) help councillors to represent their constituents effectively;
  - d) enable decisions to be taken efficiently and effectively;
  - e) create an effective means of holding decision-makers to public account;
  - f) ensure that no member or officer of the Council will review or scrutinise a decision in which they were directly involved;
  - g) provide a means of improving the delivery of services to the local community; and
  - h) ensure that all members and employees of the Council maintain the highest standards of conduct.

### Review of the Constitution

- 1.5 The Borough Council will regularly monitor and evaluate the operation of the Constitution, advised by its Monitoring Officer.

### Interpretation

- 1.6 For the purposes of the Constitution, the following definitions, except where otherwise stated, will apply:

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**Budget** - the 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.

**Policy Framework** - means the following Plans and Strategies:

- a) Affordable Housing Strategy;
- b) Licensing Policy;
- c) Fareham Borough Local Plan 2037;  
The Welborne Plan;
- d) Community Safety Strategy
- e) Corporate Strategy; and
- f) Statement of Gambling Policy.

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## Part One: Chapter 2 - Members of the Council

### Composition

- 2.1 The Council has 31 members, known as councillors. Each councillor represents one of the wards in the Borough and is elected by the voters on the electoral roll for that ward, in accordance with a scheme drawn up by the former Local Government Commission (now Boundary Committee) and approved by the Secretary of State.

### Eligibility

- 2.2 Only registered voters within the Borough area, or those living or working there, will be eligible to stand for election and hold the office of Councillor.

### Election and terms of office of Councillors

- 2.3 Fareham's Councillors are elected half at a time; that is, 15 seats will be contested at one election and 16 seats at the next. The elections usually take place on the first Thursday in May, unless the Government legislates otherwise.
- 2.4 The term of office of each Councillor will be four years, starting on the fourth day after being elected and finishing after the date of the regular election four years later.
- 2.5 In the event of any person elected at the ordinary elections ceasing to be a Councillor, the Council shall declare a vacancy in accordance with the statutory provisions in force at that time. The term of office of the person elected to fill the vacancy shall be for the remainder of the period of office of the previous holder of that office of Councillor.

### Roles and Functions of all Councillors

- 2.6 The roles and functions of all Councillors will be as set out in this Constitution. In undertaking these roles, Councillors are expected to maintain the highest standards of ethics and conduct and at all times to comply with the statutory provisions relating to the office of Councillor and the Council's Code of Conduct for Members in Part Five of this Constitution.
- 2.7 Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for them to perform their functions properly, in accordance with the spirit and intent of this Constitution. Councillors will not make public, information that is confidential or exempt without the specific consent of the Council or divulge information given in confidence to any person other than a Councillor or Officer who is entitled to know it. For this purpose, 'confidential' and 'exempt' information is as defined in the Access to Information Procedure Rules in Part Three of this Constitution.

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## Conduct

- 2.8 Councillors will at all times observe the Council's Code of Conduct for Members set out in Part Five of this Constitution.

## Allowances

- 2.9 Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part Five of this Constitution.

## Membership of the Council, the Executive, Scrutiny Panels and Committees of the Council

- 2.10 The names and addresses of the Members of the Council are set out in Part Eight of this Constitution. That part of the Constitution also contains details of the membership of the Executive, all Panels and Committees of the Council.
- 2.11 The Monitoring Officer will be the Proper Officer responsible for maintaining this information.

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## Part One: Chapter 3 - Citizens and the Council

### Citizen's rights

- 3.1 The rights of local citizens to have access to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part Three of this Constitution.

### Voting and Petitions

- 3.2 Citizens on the electoral roll for the Borough Council's area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution. There can be no more than one referendum in any one period of five years. The Local Authorities' (Referendums) (Petitions and Directions) (England) Regulations 2011 state that where a local authority receives a petition for a referendum for an elected mayor, signed by at least five per cent of the local electorate, the Council must hold such a referendum.

### Rights to information

- 3.3 Local citizens have the right to:
- a) attend all meetings of the Council, the Executive, the Scrutiny Panels, Committees and Sub-Committees, except during items where confidential or exempt information is likely to be disclosed (in which case the meeting is held in private);
  - b) find out from the Notice of Key Decisions what key decisions the Executive will take and when. A key decision is defined as one that is likely:
    - to result in the Council incurring expenditure or making savings which are significant in terms of budget for the service or function to which it relates; or
    - to be significant in terms of its effects on two or more of the Borough's electoral wards.
- (Subject to exceptions in cases of urgency, the notice of key decisions must contain details of all matters likely to be the subject of key decisions for 28 days);
- c) see reports and background papers and any records of decisions made by the Council, the Executive, the Scrutiny Panels, Committees and Sub-Committees; and
  - d) inspect the Council's accounts and make their views known to the Council's External Auditors.

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## Participation and Consultation

- 3.4 Citizens have the right to participate in meetings of the Council, the Executive, the Scrutiny Panels and Committees by submitting a deputation. Details of the arrangements that apply to the submission of deputations are set out in Part Three of this Constitution. Citizens can expect to be consulted on significant issues on either a local or Borough-wide basis, depending on the nature of the matter and its relative effect on the community. The Council has well-developed arrangements for consultation on key areas of its activities and has established Community Action Teams across the Borough in partnership with other public authorities such as the police and county council.

## Complaints

- 3.5 Citizens have the right to complain to:
- a) the Council under its complaints scheme;
  - b) the Local Government Ombudsman if, after using the Council's own complaints scheme, he or she still remains dissatisfied at the Council's response; and
  - c) the Monitoring Officer, concerning any alleged breach of the Council's Code of Conduct for Members.

## Citizens' Responsibilities

- 3.6 Citizens are expected to conduct themselves in a reasonable manner, in line with normally-accepted standards in a civilised society, when they deal with councillors or officers and attend any meetings of the Council, the Executive, the Scrutiny Panels and Committees. In particular, citizens must not be violent, abusing or threatening to councillors or Council employees and must not wilfully harm items owned by the Council, councillors or employees.

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## Part One: Chapter 4 - The Role of the Council

### Functions reserved to the Council

- 4.1 In addition to any responsibilities described or referred to elsewhere in this Constitution, only the Borough Council will discharge those functions and make decisions on all matters which the law specifically requires the Council to make. In particular, only the Council will exercise the following functions:
- a) adopting the Constitution and any subsequent changes to it;
  - b) adopting the Council's Code of Conduct for Members;
  - c) approving or adopting the Council's Policy Framework, Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
  - d) taking decisions which are not the responsibility of the Executive and which have not been delegated by the Council to committees, sub-committees or officers of the Council;
  - e) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part Three of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the Policy Framework or the Budget, where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
  - f) appointing the Executive Leader and members of the Executive;
  - g) agreeing and/or amending the terms of reference of Committees and Panels established by the Council, deciding on their composition and making appointments to them;
  - h) appointing representatives to outside bodies, unless the appointment is an Executive function or the appointments have been delegated by the Council;
  - i) adopting a members' allowances scheme;
  - j) changing the name of the area;
  - k) conferring the title of honorary alderman or granting the freedom of the Borough;
  - l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
  - m) all local choice functions set out in Part Two of this Constitution which the Council decides should be undertaken by itself rather than by the Executive; and

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n) All other matters which by law must be reserved to the Council.

- 4.2 At the appropriate time, on each occasion as it arises, a committee of the Council will be established for the appointment of the Chief Executive Officer, Chief Officers and, unless otherwise delegated, Deputy Chief Officers.

### Appointment of the Chief Executive Officer and Chief Officers

- 4.3 The role of the Council and the Executive in the arrangements for the recruitment of the Chief Executive Officer and Chief Officers will be in accordance with Chapter 10 of this part of the Constitution and the provisions contained in the Standing Orders with respect to the Appointment, Dismissal and Discipline of Employees, contained within Part Four of this Constitution.

### Council meetings

- 4.4 There are three types of Council meetings:
- a) the annual meeting;
  - b) ordinary meetings; and
  - c) extraordinary meetings.
- 4.5 All such meetings of the Council will be conducted in accordance with the Standing Orders with respect to Meetings set out in Part Four of this Constitution.

### Responsibility for functions and delegations

- 4.6 The Council will maintain the information in Part Two of this Constitution in respect of the responsibilities and delegation arrangements for the Council's functions that are not the responsibility of the Executive.

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## Part One: Chapter 5 - The Mayor and Deputy Mayor

### Election

- 5.1 The Mayor and Deputy Mayor will be elected by the Council at its Annual Meeting. The Mayor will be the Civic Head of the Council.

### Functions

- 5.2 The Mayor will, if present, preside over all meetings of the Council and ensure that the meeting is held in accordance with the Standing Orders of the Council with respect to Meetings, as set out in Part Four of this Constitution. In his/her absence, such duties will be undertaken by the Deputy Mayor.
- 5.3 The Mayor will represent the Council, or will be entitled, should the Deputy Mayor be unable to attend, to appoint another Councillor to represent the Council, at all formal ceremonial occasions as may be appropriate, within and outside the Borough.
- 5.4 The duties and responsibilities of the Mayor and Deputy Mayor are described in more detail in Appendices 2 and 3 to this Part of the Constitution.

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## Part One: Chapter 6 - The Executive

### Form of Executive

- 6.1 The Executive will be in the form of an Executive Leader and Executive, as provided for in the Local Government and Public Involvement in Health Act 2007.

### Form and composition

- 6.2 The Executive will consist of six members, including the Executive Leader of the Council, subject to the provisions of paragraph 6.16.
- 6.3 Except where otherwise provided for by legislation or in this Constitution, the Executive will be responsible for all functions of and matters affecting the Council. Such duties, particularly in respect of those functions referred to in Regulations 3 and 4 of the Local Authorities (Functions and Responsibilities) Regulations 2000, are set out in more detail in Part 2 of this Constitution.

### Meetings

- 6.4 Proceedings of meetings of the Executive will take place in accordance with the provisions of the Council's Standing Orders with respect to Meetings as set out in Part 4 of this Constitution.
- 6.5 The Chief Executive Officer will be responsible for calling all Executive meetings in accordance with the provisions contained within the Council's Standing Orders for Meetings.
- 6.6 Meetings of the Executive and any of its Committees or Sub-Committees at which Key Decisions are to be taken, will be held in public except in those circumstances, as provided for in the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012, where meetings may be held in private. The Executive may determine whether meetings relating to matters that are not Key Decisions will be held in public or private.
- 6.7 The quorum for meetings of the Executive will be three.

### Responsibility for functions and delegations

- 6.8 The Chief Executive Officer will maintain the information set out in Part Two of this Constitution to show which individual members of the Executive, Committees or Sub-Committees of the Executive, officers or through joint arrangements are responsible for the exercise of particular functions.
- 6.9 The Chief Executive Officer will be responsible for ensuring that a register of powers delegated to individual councillors and employees is maintained at all times. This Register of Delegations will be placed on deposit at the offices of the Borough Council and will be available for public inspection during normal office hours.

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## Executive Leader

- 6.10 The Executive Leader will act as the principal political leader of the Council. The particular duties and responsibilities assigned to the role will be as described in Appendix 4 to Part 1 of this Constitution. The Executive Leader will be a Councillor elected by the Council at the Annual Meeting of the Council in accordance with the Council's Standing Orders for Meetings. The Executive Leader of the Council will be eligible to stand for re-election.
- 6.11 The term of office of the Executive Leader will be for four years or until one of the following events occur:
- a) he or she resigns from office;
  - b) he or she is suspended from being a Councillor under Part 3 of the Local Government Act 2000 (although he or she may resume office at the end of any period of suspension);
  - c) he or she is no longer a councillor; and
  - d) he or she is removed from office by resolution of the Council.

## The Executive

- 6.12 The Executive Leader will appoint the members of the Executive at its Annual Meeting.
- 6.13 The Executive Leader of the Council will allocate responsibility for the functions of the Executive between the members of the Executive.
- 6.14 The Executive Leader of the Council will appoint a Deputy Executive Leader from amongst the members of the Executive. The Deputy Executive Leader will, in addition to any other responsibilities arising from his/her membership of the Executive, have all the powers and duties of the Executive Leader in the Executive Leader's absence.
- 6.15 The term of office of each member of the Executive will be two years or until one of the following events occur:
- a) he or she resigns from the office;
  - b) he or she is suspended from being a Councillor under Part Three of the Local Government Act 2000;
  - c) he or she is no longer a Councillor; and
  - d) he or she is removed from office by resolution of the Council.
- 6.16 The Executive Leader may, however, at his own volition, amend the number of members of the Executive, subject to any legislative requirements applicable to changes to the Council's Constitution or its Executive arrangements.

## Appointment of the Council's Chief Executive Officer, Directors and Chief Officers

- 6.17 The roles of the Executive and the Council in the recruitment of the Council's Chief Executive Officer, Directors, Chief Officers and Deputy/Assistant Chief Officers will be in accordance Chapter 10 of this part of the Constitution and with the provisions contained in the Standing Orders with respect to the Appointment, Dismissal and Discipline of Employees, set out in Part Four of this Constitution.

## Strategic Plans, Policy and Budget Setting

- 6.18 The Council will be responsible for the adoption of its Policy Framework and Budgets as set out in this Constitution. Once these have been adopted, it will be the responsibility of the Executive to implement them. The Executive will be responsible for initiating, preparing, amending and making recommendations to the Council on all matters relating to the Policy Framework and Budgets of the Council. The responsibilities of the Scrutiny Panels and of the ordinary committees in relation to the preparation of the Policy Framework and the Budget will be as consultees, representing the views of the community. The actual arrangements for determining these various issues will be in accordance with the provisions contained in Part Three of this Constitution.

## Notice of Key Decisions

- 6.19 The Executive Leader will be responsible for preparing the Notice of Key Decisions in accordance with the provisions set out in Part Three of this Constitution.

## Decision-making where an Executive member is absent

- 6.20 Where an Executive Member is absent or otherwise unable to act and action on any matter delegated to him/her is required, the Executive Leader may take that action himself or delegate responsibility for it to another Executive Member

## Records of decisions

- 6.20 Every decision of the Executive or an Executive Member must be taken and recorded in accordance with the Executive Arrangements (Decisions, Documents and Meetings) (England) Regulations 2012 and in accordance with the provisions set out in Part Three of this Constitution.

## The role of Proper Officers

- 6.21 The provisions set out in Part Three of this Constitution identify the Proper Officers' appointed by the Council, together with their roles and responsibilities in respect of the recording and timing of the publication of Executive decisions.

## Letting of contracts

- 6.22 Where any decision of the Executive relates to the letting of a contract, an employee or employees of the Council with delegated powers for this purpose must sign such a contract, in accordance with the Council's Standing Orders with respect to Contracts in Part Four of this Constitution. No members will sign contracts.

## Decisions outside the Policy Framework and Budget

- 6.23 All decisions taken by the Executive, Executive Members and employees should be in accordance with the Council's approved Policy Framework and budgets. In any case where the Chief Executive Officer, Monitoring Officer or Chief Finance Officer advises that a proposed decision is contrary to the Policy Framework or budget, the Executive will refer the matter to the Council for decision, unless it is urgent in which case it will be dealt with under the provisions of paragraph 6.24 below.

## Urgent decisions

- 6.24 The provisions in Part 3 of this Constitution will apply where it is considered that a decision on any matter is required urgently in the interests of the functions and services administered by the Council. These provisions will apply to decisions taken by the Executive, by individual members or, through delegated powers, by officers.

## Disputes

- 6.25 In the event that the Council is unwilling to adopt a policy, proposal or a budget submitted to it by the Executive, the arrangements for resolving such disagreement will be in accordance with the arrangements in Part 3 of this Constitution.

## Publicity

- 6.26 The Executive will have powers to issue press releases and carry out such other publicity initiatives as it deems necessary for the furtherance of the objectives of the Council. This will include the dissemination of any information relating to the functions and services of the Council and any action that the Council may take or wish to take for the benefit of residents and other interested parties within the Borough.

## Employee support

- 6.27 The Chief Executive Officer will ensure that appropriate arrangements are made to provide adequate employee support to the Executive and any other democratic meetings or processes.

## Opposition Spokesmen

- 6.28 Each political group not represented on the Executive may appoint spokesmen for executive functions. The number of such spokesmen appointed by any group shall include the group leader and may not exceed the number of members of the Executive. The group leader shall act as the group's spokesman on the areas of responsibility

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held by the Executive Leader and each other member so appointed shall act as their groups spokesman on one or more areas of Executive responsibility held by other members of the Executive. A group shall not appoint more than one spokesman for any one area of Executive responsibility. Such appointments may be made at the Annual Council meeting, at any other Council meeting or within seven days of any change in the areas of Executive responsibility by written notice from the group leader to the Chief Executive Officer. Where such appointments are made otherwise than at a Council meeting, the Council shall be advised of them at its next meeting.



## Part One: Chapter 7 - Overview and Scrutiny

- 7.1 Under the terms of the Local Government Act 2000, the Council must establish at least one Overview and Scrutiny committee. The Council has decided to appoint six Scrutiny Panels to undertake the functions conferred by Section 21 of the Act. Representation on the Scrutiny Panels will be in the same proportion as the political composition of the whole Council, in accordance with the proportionality rules contained within the Local Government and Housing Act 1989. Members of the Executive will not be eligible for appointment as a Member of any Scrutiny Panel.

### Membership

- 7.2 The Council will appoint the Scrutiny Panels at its Annual Meeting. The Scrutiny Panels will consist of seven councillors, provided that the Council may at any time amend the number, terms of reference and membership of the Scrutiny Panels, subject to such changes ensuring that the functions conferred by Section 21 of the Local Government Act 2000 will be undertaken.

### Functions

- 7.3 The functions of the Scrutiny Panels will be:
- a) To assist the Council and the Executive in policy scrutiny and in particular, the preparation, review and amendment of the Council's policy framework, budget, key strategies or similar documents as the Executive may recommend to the Council for adoption; and
  - b) To formulate new policy proposals for consideration by the Executive.
- 7.4 The Terms of Reference of the Scrutiny Panels will be in accordance with the provisions in Part Two of this Constitution.

### Chairmen

- 7.5 The roles of the Chairmen of the Scrutiny Panels will be as described in Appendix 6 to this part of the Constitution.

### Co-opted members

- 7.6 Where the Council, at its discretion, considers that co-opted members with particular skills and expertise will enhance the work of a Scrutiny Panel, it may appoint non-Councillors without voting rights to all or any such Scrutiny Panel. The Scrutiny Panels may also co-opt non-councillors as they deem appropriate, subject to such co-opted members having no voting rights.

### Work programmes

- 7.7 The Scrutiny Panels will prepare and submit to the Council, an annual programme of work to be undertaken during the forthcoming year. This programme will provide for

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the Scrutiny Panels to scrutinise the performance of the Executive and, where appropriate, the Council's ordinary committees against the Council's approved policies and budgets and for each Scrutiny Panel to carry out reviews of Council policies. The Council, Executive and ordinary committees may, at any time, request the Scrutiny Panels to undertake additional policy or performance reviews. The Scrutiny Panels will have the powers described in Part 3 of this Constitution to assist them in their work.

## Meetings

- 7.8 Meetings of the Scrutiny Panels will be held in public except where confidential or exempt information is being discussed, when the provisions of Section 100A to 100K and Schedule 12A of the Local Government Act 1972 will apply. The proceedings of meetings of the Scrutiny Panels will take place in accordance with the Standing Orders with respect to Meetings set out in Part 4 of this Constitution.

## Access to Information

- 7.9 For the purposes of undertaking the roles specified above, the members of the Scrutiny Panels will have the right of access to all papers, reports, minutes and records submitted to and produced by the Executive, Executive Members, ordinary committees and Officers of the Council, in accordance with the arrangements in Part Three of this Constitution.
- 7.10 A Member of any Scrutiny Panel must not be involved in scrutinising a decision in which he/she has been directly involved.

## Relationships

- 7.11 The arrangements set out in Part Three of this Constitution describe the relationships that will apply between the Scrutiny Panels and the Executive and other committees. These arrangements will also apply to relationships between Members of the Scrutiny Panels and the Council's Officers.

## 'Whipping'

- 7.12 In the interests of openness and accountability, Members will be expected to disclose, at the commencement of all Scrutiny Panel meetings, any advice or directions received from their Group Leader or their Political Group, on the views to be expressed on a particular issue or on the way that they should vote. The Chief Executive Officer will be responsible for ensuring that the minutes of the meetings record all such disclosures.

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## Part One: Chapter 8 - Non-Executive (Regulatory) Functions

- 8.1 Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 makes provision for functions that are not to be the responsibility of the Council's Executive, under the following headings:
- a) Functions relating to development control;
  - b) Licensing and registration functions;
  - c) Functions relating to health and safety at work;
  - d) Functions relating to elections;
  - e) Functions relating to the name and status of areas and individuals; and
  - f) Other miscellaneous functions.
- 8.2 The Council considers that these functions can best be performed by regulatory committees, to be called ordinary committees, with full delegated powers from the Council to determine matters within their remit, and grants these powers by virtue of this Constitution.

### Appointments

- 8.3 At its Annual Meeting each year, the Council will establish and appoint members to the committees referred to in Part Two of this Constitution. It will also appoint such other committees as it decides are necessary to undertake its non-executive functions in accordance with the provisions of the Local Government Act 2000. All appointments to ordinary committees will be made in accordance with the rules of proportionality set out in the Local Government and Housing Act 1989.
- 8.4 The Council may at any time, or on a recommendation from the Executive, and having considered the views of the appropriate Scrutiny Panel and other committees of the Council, terminate the appointment of any ordinary committee or establish such other committees as it deems appropriate. All appointments to such other committees will be made in accordance with the proportionality rules contained in the Local Government and Housing Act 1989.

### Terms of Reference

- 8.5 The Terms of Reference and extent of delegations by the Council to ordinary committees will be in accordance with the provisions set out in Part Two of this Constitution.

### Chairmen

- 8.6 The roles of the Chairmen of ordinary committees will be as described in Appendices 7 to 11 of this Part of the Constitution.

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## Delegations to Officers

- 8.7 Every Ordinary Committee will be empowered to delegate any of its functions to officers of the Council. A list of all such delegations will be maintained by the Chief Executive Officer. The list will be incorporated in Part Four of this Constitution and will be kept available for public inspection, without fee, at the Civic Offices, Civic Way, Fareham, during normal office hours.

## Part One: Chapter 9 – Audit and Governance Standards Sub-Committee

- 9.1 The Council has established an Audit and Governance Standards Sub-Committee to oversee, maintain and strengthen high standards of conduct in public office, as and when necessary.

### Composition

- 9.2 The Sub-Committee will comprise three members of the Audit and Governance Committee, ensuring that it deals with its functions in a fair and proper manner having regard to the Council's Code of Conduct, the relevant statutory provisions and the rules of natural justice.

### Functions of the Standards Sub-Committee

- 9.3 The Audit and Governance Committee has determined that it will appoint a Standards Sub-Committee to discharge its functions relating to complaints about member conduct to assess written allegations that a member or co-opted member of the Council has failed or may have failed to comply with the Members' Code of Conduct in accordance with Chapter 7 Localism Act 2011 or any amendment or re-enactment thereof and to administer sanctions where appropriate.
- 9.4 The quorum of the Committee will be three members.

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## Part One: Chapter 10 - The Council's Officers

### Appointment

10.1 The Council, with the agreement of the Executive, will be responsible for appointing persons to the following posts, who will be designated Chief Officers. The functions and areas of responsibilities of such posts are as shown in Part Seven of the Constitution: -

- Chief Executive Officer
- Assistant Chief Executive Officer
- Director of Planning and Regeneration
- Director of Neighbourhoods
- Director of Housing

*Note: Assistant Director posts as set out in Part Seven – Senior Management Structure, do not form part of the Chief Officer structure and are not included when reference is given to Directors within this Constitution.*

10.2 At the appropriate time, on each occasion as it arises, a committee of the Council will be established for the appointment of these Chief Officers.

### Statutory Roles - Head of Paid Service, Monitoring Officer and Chief Financial Officer

10.3 The Council has designated these statutory roles as follows:

Post	Designation
Chief Executive Officer	Head of Paid Service
Assistant Chief Executive Officer	Monitoring Officer
Assistant Director (Finance & ICT)	Chief Finance Officer (Section 151 Officer)

10.4 Such posts will have the functions described in paragraphs 10.6 to 10.8 below.

### Structure

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

### Functions of the Head of Paid Service

10.6 The Head of Paid Service will report to 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.

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- 10.7 The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if appropriately qualified.

### Functions of the Monitoring Officer

- 10.8 Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, employees and the public.

- 10.9 Ensuring lawfulness and fairness of decision making

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

- 10.10 Supporting the Audit and Governance Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through his/her support to the Audit and Governance Committee.

- 10.11 Conducting investigations

The Monitoring Officer will conduct investigations into any complaints made against a member and make reports or recommendations in respect of them to the Audit and Governance Sub-Committee.

- 10.12 Proper Officer for access to information

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

- 10.13 Advising whether Executive decisions are within the Budget and Policy Framework

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

- 10.14 Providing advice

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

- 10.15 Restrictions on posts.

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

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## Functions of the Chief Finance Officer

### 10.16 Ensuring lawfulness and financial prudence of decision making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council, or to the Executive in relation to an Executive function, and to the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

### 10.17 Administration of financial affairs

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

### 10.18 Contributing to corporate management

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

### 10.19 Providing advice

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

### 10.20 Giving financial information

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

### 10.21 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

## Standards of conduct

### 10.22 The Council's officers will at all times comply with the Officers' Code of Conduct and the Code of Practice on Officer/Member Relations set out in Part Five of this Constitution.

## Employment procedures

### 10.23 Arrangements for the recruitment, selection and dismissal of officers will comply with the Standing Orders with respect to the Appointment, Dismissal and Discipline of Employees set out in Part Four of this Constitution and with any other adopted policies and procedures relating to employment by Fareham Borough Council. The

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appointment, dismissal and discipline of employees, other than Chief Officers, will be the responsibility of the Head of Paid Service.

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## Part One: Chapter 11 - Decision making

### Responsibility for decision making

- 11.1 The Council will issue, and keep up to date, a record of which part of the Council, or which individual, is responsible for particular types of decisions or decisions relating to particular areas or functions. This record is currently as set out in Part Two of this Constitution.

### Principles of decision making

- 11.2 All decisions of the Council will be made in accordance with the following principles:
- a) openness and transparency;
  - b) fairness and equality;
  - c) with respect for human rights;
  - d) within the letter and spirit of the Constitution;
  - e) within the law; and
  - f) with due consultation and the benefit of professional advice, where appropriate.

### Types of decision

- 11.3 Decisions relating to the functions listed in Chapter 4 of this part of the Constitution will be made by the Council and not be delegated.

### Key decisions

- 11.4 Key decision means an Executive decision that is likely:
- a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - b) to be significant in terms of its effects on the communities living or working in an area comprising two or more wards or electoral divisions.
- 11.5 Key decisions may only be made in accordance with the Executive Procedures set out in Part Three of this Constitution.

### Decision making by the Council

- 11.6 Subject to paragraph 11.3 above, meetings of Council will follow the Council's Standing Orders with respect to Meetings. These Orders regulate the proceedings of the Council when considering any matter and are as set out in Part Four of this Constitution.

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### Decision making by the Executive

- 11.7 Subject to paragraph 11.10 below, the Executive will follow the Executive procedures and the Council's Standing Orders with respect to Meetings, set out in Part Four of this Constitution, when it considers any matter.

### Decision making by the Scrutiny Panels

- 11.8 The Scrutiny Panels will follow the overview and scrutiny procedures and the Council's Standing Orders with respect to Meetings, set out in Part Four of this Constitution, when they consider any matter.

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

- 11.9 Subject to paragraph 11.10 below, other Council committees and sub-committees will follow those parts of the Council's Standing Orders with respect to Meetings, set out in Part Four of this Constitution, which apply to them.

### Decision making by Council bodies acting as tribunals

- 11.10 If the Council or an officer acting in a quasi-judicial manner, or as a tribunal, or is determining or considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, then the Council or officer will follow the proper procedures that meet the requirements of natural justice and the right to a fair trial (contained in Article 6 of the European Convention on Human Rights).

### Decision making by officers

- 11.11 The Council's officers have full authority for operational decision making and any necessary action within their remit. They are answerable to the Chief Executive Officer (Head of Paid Service).

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## Part One: Chapter 12 - Joint arrangements

### Arrangements to promote well-being

- 12.1 The Council or the Executive, in order to promote the economic, social or environmental well-being of the local area, may:
- a) enter into arrangements or agreements with any person or body;
  - b) co-operate with, or facilitate or co-ordinate the activities of, any person or body;
  - c) exercise on behalf of the person or body any functions of that person or body.

### Joint arrangements

- 12.2 The Council may establish joint arrangements with one or more local authorities and/or their Executive to exercise, or advise the Council on, functions that are not Executive functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 12.3 The Executive may establish joint arrangements with one or more local authorities to exercise functions that are Executive functions. Such arrangements may involve the appointment of joint committees with those other local authorities. Except as set out below, the Executive may only appoint Executive members to a joint committee to exercise such functions and those members need not reflect the political composition of the local authority as a whole.
- (See Part Two - Chapters 10 and 11 for current formal joint working arrangements).
- 12.4 The Executive may appoint members to a joint committee from outside the Executive where the joint committee has functions for only part of the area of the Council and that area is smaller than two-fifths of the authority's area by size or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward that is wholly or partly contained within the area. For this purpose, the need for political balance will not apply.
- 12.5 The details of any joint arrangements, including any delegations to joint committees, will be as set out in the Council's scheme of delegations in Part Two of this Constitution.

### Access to information

- 12.6 The Access to Information Rules set out in Part Three of this Constitution will apply. If all members of a joint committee are members of the Executive in each of the participating authorities, then the access to information regime of the committee will be the same as that applied to those Executives. If the joint committee contains members

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who are not on the Executive of any participating authority, then the access to information rules set out in part V(A) of the Local Government Act 1972 will apply.

### Delegation to and from other local authorities

- 12.7 The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- 12.8 The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.
- 12.9 The Council may also accept the delegation of powers from another local authority. The decision whether or not to accept such delegation arrangements will be a matter for the Council to take.

### Contracting out

- 12.10 The Council and the Executive may contract out to another body or organisation their respective functions, which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

### Existing arrangements

- 12.11 The following arrangements will apply to the joint arrangements that were in being prior to May 2002:
- a) subject to any recommendations from the Portchester Joint Crematorium Committee, the Council's representation on that joint committee will be two members of the Executive;
  - b) the Council's representation on the joint governing bodies of community schools will be treated as being under the School Standards and Framework Act 1998. These bodies will therefore operate not as joint committees but as committees of the Governing Bodies and the limitation of Council representatives to members of the Executive will not apply;
  - c) the licensing of pleasure boats and vessels under Section 94 of the Public Health Acts Amendment Act 1907 is a non-executive function and therefore the licensing of pleasure boats and vessels in the Council's area will be discharged on behalf of the Council by Eastleigh Borough Council;
  - d) the River Hamble Management Sub-Committee is not a joint committee but is a statutory committee established in line with requirements of the River Hamble Harbour Revision Order 1969 and therefore the Council's representation will not be limited to members of the Executive.

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(Note: formal joint working arrangements have been established; see Part Two Chapters 10 and 11 for current arrangements).

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## Part One: Chapter 13 - Legal, Financial and Contract Matters

### Meetings

- 13.1 The Standing Orders with respect to Meetings in Part Four of this Constitution will apply to all meetings of the Council, the Executive, Panels, ordinary committees, sub-committees and other formal meetings of members.

### Financial Matters

- 13.2 The Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part Four of this Constitution. These Regulations may be amended from time to time in accordance with the provisions that are contained within them.

### Contracts

- 13.3 All contracts made by or on behalf of the Council will comply with the provisions of the Standing Orders with respect to Contracts set out in Part Four of this Constitution. These Standing Orders may be amended from time to time in accordance with the provisions that are contained within them

### Officer Employment Procedures

- 13.4 The Standing Orders with respect to the Appointment, Dismissal and Discipline of Employees set out in Part Four of this Constitution will apply to all employee appointments made by the Council.

### Legal proceedings

- 13.5 The Solicitor to the Council is authorised to commence, defend, or participate in any legal proceedings in any case to give effect to decisions of the Council, or in any case where the Solicitor to the Council considers that to do so is necessary in order to protect the Council's interests.

### Authenticating documents

- 13.6 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, that document will be signed by the Solicitor to the Council or by any other person authorised by the Solicitor to the Council, unless any enactment states otherwise or the Council has given the necessary authority to some other person.

### Common Seal of the Council

- 13.7 The Common Seal of the Council may be affixed by physical means and the necessary device for doing so must be kept by the Solicitor to the Council and the Monitoring Officer in a safe place or by electronic means authorised by the Monitoring Officer who will be responsible for its secure administration. A decision made by the Council, the

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Executive, a committee, sub-committee or officer acting under delegated powers will be sufficient authority for sealing any document necessary to give effect to the decision.

- 13.8 The affixing of the seal must be attested by one of the following persons present at the sealing: The Chief Executive Officer; the Solicitor to the Council; the Director of Finance and Resources; the Monitoring Officer. An entry of every sealing of a document must be made and consecutively numbered in a book kept for the purpose and must be signed by the person who has attested the seal. References in the Constitution to the Common Seal (or seal) and to the sealing of documents shall be taken to refer to the Common Seal and any accompanying attesting signatures as being affixed either by physical means or by electronic means.

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## Part One: Chapter 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 its aims and principles are given full effect.
- 14.2 To enable the Monitoring Officer to be aware of the strengths and weaknesses of the Constitution and be able to make recommendations for ways in which it could be amended, in order better to achieve its purposes, the Monitoring Officer may:
- a) observe meetings of different parts of the Council's member and officer structure;
  - b) undertake an audit trail of a sample of decisions;
  - c) record and analyse issues raised with him or her by councillors, officers, the members of the public and other relevant interested parties; and
  - d) compare practices in the authority with those in other comparable authorities or with national examples of best practice.

### Changes to the Constitution

#### 14.3 **Approval**

Changes to this Constitution may be made at any time, arising from a review by the Monitoring Officer or motion from Council and will only be approved by Council once considered by the Audit and Governance Committee. All such changes will comply with the provisions of the Local Government Act 2000 and other relevant statutory provisions.

#### 14.4 Change from an Executive Leader and Executive form of Executive to alternative arrangements:

If there are proposals to change the Executive arrangements, the Council will take reasonable steps to consult local electors and other interested persons in the area when it draws up proposals.

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## Part One: Chapter 15 - Interpreting the Constitution: Suspending the Constitution

### Limit to suspension

- 15.1 This Constitution may not be suspended except where rules permitting its suspension or waiver are provided explicitly in documents contained within the Constitution or following the procedure described in paragraph 15.2 below.

### Procedure to suspend

- 15.2 A motion to suspend any part of the Constitution will not be moved without notice, unless at least half the total number of members of the Council are present. The extent and duration of any suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Chapter 1 in this part of the Constitution, and must only be for long enough to transact the particular item of business causing the suspension.

### Matters of interpretation

- 15.3 The ruling of the Mayor, advised by the Monitoring Officer, as to the interpretation or application of this Constitution shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in the Introduction of the Constitution.

### Publication

- 15.4 The Chief Executive Officer will provide a copy of this Constitution to each member of the authority upon delivery to him or her of that individual's declaration of acceptance of office, when the member is first elected to the Council.
- 15.5 The Chief Executive Officer will publish copy on the website and ensure that copies of the Constitution are available for inspection at Council offices.
- 15.6 The Chief Executive Officer will ensure that the summary of the Constitution is made widely available within the Fareham area and is updated as necessary.

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## Part One: Chapter 16 – Code of Conduct

### Appendix 1 - Roles of Members as Councillors

#### Main roles

##### A-1.1 As an elected representative (all members):

- a) with all other members, to be collectively the ultimate policy-makers of the Council and to carry out a number of strategic corporate management functions;
- b) to represent effectively the interests of the ward and all of its constituents for which the councillor was elected;
- c) to contribute in a positive manner to the effective government of the Borough and the direct, or indirect, provision of services to all residents, visitors and other interested parties; and
- d) to encourage the involvement and participation of individual citizens and the community generally in the development and review of the Council's decision making processes

##### A-1.2 Regulatory roles (all members):

- a) to deal with those matters of regulation assigned to the Planning, Licensing and Regulatory Affairs and such other Committees appointed in a fair and unbiased manner having regard to the Council's policies and any statutory provisions relating to them, including the rules of natural justice.

##### A-1.3 Overview and scrutiny roles (members who are not part of the Executive):

- a) to contribute to the effective development of services by the examination of strategy, policy and budget proposals;
- b) to monitor, evaluate and question the actions of the Executive and the work of officers, to ensure the effective delivery of services in accordance with the Council's strategies, policies and budgets; and
- c) to make recommendations to the Executive and Council for improvements or changes in accordance with the work programmes approved by Council.

#### Duties and responsibilities

##### A-1.4 As an elected representative (all members):

- a) to meet regularly with constituents and other interested parties in order to seek and listen to their views on issues to be considered by or proposed to the Council;

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- b) to act as the liaison point between the local community and Council, in order to ensure that the former's views and needs are taken into account when strategy, policy and budget issues are considered by the Council;
- c) to ensure that the local communities' views are properly expressed and argued when specific decisions affecting them are considered by Council;
- d) to use local knowledge and information to assist in the determination of policy proposals and in decision making;
- e) to act as a disseminator of information from the Council to constituents and other interested parties; and
- f) to participate in training programmes and seminars aimed at enhancing members' roles as an elected representative.

A-1.5 Regulatory responsibilities (all members):

- a) to participate in the setting of policies, rules, regulations and processes to enable the Council to undertake its regulatory roles within the Council's approved policies in a fair and even handed manner;
- b) to contribute to the arrangements for the setting of budgets and budgetary controls for regulatory functions;
- c) to participate in employee disciplinary/grievance hearings as required by the Council; and
- d) to participate in training programmes and seminars aimed at enhancing members' roles and ability to carry out the regularity functions of the Council.

A-1.6 Overview and scrutiny responsibilities (members who are not part of the Executive):

- a) to take part as a consultee in the development of strategy, policy and budget proposals by the Executive;
- b) where appropriate, propose change, to the Council's approved strategies, policies and budgets, for consideration by the Executive;
- c) to participate in the carrying out of reviews of the Council's strategies and policies in accordance with the programme of work submitted to Council;
- d) to review the implementation of Council policy by the Executive, Executive members and officers, to determine whether that implementation meets the Council's objectives in terms of quality of service delivery and cost, and report with recommendations to the Executive and Council;
- e) to take an active part in and consult with the local community on the development of the Best Value Performance Plans and Best Value reviews in conjunction with the Executive; and

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- f) to participate in training programmes and seminars aimed at enhancing members' ability to undertake a constructive role in the Council's overview and scrutiny processes.

## Key tasks

### A-1.7 As an elected representative (all members):

- a) to discuss issues to be determined by the Council with constituents and other interested parties;
- b) to participate in any local area arrangements established by the Council to facilitate good communication with residents;
- c) to develop and maintain a good working knowledge of the organisations, services, activities and hopes and aspirations of the ward for which the member was elected;
- d) to champion causes and issues on behalf of the member's constituents and ensure that those constituents are kept informed about:
  - services in their area
  - decisions that may affect them
  - the reasons why decisions have been taken by the Council
  - their rights relating to service provision, appeals against decisions and access to meetings and information
- e) to carry out casework on behalf of constituents and represent their interests to the Council;
- f) to participate in the activities and decision making processes (where appropriate) of any outside body to which the member is appointed by:
  - providing for two-way communication between the Council and the outside body
  - developing and maintaining a working knowledge of the Council's policies and priorities, particularly in so far as they might affect the outside body
  - ensuring that the outside body takes account of the needs and aspirations of the community affected by the work and services of that outside body.
- g) to contribute constructively to community planning initiatives and, in particular, to assist in the achievement of open government by actively encouraging the local community to participate in the government of the area.

### A-1.8 Regulatory key tasks (all members):

- a) to establish policies against which applications for consent, licences, certificates, permits and registrations can be determined;
- b) to deal with any specific applications referred to members in a fair and unbiased manner, taking account of Council policies and legislative requirements

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- c) where there is no right of appeal to an external body, to participate in and determine such appeals;
- d) where there is a right for an applicant to be heard, to participate in such hearings as may be arranged and determine the issue; and
- e) to set budgets, fees and charges and monitor income and expenditure against approved budgets.

A-1.9 Overview and scrutiny key tasks (members who are not part of the Executive):

- a) to develop and review policy proposals and options put forward by the Executive;
- b) to investigate existing strategies, policies and budgets and, where appropriate, recommend changes;
- c) to monitor implementation of the Council's policies, particularly in relation to the interests of constituents in the member's ward;
- d) to investigate the basis on which major decisions are taken and ensure that they are consistent with Council policy;
- e) to investigate decisions taken by the Executive, Executive members and officers to ensure that they are consistent with Council policy and that they are within the limits of delegated powers;
- f) to hold the Executive, Executive members and officers to account in respect of their actions in carrying out Council policy;
- g) to monitor the Council's overall performance, with particular reference to Best Value; and
- h) to ensure, in liaison with local residents and other interested parties, that the quality of services delivered matches the Council's and the public's aspirations.

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## Part One: Chapter 16 – Codes of Conduct

### Appendix 2 - Role of Mayor

#### Main role

- A-2.1 To act as the first citizen of the Borough
- A-2.2 To represent the Council as the civic head of the Borough at public and private functions.

#### Duties and responsibilities

- A-2.3 To preside over meetings of Council and ensure that all members have equal opportunity to participate in the decision making process.
- A-2.4 To promote the Borough as its first citizen and ambassador.
- A-2.5 To lead official civic visits by the Council.
- A-2.6 To represent the Council at non-political ceremonies, social occasions and services of prayer and remembrance.
- A-2.7 On behalf of the Council, to act as host to visitors to the Borough, including members of the Royal Family, overseas visitors and other civic dignitaries.

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## Part One: Chapter 16 – Codes of Conduct

### Appendix 3 - Role of Deputy Mayor

#### Main role

- A-3.1 To support the Mayor in his/her role as the first citizen of the Borough.
- A-3.2 To represent the Council, as necessary, as the deputy to the Mayor at public and private functions.

#### Duties and responsibilities

- A-3.3 To preside over meetings of the Council in the absence of the Mayor and ensure that all members have the opportunity to participate in the decision-making process.
- A-3.4 To act as an ambassador for and promote the Borough as the deputy to the Mayor.
- A-3.5 To deputise for, or assist, the Mayor in leading official civic visits by the Council.
- A-3.6 To represent the Mayor at non-political ceremonies, social occasions and services of prayer and remembrance when the Mayor is unable to attend.
- A-3.7 To deputise for, or support, the Mayor in his/her role when acting as host to visitors to the Borough, including members of the Royal Family, overseas visitors and other civic dignitaries.

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## Part One: Chapter 16 – Code of Conduct

### Appendix 4 - Role of Executive Leader

#### Main role

- A-4.1 To lead the Council in the identification of its vision, core values and strategic objectives
- A-4.2 To lead the Council and provide visible political leadership in the design, preparation and implementation of the Council's policy framework, policies, strategies, budgets and service delivery
- A-4.3 To lead the Council to work in the overall best interests of the local community
- A-4.4 To lead the development of policy and strategic partnerships
- A-4.5 To lead on the development and implementation of the Council's corporate strategy and policies, Best Value Performance Plan and Community Plan
- A-4.6 To promote the development of the local economy
- A-4.7 To promote the Council's core values and objectives
- A-4.8 To maintain effective working relationships with the Chief Executive Officer, Chief Officers and all employees of the Council

#### Duties and responsibilities

- A-4.9 To chair meetings of Executive.
- A-4.10 To be the principal Leader of the Council in developing strategic partnerships with residents, other local authorities, statutory and non-statutory organisations, the Government and its agencies and other interested parties, in relation to the development and implementation of strategic objectives and policies and the delivery of services.
- A-4.11 To have overall political responsibility for:
  - a) strategic policy innovations;
  - b) the preparation, publication and management of the Council's notice of key decisions;
  - c) the preparation, implementation and monitoring of the Best Value Performance Plan and the Community Plan;
  - d) strategic financial management, including the revenue and capital budgets of the Council and financial monitoring;
  - e) communications with members, employees, residents, interested parties and other external organisations;
  - f) setting the Council's business strategy to meet the Government's Best Value regime;

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- g) the implementation of new political and management structures, in order to meet any legislative duties placed on the Council;
- h) ensuring open and accountable decision-making and the effective delivery of services;
- i) the development of arrangements to facilitate community consultation and involvement in the Council's decision making processes; and
- j) human resource planning in so far as this is a function of the Executive.

A-4.12 To report, at least quarterly, to Council on all decisions made under the Urgency Provisions of the Council's Constitution, including details of the consultations undertaken before such decisions were made and the reasons why the decisions were urgent.

A-4.13 To take decisions where power to do so is delegated by the Executive

A-4.14 To undertake those other tasks set out elsewhere in the Constitution for which the Executive Leader assumes personal responsibility.

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## Part One: Chapter 16 – Code of Conduct

### Appendix 5 - Role of an Executive Member

#### Main role

- A-5.1 To take collective responsibility for those issues determined by the Executive under its Terms of Reference and Scheme of Delegation.
- A-5.2 To take decisions where power to do so is delegated by the Executive

#### General responsibilities

- A-5.3 To act as spokesman and principal political adviser for the services included within the area of responsibility for which the Executive Member has been appointed.
- A-5.4 Within any constraints imposed by legislation, approved Council policy and budgets and the Council's Scheme of Delegation, to be responsible for: -
  - a) maintaining an understanding of the issues involved in the delivery of services
  - b) being aware of developing issues and policies at local and national levels
  - c) giving direction on, and ensuring the development of the vision for services, strategies and policies consistent with the overall strategic approach of the Council
  - d) promoting and improving the economic, social and environmental well-being of the Borough
  - e) balancing the social, environmental and economic components of sustainability in the development of services and their delivery
  - f) with regard to the preparation, amendment and revision of any statutory or non-statutory strategic, technical or service plans:
    - identifying the strategic or service objectives
    - promoting the principal policy issues to be included
    - ensuring adequate arrangements are in place to involve all members, employees where appropriate, residents and other interested parties in the preparation and reviews of any plans
    - making provision to disseminate the content and implications of any proposed or adopted plans throughout the Borough and, where appropriate, regionally and nationally;
    - ensuring implementation and regular reviews.
  - g) defining the standards of service, targets and budgets to include: -
    - the preparation of schemes for implementation or proposals for submission to the Executive and the Council as part of the expenditure plan process
    - monitoring service standards, performance and budgets and initiating action to meet service, performance and budget targets
    - the content and implementation of action programmes to achieve the aims of adopted strategies and service plans
    - being responsible for the efficient delivery of services
    - implementing changes to meet the requirements of relevant legislation

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- leading the process for the approval and review of the level of fees chargeable for Council services
  - the development of an annual process of policy and performance reviews
  - implementing arrangements for involving the Council, Executive, employees, residents and other interested parties in the preparation of strategies, policies and budgets
  - developing strong relationships between service policy aims and those of the Council corporately, as well as between service aims and service delivery
- h) with regard to Best Value, to ensure that: -
- the need for the development of new policies and strategies following reviews are identified
  - following reviews, that action plans with challenging targets for continuous service improvements are set
  - progress against those plans is regularly monitored
- i) ensuring the optimum use of resources and skills by recognising the benefits of formal and informal partnership working.
- j) working in partnership with relevant external organisations to encourage and facilitate the development of Community Planning arrangements throughout the Borough
- k) co-operating with the Scrutiny Panels in any reviews undertaken by those Panels.
- l) ensuring that prior to decisions being taken which affect a particular ward, the relevant ward members have been consulted.
- m) promoting the core values of the Council as set out in corporate plans.
- n) approving responses to consultation papers issued by the Government and outside organisations
- o) speaking on behalf of the Council
- p) representing the Council, or identifying or appointing in accordance with this Constitution other members to do so, on relevant external bodies.
- q) considering and developing proposals for the effective use of land and property.
- r) facilitating and encouraging public participation and consultation and ensuring the effective communication of the Council's policies and strategies to all members, employees, residents, partner organisations and other interested parties
- s) receiving representations from councillors acting in their capacity as ward members in relation to the provision of services to residents in their areas, as the Council's representative on outside bodies or as councillors with a specific interest in any topic.
- t) seeking appropriate officer advice when making decisions under delegated powers
- u) attending, and taking part in, such training sessions/courses as may be determined by the Council or the Executive Leader.
- v) complying with the provisions of The Members Code of Conduct (Part 4 of this Constitution) and, in particular, any provisions relating to the declaration of interests

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## Appendix 5 (Annexe) - Executive Portfolios including specific service responsibilities

**Effective Date: 06 September 2023**

### Policy and Resources

- Financial Strategy
- Corporate Vision and Priorities
- Capital and Revenue Budgets
- Communications and Customer engagement
- Council Tax
- Commercial Property Portfolio
- National Non-Domestic Rates (NNDR)
- Procurement
- Estate Management
- Economic Development
- Solent Airport @ Daedalus Vision
- Debt Recovery
- Town Centre Regeneration
- Equalities
- ICT and Personnel

### Planning and Development

- Planning Policy & Local Plan
- Flooding and Coastal Management
- Development Design
- Transportation Liaison
- Parking Strategy
- Building Conservation
- Community Infrastructure Levy (CIL)
- Welborne
- Sustainability and Climate Change
- Biodiversity

### Leisure and Community

- Leisure Strategy
- Play Areas policy
- Leisure Centres
- Fareham Live
- Westbury Manor Museum
- Community Centres
- Activities for Children and Young People
- Community Development
- Town Centre Events
- Community Grants
- Community Service Level Agreements

## Housing

- Housing Strategy
- Homelessness
- Council Housing – Construction, Regeneration and Maintenance
- Housing Options
- Housing Advice
- Housing Benefits
- Housing Allocations
- Tenancy and Leaseholder Management
- Housing Grants and Home Improvements
- Liaison with Social Housing Providers
- Housing Estate Management

## Health and Public Protection

- Environmental Health
- Community Safety
- Air Quality
- Enforcement - (litter, fly tipping, graffiti, abandoned vehicles, unauthorised encampments)
- Contaminated Land
- Car Parks and Parking Enforcement
- Dog Control
- Pest Control
- Emergency Planning
- Health and Safety
- Public Health
- Building Control Partnership
- Street Naming and Numbering
- NHS Liaison
- Local Land Charges
- Food Safety
- Cemeteries and Crematorium

## Streetscene

- Waste Collection
- Vehicle Fleet
- Recycling
- Street nameplates
- Green Waste
- Fareham in Bloom
- Street Cleaning



- Public Conveniences
- Bus Shelters and Benches
- Parks, Open Spaces and Grounds Maintenance
- Sports Pavilions, Pitches, Greens and Courts
- Countryside Rangers
- Public Realm Maintenance
- Allotments
- Tree Management

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## Part One: Chapter 16 – Code of Conduct

### Appendix 6 - Role of Chairman of Scrutiny Panels

#### Main Role

A-6.1 To lead on:

- a) scrutinising the activities and performance of the Executive, Executive Members and Officers,
- b) focussing work contributing to the Corporate Priorities of the Council;
- c) policy development review,

within the jurisdiction of that Panel.

#### General Duties and Responsibilities

A-6.2 To chair the Scrutiny Panel.

A-6.3 To co-ordinate the activities of the Scrutiny Panel and take a lead role in overview and scrutiny.

A-6.4 To lead on matters referred to, or selected by the Scrutiny Panel and, to:

- a) determine the overall way the work will be undertaken;
- b) arrange the provision of preliminary background information and commission appropriate research; and
- c) determine whether evidence is to be given orally or in writing to the Scrutiny Panel;

A-6.5 To lead reviews on policy decisions taken by the Executive, Executive Members or Officers and by:

- a) determining the extent of the review to be undertaken;
- b) commissioning appropriate research;
- c) providing a list of the issues to be discussed or requests for detailed statistical and other information to the Executive, Executive Members or Officers, prior to any meeting of the Scrutiny Panel;
- d) determining and selecting consultants (where appropriate) for particular areas of research.

A-6.6 To lead and direct reviews of the Council's involvement in, and support of, outside organisations that fall within the Panels relevant Executive Portfolio.

A-6.7 To take the lead on ensuring that training requirements of the Scrutiny Panel members are properly considered and that appropriate training programmes or seminars are arranged.

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- A-6.8 To encourage Scrutiny Panel members to deal with all issues placed before them in an unbiased manner.
- A-6.9 Where members have received advice or directions from their group leader or political group as to the views that member should express on a particular issue, to ensure that those members disclose such facts at the meeting at which the matter is being discussed.
- A-6.10 To encourage members to declare all personal and pecuniary interests in any matters placed before the Scrutiny Panel.

### Urgent Decisions

- A-6.11 Where a request for an urgent decision to the Executive is proposed, the agreement of the relevant Scrutiny Panel Chairman will be sought to determine if the decision can be submitted to the Executive as urgent.

### Call-in Duties and Responsibilities

- A-6.12 In addition to the above the Chairman will be required to lead investigations into decisions made by the Executive, Executive Member or Officer, when that decision is called-in, under the Council's Call-In Procedure (Part Three, Chapter 10 of this Constitution) and, to:
- a) determine the extent of the investigation to be undertaken;
  - b) arrange the selection of witnesses appearing before the Scrutiny Panel;
  - c) co-ordinating the preparation of any lists of questions to be asked during the investigation;
  - d) determining the selection of witnesses and whether evidence is to be given orally or in writing;
  - e) on completion of the investigation, a report on the outcome of the investigation is prepared and submitted to the Executive; and
  - f) ensure that investigations are completed within the approved timetable.

### Vice Chairman

- A-6.13 Where the Chairman of the Scrutiny Panel is unavailable for any reason, the Vice Chairman shall undertake the role of Chairman.

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## Part One: Chapter 16 – Code of Conduct

### Appendix 7 - Role of Chairman of Planning Committee

#### Main role

- A-7.1 To lead the Council's activities in relation to those functions covered by the Terms of Reference of the Committee.
- A-7.2 To ensure that the Committee deals with its functions in a fair and proper manner having regard to the Council's policies and the relevant statutory provisions.

#### Duties and responsibilities

- A-7.3 To chair meetings of the Committee.
- A-7.4 To ensure, in relation to each function of the Committee, that appropriate policies, rules, regulations and processes are adopted to enable the Committee to undertake its functions in a fair and even-handed manner, within the Council's approved policies.
- A-7.5 To liaise with the Executive and the Executive's spokesman for Planning and Development on the preparation, alteration and adoption of Development Plans.
- A-7.6 To ensure that all members of, and officers serving, the Committee take full and proper account of the relevant legislative framework in setting any policies, rules, regulations and processes and in the determination of any applications brought before the Committee.
- A-7.7 To work closely with the Executive and the Executive's spokesman for policy, resources, finance and economic development matters in determining any applications that may have an effect on the economic health of the Borough.
- A-7.8 To ensure that appropriate mechanisms are put in place to measure the efficiency and quality of the arrangements for dealing with the functions of the Committee.
- A-7.9 To ensure that the members of, and officers serving, the Committee comply with the rules relating to the declaration of interests.
- A-7.10 To take the lead in setting the Committee's budgets, fees and charges and in putting effective budget monitoring procedures in place.
- A-7.11 To ensure that appropriate training programmes and seminars are arranged to enhance members' knowledge and their ability to carry out the Committee's functions effectively.

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## Part One: Chapter 16 – Code of Conduct

### Appendix 8 - Role of Chairman of Licensing and Regulatory Affairs Committee

#### Main role

- A-8.1 To lead the Council's activities in relation to those functions covered by the Terms of Reference of the Committee.
- A-8.2 To ensure that the Committee deals with its functions in a fair and proper manner having regard to the Council's policies, the relevant statutory provisions and the rules of natural justice.

#### Duties and responsibilities

- A-8.3 To chair meetings of the Committee.
- A-8.4 To ensure, in relation to each function of the Committee, that appropriate policies, rules, regulations and processes are adopted to enable the Committee to undertake its functions in a fair and even-handed manner, within the Council's approved policies.
- A-8.5 To ensure that all members of, and officers serving, the Committee take full and proper account of the relevant legislative framework in setting any policies, rules, regulations and processes in relation to the functions of the Committee.
- A-8.6 To ensure that appropriate mechanisms are put in place to measure the efficiency and quality of the arrangements for dealing with the functions of the Committee.
- A-8.7 To ensure that the members of, and officers serving, the Committee comply with the rules relating to the declaration of interests.
- A-8.8 To take the lead in setting the Committee's budgets, fees and charges and in putting effective budget monitoring procedures in place.
- A-8.9 To ensure that appropriate training programmes and seminars are arranged to enhance members' knowledge and their ability to carry out the Committee's functions effectively.

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## Part One: Chapter 16 – Code of Conduct

### Appendix 9 - Role of Chairman of Audit & Governance Committee

#### Main role

- A-9.1 To lead the Council's activities in relation to those functions covered by the Terms of Reference of the Committee.
- A-9.2 To ensure that the Committee deals with its functions in a fair and proper manner having regard to the Council's policies and the relevant statutory provisions and the rules of natural justice.

#### Duties and responsibilities

- A-9.3 To chair meetings of the Committee.
- A-9.4 To ensure, in relation to each function of the Committee, that appropriate policies, rules, regulations and processes are adopted to enable the Committee to undertake its functions in a fair and even-handed manner, within the Council's approved policies.
- A-9.5 To ensure that all members of, and officers serving, the Committee take full and proper account of the relevant legislative framework in setting any policies, rules, regulations and processes and in determining any appeals
- A-9.6 To ensure that appropriate mechanisms are put in place to measure the efficiency and quality of the arrangements for dealing with the functions of the Committee.
- A-9.7 To ensure that the members of, and officers serving, the Committee comply with the rules relating to the declaration of interests.
- A-9.8 To ensure that appropriate training programmes and seminars are arranged to enhance members' knowledge and their ability to carry out the committee's functions effectively.
- A-9.9 To liaise with the Chief Executive officer, Monitoring Officer and Chief Finance and Resource Officer in connection with the adoption, interpretation and review of Statutory Codes of Conduct and other codes that come under the area of responsibility of this Committee.
- A-9.10 To liaise with the Chief Executive Officer, Monitoring Officer and Chief Finance Officer in connection with the adoption, implementation and review of the

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arrangements for dealing with appeals considered by the Committee or any Panel established by the Committee.

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## The Constitution - Part Two

### Responsibilities for Functions

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Chapter 11 - Constitution and Functions of the Joint Committee for the Partnership for Urban South Hampshire (PDF)



## Part Two: Chapter 1 - General Responsibilities

### Hierarchy

- 1.1 One of the main purposes of this Constitution is to make it clear where the responsibility for particular Council functions lies and which body or person will make the decision that will result in action being taken. The hierarchy of decision making will be as follows:
- a) Council - will exercise the functions reserved in Part One, Chapter 4 of this Constitution
  - b) The Executive - will exercise the functions set out in Part One, Chapter 6 of and Part Two, Chapter 2 of the Constitution. A decision of the Executive may be delegated to a committee of the Executive, an individual Executive Member or, in respect of executive functions, a joint committee.
  - c) The Scrutiny Panels – will undertake the role described in Part One, Chapter 7 and Part Two, Chapter 3 of this Constitution. This role may result in recommendations being made to the Council, the Executive or committees but will not result in decisions.
  - d) The Regulatory Committees – will exercise the functions set out in Chapter 8 of Part 1 and Chapter 4 of Part 2 of this Constitution.
  - e) Officers – will exercise the delegated functions described in Part One, Chapter 11 of this Constitution and the delegated powers set out in Part Four of this Constitution.

### Delegation of Powers

#### *Executive and Committees*

- 1.2 The Executive may exercise all powers and functions except where identified as a non-executive function by statute.
- 1.3 **Exceptions** will be where:
- a) any proposal implies or requires a change to the Policy framework or approved budget in excess of any variation permitted by Financial Regulations, when the proposals will be submitted to Council with a recommendation for consideration
  - b) any proposal made by a Committee relates to the functions of the Executive, when the matter shall be referred to the Executive
  - c) any proposal relates to powers, duties or functions in respect of the levying of the Council Tax
  - d) any proposal relates to the levying or issuing of a rate or precept for a rate
  - e) any proposal relates to the borrowing of money
  - f) any proposal relates to those powers, duties or functions for Council must retain responsibility
  - g) in respect of an application made on behalf of the Council to the Planning Committee, the Committee is unwilling to approve the application or wishes to

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impose conditions which are unacceptable to the applicant, then the application will be submitted to Council for determination  
h) the delegated authority is revoked or amended by resolution of Council.

### Delegation to Officers

- 1.4 The powers, functions and duties of Council, the Executive, the Panels and Committees of Council, which are described in Parts One and Four of this Constitution will be executed and performed by the officers identified in those parts of this Constitution, until such time as they are revoked or amended by the body delegating the powers functions or duties.

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## Part Two: Chapter 2 - Functions of the Executive

### Principles of Responsibility

- 2.1 The principles of the Executive's responsibilities will be as follows:
- a) unless a function, power or responsibility is specifically reserved to the Council or a Committee, the Executive is authorised to exercise the function or power;
  - b) the Executive will be responsible collectively, except where decisions are taken by individual Executive Members;
  - c) all decisions will be recorded; and
  - d) the Executive will normally be making 'key decisions'.

### Powers and Duties

- 2.2 The powers and duties of the Executive will be to:
- a) lead the preparation of the Council's policies and budgets;
  - b) lead the community planning process in Fareham and the achievement of Best Value;
  - c) implement, within the Council's overall Policy Framework, policies relating to Crime and Community Safety;
  - d) take decisions, within any constraints imposed by the Council, on the use of resources in order to deliver budgets, policies and services decided by the Council;
  - e) act as the focus for forming partnerships with other local authorities and public, private, voluntary and community sector organisations in order to address local needs; and
  - f) approve and adopt Supplementary Planning Guidance.
- 2.3 The Executive is also empowered to:
- a) appoint such Committees and Sub-Committees as it deems appropriate to undertake functions within these Terms of Reference and to determine the extent of their powers;
  - b) delegate such of its functions as it deems appropriate to individual Members of the Executive and to officers of the Council;
  - c) nominate Executive members to act as spokesmen for such of its functions as it deems appropriate;
  - d) advise the Council on those activities and functions that should be delegated to joint committees or another local authority or which may be contracted out to any other person, authority or organisation;
  - e) where required by statute or by this Constitution, to consult with the Scrutiny Panels, external bodies or others, on policy and strategy proposals, prior to their implementation or the submission of those proposals to Council; and
  - f) consider and make decisions on reports and recommendations from its own Executive Members and Committees of the Council.

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2.4 The Executive will not be responsible for:

- a) those functions which legislation provides may only be discharged by the Council;
- b) those functions which are the responsibility of the Council's Scrutiny Panels;
- c) those matters relating to planning and development, regulatory, licensing and other activities defined in Regulation 2 of, and Schedule 1 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended by Regulation 2 of The Local Authorities (Functions and Responsibilities)(England)(Amendment) Regulations 2001, which have been reserved to Council or delegated to the Planning Committee, Licensing and Regulatory Affairs, Audit & Governance or other Committees appointed by the Council;
- d) those matters specified in Regulations 3 and 4 of, and Schedules 2 and 3 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended by Regulation 2 of The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001, where the final decision in respect of those matters have been reserved to Council;
- e) those plans and strategies where, under the provisions of Regulation 5 of, and Schedule 4 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, final approval and adoption has been reserved to Council; and
- f) those matters delegated to the Council's Audit & Governance Standards Sub-Committee.

**Responsibility for 'local choice' functions**

2.5 The Executive will undertake the following functions under the provisions of Section 13 of the Local Government Act 2000 and Regulations 3, 4 and 5 of the Local Authorities (Functions and Responsibilities) Regulations 2000:

<b>Regulation 3 - Local Choice Functions which may (but need not) be the responsibility of the Executive</b>	
<b>Function</b>	<b>Extent of Executive responsibility</b>
1. Any matter under a local Act other than in respect of functions reserved to the Council.	To respond to any consultations. To take any action subject to compliance with the Council's approved policies and budgets.



**Regulation 3 - Local Choice Functions which may (but need not) be the responsibility of the Executive**

Function	Extent of Executive responsibility
<p>3. Functions relating to contaminated land under Part 11A of the Environmental Protection Act 1990 and subordinate legislation under that Act.</p>	<p>To have overall responsibility for the discharge of functions, subject to prior consultation with the Planning Committee, where any action may affect that Committee's duties, and also, where appropriate, the Scrutiny Board.</p>
<p>4. Any function relating to the control of pollution or the management of air quality.</p>	<p>To take any action, subject to compliance with the Council's approved policies and budgets.</p>
<p>5. The service of an abatement notice under Section 80(l) of the Environmental Protection Act 1990 in respect of a statutory nuisance.</p>	<p>To take any action subject to simultaneous notification of the service of the notice to the appropriate ward members.</p>
<p>6. The passing of a resolution under Section 8 that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the Council's area.</p>	<p>To initiate proposals, undertake relevant consultation and make recommendations to the Council.</p>
<p>7. The inspection of the Council's area to detect any statutory nuisance under Section 79 of the Environmental Protection Act 1990.</p>	<p>To take any action subject to expenditure incurred being contained within approved budgets or within the limits of virement permitted by the Council's Financial Regulations.</p>
<p>8. The investigation of any complaint as to the existence of a statutory nuisance under Section 79 of the Environmental Protection Act 1990.</p>	<p>To take any action subject to simultaneous notification of the service of the notice to the appropriate ward members.</p>
<p>9. The appointment of any individual:</p> <ul style="list-style-type: none"> <li>• to any office other than an office in which they are employed by the Council</li> </ul>	<p>To make recommendations to the Council on appointments and the revocation of such appointments.</p>

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### Regulation 3 - Local Choice Functions which may (but need not) be the responsibility of the Executive

Function	Extent of Executive responsibility
<ul style="list-style-type: none"> <li>• to anybody other than:               <ul style="list-style-type: none"> <li>• the Council</li> <li>• a joint committee of two or more authorities, or</li> <li>• to any committee or subcommittee of such a body</li> </ul> </li> <li>• and the revocation of any such appointment.</li> </ul>	

### Regulation 4 Functions not to be the sole responsibility of the Executive

	<ul style="list-style-type: none"> <li>•</li> </ul>
<p>2. Community Strategy for promoting or improving the economic, social and environmental wellbeing of the area under Section 4 of the Local Government Act 2000.</p>	<p>To prepare and recommend the strategy to the Council, including the making of any amendments or modifications thereto, following full consultations with:</p> <ul style="list-style-type: none"> <li>• the Scrutiny Panels and other Committees of the Council</li> <li>• Hampshire County Council</li> <li>• such other agencies as the Executive considers appropriate</li> </ul> <p>other persons bodies or organisations as the Council directs or the Executive considers appropriate.</p>
<p>3. Crime and Disorder Reduction Strategy under Sections 5 and 6 of the Crime and Disorder Act 1998.</p>	<p>To initiate and take the lead on the preparation, management and amendment of the Strategy and to make recommendations thereon to Council, following full consultations with the relevant Scrutiny Panels during its preparation and the making of any amendments.</p>
<p>4. Plans and Alterations, which together comprise the Development Plan, prepared under Section 54 of the Town and Country Planning Act 1990 subsequent amending legislation.</p>	<p>To initiate and take responsibility for the preparation and alteration of all Plans and alterations and to make recommendations thereon to the Council, including any public consultation in liaison with the Planning Committee</p>

## Regulation 5 Functions – Plans and Strategies to be adopted or approved by Council

- 2.6 The Executive will initiate and take the lead on the preparation and management of the plans and strategies which comprise the Policy Framework and make recommendations on them to Council, subject to undertaking full consultations with the appropriate Scrutiny Panels and Committees during their preparation and the making of any amendment to them.



## Part Two: Chapter 3 - Functions of the Scrutiny Panels

- 3.1 The statutory overview and scrutiny functions of the Council will be undertaken by six Scrutiny Panels.
- 3.2 Each Scrutiny Panel will:
- a) maintain an overview of the discharge of the Council's executive functions;
  - b) exercise the right to call-in, for reconsideration, any decisions made but not yet implemented by the Executive or by individual Executive Members and any key decisions made but not yet implemented by officers in exercise of their delegated powers;
  - c) scrutinise any decisions made or actions taken in connection with the performance of any of the Council's functions.
  - d) scrutinise any matter affecting the strategic plans and financial affairs of the Council.
  - e) scrutinise the performance of services provided directly or indirectly by the Council
  - f) consider matters affecting the area or local people and, in so doing, review and scrutinise the performance of other public bodies in the area, as agreed via scoping reports
  - g) undertake such scrutiny as may be directed by Council from time to time.
- 3.3 In addition, the Policy and Resources Scrutiny Panel will prepare, within the approved budget, an annual programme of scrutiny reviews for submission to the Council. The Policy and Resources Scrutiny Panel will also make recommendations to the Executive and to the Council on estimates of expenditure and the budget required to undertake its functions and make reports or recommendations in respect of any other matters which affect the Council's area or its residents.
- 3.4 In carrying out its functions, the Scrutiny Panels will:
- a) scrutinise how and to what effect Council policy and strategy is being implemented by the Executive, Executive members and officers and make reports and recommendations as appropriate;
  - b) scrutinise performance, including financial performance against annual budgets and the capital programme, and make such reports and recommendations as considered appropriate;
  - c) scrutinise policy formulation and make such reports and recommendations as considered appropriate;
  - d) scrutinise decisions or actions taken in respect of any functions which are not the responsibility of the Executive (with the exception of individual applications or like matters relating to development management, licensing and other regulatory functions) and make reports and recommendations, as appropriate;
  - e) scrutinise services provided by other agencies and which affect the economic, social and environmental well-being of the Council's area and its residents;
  - f) review the Council's involvement in, and support to, outside organisations;

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- g) receive deputations from any individual or relevant interest groups in respect of any matter on which the Council has the powers to act;
- h) review corporate priorities and the Improvement Actions identified in the Council's Corporate Vision;
- i) scrutinise the work of Member Working Groups and consider policy amendments or developments being proposed by those Member Working Groups before being considered by the Executive.

3.5 In undertaking the above functions a Scrutiny Panel shall submit its reports and recommendations to the Council, the Executive or Executive members as appropriate.

## Part Two: Chapter 4 - Functions of Regulatory and Other Committees

### General provisions

- 4.1 The Council will appoint annually, regulatory and other committees to undertake functions that are not to be the responsibility of the Executive and the Scrutiny Board. These committees will include:
- a) Planning Committee;
  - b) Licensing and Regulatory Affairs Committee;
  - c) Audit & Governance Committee; and
  - d) such other Committees as Council thinks fit.

These committees will be entitled to appoint such sub-committees or panels as they consider necessary for the proper performance of their duties. Their functions may be amended by Council, at any time, subject to the views of the Committee affected by any proposed changes being considered.

- 4.2 The functions of each Committee will be as set out in this Constitution or as Council may decide subject to any relevant statutory provisions.





## Part Two: Chapter 5 - Functions of the Planning Committee

5.1 The general functions and areas of responsibility of the Council's Planning Committee are to:

- a) undertake all of the functions listed in this Chapter of the Constitution which are Non-Executive functions under the terms of Regulation 2 and Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended by the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001.
- b) grant powers of entry and delegate any of its powers and duties to any officer or officers of the Council, subject to any limitation which the Committee may consider appropriate, in relation to:
  - i. the imposition of any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted
  - ii. the determination of any other terms to which any such approval, consent, licence, permission or registration is subject
  - iii. the determination as to whether to take enforcement action in consequence of:
  - iv. a breach of any approval, consent, licence, permission or registration granted
  - v. a breach of any condition, limitation or term to which such approval, consent, licence, permission or registration is subject
  - vi. the amendment, modification or variation of any approval, consent, licence, permission or registration
  - vii. the revocation of any such approval, consent, licence or registration.
- c) make recommendations to the Executive on planning policy matters, with particular reference to development control functions.
- d) respond to consultations from the Executive on the preparation of Development Plans and, where appropriate, to make recommendations on such Plans to the full Council.
- e) make recommendations to the full Council on estimates of income, fees and charges, expenditure and the budget required by the Committee to undertake its functions.

5.2 The Committee will also undertake the following specific functions:

Function	Provision of Act or Statutory Instrument
<b>Functions relating to town and country planning and development control</b>	
1. Power to determine applications for planning permission.	Section 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8).

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Function	Provision of Act or Statutory Instrument
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
3. Power to grant planning permission for development already carried out.	Section 73A(a) of the Town and Country Planning Act 1990.
4. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.
5. Duties relating to the making of determinations of planning applications.	Section 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder.
6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).
8. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
9. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.

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Function	Provision of Act or Statutory Instrument
10. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
11. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992.
12. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990
13. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Section 171C, 187A and 183(1) of the Town and Country Planning Act 1990.
15. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
16. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.
17. Power to determine applications for hazardous substances consents and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c. 10).
18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites,	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.

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Function	Provision of Act or Statutory Instrument
as the case may be, are to be subject.	
19. Power to require the proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
20. Power to determine applications for listed building consent and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (c. 9)
21. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas Act 1990, as applied by section 74(3) of that Act.
22. Duties relating to applications for listed building consent and conservation area consent.	Section 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and Regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of Department of the Environment Circular 14/97.
23. Power to serve a building preservation notice and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
24. Power to issue enforcement notices in relation to the demolition of unlisted building in conservation area.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
25. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.

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Function	Provision of Act or Statutory Instrument
26. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
27. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
<b>Miscellaneous Provisions</b>	
28. Power to authorise the stopping-up or diversion of a footpath or bridleway	Section 257 of the Town and Country Planning Act 1990
29. Power to extinguish public rights of way over land held for planning purposes	Section 25 of the Town and Country Planning Act 1990
30. Power to make a limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981 (c.69).
31. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160)
32. Powers relating to the preservation of trees	Sections 197 to 214D of the Town and Country Planning Act 1990 and the Trees Regulations 1999 (S.I. 1999/1892)
33. Powers and functions relating to high hedges.	Local Government (Functions and Responsibilities) (England) Regulations 2000 (as amended) and Section 8 of the Anti-Social Behaviour Act 2003.

5.3 The extent of any onward delegations of planning functions from the Committee to officers is set out in Part Four of this Constitution.

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## Part Two: Chapter 6 - Functions of the Licensing and Regulatory Affairs Committee

### 6.1 The general functions and areas of responsibility of the Council's Licensing and Regulatory Affairs Committee are to

- a) undertake, to the extent shown in the following pages, all of the functions listed in this Chapter of the Constitution that are Non-Executive functions under the terms of Regulation 2 and Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations, 2000 as amended by the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001.
- b) exercise such other licensing and regulatory powers and non-executive functions of the Council as are delegated to the Committee from time to time
- c) delegate to any sub-committee it may appoint any of its powers or functions, subject to any limitation that the Committee may consider appropriate;
- d) delegate any of its powers to an officer or officers of the Council, subject to any limitation that the Committee may consider appropriate, in relation to:
  - i. the imposition of any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted
  - ii. the determination of any other terms to which any such approval, consent, licence, permission or registration is subject
  - iii. the determination as to whether to take enforcement action in consequence of:
  - iv. a breach of any approval, consent, licence, permission or registration granted
  - v. a breach of any condition, limitation or term to which such approval, consent, licence, permission or registration is subject
  - vi. the amendment, modification or variation of any approval, consent, licence, permission or registration
  - vii. the revocation of any such approval, consent, licence or registration.
- e) grant powers of entry in respect of any of the powers listed in this Chapter of the Constitution to an officer or officers of the Council.
- f) respond to consultations from the Executive on the preparation of statutory plans, policy and strategy and, where appropriate, to make commendations on them to the full Council.
- g) advise the Council on all matters, and resources required to undertake the functions listed in this Chapter of the Constitution. To make recommendations to the full Council on estimates of income, fees and Fareham Borough Council Constitution charges, expenditure and the budget required by the Committee to undertake its functions.

### 6.2 The Committee will also undertake the following specific functions:

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Function	Provision of Act or Statutory Instrument
<b>Licensing and Registration functions</b>	
<i>Note: for functions first delegated to the Committee after May 2002 (such as the provisions of The Licensing Act 2003) see supplementary notes at end of table.</i>	
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c.62).
2. Power to licence the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49).
3. Power to licence hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c.89), as extended by Section 171 of the Public Health Act 1875 (38 & 39 Vict. c.55), and Section 15 of the Transport Act 1985 (c.67); and Sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57).  (b) as to private hire vehicles, Sections 48, 57, 58, 60 and 70 of the Local Government (Miscellaneous Provisions) Act 1976.
4. Power to licence drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to licence operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c.2).

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Function	Provision of Act or Statutory Instrument
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963.
8. Power to licence inter-track betting schemes.	Schedule 5ZA to the Betting, Gaming and Lotteries Act 1963.
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c.65).
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c.32).
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976.
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinemas Act 1985 (c.13).
13. Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968 (c.54).
14. Power to issue entertainment licences.	Section 12 of the Children and Young Persons Act 1933 (c.12), Section 79 of the Licensing Act 1964 (c.26), Sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c.19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c.30).
15. Power to licence sex shops and sex cinemas.	Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

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<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
16. Power to licence performances of hypnotism.	The Hypnotism Act 1952 (C.46).
17. Power to licence premises for acupuncture, tattooing, earpiercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
18. Power to licence pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c.53).
19. Power to licence market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982
20. Power to licence night cafes and take-away food shops.	Section 2 of the Late-Night Refreshment Houses Act 1969 (c.53) Note: see also Licensing Act 2003 – para 93.
21. Power to licence dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c.32); Section 2 to 16 of the Game Licensing Act 1860 (c.90), Section 4 of the Customs and Inland Revenue Act 1983 (c.10), Sections 12(3) and 27 of the Local Government Act 1874 (c.73), and Section 213 of the Local Government Act 1972 (c.70).
22. Power to register and licence premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c.16).
23. Power to licence scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c.69).
24. Power to licence premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c.60) and Section 1 of the Breeding

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Function	Provision of Act or Statutory Instrument
	and Sale of Dogs (Welfare) Act 1999 (c.11).
25. Power to licence pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951 (c.35); Section 1 of the Animal Boarding Establishments Act 1963 (c.43); the Riding Establishments Acts 1964 and 1970 (1964 c.70 and 1970 c.70); Section 1 of the Breeding of Dogs Act 1973 (c.60), and Sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
26. Power to licence zoos.	Section 1 of the Zoo Licensing Act 1981 (c.37).
27. Power to licence dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c.380).
28. Power to licence knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).
29. Power to licence persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 (c.31) and Section 2 of the House to House Collections Act 1939 (c.44).
30. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c.40).
31. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c.22).
32. Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980 (c.66).

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Function	Provision of Act or Statutory Instrument
33. Power to licence planting, retention and maintenance of trees etc in part of highway.	Section 142 of the Highways Act 1980.
34. Power to authorise erection of stiles etc on footpaths or bridleways.	Section 147 of the Highways Act 1980.
35. Power to licence works in relation to buildings etc. that obstruct the highway.	Section 169 of the Highways Act 1980.
36. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
37. Power to dispense with obligation to erect hoarding or fence.	Sections 172 of the Highways Act 1980.
38. Power to restrict the placing of rails, beams etc. over highways	Sections 178 of the Highways Act 1980.
39. Power to consent to construction of cellars etc. under streets.	Section 179 of the Highways Act 1980.
40. Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.
41. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products(Hygiene) Regulations 1994 (S.I. 1994/3082).
42. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).

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<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
42. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).
43. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086).
44. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).
45. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).
46. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).
47. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
48. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
49. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
50. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

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<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
51. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).
52. Power to register food business premises.	Regulation 9 of the Food Premises(Registration) Regulations 1991.
<b>Functions relating to health and safety at work</b>	
53. Functions under any "relevant statutory provision" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc Act 1974 (c.37).
<b>Functions relating to elections</b>	
54. Power to recommend to Full Council the appointment of an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983 (c.2).
55. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.
56. Power to recommend to Full Council the appointment of a returning officer for local government elections.	Section 35 of the Representation of the People Act 1983 (c.2).
57. Duty to provide assistance at European Parliamentary elections.	Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978 (c.10).

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Function	Provision of Act or Statutory Instrument
58. Power to recommend to Full Council the division of the constituency into polling districts.	Section 18 of the Representation of the People Act 1983.
59. Power to recommend to Full Council the division of electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
60. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.
61. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
62. Power to recommend to Full Council the filling of vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
63. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
64. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
65. Power to determine fees and conditions for supply of copies of, or extracts from, election documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).
66. Power to recommend to Full Council the submission of proposals to the Secretary of State for an order under section 10 (pilot schemes for local	Section 10 of the Representation of the people Act 2000 (c. 2).

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Function	Provision of Act or Statutory Instrument
elections in England and Wales) of the Representation of the People Act 2000.	
<b>Functions relating to name and status of areas and individuals</b>	
67. left blank	
68. Power to recommend to Full Council to change the name of the Borough.	Section 74 of the Local Government Act 1972.
69. Power to recommend to Full Council to confer the title of honorary alderman or admit an honorary freeman.	Section 249 of the Local Government Act 1972.
<b>Functions relating to bylaws, local bills etc</b>	
70. Power to recommend to Full Council to make, amend, revoke or re-enact bylaws.	Any provision of any enactment (including a local Act), whenever passed, and Section 14 of the Interpretation Act 1978 (c.30).
71. Power to recommend to Full Council to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
<b>Functions relating to pensions etc.</b>	
72. Power to recommend to Full Council on functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972 (c.11)
<b>Miscellaneous Provisions</b>	

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Function	Provision of Act or Statutory Instrument
73. Power to make closing order with respect to take-away food shops	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).
74. Powers to create footpath or bridleway by agreement.	Section 25 of the Highways Act 1980 (c.66).
75. Powers to create footpaths and bridleways.	Section 26 of the Highways Act 1980 (c.66).
76. Power to stop up footpaths and bridleways.	Section 118 of the Highways Act 1980.
77. Power to determine application for public path diversion order	Section 118ZA and 118C(2) of the Highways Act 1980
78. Power to divert footpaths and bridleways.	Section 119 of the Highways Act 1980.
79. Power to make public path diversion order.	Sections 119ZA, and 119C(4) of the Highways Act 1980
80. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA, and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980
81. Power to decline to determine certain applications	Section 121C of the Highways Act 1980
82. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980

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Function	Provision of Act or Statutory Instrument
83. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981 (c. 69)
84. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981 (c. 68)
<i>85. transferred to Audit committee</i>	
86. Power to recommend to Full Council to appoint staff and determine the terms and conditions on which they hold office (including procedures for their dismissal).	Section 112 of the Local Government Act 1972
<i>87. transferred to Audit committee</i>	
<i>88. transferred to Audit committee</i>	
89. Power to recommend to Full Council to appoint officers for particular purposes (appointment of "Proper Officers").	Section 270(3) of the Local Government Act 1972
90. Power to recommend to Full Council to designate officer as Head of Paid Service and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989 (c. 42)
91. Power to recommend to Full Council to designate officer as the Monitoring Officer and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989 (c. 42)
<i>92. transferred to Audit committee</i>	
93. To exercise the Council's functions under the Licensing Act 2003, including the power to licence persons and premises for the supply of alcohol or	Licensing Act 2003

Last Reviewed – March 2018

Function	Provision of Act or Statutory Instrument
regulated entertainment or late night refreshment and to review such licences.	
94. To exercise the Council's functions under the Gambling Act 2005, including the power to licence premises and grant permits for gambling.	Gambling Act 2005
95. To exercise the Council's functions under the Health Act 2006 and associated regulations.	Health Act 2006

6.3 The extent of onward delegations of licensing functions from the Committee to the Licensing Panel is set out in the annex to this chapter.

6.4 The extent of any onward delegations of licensing or regulatory functions from the Committee to officers is set out in Part 4 of the Constitution.

Last Reviewed – March 2018



## Part Two: Chapter 6 (Annex) - Functions of the Licensing Panel

### Main role

- A-6.1 The Licensing and Regulatory Affairs Committee has determined that it will appoint Licensing Panels each comprising three members of the Committee to undertake hearings and discharge various licensing functions as may be delegated from time to time.

### Duties and responsibilities

- A-6.2 In conducting hearings and in determining the applications before it, the Panel shall ensure that it deals with its functions in a fair and proper manner having regard to the Council's policies, the relevant statutory provisions and the rules of natural justice.
- A-6.3 The following functions have been delegated by the Licensing and Regulatory Affairs Committee to the Licensing Panel:-

Function	Statutory provision
1. Determination of application for premises licence	Licensing Act 2003 – s 18(3)
2. Determination of application for provisional statement	Licensing Act 2003 – s 31(3)
3. Determination of application to vary premises licence	Licensing Act 2003 – s 35(3)
4. Determination of application to vary premises licence to specify individual as premises supervisor	Licensing Act 2003 – s 39(3)
5. Determination of application for transfer of premises licence	Licensing Act 2003 – s 44(5)
6. Cancellation of interim authority notice following police objections	Licensing Act 2003 – s 48(3)

Last Reviewed – March 2018

Function	Statutory provision
7. Determination of application for review of premises licence	Licensing Act 2003 – s 52(2)
8. Determination of application for club premises certificate	Licensing Act 2003 – s 72(3)
9. Determination of application to vary club premises	Licensing Act 2003 – s 85(3)
10. Determination of application for review of club premises certificate	Licensing Act 2003 – s 88(2)
11. Counter notice following police objection to temporary event notice	Licensing Act 2003 – s 105(2)
12. Determination of application for grant of personal licence	Licensing Act 2003 – s 120(7)
13. Determination of application for the renewal of personal licence	Licensing Act 2003 – s 121(6)
14. Convictions coming to light after grant or renewal of personal licence	Licensing Act 2003 – s 124(4)
15. Review of premises licence following closure order	Licensing Act 2003 – s 167(5)
16. Determination of application for conversion of existing licence	Licensing Act 2003 – Schedule 8 – 4

Last Reviewed – March 2018

Function	Statutory provision
17. Determination of application for conversion of existing club certificate	Licensing Act 2003 – Schedule 8 – 16
18. Determination of application by holder of a justices' licence for grant of a personal licence	Licensing Act 2003 – Schedule 8 – 26
19. Determination of those applications for a licence to drive hackney carriage and/or private hire vehicles which are not otherwise determined by officers	Local Government (Miscellaneous Provisions) Act 1976 – s51, 53, 54, 59, 61 and 79
20. Determination of those applications for a licence to operate hackney carriage and/or private hire vehicles which are not otherwise determined by officers	Local Government (Miscellaneous Provisions) Act 1976 – s55-58, 62 and 79
21. Determination of those applications for a public entertainments licence which are not otherwise determined by officers.	Section 12 of the Children and Young Persons Act 1933 (c.12), Section 52 of, and Schedule 12 to, the London Government Act 1963 (c.33), Section 79 of the Licensing Act 1964 (c.26), Sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c.19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c.30).
22. Determination of application for premises licence, where representations have been received and not withdrawn	Gambling Act 2005
23. Determination of application for a variation to a premises	Gambling Act 2005

Last Reviewed – March 2018

Function	Statutory provision
licence, where representations have been received and not withdrawn	
24. Determination of application for transfer of a premises licence, where representations have been received and not withdrawn	Gambling Act 2005
25. Determination of application for provisional transfer of a premises licence, where representations have been received and not withdrawn	Gambling Act 2005
26. Review of a premises licence	Gambling Act 2005
27. Determination of application for club gaming / club machine permits, where objections have been made (and not withdrawn).	Gambling Act 2005
28. Cancellation of club gaming / club machine permits	Gambling Act 2005
29. Decision to give a counter-notice to a temporary use notice	Gambling Act 2005

Last Reviewed – March 2018



## Chapter 7 - Functions of the Appeals Committee

7.1 The Audit and Governance Committee has determined that it will appoint a Sub-Committee to discharge the responsibilities of the now dissolved Appeals Committee (as agreed 20 May 2021), to determine appeals or objections against decisions of the Council's Executive, Committees or officers in respect of the following:

- a) appeals from the Chief Executive Officer or Directors of the Council under the Council's procedures relating to disciplinary action and unresolved grievances; and
- b) such other statutory rights of appeal against determinations of Council as may be referred to the Committee by Council from time to time.

subject to:

- c) any criteria and in accordance with any procedures that Council and the relevant Committee might set, to hear and determine such appeals; and
- d) no member sitting on the Committee when determining an appeal or objection if that member was present at a meeting of the Executive or a Committee that considered the matter about which the appeal or objection has been made.

Last Reviewed – May 2021



## Chapter 8 - Functions of the Audit and Governance Committee

### Overall purpose

- 8.1 The Audit and Governance committee is a key component of Fareham Borough Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of the Audit and Governance Committee is to:

- a) Provide independent assurance to those charged with governance (the Full Council) of the adequacy of the risk management framework and the internal control environment.
- b) Provide independent review of Fareham Borough Council's governance, risk management and control frameworks and oversee the financial reporting and annual governance processes.
- c) Oversee internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

### Accountability

- 8.2 The Audit and Governance Committee should report to those charged with governance (Council) on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- 8.3 The Audit and Governance Committee should publish an annual report on the work of the committee including details of coverage against the purposes of the Committee.

## Governance, Risk and Control

### Corporate Governance

- 8.4 The Audit and Governance Committee's areas of responsibility for Corporate Governance are:
- a) To review the Council's arrangements for corporate governance, against the good governance framework, including the ethical framework, and consider the local code of governance.

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- b) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.

## Annual Governance Statement

- 8.5 The Audit and Governance Committee's area of responsibility for the Council's Annual Governance Statement is to review the Council's Annual Governance Statement, prior to approval, and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.

## Risk Management and Internal Control

- 8.6 The Audit and Governance Committee's areas of responsibility for Risk Management and Internal Control are:
  - a) To monitor the effective development and operation of risk management in the Council.
  - b) To monitor progress in addressing risk-related issues reported to committee.
  - c) To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

## Value for Money

- 8.7 The Audit and Governance Committee's area of responsibility for Value for Money is to consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.

## Counter Fraud

- 8.8 To review the policies and measures in place to prevent fraud and corruption:
  - a) To review the policies and measures in place to prevent fraud and corruption.
  - b) To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
  - c) To monitor the counter-fraud strategy, actions and resources.

## Partnerships

- 8.9 The Audit and Governance Committee's areas of responsibility for partnerships are to review the governance and assurance arrangements for significant partnerships or collaborations.

Last Changed – October 2019

## Audit

### Internal Audit

8.10 The Audit and Governance Committee's areas of responsibility for Internal Audit are:

- a) To approve the internal audit charter.
- b) To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- c) To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- d) To approve significant interim changes to internal audit plan and resource requirements.
- e) To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- f) To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.
- g) To consider reports from the head of internal audit on internal audit's performance, including the performance of external providers of internal audit services. These will include:
  - updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
  - Reports on the results of the Quality Assurance and Improvement Plan (QAIP)
  - conformance to the Public Sector Internal Audit Standards, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement, and whether this affects the reliability of the conclusions of internal audit.
- h) To consider the head of internal audit's annual report and opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion.
- i) To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- j) To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

### External Audit

8.11 The Audit and Governance Committee's areas of responsibility for External Audit are:

Last Changed – October 2019

- a) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSAA).
- b) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- c) To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance (Council).  
To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

## Financial Reporting

8.12 The Audit and Governance Committee's areas of responsibility for the Council's Financial Reporting are:

- a) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- b) To consider the external auditor's report to those charged with governance (Council) on issues arising from the audit of the accounts.

## Wider Functions of the Audit and Governance Committee

8.13 The Audit and Governance Committee is responsible for carrying out wider functions for the Council in relation to:

- a) Standards and ethics
- b) Treasury management
- c) Key policy review
- d) Considering other matters

## Standards and Ethics

8.14 The Audit and Governance Committee's areas of purpose is also:

- a) To lead on the Council's duties under Chapter 7 of the Localism Act 2011 and to design, implement, monitor, approve and review the standards of ethics and probity of the Council both for councillors and employees; and
- b) To promote, maintain and strengthen high standards of conduct by members and co-opted members of the Council.

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- 8.15 The Audit and Governance Committee's areas of responsibility for Standards and Ethics are:
- a) Advise on an internal framework of probity and standards of conduct that should be followed by members and officers.
  - b) Formulate, monitor and revise, as necessary, Local Codes of Conduct for members and officers.
  - c) Formulate, monitor and revise, as necessary, a protocol for member/officer relationships.
  - d) Issue guidance and best practice advice with regard to probity and ethics including the following:
    - the declaration and registration of members' interests
    - claims for members' allowances and expenses
    - acceptance of, or dealing with, offers of hospitality and gifts made by third parties
    - the provision to members of hospitality, goods, services and facilities by the Council
    - the undertaking of travel and foreign visits.
  - e) Advise on such other matters of a similar kind that may be referred to the Committee.
  - f) Issue advice and guidance to members representing the Council on outside bodies.
  - g) Receive, consider and, where necessary, act on reports, guidance and advice from the Council's Monitoring Officer and the Local Government Ombudsman.
  - h) Provide appropriate training for members and officers with regard to any of the above and the ethical governance of the Council generally.
  - i) Appoint such sub-committees, panels or working parties as are deemed appropriate to undertake specific parts of these Terms of Reference.
  - j) Consider complaints against members' conduct and assess allegations of breaches of the Code of Conduct for Members to determine such complaints.
  - k) to determine appeals or objections against decisions of the Council's Executive, Committees or officers as set out in Part Two, Chapter 7 of this Constitution.

## Treasury Management

- 8.16 The Council nominates the Audit and Governance Committee to be responsible for ensuring effective scrutiny of the implementation of the Council's Treasury Management Strategy and Policy.

## Key Policy Review

- 8.17 The Audit and Governance Committee is responsible for reviewing and making recommendations to Council on its Constitution including Financial Regulations and Procurement and Contract Rules.

Last Changed – October 2019

- 8.18 In carrying out this work the committee should advocate the principles of good governance and help ensure that there are appropriate governance, risk, control and assurance arrangements in place.

### Considering Other Matters Referred to the Committee

- 8.19 Occasionally the Audit and Governance Committee may be requested to review an issue referred to it by another committee or a statutory officer.



## Chapter 9 - Functions of the Standards Committee

The Audit and Governance Committee has determined that it will appoint a Standards Sub-Committee to discharge its functions relating to complaints about member conduct to assess written allegations that a member or co-opted member of the Council has failed or may have failed to comply with the Members' Code of Conduct in accordance with Chapter 7 Localism Act 2011 or any amendment or re-enactment thereof and to administer sanctions where appropriate.

Where referred by the Monitoring Officer to grant dispensations to members under section 33 of the Localism Act or any amendment or re-enactment thereof.

The Sub-Committee will comprise three members of the Audit and Governance Committee, ensure that it deals with its functions in a fair and proper manner having regard to the Council's Code of Conduct, the relevant statutory provisions and the rules of natural justice.

Last Reviewed – March 2018



DATED 23<sup>rd</sup> NOVEMBER 2006

*original  
in Record  
Office*

**MEMORANDUM OF AGREEMENT BETWEEN**

**Fareham Borough Council**

**Gosport Borough Council**

**Havant Borough Council**

**and**

**Portsmouth City Council**

**RELATING TO**

**The Portchester Crematorium Joint Committee**

# **PORTCHESTER CREMATORIUM JOINT COMMITTEE**

## **MEMORANDUM OF AGREEMENT**

This Agreement is made between the Executive body of Portsmouth City Council (Portsmouth); the Executive body of Fareham Borough Council (Fareham); the Executive body of Havant Borough Council (Havant); and Gosport Borough Council (Gosport), together called 'the Constituent Councils'. The Portchester Crematorium Joint Committee (created by an agreement between the Constituent Councils dated 1 December 1956 and amended on 27 October 1976) ceased to exist on 6 May 2002 in accordance with provisions of the Local Government Act 2000 and regulations made thereunder, and in consequence those agreements have terminated. The Executive bodies of Portsmouth, Fareham, and Havant, and Gosport Borough Council have resolved to constitute a new Portchester Crematorium Joint Committee as they are empowered to do by the Local Government Act 2000 and regulations made thereunder for the purpose of exercising the functions of the Constituent Councils under the Cremation Acts and under any other acts and regulations with respect to the provision of and maintenance of crematoria.

It is hereby AGREED by and between the Constituent Councils as follows –

### **1. Constitution of Joint Committee**

- (1) There shall be constituted a Joint Committee of Portsmouth, Fareham, Gosport and Havant ("the Constituent Councils") consisting of two members from Gosport Borough Council and two executive members from each of the remaining Constituent Councils ("The Joint Committee").
- (2) The Joint Committee shall have the functions, powers and duties and be subject to the terms and conditions set out below.
- (3) The Joint Committee shall be deemed to have been constituted as from the 7 May 2002, from which date the functions, powers and duties have been discharged in accordance with the terms and conditions set out below.

**2. Name of Committee**

The name of the Committee shall be the Portchester Crematorium Joint Committee ("the Joint Committee")

**3. Membership of Committee**

- (1) The Joint Committee shall consist of members appointed by the Executives of Portsmouth, Fareham and Havant Councils from among members of their Executive, and from Gosport Borough Council.
- (2) Each Executive shall be entitled to appoint two members to the Joint Committee. In the absence of an appointed member, any other member of the same Executive can substitute.
- (3) Gosport Borough Council shall be entitled to appoint two members. In the absence of an appointed member, any other member appointed by Gosport Borough Council for the purpose can substitute.
- (4) The usual term of office shall be for the ensuing municipal year, with each Constituent Council appointing their representatives at or within 14 days of the Annual Meetings of such respective councils.
- (5) Membership of the Joint Committee shall end immediately if the appointed member ceases to be a member of his/her Council's Executive for any reason whatsoever or if any appointed member ceases to be a member of the Council by whom s/he was appointed to the Joint Committee.
- (6) Any vacancy in the number of representatives of any of the Constituent Councils may be filled forthwith by the respective Council or its Executive as the case may be and the person so appointed shall hold office until such time as the person whose place s/he fills would regularly have retired.

**4 Powers of Committee**

- (1) The Constituent Councils agree to delegate to the Joint Committee all their powers and duties under Section 214 of the Local Government Act 1972 and any other relevant legislation for the provision and maintenance of crematoria (including the existing crematorium at Portchester).
- (2) The delegated powers shall not extend to the power to borrow money or to levy a precept or to hold land.

**5 Committee Meetings and Proceedings**

- (1) The Joint Committee shall hold two meetings at least every year and may hold other meetings at intervals if it finds it necessary or convenient.
- (2) The Joint Committee shall have power to appoint sub-committees from among its members for any purpose it decides could better be managed or considered by a sub-committee.
- (3) The Joint Committee shall make standing orders regulating the procedure at its meetings, making provision for the election of a chair and specifying the place of meeting and quorum for meetings of the Joint Committee and any sub-committee.

**6. Staff**

The Joint Committee may appoint and pay such officers and staff as it deems necessary for the fulfilment of this agreement.

**7. Accounting Arrangements**

- (1) The Joint Committee, its officers and staff, shall keep proper accounts of all income and expenditure transactions as required by legislation and codes of practice.
- (2) As soon as possible at the end of every financial year (a period of 12 months ending on 31 March) the Joint Committee shall publish a report on the operations of the Joint Committee during the financial year and a set of the final accounts for the year and send copies to each Constituent Council.
- (3) As soon as available the Joint Committee shall publish the audited accounts for the financial year.

**8. Borrowing Arrangements**

If the Joint Committee requires to incur capital expenditure in connection with the provision of crematoria, which it cannot fund from revenue, it may request one or more of the Constituent Councils to lend it the money or borrow the funds on its behalf for such periods, at such rates of interest and on such terms and conditions of repayment as the Joint Committee may reasonably prescribe or approve.

9. **Vesting of Land and Property**

All land and property acquired or constructed by whatever means for the purpose of cremation, shall belong to and be vested in the Council in whose area the greater part is situated but shall be managed and maintained by the Joint Committee.

10. **Apportionment of Deficits and Surpluses**

- (1) All expenses, net of income and reserves, incurred by the Joint Committee in any financial year shall be borne by the Constituent Councils in equal shares.
- (2) The Joint Committee may require each of the Constituent Councils to pay on 1 April, or another date that the Joint Committee determines, the sum which the Joint Committee estimates will be the proportion of any estimated deficit to be met by that Council. When the exact amount and proportion of the deficit are known, there shall be an appropriate adjustment between the Joint Committee and each of the Constituent Councils.
- (3) The Joint Committee may use part or all of any surplus made in a financial year to finance capital expenditure and redeem debt and to carry it forward to meet contingencies and future expenditure requirements.
- (4) Any surplus remaining shall, as soon as practicable, be returned to the Constituent Councils in the same proportions as applies to deficits in sub-clauses (1) and (2).

11. **Scrutiny of Decisions**

Scrutiny of decisions taken by the Joint Committee shall be undertaken as follows –

- (1) The relevant scrutiny committee of each Constituent Council shall have the power to call-in a decision taken by the Joint Committee but not yet implemented and to request that it be re-considered. The following criteria must be met –
  - (a) the request is made to the Clerk to the Joint Committee within 5 working days of publication of the decision and by at least 2 members representing the relevant scrutiny committee of any one Constituent Council, and

- (b) the decision proposes expenditure or savings in excess of £250,000.
- (2) A decision called in for scrutiny shall be reviewed by the relevant scrutiny committee of the Constituent Council whose members made the request, and shall report its conclusions within 15 working days from the date of publication of the decision, failing which the original decision will take effect.
- (3) On receipt of a report from the relevant scrutiny committee the Joint Committee may decide to proceed with the original decision or an amended decision and will publish that decision.
- (4) The relevant scrutiny committee of each Constituent Council shall have the power to review the effectiveness of the Joint Committee in providing efficient and effective crematoria services. In so discharging that power each scrutiny committee will be required to consult with the scrutiny committee of each other Constituent Council to ensure that they are not duplicating each others work.

**12. Review of the Agreement and Determination of Agreement**

- (1) Any Constituent Council Executive may require a review of all or any of the terms of this agreement by giving all the other Constituent Council Executives written notice specifying the nature of the review required.
- (2) A review, once requested, must take place within six months of the written notice requesting the review.
- (3) Any change to this agreement must be agreed by all Constituent Council Executives.
- (4) If as a consequence of a review all of the authorities agree to determine this agreement or the agreement is determined by statute, then the assets shall be realised and the Constituent Councils share equally in the proceeds.
- (5) Any Constituent Council wishing to withdraw from the agreement must give not less than two years' notice in writing to all the other Councils, such withdrawal only to take place at 31 March in any year.



- (6) If any Constituent Council(s) withdraw from the agreement then they shall be entitled to their share of the value of fixed assets stated in the balance sheet at 31 March in the year of their withdrawal, and based on an updated depreciated replacement cost. Such share will be paid at a time or in instalments over a period of time to be agreed by the Councils.
- (7) In the event of any Constituent Council which holds land and property or other asset for the benefit of the Joint Committee withdrawing from this agreement, that Council shall continue to allow the land, property or other asset to be managed and maintained by the Joint Committee.
- (8) Throughout this agreement, unless otherwise stated reference to "Constituent Council Executive" shall be deemed to include the relevant Committee of Gosport Borough Council exercising powers and duties conferred by the 'Alternative Arrangements' provisions of the Local Government Act 2000.
- (9) Any written notice served under the terms of this clause shall also be sent to the Clerk to the Joint Committee.

**13. Arbitration**

All disputes between the Constituent Councils or between any of them and the Joint Committee on the interpretation of this agreement and all disputes or differences in any way or at any time shall be referred to an arbitrator to be agreed by the parties, failing which to be named by the Secretary of State, and the current arbitration legislation will apply.

This agreement is freely entered into by the following parties on *23<sup>rd</sup> November* 2006

*Executed as a Deed by affixing*

**THE COMMON SEAL OF  
FAREHAM BOROUGH COUNCIL**


~~was hereto affixed~~ in the presence of:



Authorised Signatory

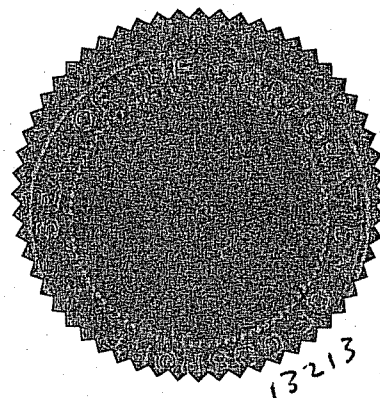
Executed as a deed by affixing  
THE COMMON SEAL OF  
GOSPORT BOROUGH COUNCIL

~~was hereunto affixed~~ in the presence of:



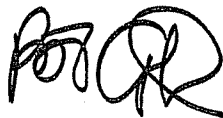
~~Authorised Signatory~~

Head of Legal Services



Executed as a Deed by affixing  
THE COMMON SEAL OF  
HAVANT BOROUGH COUNCIL

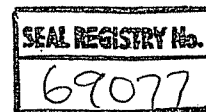
~~was hereunto affixed~~ in the presence of:



~~Authorised Signatory~~

Solicitor to the Council

THE COMMON SEAL OF PORTSMOUTH )  
CITY COUNCIL was hereunto affixed in )  
Pursuance of a resolution of the Council )  
passed at a meeting duly convened and )  
held:-

  
Authorised Signatory

DATED

27<sup>th</sup> January.

2019/21.

**AGREEMENT**

**Partnership for South Hampshire**

East Hampshire District Council  
Eastleigh Borough Council  
Fareham Borough Council  
Gosport Borough Council  
Hampshire County Council  
Havant Borough Council  
New Forest District Council  
New Forest National Park Authority  
Portsmouth City Council  
Southampton City Council  
Test Valley Borough  
Winchester City Council

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## RECITALS

1. The Parties to this Agreement are all Local Authorities who have joined together to form the Partnership for South Hampshire (hereinafter referred to as "PfSH"), the PfSH boundary is a functioning economic area representing the travel to work area for the South Hampshire economy and additional areas in the New Forest. The purpose of PfSH is to promote sustainable, economic-led growth and development of South Hampshire supported by enhanced transport and other infrastructure and to lobby and/or influence on all other associated aspects of life within the PfSH Area.
2. The Parties wish to enter into this Agreement to record their respective rights and obligations to each other
3. The Parties enter into this Agreement in pursuance of their powers under the Local Government Acts 1972 and 2000 and all other enabling powers.

## NOW IT IS AGREED:

1. **Commencement**  
This Agreement shall come into force on the date above and shall continue in force until determined in accordance with Clause 13 of this Agreement.
2. **Description**  
The Parties have entered into this Agreement with the intention of codifying the governance arrangements for PfSH and to confirm the arrangements for the PfSH Joint Committee. This Agreement records the present intentions of the Parties. It is entered into in good faith, but it is expressly recognised that this Agreement cannot fetter the discretion of the Parties. Subject to that, the following points are agreed.
3. **Parties**
  - a. East Hampshire District Council of Penns Place, Petersfield, Hampshire, GU31 4EX
  - b. Eastleigh Borough Council of Civic Offices, Leigh Road, Eastleigh, Hampshire SO50 9YN
  - c. Fareham Borough Council of Civic Offices, Civic Way, Fareham, Hampshire, PO16 7PP
  - d. Gosport Borough Council of Town Hall, High Street, Gosport, Hampshire. PO12 1EB.
  - e. Hampshire County Council of The Castle, Winchester, Hampshire, SO23 8UJ.
  - f. Havant Borough Council of Civic Centre Road, Havant, Hampshire PO9 2AX
  - g. New Forest District Council of Appletree Court, Lyndhurst, Hampshire SO43 7PA
  - h. New Forest National Park Authority of Lymington Town Hall, Avenue Road, Lymington, SO41 9ZG
  - i. Portsmouth City Council of Civic Offices, Guildhall Square, Portsmouth, Hampshire, PO1 2AL
  - j. Southampton City Council of Civic Centre, Southampton, Hampshire SO14 7LY
  - k. Test Valley Borough Council of Beech Hurst, Weyhill Road, Andover, Hampshire, SP10 3AJ
  - l. Winchester City Council, Colebrook Street, Winchester, Hampshire, SO23 9LJ

#### 4. **Definitions**

- 4.1 "The Parties" means the Parties to this Agreement set out in Clause 3.
- 4.2 "PfSH" means the Partnership for South Hampshire.
- 4.3 "The PfSH Area" means the geographical area shown on the plan in Appendix 1.
- 4.4 PfSH Joint Committee means the PfSH Joint Committee established in accordance with the provisions of this Agreement.
- 4.5 "Key Objectives" means the Key Objectives for PfSH laid out in Appendix 2.
- 4.6 "Lead Authority" means the local authority appointed by the Parties under this agreement to lead on a particular function in accordance with Clause 12.
- 4.7 "Monitoring Officer" means the officer so designated by the Lead Authority for the PfSH Joint Committee in matters of legal advice, or their appointed deputy.

#### 5. **Interpretation**

- 5.1 The headings for each section throughout this Agreement are provided for ease of reference only and shall not affect its construction or interpretation.
- 5.2 Where the masculine gender is used it shall also incorporate the feminine gender. Where the singular is used, it shall also incorporate the plural and words importing party and persons includes bodies, corporate and unincorporated and (in each case) vice versa.
- 5.3 Any reference to legislation shall include a reference to that legislation as amended, applied, consolidated, re-enacted by or as having affect by virtue of any subsequent legislation.
- 5.4 All provisions of this Agreement shall apply, save where otherwise stated.

#### 6. **Principles and key objectives**

- 6.1 The Parties agree to establish and participate in a Partnership to be known as ("PfSH").
- 6.2 The key objectives for PfSH are as set out in Appendix 2.

#### 7. **Governance structures, Joint Committee, Overview & Scrutiny and Chief Executives' Group Membership**

- 7.1 The governance structures of the PfSH, Joint Committee, the Overview and Scrutiny Committee and the Chief Executives' Group shall be established as set out in Appendices 3 and 4. The PfSH Joint Committee may set up and/or vary any sub-committees or working parties at any time.
- 7.2 The membership of the PfSH Joint Committee, Overview & Scrutiny Committee and Chief Executives' Group shall be as laid out in Appendices 3 and 4. Any proposed change to membership shall be treated as a variation in accordance with Clause 18.

**8. Decision Making**

- 8.1 A Joint Committee will be established with the terms of reference, membership and constitutional arrangements as set out in Appendices 3 and 4.
- 8.2 The PFSH Joint Committee will be administered by the relevant Lead Authority appointed in accordance with Clause 12 of this agreement. The constitutional arrangements for the Joint Committee will be determined by that Lead Authority and will, unless the Lead Authority determines otherwise, follow the Constitutional arrangements of the Lead Authority.
- 8.3 Decisions shall be made by a simple majority but must include Hampshire, Portsmouth and Southampton to be carried and that power of veto can be exercised by any of them either:
  - 8.3.1 at the meeting; or
  - 8.3.2 in absentia as a written objection to a recommendation with shall be sent to the Chairman and the Monitoring Officer of PFSH Joint Committee at least 24 hours before the scheduled meeting.
- 8.4 A joint overview and scrutiny committee with delegated functions to scrutinise and call-in joint committee decisions will be established with the terms of reference, membership and constitutional arrangements as set out in Appendices 3 and 4. Each member authority will nominate a member of their choice to sit on the joint overview and scrutiny committee.

**9. Legal, Governance and Financial Administration Issues**

- 9.1 The PFSH Joint Committee shall appoint one of the Parties to provide the services of legal adviser to the PFSH Joint Committee under this Agreement, and that authority shall act as Lead Authority for providing advice and guidance on all corporate governance, constitutional and other legal matters. The charges for such provision (which may be sub-contracted by that authority to other authorities or the private sector) shall be met in accordance with clause 10 of this Agreement.
- 9.2 The PFSH Joint Committee shall appoint one of the Parties to provide the services of financial adviser to the PFSH Joint Committee under this Agreement and that authority shall act as Lead Authority for providing advice and guidance on all financial administration and other associated financial issues. The charges for such provision (which may be sub-contracted by that authority to other authorities or the private sector) shall be met in accordance with clause 10 of this Agreement.

**10. Financial commitments of the parties**

- 10.1 Unless or until varied by the PFSH Joint Committee, the annual financial contributions of the parties in relation to the PFSH Joint Committee shall cover the core costs of PFSH. This will be apportioned based on the proportions set out in the table set out below unless or until varied by the PFSH Joint Committee and will be collected by the Lead Financial Authority:

East Hampshire District Council	1.1%
Eastleigh Borough Council	6.5%
Fareham Borough Council	6.5%
Gosport Borough Council	4.3%

Hampshire County Council	28.2%
Havant Borough Council	6.5%
New Forest District Council	10.1%
New Forest National Park Authority	1.0%
Portsmouth City Council	19.5%
Southampton City Council	13.0%
Test Valley Borough Council	2.2%
Winchester City Council	1.1%

10.2 In addition authorities may be asked to pay for additional work required to advance or achieve the Key Objectives as, as part of PfSH, on a buy-in basis as the PfSH Joint Committee may from time to time determine.

**11. Staff and key representatives**

11.1 When any Party agrees to undertake work at the request of PfSH the staff of the Party undertaking such work shall be considered to be seconded to PfSH.

11.2 During the period of secondment, the staff shall continue to be employed by the Party from whom they were seconded and managed by that Party and no changes to the staff's terms and conditions of employment shall take place.

11.3 When the period of secondment comes to an end, the staff shall be treated as having returned to their original authority on the terms and conditions applying to their posts had they not been seconded

**12. Lead Authorities and their Duties**

12.1 In order to achieve the objectives of the partnership, the Parties may appoint a Lead Authority to act on their behalf in implementing decisions of the PfSH Joint Committee.

12.2 In the event of an authority being appointed as Lead Authority by the PfSH Joint Committee subject to any terms, conditions, limitations or caveats, the Lead Authority shall:

- a. act as agent for PfSH Joint Committee in the management and day-to-day supervision of the particular task the Lead Authority has been asked to lead on;
- b. compile and return all financial and participation data relevant to the task that the Lead Authority has been asked to lead on;
- c. convene meetings comprising such individuals, bodies or others as agreed by PfSH Joint Committee in establishing the Lead Authority arrangements and update the Parties to this Agreement on the progress of the task assigned to the Lead Authority;
- d. act as the representative of PfSH Joint Committee in any discussions or negotiations when acting as the Lead Authority;
- e. provide such administrative resources and office facilities as are reasonably necessary to enable the Lead Authority to manage the project (subject to any caveats or limitations agreed by PfSH Joint Committee in establishing the Lead Authority arrangements);



- f. exercise overall responsibility for ensuring the quality assurance of the project or task assigned to the Lead Authority, including monitoring and evaluation in consultation with other Parties; and
- g. play such other role(s) as would normally and reasonably be expected of a Lead Authority in relation to the project or task as assigned.

12.3 The Lead Authority shall have full authority and power to act within the scope of the roles and responsibilities laid out in this Agreement on behalf of PfSH Joint Committee in the course of or for the purpose of doing the activities agreed by PfSH Joint Committee as Lead Authority in relation to the specific task assigned. Such action may be taken without further consent or approval from the Joint Committee provided this is within the scope of the Agreement. The Parties shall take such steps as shall be reasonably necessary to enable the Lead Authority to discharge the functions as assigned to them by PfSH Joint Committee.

### **13. Termination and Withdrawal**

13.1 The Parties to this Agreement recognise that the success of the partnership depends upon the mutual co-operation of all the Parties and the withdrawal of any Party may have serious administrative and financial repercussions for the remaining Parties and any Party other than Hampshire County Council, Portsmouth City Council or Southampton City Council withdrawing from this Agreement may only do so at the end of a financial year and must:

- a. give six months' notice in writing of withdrawal to all other Parties; and
- b. indemnify the remaining Parties for any expenses reasonably incurred by them as a consequence of the withdrawal.

13.2 In respect of Hampshire County Council, Portsmouth City Council or Southampton City Council, where one of these authorities gives six months' notice in writing of withdrawal to all other Parties, the other Parties shall consider what future arrangements should apply for the discharge of the functions under this Agreement which may include agreeing to continue joint arrangements further to a new or revised joint Agreement.

13.3 For the avoidance of doubt, where a Party wishes to withdraw from this Agreement but makes that decision and gives notice within six months of the end of the current financial year, they may not withdraw from this agreement until the conclusion of the subsequent financial year.

### **14. Intellectual Property**

14.1 Unless otherwise agreed:

- a. The Parties shall not acquire any right, title or interest in or to the intellectual property rights of PfSH.
- b. PfSH will not acquire any right, title or interest in or to the intellectual property rights of the Parties.

14.2 Subject to 14.1 above any issues, challenges or claims in relation to any intellectual property rights shall be advised to each of the Parties immediately, and any intellectual property right claim shall be managed by the Parties as agreed.

**15. Data Protection, Freedom of Information, information sharing & confidentiality**

- 15.1 Without prejudice to the specific requirements of this clause, each Party shall comply with its legal requirements under data protection legislation (including GDPR), freedom of information and associated legislation, and the law relating to confidentiality.
- 15.2 An authority will be appointed as a Lead Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the PfSH Joint Committee (as compared to information held by the Parties to this Agreement).
- 15.3 Subject to any legal obligations either arising upon the Parties and/or PfSH Joint Committee, information supplied by the Parties or third parties shall, unless agreed by PfSH Joint Committee, subject to any over-riding legal obligations, be treated as confidential.

**16. Liability of the Parties**

- 16.1 Whilst the Parties shall make all reasonable attempts to mitigate loss, each Party ("the indemnifying Party") shall be liable for and indemnify the others against any expense, liability, loss, claim or proceeding whatsoever arising under any statute or at common law in respect of personal injury to or death of any person whomsoever arising out of or in the course of or caused by any act or omission of that indemnifying Party in respect of its role in the activities of the Joint Committees and/or under this Agreement and /or where acting as Lead Authority.
- 16.2 Whilst the Parties shall make all reasonable attempts to mitigate loss, each Party ("the indemnifying Party") shall be liable for and shall indemnify the others against any reasonable expense, liability, loss, claim or proceeding in respect of any injury or damage whatsoever to any property real or personal in so far as such injury or damage arises out of or in the course of or is caused by any act or omission of that indemnifying Party in respect of its role in the activities of the PfSH Joint Committees and/or under this Agreement and/or where acting as Lead Authority .
- 16.3 Whilst the Parties shall make all reasonable attempts to mitigate loss, each Party ("the indemnifying Party") shall indemnify the others in respect of any reasonable loss caused to each of the other Parties as a direct result of that indemnifying Party's negligence, wilful default or fraud or that of any of the indemnifying Party's employees in respect of its role in the activities of the PfSH Joint Committee and/or under this Agreement and/or where acting as Lead Authority.
- 16.4 Where a Party is appointed the Lead Authority under the terms of clause 12 of this Agreement, the other Parties shall each indemnify the Lead Authority in respect of any liability arising out of or in connection with the carrying out of its duties detailed within Clause 12.2 on a pro rata basis according to the proportions of their respective financial commitments as set out in Clause 10 of this Agreement with the intent that the Lead Authority shall itself be responsible for its own pro-rata share.

**17. Review**

- 17.1 This Agreement may be reviewed at any time by agreement between the Parties or upon the request of the Monitoring Officer.

**18. Variations to this Agreement**

18.1 This Agreement may at any time be varied or amended by the Monitoring Officer acting in conjunction where the amendment is minor and has been agreed by all the Parties in writing in advance. Otherwise, this Agreement may at any time be varied or amended by a deed executed by all the Parties

**19. Insurance and Indemnification**

19.1 Each of the Parties shall ensure that they have a sufficient policy of insurance as may reasonably be required (acknowledging that in some circumstances the Parties may self-insure) for any work that they undertake on behalf of PfSH for the duration of this agreement and for a period of six years after termination of this Agreement (in respect of antecedent breaches only).

**20. Severability**

20.1 If any term, condition or provision contained in this agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remaining parts of this agreement.

**21. Publicity**

21.1 The Parties recognise their respective public reputations and legal responsibilities. Each Party shall use all reasonable endeavours not to harm or compromise these.

**22. Waiver**

22.1 No term or provision of this Agreement shall be considered as waived by any of the Parties to this Agreement unless a waiver is given in writing by that Party to all other Parties to this Agreement.

**23. Notice**

23.1 Any notice, demand or other communication required to be served under this Agreement shall be sufficiently served if delivered personally to or sent by pre-paid first class recorded delivery post, to the addresses set out in Clause 3, or by an email to the Monitoring Officer (provided a receipt or acknowledgement is given), and if so sent shall, subject to proof to the contrary, be deemed to have been received by the addressee at the time of personal delivery or on the second working day after the date of posting or successful transmission as the case may be. Anything served personally or transmitted which is received at the recipient's premises on a day when it would not in the ordinary course of its business have been open for business shall be deemed to have been received on the next following day when it is open in the ordinary course of business or would have been if it had not ceased to conduct business.

**24. Governing Law**

24.1 This Agreement shall be governed by and construed in accordance with English Law and the Parties hereby submit to the exclusive jurisdiction of the English Courts.

**25. Counterparts**

25.1 This agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

**26. Exercise of statutory authority**

26.1 Without prejudice to this agreement, nothing in this agreement shall be construed as a fetter or restriction on the exercise by any of the Parties of their statutory functions.

**27. Exclusion of Third Party Rights**

27.1 Save to the extent as expressly provided for in this Agreement no person not a Party to this Agreement shall have any right to enforce any term of this Agreement and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

**28. Survival of Clauses**

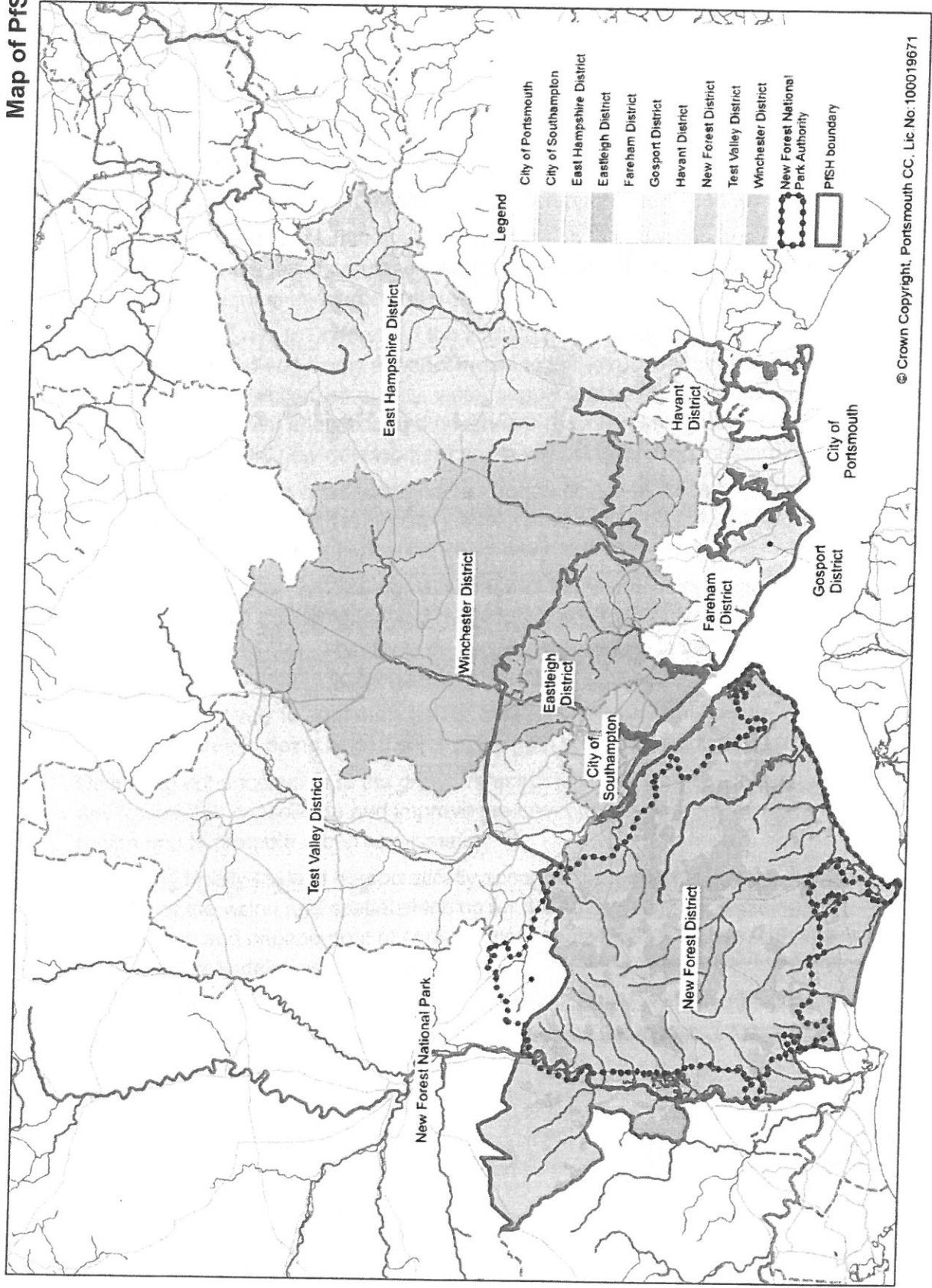
28.1 The following clauses shall survive the expiry or termination of this Agreement

- Clause 1 Definitions and Interpretations
- Clauses 6 (Principles), 10 (Finances), 14 (Intellectual Property), 15 (Data Protection) and 19 (Insurance and Indemnities)
- Clause 13 Legal Governance and Financial Administration Issues
- Clause 23 Notices
- Clause 28 Survival of Clauses

**29. No Partnership at Law**

29.1 As public bodies, the Parties do not enter into this Agreement with any view of profit. The use of the terms “partners” and “partnership” in this Agreement merely denotes the intention of the Parties to work within local government legislation in a common way to achieve shared objectives, and should not be taken as an indication of any legal partnership for the purposes of the Partnership Act 1890.

**Appendix 1  
Map of PFSH Area**



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The key role for PfSH in the current sub-regional framework can now be summarised as follows:

- Productivity and quality of life
- Providing the planning and environmental policy input to a triumvirate of sub-regional leadership organisations alongside the Solent LEP and Solent Transport
- Working together to form an evidence base to support Local Plan work
- Encouraging conditional, managed growth through the adoption of a Plan, Monitor and Manage approach to land release and plan review, with development conditional on timely and adequate infrastructure provision;
- Working with others to understand the infrastructure needed to support growth and to secure necessary and timely enhancements to infrastructure (covering transport, energy, flood protection, air quality, water supply and waste water treatment, social and community facilities, education and healthcare provision and green infrastructure) to support and enable new development and addressing existing infrastructure deficits;
- Adopting an evidence base to support a strong policy protection for strategic gaps (possibly with green belt designation), designated nature conservation and protected landscapes, and areas of high quality built environment;
- Achieving the highest environmental standards for new development particularly in terms of resource conservation and reduction of environmental impact, by the application of consistent standards and policy approaches in partner authorities' local development documents covering the PfSH area;
- Working collectively to deal with climate change issues and make sure that the South Hampshire area is doing what it can help to help support this international agenda
- Delivering enhancements to the green infrastructure and high quality design in the built environment to consolidate and improve the environment and quality of life of the sub region and to promote urban renaissance;
- Promoting locally-led and democratically accountable leadership, management and delivery of the vision and spatial planning for the sub-region and securing the participation and engagement of communities, and which recognises the key role of the private sector in delivering growth.
- Working with partner agencies to lobby on behalf of the South Hampshire area and also to influence local agencies so that they help achieve the aims of PfSH.

**PfSH - TERMS OF REFERENCE FOR PfSH JOINT COMMITTEE**

**GENERAL**

- a. This is a joint committee of the Parties under the Local Government Acts 1972 and 2000.
- b. The Parties have arranged for the discharge by the Joint Committee of such of the council's functions as are within the terms of reference (set out below).
- c. Certain functions may be delegated by this Joint Committee within their terms of reference to officers.
- d. Where a function or matter within the Joint Committee's competence has been delegated, the Joint Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. Each of the Parties shall have one representative upon the Joint Committee (normally though not necessarily the Leader of the Council). The representative may send an authorised substitute if he/she is not able to attend

**TERMS OF REFERENCE**

1. To develop a strategic policy framework within which the Parties can each discharge their transportation, planning and economic development functions and other incidental or linked functions so as to achieve the Key Objectives.
2. To prepare and recommend a Business Plan and budget to each Party and to implement the Approved Business Plan in accordance with the approved budget.
3. Subject to paragraph 2 above, to discharge, on behalf of the Parties their functions (as set out in paragraph 9) where such arrangements:
  - Affect two or more of the Parties; and
  - Have been authorised by the Parties affected by being specifically referred to in the Approved Business Plan.
4. To influence, advise and lobby government and other agencies, both nationally and internationally, where to do so is consistent with the Key Objectives.
5. To commission research into matters relevant to the Key Objectives.
6. To develop proposals for the future development of PfSH for consideration in the Draft Business Plan).
7. To develop proposals on how the Parties can discharge their functions to promote or improve the economic, social and environmental wellbeing in the PfSH area to achieve the Key Objectives.
8. To carry out such other activities calculated to facilitate, or which are conducive or incidental to the discharge of the PfSH's functions in implementing the Approved Business Plan.
9. The relevant functions to be carried out by the joint committee shall be in accordance with the table set out below.

Note: 1. The PfSH Joint Committee agenda shall be determined by the PfSH Coordinator in consultation with the Chairman

## FUNCTIONS DELEGATED BY THE PARTIES TO THE PARTNERSHIP FOR SOUTH HAMPSHIRE (PFSH) JOINT COMMITTEE

- **A commitment to partnership and joint working**

Successful delivery of the South Hampshire Sub-regional Strategy depends upon effective and wholehearted collaboration between member authorities at both political and officer levels, and genuine partnership working with other sectors and agencies with an interest.

- **Subsidiarity**

Matters that are best done at individual local authority level should continue to be performed at that level. Conversely, matters that would more effectively be dealt with at sub-regional level, or that may have impacts or require a response on cross-boundary basis, should be led by PFSH.

- **Geographical limitations**

PfSH would have no jurisdiction or responsibilities outside of its boundaries, unless expressly agreed between PfSH and the relevant local authority or statutory agency.

- **Functional limitations**

PfSH will only do the things that authorities collectively agree that it should do. This needs to be applied flexibly to allow for innovation, responsiveness and maximising opportunities.

- **Collective responsibility**

The member authorities will be collectively responsible and mutually accountable for delivering PfSH's objectives, strategy and activities.

Table 1 sets out the functions delegated to the PFSH Joint Committee.

In exercising delegated functions, the Joint Committee operates according to certain key principles.

The business plan sets out the range of matters on which the Joint Committee has delegated authority to act and make decisions. These matters are ones that have cross-boundary implications, rather than affecting one authority alone. The Joint Committee has all necessary delegated functions to implement the approved business plan. Individual authorities retain the power to determine local issues affecting their area alone, as these would not be included in the approved business plan.



TABLE ONE	
FUNCTION	SCOPE OF DELEGATION
<b>Generic Functions</b>	
Business Planning and Partnership Development	<ul style="list-style-type: none"> <li>• Development, performance management, monitoring and evaluation of the PfSH business plan and its implementation</li> <li>• Ongoing monitoring of key indicators</li> <li>• Development, design and negotiation of longer-term delivery arrangements for South Hampshire sub-regional strategy</li> <li>• Engagement of other sectors and partners at the strategic level to support delivery of the business plan and PfSH strategy</li> </ul>
Information, studies and analysis	<ul style="list-style-type: none"> <li>• Commissioning (through individual lead authorities) studies, consultancy work, research and analysis to support strategy development and implementation</li> <li>• Providing public access to information about the sub-region</li> </ul>
External Relations and Communications	<ul style="list-style-type: none"> <li>• Being the voice and champion for South Hampshire in dealings with government, other national or regional bodies and agencies and networks (e.g. Solent Local Enterprise Partnership)</li> <li>• Preparing responses to national and regional policy initiatives on behalf of the sub-region</li> <li>• Promoting public understanding and involvement in sub-regional issues, and of the work of PfSH and its partners through broadcast, internet and print media</li> </ul>
Knowledge Transfer	<ul style="list-style-type: none"> <li>• Promoting and facilitating training and best practice / knowledge transfer for officers, members and other sectors on matters relating to PfSH's work programme</li> </ul>
Promoting Delivery of Infrastructure	<ul style="list-style-type: none"> <li>• Analysis of infrastructure needs and support in negotiating delivery and financing options</li> <li>• Monitoring delivery of infrastructure</li> <li>• Development of policy approaches and priorities for implementation of sub-regionally important infrastructure</li> </ul>
External Funding	<ul style="list-style-type: none"> <li>• Commissioning, coordinating and administration of external funding bids and negotiations relating to sub-regional projects or programmes (e.g. EU funding, Regional Growth Funding on cross-boundary schemes, funding delegated or allocated from national or regional agencies)</li> <li>• Coordinating inward investment into the sub-region and promoting inward investment opportunities</li> </ul>
<b>Thematic Functions</b>	
Economic Development	<p>Economic stewardship and development activity benefitting the PfSH sub-region, in particular:</p> <ul style="list-style-type: none"> <li>• Strategy development relating to strategically important employment sites having a cross-boundary impact</li> <li>• Promoting key sub-regional sites to avoid negative competition between authorities</li> <li>• Ensuring effective programme management of strategically important economic development and regeneration schemes</li> </ul>

**TABLE ONE**

FUNCTION	SCOPE OF DELEGATION
	<ul style="list-style-type: none"> <li>• Facilitating support and capacity-building to individual authorities on smaller economic development schemes</li> <li>• Working with other agencies operating at sub-regional level on a range of topics</li> <li>• Preparation of reports to inform monitoring, policy development and business planning</li> </ul>
Housing	<ul style="list-style-type: none"> <li>• Development of consistent policy approaches, e.g. on affordable housing</li> <li>• Collaboration on relevant studies e.g. housing market assessments</li> <li>• Collaboration on nomination rights to social housing on strategically important development sites</li> <li>• Development of sub-regional housing strategy</li> <li>• Leading engagement with Housing Corporation/Communities England on sub-regional strategic and resource allocation issues</li> </ul>
Planning	<ul style="list-style-type: none"> <li>• Advising the Government on national planning policies impacting upon the sub-region</li> <li>• Advising on local development frameworks (LDFs) and encouraging shared working where appropriate</li> <li>• Preparation of consistent policy approaches (e.g. affordable housing [as above], consultation, sustainability) and consistent approaches to supplementary planning guidance (e.g. urban design)</li> <li>• Assisting and encouraging shared working on the Appropriate Assessment of LDFs</li> <li>• Advising and supporting master-planning, development briefs and local development documents relating to strategically important sites promoting consistency of approach in the PfSH context</li> <li>• Automatic consultee on planning policies, proposals and applications relating to strategically important sites</li> <li>• Supporting development of consistent approaches to s.106 negotiations and the utilisation of developer contributions, particularly in relation to strategically important sites</li> </ul>
Sustainability	<ul style="list-style-type: none"> <li>• Development of sub-regional strategies, consistent policy approaches, guidance and standards</li> <li>• Collaboration on sub-regional projects, e.g. ESCo</li> <li>• Capacity building on sustainability issues</li> <li>• Promoting sustainable waste management solutions across the sub-region</li> </ul>
Culture	<ul style="list-style-type: none"> <li>• Developing policy approaches and parameters for enhancing the cultural assets of the sub-region</li> <li>• Working with national and regional agencies to promote cultural opportunity across South Hampshire</li> </ul>

## **TERMS OF REFERENCE FOR JOINT OVERVIEW AND SCRUTINY COMMITTEE OF PfSH JOINT COMMITTEE**

### **GENERAL**

- a. This is a joint committee of the Parties under the Local Government Acts 1972 and 2000.
- b. The Parties have arranged for the discharge by the Overview and Scrutiny Committee of the PfSH Joint Committee such functions as are within the Panel's terms of reference (set out below).
- c. Where a function or matter within the Joint Committee's competence has been delegated, the Joint Committee may exercise that function / matter concurrently with the officer to whom it has been delegated.
- d. Call-in may be triggered by two or more Committee members giving due notice to the proper officer.

### **TERMS OF REFERENCE**

1. To scrutinise and call-in PfSH Joint Committee decisions.
2. To scrutinise in particular the PfSH draft and approved Business Plan and its delivery.
3. In respect of any call-in:
  - To review decisions made in accordance with the approved business plan and where they consider it appropriate, refer such decisions back to Joint Committee with comments for reconsideration;
  - To review decisions not made in accordance with the approved business plan where they may either refer such decisions back to Joint Committee with comments for reconsideration or refer the decision back to individual authorities.

Note: For the avoidance of the doubt, the overview and scrutiny function (including but not limited to call in) applies to PfSH Joint Committee Business only.

**PfSH Joint Committee**

The Executive Leader or other Executive Member of each of the partner local authorities.

The Chairman shall be elected from among the members on an annual basis. To support the Chairman in their role, a Deputy Chairman shall be appointed.

**Joint Overview and Scrutiny Committee (PUSH JC business only)**

Each Party will nominate a member of their choice to sit upon the joint Overview and Scrutiny Committee.

**PfSH Chief Executives' Group**

The Chief Executive of each Party, or their nominated representative, will be invited to attend the PfSH Chief Executives' Group. If the representative is not able to attend he/she can arrange for a substitute to attend. Other representatives may be invited to attend the meeting as the group deem necessary.

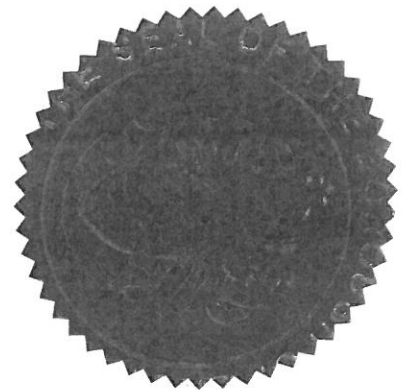
THE COMMON SEAL OF THE PARTIES IS  
HEREUNDER AFFIXED IN THE PRESENCE OF:



27/13/76

Authorised Signatory \_\_\_\_\_  
East Hampshire District Council

THE COMMON SEAL OF THE PARTIES IS  
HEREUNDER AFFIXED IN THE PRESENCE OF:



Authorised Signatory \_\_\_\_\_  
Eastleigh Borough Council



11535

THE COMMON SEAL OF THE PARTIES IS  
HEREUNDER AFFIXED IN THE PRESENCE OF:

108226

Authorised Signatory  
Fareham Borough Council



THE COMMON SEAL OF THE PARTIES IS  
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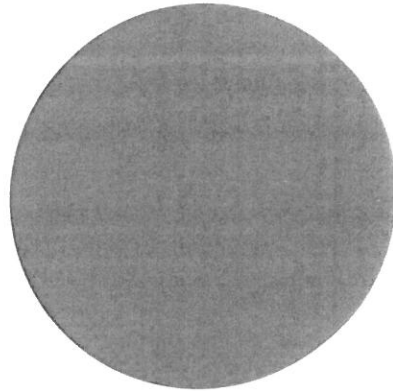


Authorised Signatory  
Gosport Borough Council

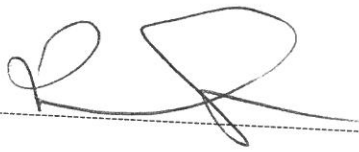


THE COMMON SEAL OF THE PARTIES IS  
HEREUNDER AFFIXED IN THE PRESENCE OF:

37/3089



Authorised Signatory  
Hampshire County Council

  
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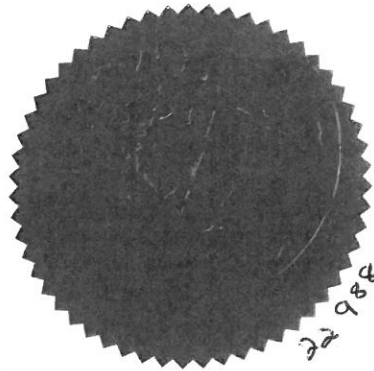


Authorised Signatory  
Havant Borough Council

  
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13651

THE COMMON SEAL OF THE PARTIES IS  
HEREUNDER AFFIXED IN THE PRESENCE OF:



Authorised Signatory  
New Forest District Council

*A. P. Knight*

THE COMMON SEAL OF THE PARTIES IS  
HEREUNDER AFFIXED IN THE PRESENCE OF:



Authorised Signatory  
New Forest National Park Authority

*[Signature]*



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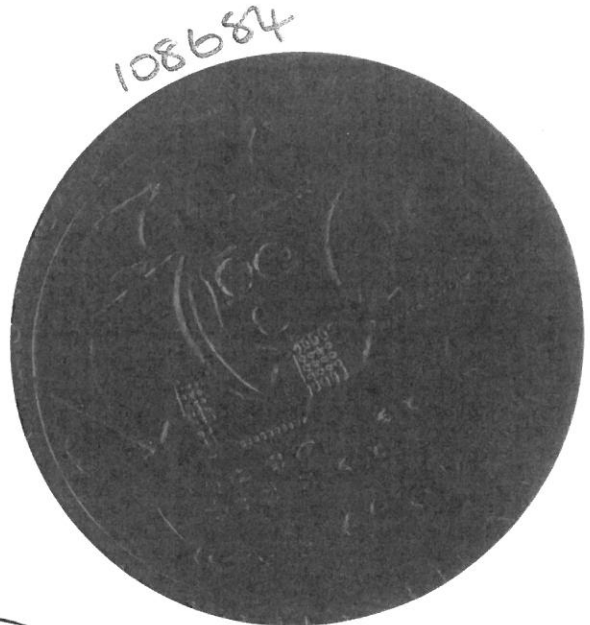


SEAL REGISTRY No.  
78046

Authorised Signatory  
Portsmouth City Council

*[Handwritten Signature]*  
C. J. B. M. M. M.  
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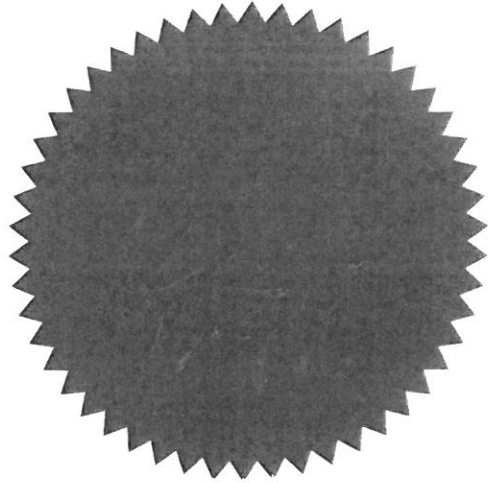


Authorised Signatory  
Southampton City Council

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THE COMMON SEAL OF THE PARTIES IS  
HEREUNDER AFFIXED IN THE PRESENCE OF:



Authorised Signatory

Test Valley Borough Council

Corporate Director  
Test Valley

THE COMMON SEAL OF THE PARTIES IS  
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LD 867



Authorised Signatory

Winchester City Council

## The Constitution - Part Three

### Procedure Rules

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## Part Three - Chapter 1 - Access to information procedure rules

### Scope

- 1.1 These rules will apply to all meetings of the Council, the Scrutiny Panels, Committees and meetings held in public of the Executive (together called meetings).

### Additional Rights to Information

- 1.2 These rules do not affect rights to information contained elsewhere in this Constitution or the law.

### Rights to Attend Meetings

- 1.3 Members of the public may attend all meetings subject only to the exceptions in these rules.

### Notices of Meetings

- 1.4 The Council will give at least five clear working days' notice of any meeting by publishing details of the meeting at the Civic Offices, Civic Way, Fareham, Hampshire and the Fareham Borough Council website.

### Access to Agendas and Reports before Meetings

- 1.5 The Council will make copies of the relevant agenda and reports, that are open to the public available for inspection at the designated office at least five clear working days before a meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time that item was added to the agenda. 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.

### Supply of Copies

- 1.6 The Council will supply copies of:
- a) any agenda and reports which are open to public inspection;
  - b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - c) if the Chief Executive Officer thinks fit, copies of any other documents supplied to members in connection with an item to any person on payment of a charge for postage and any other costs.

### Access to minutes etc. After the meeting

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

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- a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- c) the agenda for the meeting; and
- d) reports relating to items when the meeting was open to the public.

## Background papers

### List of background papers

- 1.8 The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
- a) disclose any facts or matters on which the report or an important part of the report is based; and
  - b) which have been relied on to a material extent in preparing the report.

but do not include published works or those which disclose exempt or confidential information (as defined in Rule 1.11) and in respect of Executive reports, the advice of a political adviser.

### Public inspection of background papers

- 1.9 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.

### Summary of public's rights

- 1.10 A written summary of the public's rights to attend meetings and to inspect and copy documents is available for inspection at the Civic Offices, Civic Way, Fareham, Hampshire.

### Exclusion of access by the public to meetings

#### Confidential information – requirement to exclude public

- 1.11 The public will 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.

#### Meaning of confidential information

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

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## Exempt information – discretion to exclude public

- 1.13 The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention of Human Rights 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 exempt information

- 1.14 Exempt information as defined by the Local Government Act 1972 (as amended) means information falling within the categories set out in the Appendix to this Chapter (subject to any condition).

## Exclusion of access by the public to reports

- 1.15 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 Rules 1.11 and 1.12, 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.

## Application of rules to the Executive

- 1.16 Rules 1.1-1.15 above shall apply to meetings of the Executive and its Committees in relation to 'key decisions', as defined in the Council's Constitution if they:
- a) meet to take a key decision; or
  - b) meet with an officer, other than a political adviser present, to discuss a key decision to be taken collectively within 28 days of the date, according to the notice of key decisions, by which it is to be decided, or
  - c) meet to take a decision under a or b above which includes exempt information provided that 28 days' notice has been provided in accordance with the Notice of Key Decisions.

except for those cases where the sole purpose of the meeting is for officers to brief members, or the provisions of either of the exceptions in these rules or for urgent decisions apply.

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## Additional rights of access for members

### Material relating to previous business

- 1.17 All members will be entitled to inspect any document which is in the possession, or under the control, of the Executive or its Committees and contains material relating to any business previously transacted at a private meeting unless it either:
- a) contains exempt information falling within paragraphs 1.1 to 1.6, 1.9, 1.11, 1.13 and 1.14 of the categories of exempt information; or
  - b) contains the advice of a political adviser.

### Material relating to key decisions

- 1.18 All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession of or under the control of the Executive, or its committees, which relates to any Key Decision unless paragraph 1.17 (a) or (b) above applies.

### Nature of rights

- 1.19 These rights of a member are additional to any other rights that he/she may have.

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## APPENDIX

### Descriptions of exempt information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes
  - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b. to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### Qualifications

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under
  - a. the Companies Act 1985];
  - b. the Friendly Societies Act 1974;
  - c. the Friendly Societies Act 1992;
  - d. the Industrial and Provident Societies Acts 1965 to 1978;
  - e. the Building Societies Act 1986; or
  - f. the Charities Act 1993.
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992[9].
10. Information which
  - a. falls within any of paragraphs 1 to 7 above; and
  - b. is not prevented from being exempt by virtue of paragraph 8 or 9 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. (reference: The Local Government (Access to Information) (Variation) Order 2006)

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## Part Three - Chapter 2 - Executive Procedures Rules

### General

- 2.1 This Constitution and its supporting documents, including the Standing Orders with respect to Meetings, incorporates details of specific procedures relating to meetings and decision-making by the Executive. This protocol includes details of procedural arrangements to be followed by the Executive where no specific provision is made elsewhere in the Constitution.

### Decision making

- 2.2 The Executive will make decisions on matters that are its responsibility at a meeting arranged for that purpose.
- 2.3 The Executive may delegate responsibility for any of its functions to a sub-committee of the Executive, an individual Executive Member, another local authority under joint arrangements or to an officer.
- 2.4 Where a sub-committee of the Executive or an individual Executive Member is responsible for an Executive function, they may delegate further to an officer.

### Meetings

- 2.5 Members of the Executive will be entitled to receive notice of all public and private meetings of the Executive, or any of its committees, at least five clear working days before the meeting, except where the meeting is convened at shorter notice as a matter of urgency.
- 2.6 The agenda for meetings of the Executive and its committees will make provision for the transaction of the business required by the Standing Orders for Meetings incorporated in this Constitution.

### Record of decisions

- 2.7 After any meeting of the Executive or any of its committees, whether held in public or private, the Chief Executive Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

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## Part Three - Chapter 3 – Notice of Key Decisions and Key Decisions

### Contents of the Notice of Key Decisions

- 3.1 The Notice of Key Decisions provides 28 days-notice as required by virtue of Regulation 5(2) and 9(2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulation 2012. It will contain details of all matters that are likely to be the subject of a key decision (as defined by the Regulations) taken by the Executive or by an individual Executive Member in the authority in the following four months. It will be drawn up in the name of the Executive Leader and updated monthly and will contain:
- a) the matter in respect of which the decision is to be taken;
  - b) where the decision-taker is an individual e.g. an officer with delegated powers, his/her title and, where the decision-taker is a body e.g. a joint committee, its name;
  - c) the date on which, or the period within which, the decision is to be taken;
  - d) the identity of the principal groups or organisations whom the decision-taker proposes to consult before making the decision;
  - e) the means by which any such consultation is proposed to be undertaken;
  - f) the steps that may be taken by any person who wishes to make representations to the executive/decision maker about the matter in respect of which the decision is to be taken and the date by which those steps are to be taken; and
  - g) a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the decision is to be made (unless exempt information).
  - h) Any item that may in whole or part be held in private for one or more of the reasons set out in Schedule 12A of the Local Government Act 1972 (Exempt Information).

### Key Decisions

- 3.2 A key decision is defined as being an Executive decision that is likely:
- a) to result in the local authority incurring expenditure which is, or making savings which are significant, having regard to the authority's budget for the service or function to which the decision relates; or
  - b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions.

### Publicity for Key Decisions

- 3.3 The public notice accompanying the Notice of Key Decisions will state:

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- a) that key decisions are to be taken on behalf of the authority;
- b) that a Notice of Key Decisions, containing particulars of the matters in respect of which those decisions are to be taken, will be prepared on a monthly basis;
- c) the period for which the Notice of Key Decisions Plan is to have effect
- d) that the Notice of Key Decisions may be inspected at all reasonable hours and free of charge at the authority's offices;
- e) that the Notice of Key Decisions contains a list of the documents submitted to the decision-takers for consideration in relation to the matters in respect of which decisions are to be taken;
- f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed in the Notice of Key Decisions is available;
- g) that other documents relevant to those matters may be submitted to the decision-takers;
- h) the procedure for requesting details of those documents (if any) as they become available, and

### Exceptions for cases of urgency

- 3.4 Where it is impractical to include a key decision on the Notice of Key Decisions for reasons of urgency, the Proper Officer must, with five clear days notice:
- a) notify in writing the chairman of the relevant Scrutiny Panel of the matter in relation to which the decision is to be made; and
  - b) make a notice available at the Civic Offices, again detailing the matter in relation to which the decision is to be made.
- 3.5 There is a further provision for cases of special urgency and where even five clear days notice is not possible. In such cases, the decision-maker must obtain the agreement of the chairman of the relevant Scrutiny Panel that a decision cannot reasonably be deferred. In the absence of the agreement of the chairman of the relevant Scrutiny Panel, agreement can be sought from the chairman or vice-chairman of the authority i.e. the Mayor or Deputy Mayor.

### Reporting of Key Decisions not published

- 3.6 Where the Executive or anyone acting on its behalf, makes a decision not contained on the Notice of Key Decisions that the relevant Scrutiny Panel is of the opinion is/was a Key Decision and where the decision has not been agreed to be an urgent decision, the relevant Scrutiny Panel may require the Executive to submit a report to Council. The report must contain details of the decision made and the decision taker and the reasons for it not being a key decision.
- 3.7 The Executive Leader is also required to submit a quarterly report to Council on the decisions taken within the previous three months under the provisions for cases of special urgency described above. The report must set out the number of such

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decisions taken and a summary of the matters in respect of which the decisions were taken.

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## Part Three - Chapter 4 - Budget and Policy Framework Procedure Rules

### General

- 4.1 The Council will be responsible for the adoption of its Budget and Policy Framework as set out in the Constitution. Once a budget or a policy framework is in place, it is the responsibility of the Executive to implement it.
- 4.2 This procedure defines the roles and responsibilities of the Executive, Scrutiny Panels, ordinary committees and the full Council in the formulation, review and amendment of the Council's Policy Framework and Budgets.
- 4.3 In these rules, "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

### Role and duties of the Executive

- 4.4 The Executive will be responsible for initiating, preparing, amending and making recommendations to the Council on all matters relating to the Policy Framework and budgets of the Council.
- 4.5 In the preparation of the Policy Framework and budgets or any parts thereof, the Executive will:
  - a) publish a timetable for making its proposals at the Civic Offices, Civic Way, Fareham, Hampshire, on the Council's web site and wherever else it deems appropriate, or the Council requires, and undertake, prior to any final recommendations being made, consultations with such other interested parties as it considers appropriate, as the Council may require or as may be required by law;
  - b) consult the relevant Scrutiny Panel and ordinary Committees (if necessary), on the proposals prior to any final recommendations being formulated for submission to Council;
  - c) allow a consultation period of at least six weeks between publication of the timetable and finalisation of proposals for submission to Council;
  - d) ensure that the Council complies with all legislation relating to the preparation and adoption of the strategic plans and budgets;
  - e) make available to the relevant Scrutiny Panel, ordinary committees and those papers, reports or other documents on which the Executive has relied in making its recommendations to Council;
  - f) in relation to the proposed budget and notwithstanding the other provisions of this paragraph, the Executive will present its outline proposals identifying its revenue and capital financial strategy for the following year to Council by 31 October;

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- g) consult the relevant Scrutiny Panel on proposals which comply with the financial strategy approved by Council and referred to above and submit detailed proposals on the overall budgets and the level of the Council Tax to Council by the February immediately preceding the commencement of the next financial year; and
- h) take into account any comments made by the relevant Scrutiny Panel, ordinary committees and other consultees and in its report to Council, reflect those comments and its responses thereto.

### Role, responsibilities and rights of the Scrutiny Panels and ordinary committees.

4.6 The Scrutiny Panels and ordinary committees' responsibilities in the preparation of the Policy Framework and the budget will be as consultees representing the views of the community. In support of the rights contained in the Local Government Act 2000, the Scrutiny Panels and ordinary committees will:

- a) be provided with copies of all relevant papers, reports and other documents on which the Executive has relied in making its proposals – provided that if any confidential information is supplied – that confidentiality will be maintained;
- b) have power, subject to the approval of the Chief Executive Officer, to require additional research to be undertaken on specific issues;
- c) comply with all reasonable time scales set by the Executive for response to any consultations; and
- d) be empowered to submit a report to Council on any matter relating to the Policy Framework or budgets where there is a disagreement between the Executive and any Scrutiny Panel or ordinary committee.

### Role of Council

4.7 In relation to the preparation of the Policy Framework, the budget and the Council Tax, Council will retain the absolute right, subject to the provisions of this Constitution, to approve, amend, or reject any proposals put to it by the Executive.

### Disputes resolution procedure

4.8 Before amending any draft plan or strategy forming part of the Policy Framework, or approving any such plan or strategy for submission to the Secretary of State or relevant Minister, Council must:

- a) inform the Executive Leader of any objections which it has to the draft plan or strategy or any proposals to modify, reject, defer or make no decision on the plan or strategy and if such objections or proposals are not accepted by him/her must give to him/her instructions requiring reconsideration by the Executive of its proposals;

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- b) have regard to any comments made by any Scrutiny Panel, and ordinary committees of the Council, other local authorities, partners and interested parties;
- c) take no action on any decision which is contrary to proposals submitted by the Executive until at least five working days, or longer period specified by the Council in its instructions, after the instructions referred to above have been notified to the Executive Leader or until the decision has been dealt with in accordance with the 'disputes procedure' provisions of this Constitution, whichever is the later; and
- d) in amending, approving or adopting any draft plan or strategy, the Council must take into account any proposals for amendment made by the Executive, and any disagreement which the Executive has with the Council's objections, which have been notified to Council within the period specified by Council.

4.9 Where the Executive submits to the Council its proposals for budget estimates and Council Tax calculation and the Council proposes to modify, reject, defer or make no decision on an Executive recommendation, it must:

- a) inform the Executive Leader of any objections and give him instructions requiring reconsideration by the Executive of its estimates and calculations;
- b) take no action on proposals submitted by the Executive until at least five working days after instructions referred to above have been notified to the Executive Leader; and
- c) in making any budget decisions or calculations, Council must take into account any revision of estimates or calculations made by the Executive and any disagreement which the Executive has with the Council's objections, which have been notified to Council within the period specified by Council.

### Variation of procedure

4.10 Where permitted by law, this procedure may be varied by resolution of Council on a recommendation from the Executive. No such recommendation will be made until the Executive has consulted the relevant Scrutiny Panel and ordinary committees of the Council.



## Part Three - Chapter 5 - Decision making by individual members of the Executive and key decisions by Officers

### Introduction

- 5.1 The Executive Leader of the Council, members of the Executive and officers are authorised to undertake certain executive actions under the terms of this Constitution. The responsibilities and processes to be followed by Executive Members and the officers in carrying out those tasks for which they are individually responsible and there has been a delegation of powers to an individual Executive member by Council are set out here.
- 5.2 For this purpose, the appropriate Chief Officer or Head of Service is the Proper Officer for providing advice to Executive Members and the Monitoring Officer is the Proper Officer for the maintenance of the Corporate Register of decisions taken.

### Action by Executive Members prior to reaching a decision

- 5.3 In all cases, prior to taking any decision on any matter, the Executive member shall be responsible for: -
- a) ensuring that the decision to be made is within his/her delegated powers;
  - b) obtaining, in writing (which may be transmitted electronically), a summary of the issues from the Chief Officer or Head of Service responsible for the matter under consideration;
  - c) obtaining confirmation that any course of action proposed is within the Council's legal powers and complies with the Council's Policy Framework and budgets;
  - d) determining whether the proposed action has any effect on the responsibilities of other Executive Members;
  - e) ensuring that where the matter affects a specific part of the Council's area, the views of the relevant ward members have been sought in writing and taken into account in reaching a decision; and
  - f) determining whether the decision to be taken is a key decision as defined in the Council's Constitution in which case the provisions of paragraph 5.6 below shall apply.
- 5.4 Where any matter considered by an Executive Member:
- a) on an occasion they are unable to carry out their delegated powers, the Executive Leader may appoint another member of the Executive to exercise the delegations of that Executive Member,
  - b) is outside the legal powers of the Council or contrary to the Council's Policy Framework or budgets the matter shall stand referred to the Executive for consideration. No action that commits the Council shall be taken on that matter until after the issue has been determined by the Executive, except that where a decision, including one which does

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not comply with the Council's Policy Framework or would not be wholly in accordance with the budget, is required urgently, that matter may be determined in accordance with the provisions of Chapter 7 in this part of the Constitution.

- 5.5 Where a decision would have an effect on the responsibilities of another Executive member or has implications that might affect the corporate strategies of the Council, the Executive member shall consult with any other Executive member and the Executive Leader prior to reaching any decision.
- 5.6 Where an Executive Member receives a report which he/she intends to take into account in making a Key Decision, the following provisions shall also apply:
- a) the decision will not be made until at least five clear days have elapsed since receipt of the report, and
  - b) the person who provided the report to the Executive Member shall give a copy to the chairman of the relevant Scrutiny Panel as soon as reasonably practicable and make a copy publicly available at the same time.

### Action by Executive member at point of decision making

- 5.7 In reaching a decision on any matter referred to him/her, the Executive member shall:
- a) take into consideration the views expressed by the Chief Officer or Head of Service responsible for the matter under consideration;
  - b) where appropriate, take account of the views of other Executive Members, the Executive Leader and the ward members;
  - c) endorse the written documentation prepared by the appropriate Chief Officer or Head of Service with his/her decision and, where that decision is contrary to the Officer's recommendation or views submitted by the ward member, the reasons for reaching the different conclusion; and
  - d) endorse all written documentation giving options considered with the reasons why particular options were rejected.

### Action by Executive member after decision

- 5.8 On reaching a decision and subject to the provisions for call-in arrangements in Chapter 10 of this part of the Constitution, the Executive members shall:
- a) give instructions to the appropriate Chief Officer or Head of Service to take the necessary action to implement the decision;
  - b) personally, or arrange for the appropriate Chief Officer or Head of Service to, notify the other members of the decision taken;
  - c) ensure that the decision is not implemented until such time as the period for, and the conditions of, the provisions for call-in arrangements for decisions taken by the Executive have been complied with; and

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- d) supply a copy of all papers (which may be transmitted electronically) considered by him/her with a copy of the decision and reasons to the Monitoring Officer.

5.9 On notification of a decision, the Chief Officer or Head of Service will:

- a) subject to compliance with the provisions in this Constitution for call-in arrangements, ensure implementation of the decision within any specified timescales and, if none are given, within a reasonable period;
- b) ensure that a copy of the decision and appropriate supporting papers are placed on the relevant file;
- c) where instructed by the Executive Member, arrange for a report on the decision taken to be circulated to all members of the Council; and
- d) immediately notify any persons or organisations consulted about the proposals of the decision taken.

5.10 The Monitoring Officer will:

- a) maintain a register or registers, which may be held in electronic form, of decisions taken by Executive members under delegated powers;
- b) maintain copies, which may be held electronically, of all the supporting papers provided to the Executive member;
- c) make the register and supporting papers available for inspection at the Council's main office by any member of the Council during normal office hours; and
- d) make the register and supporting papers, except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office during normal office hours, in accordance with the provisions of the Access to Information Procedure Rules set out in this Constitution. No charge shall be made for inspection of such papers. The requirement to make documents available for public inspection will not apply to exempt or confidential information or the advice of a political adviser or political assistant.

## Urgent decisions

5.11 Where, in the opinion of the Chief Officer, Assistant Director or Head of Service, a decision within the Policy Framework and budget is required urgently on any matter delegated to an Executive Member, the provisions of: -

- a) paragraphs 5.3(b) and 5.3(c) above, relating to the information and decision being in writing or electronic form; and
- b) paragraphs 5.3(d), 5.6(b) and 5.7(b), relating to consultations with ward members,

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shall apply only if there is sufficient time to follow these procedures without prejudicing the decision or the Council; provided that, as soon as practicable after the matter has been determined, a written record of the issues and the action taken shall be made and circulated in accordance with the remaining provisions below.

- 5.12 Paragraphs 11 to 15 in Chapter 10 of this part of the Constitution, so far as they relate to the date on which the decision may be implemented, shall not apply and the decision may be implemented immediately.
- 5.13 Where a decision is not within the Policy Framework or budget, the provisions of the Chapter 6 of this part of the Constitution will apply.

### Key Decisions made by officers

- 5.14 The above provisions will apply in all respects only to Key Decisions by officers acting under delegated powers. Where the power delegated is to a Chief Officer, Head of Service or other officer, he/she shall ensure that the written documentation or other matters required by these provisions are prepared or undertaken as though the decision was being taken by an Executive Member.

### Variation

- 5.15 These provisions may be varied by a resolution of Council on a recommendation from the Executive. No such recommendation shall be made until the Executive has consulted the relevant Scrutiny Panel and other relevant Committees of the Council.

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## Part Three - Chapter 6 - Urgent decisions outside the Policy Framework and/or budget

### Introduction

- 6.1 The Executive is empowered, subject to compliance with the Council's Policy Framework and budgets, to make decisions on behalf of Council in accordance with the provisions of this Constitution.
- 6.2 This part of the Constitution describes the procedures to be followed where a decision which does not comply with the Council's Policy Framework or is contrary to or not wholly in accordance with the budget, is required urgently.
- 6.3 Where any decision will give rise to expenditure exceeding such sum as may be prescribed from time to time in the Council's Financial Regulations, no action shall be taken to implement that decision until Council has considered the matter.
- 6.4 In these provisions, the expression 'Executive' refers to the Executive, a committee or sub-committee of the Executive, an Executive member, officer or joint arrangements discharging any function of the Executive.

### Action prior to decision

- 6.5 Where it appears to the Executive that a decision which is outside the Council's Policy Framework or budget is required urgently and it is not reasonable to delay the decision-making to the next or a special meeting of the Council, the Executive will: -
  - a) seek advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the proposed decision would be contrary to the Council's Policy Framework or is contrary to or not wholly in accordance with the budget;
  - b) obtain confirmation from the Chief Executive Officer and other appropriate professional advising officer that a decision is required urgently;
  - c) carry out, so far as is reasonable, consultations with ward members and other interested parties; and
  - d) consult with the chairman of the relevant Scrutiny Panel on the proposed decision and the need for action to be taken urgently.
- 6.6 Where the chairman of the relevant Scrutiny Panel is not available for whatever reason, the vice-chairman shall be consulted and, if neither is available, the Mayor, or in his/her absence, the Deputy Mayor shall be consulted.
- 6.7 Where the chairman of the relevant Scrutiny Panel agrees that the proposed decision is urgent, the Executive shall be empowered to implement such decision. For the purposes of this paragraph, consultations may be made in writing, electronically or orally, depending on the need to ensure effective and timely decision making. In all

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cases, a written record of the consultations undertaken, the decision, all options considered, the reasons why the decision was required urgently and a special meeting of the Council could not be arranged, will be made by the Executive on the record of the decision.

### Action after decision

- 6.8 As soon as reasonably practicable after a decision has been made under these provisions, the Executive must provide a written report to Council explaining: -
- a) the decision;
  - b) the reason(s) why a decision was required;
  - c) the reason(s) why the decision was treated as urgent and could not have been brought to the Council for determination; and
  - d) the manner, timing of consultation and office of person consulted prior to the decision being taken.

### Quarterly reports

- 6.9 At each Council meeting, and at least quarterly, the Executive Leader will report to the full Council on any executive decisions taken during the preceding period under these provisions. The report will include: -
- a) the number of decisions taken;
  - b) the circumstances which required the decisions to be taken urgently; and
  - c) a summary of the matters in respect of which the decisions were taken.

### Variation of procedure

- 6.10 These provisions may be varied by resolution of the Council on a recommendation from the Executive. No such recommendation will be made until the Executive has consulted the relevant Scrutiny Panel.

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## Chapter 7 - Removing the Executive Leader and Members of the Executive

- 7.1 The Executive Leader and members of the Executive of the Council will be elected by the Council and hold office for a period of two years and can only be removed during their periods of office by resolution of Council in the circumstances set out below.
- 7.2 Council may only consider removing the Executive Leader and Executive Members: -
- a) on a motion of which notice has been given as in paragraphs 7.6 to 7.8 below, or
  - b) in the circumstances described in paragraphs 7.9 to 7.11 below.
- 7.3 When voting on a motion to remove the Executive Leader or other Members of the Executive, a quorum of the Council shall be at least three-quarters of the total number of Members of Council.
- 7.4 A Council resolution to remove the Executive Leader shall not have the effect of removing the Deputy Executive Leader and other Members of the Executive. Those Members shall continue in those roles pending decisions by the newly elected Executive Leader under paragraph 7.12 below.
- 7.5 If Council resolves to remove the Executive Leader or other Member of the Executive, it shall elect a new Executive Leader or Member of the Executive, as the case may be, at the same Council meeting as its next item of business.

### Notice of motion to remove Executive Leader or Executive Member

- 7.6 Notice of a motion to remove the Executive Leader or other Executive Member shall be: -
- a) given in writing;
  - b) signed by at least one half of the total number of Council members;
  - c) received by the Chief Executive Officer at the Civic Offices, Civic Way, Fareham, Hampshire; and
  - d) state why the signatories consider the Executive Leader or other Executive Member should be removed.
- 7.7 If the Chief Executive Officer receives the notice of motion less than 15 but not less than 5 clear working days before the next programmed Council meeting, the motion shall be considered at that Council meeting.
- 7.8 If the notice of motion is received by the Chief Executive Officer 15 or more clear working days before the next programmed Council meeting, the Chief Executive Officer shall, within 5 working days of receiving the notice, summon a special Council meeting for the purpose of considering the motion. Unless required by law, no other business shall be conducted at that meeting, other than election of a new Executive

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Leader, or Executive Member, as the case may be, if the motion succeeds. The special meeting shall take place within 10 working days of the summons.

### Change of Political Balance

7.9 Paragraphs 7.10 to 7.11 apply if: -

- a) the Executive Leader and Executive members are members of the majority political Group ("the Executive Leader's political group") represented on the Council; and
- b) that political group loses its overall majority on the Council more than 15 working days before the Annual Council Meeting (or, in the year of an election of Councillors, more than 15 working days before the date of the election).

7.10 If a programmed meeting of the Council is due to take place within less than 15 clear working days after the date on which the Executive Leader's political group loses its overall majority, the election of the Executive Leader and Executive Members shall be the first item of business, after any business required to be dealt with by statute, at that Council meeting.

7.11 If a programmed meeting of Council is not due to take place less than 15 clear working days after the date on which the Executive Leader's political group loses its overall majority, the Chief Executive Officer shall, within 5 working days of the day on which the Executive Leader's political group loses its overall majority, summon a special Council meeting for the purpose of electing an Executive Leader and Executive Members. The special meeting shall take place within 10 working days of the date of the summons.

### Duties of a newly elected Executive Leader

7.12 A new Executive Leader elected under these provisions shall, within 5 working days of his or her election: -

- a) appoint a Deputy Executive Leader
- b) ensure that areas of responsibility are allocated by the Executive to each member of the Executive; and
- c) inform the Chief Executive Officer of the names of the Deputy Executive Leader and the areas of responsibility of Members of the Executive.

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## Part Three - Chapter 8 - Resolution of disputes between Council and the Executive

### Introduction

- 8.1 The Council is responsible for approving the Policy Framework and setting the budget and, in determining such matters, it will normally act only on a recommendation of the Executive.
- 8.2 These provisions specify the arrangements which will apply to those matters relating to the Policy Framework and budget: -
- a) which the Executive has referred to Council for approval and where Council is unwilling to adopt the Executive's recommendation, or
  - b) where the Executive does not submit a recommendation and where, for statutory or other reasons, it is necessary in the opinion of the Chief Executive Officer, Monitoring Officer or Chief Finance Officer for a decision to be made.
- 8.3 Where notification to any member or officer of the Council is required under this Protocol, such notification may be transmitted in writing or electronically.

### Procedures for dealing with recommendations of the Executive

- 8.4 The Executive will, within the terms of its delegated powers and any statutory limitations, be responsible for the implementation of the Policy Framework and budgets approved by Council.
- 8.5 Where the Executive proposes any additions or alterations to the Policy Framework or budgets, it will, following the consultations required elsewhere in this Constitution, submit a report, with recommendations and reasons, to Council.
- 8.6 Copies of all reports and other supporting papers will be made available to all Members of Council as soon as possible after the Executive has concluded its consideration of the issues. In any event, such documentation will be made available not later than the day of the dispatch of the agenda for the Council meeting incorporating the Executive's recommendations.
- 8.7 Where the Council approves, without any amendment, the recommendations put to it by the Executive; such decisions will have immediate effect.
- 8.8 Where the Council modifies, rejects, defers or makes no decision on an Executive recommendation and any such modifications are not accepted by the Executive Leader, a copy of the decision will be provided to the Executive Leader of the Council within two working days of the meeting, together with instructions to reconsider the matter. Such decision will not come into effect until the sixth working day after the Council decision has been communicated to the Executive Leader.

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- 8.9 Within five working days after the decision of Council has been communicated to him/her, the Executive Leader may notify Council that the Executive disagrees with its decision or, with reasons, may submit a revised plan, strategy or budget. Providing such notice gives reasons for the disagreement, the decision will not be implemented until Council has considered the Executive Leader's objection.
- 8.10 On receipt of a notice of disagreement or a revised plan, strategy or budget, the matter will be referred to the next meeting of Council or, where necessary or requested by the Executive Leader, a special meeting of Council, for reconsideration.
- 8.11 Any decision reached at the meeting of Council (whether it is to support or reject the objections or revisions of the Executive) will have immediate effect.

### Procedures for dealing with issues where no recommendation is made by the Executive

- 8.12 Where for statutory or other reasons, it is necessary for the Council to make any decision on any issue which ordinarily would have been the subject of a recommendation from the Executive, Council will: -
- a) approve any appropriate resolution, subject to its implementation only coming into effect on the sixth working day after the Council meeting; and
  - b) give notice of the decision taken to the Executive Leader within one working day of the Council meeting.
- 8.13 Within five working days after the decision of Council has been communicated to him/her, the Executive Leader may give notice in writing to the Chief Executive Officer that the Executive objects to the decision. Providing such notice gives reasons for the objection, the decision will not be implemented until Council has considered the Executive's objection.
- 8.14 On receipt of an objection, the matter will be referred to the next meeting of Council or where necessary a special meeting of the Council, for reconsideration due to the objection made by the Executive.
- 8.15 Any decision reached at the meeting of Council (whether it is to support or reject the objection of the Executive) will have immediate effect.

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## Part Three - Chapter 9 - Rights of the Scrutiny Panels

### General

- 9.1 This procedure defines the operational rights and the rights of access to information of the Scrutiny Panels. It is to be read in conjunction with these other related sections of this Constitution – Part One, Chapter 16, Appendix 6 & Part Three, Chapter 1.
- 9.2 In any case where a Scrutiny Panel undertakes a review which has an effect on any other Scrutiny Panel, the Chairman of that Scrutiny Panel will be entitled to attend its meeting when the matter is to be discussed.

### Areas of activity

- 9.3 All Scrutiny Panels will have the right to be involved in and consulted on: -

#### **Policy Formulation**

Where the Council gives instructions to the Executive to undertake development of a new policy, it will be deemed to include an instruction to consult with the relevant Scrutiny Panel during development of the new policy.

In conjunction with the relevant portfolios specific service responsibilities each Scrutiny Panel can be assigned work to deliver priorities to the Corporate Vision.

#### **Policy Scrutiny**

After initial consideration by the Executive and before submission of any report by the Executive to the Council, details of any policy reviews will be supplied to the relevant Scrutiny Panel. The Scrutiny Panel will agree, and consult on any timescales for which policy reviews are conducted.

The Scrutiny Panels have the right to hold the relevant Executive Member and Senior Officers to account in delivering assigned work on the priorities of the Corporate Vision.

#### **Call-in**

Where any decision of the Executive is referred to the relevant Scrutiny Panel by not less than three non-executive members of the Council, in accordance with the call-in procedures set out in Part Three, Chapter 10 of this Constitution (in which case the decision would not have been implemented), the relevant Scrutiny Panel will: -

- unless agreed otherwise, meet within ten working days of the request made for the purpose of reviewing the Executive's decision
- make such arrangements as the Chairman of the relevant Scrutiny Panel, in consultation with the Chief Executive Officer, deems necessary to enable the Scrutiny Panel to carry out an objective review of the Executive's decision

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- unless agreed otherwise, ensure that within seven working days of the completion of the review, the outcome is reported to the Executive
- where the relevant Scrutiny Panel determines that the Executive's decision should be referred to the Council, unless agreed otherwise make such arrangements as are necessary to call a special meeting of the Council within fourteen working days.

9.4 The Policy and Resources Scrutiny Panel will have the right to be involved in and consulted on: -

### **Budget Setting**

As set out in the Budget and Policy Framework Procedure Rules set out in Part three, Chapter 4 of this Constitution.

### **Reports**

- 9.5 As legislation prescribes, when a Scrutiny Panel has finalised its views on any issue, it will submit its report on that issue to the Proper Officer. The Proper Officer will arrange for the Council, the Executive, an Executive Member, an Ordinary Committee or an officer, as appropriate, to consider that report within one month of its receipt.
- 9.6 In any case where the Executive, Executive Member, Ordinary Committee or officer does not respond in writing within one month, the report will be submitted to the next ordinary meeting of the Council.

### **Access to information**

- 9.7 In order to enable the Scrutiny Panels to undertake their duties under the terms of this procedure, the Scrutiny Panel will have access in good time to: -
- a) all reports and supporting papers, including exempt information, considered by the Executive as soon as practicable after the Executive has reached a decision;
  - b) supporting papers, including documents prepared or supplied by officers, which had an effect on the decision taken, including any papers containing information about options rejected by the Executive; and
  - c) such other information and reports as the Scrutiny Panel may request Directors or Chief Officers to supply or prepare, subject to the right of the Chief Executive Officer to refer the need for such work to the Council for agreement.
- 9.8 Members of the Scrutiny Panels must respect the confidentiality of confidential and exempt information and will not provide or disclose it to any person who is not a Councillor.
- 9.9 Notwithstanding the provisions of the Code of Conduct for Members and S.O.39 of Standing Orders with Respect to Meetings, co-opted non-voting members of the

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Scrutiny Panels who are co-opted for the consideration of specific business or for a specified period only, such appointment being less than a full municipal year, shall not be entitled to receive copies of reports relating to other business of the Scrutiny Panel containing information which is exempt or confidential under the Local Government Act 1972 and nor shall such business be discussed in their presence.

- 9.10 The Scrutiny Panels will not automatically be entitled to have access to:
- a) any document that is in draft form, or
  - b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

### Attendance of Executive Members at Scrutiny Panel meetings

- 9.11 When considering any decision taken by the Executive, the Scrutiny Panel will have the right to require the decision-maker, or a member of the Executive where the decision was taken at an Executive meeting, to attend any meeting called to review the decision of the Executive.
- 9.12 Reasonable notice of the date, time and location of the meeting and of the issues to be discussed will be given to the decision maker, or the Executive Leader if the decision was taken at a meeting of the Executive.
- 9.13 A decision of the Executive that is called in will not be implemented until such time as the member of the Executive or its representative has attended a meeting of the Scrutiny Panel or the Scrutiny Panel has reported on the decision to the Council at its next ordinary meeting.
- 9.14 The Scrutiny Panel may request copies of information or documents to enable it to review a decision of the Executive. If such papers have not been supplied at least two days prior to the meeting of the Scrutiny Panel, the Executive's decision will stand deferred to a further meeting of the Scrutiny Panel, which will be arranged as soon as practicable.

### Attendance of officers at Scrutiny Panel meetings

- 9.15 The Scrutiny Panel will be entitled to require any officer to attend its meetings who: -
- a) took a decision on behalf of the Executive;
  - b) was involved in providing information to enable a decision to be reached by another officer or by the Executive, or
  - c) has some material information that will assist the Scrutiny Panel in reviewing the decision.
- 9.16 Reasonable notice of the date, time and location of the meeting and of the issues to be discussed will be given to the officer requested to attend the meeting. A copy of the notice will also be sent at the same time to the appropriate Director or Chief Officer.

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- 9.17 Where any officer fails to attend a meeting of the Scrutiny Panel without good cause, he/she may be subject to action under the Council's disciplinary rules.
- 9.18 In determining which officers to call to provide information, the Scrutiny Panel will have due regard to the seniority of officers and will normally only invite those officers to give evidence who hold supervisory and management posts.
- 9.19 Officers will only be required to give evidence on questions of fact when called to attend meetings of the Scrutiny Panel. They will not be expected, or required, to comment on the merit of any options considered by the Executive or to justify the decision reached, except insofar as the decision being reviewed is that taken by the officer.

### Attendance of other persons at Scrutiny Panel meetings

- 9.20 Where the Scrutiny Panel considers it necessary, to enable it to undertake a review of any matter coming before it, it will: -
- a) be entitled to call any person who is not a councillor or officer to provide information to assist in its deliberations;
  - b) make reasonable travel and subsistence payments to any such persons attending meetings for the purpose of providing information.

### Additional support

- 9.21 The Scrutiny Panel will be entitled to appoint a consultant, other person or organisation to undertake research or other tasks on its behalf, subject to budget provision having been made for that purpose or such other amount as may be agreed by Council.

### Variation of procedure

- 9.22 This procedure may be amended at any time by Council on a recommendation from the Executive, following consultation with the Council's Scrutiny Panels and, as appropriate, Ordinary Committees.

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## Part Three - Chapter 10 - Call-in procedures for Executive decisions

### Interpretation

- 10.1 This procedure applies to all decisions taken by the Executive, individual members of the Executive and key decisions by officers (including those taken in liaison or consultation with local councillors or Executive members) on behalf of the Executive.
- 10.2 Where this procedure refers to the Executive, it will be deemed to include the Executive, Executive Leader, Executive Member or officers as the case may be.
- 10.3 Panel in this procedure means the relevant Scrutiny Panel.
- 10.4 For the purposes of this procedure 'decision' means any decision of consequence which leads to action being taken in the performance of the functions of the Council.
- 10.5 In relation to officers, a decision will only relate to a 'key decision', which is any decision which is likely: -
- a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, or
  - b) to be significant in terms of its effects on the communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council.
- 10.6 Where an urgent decision has been taken under the provisions of Chapter 6 of this part of the Constitution, or by the Director of Finance and Resources under those provisions in Financial Regulations which authorise him/her to approve expenditure which is required urgently, the paragraphs of this procedure that provide that decisions may not be implemented immediately will not apply.

### Action before decisions

- 10.7 Prior to an officer taking any key decision, he/she will ensure that all consultations required under, or implicit in, his/her delegated powers, have been undertaken.
- 10.8 Where any matter falls to be determined by the Executive, it will ensure that all consultations and other actions required under, or implicit in, this Constitution are carried out.
- 10.9 Where any matter falls to be determined by the Executive Leader or an Executive member, he/she will ensure that all consultations and other actions required under, or implicit in, this Constitution are carried out.

### Arrangements for review

- 10.10 When a decision has been made, the Executive will publish the decision and, at the same time, notice of that decision will be circulated to all members of the Council. As

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far as practicable, all decisions will be published within two working days. The notice issued under this provision will, except for urgent decisions which will have immediate effect, specify that the decision will come into force at the expiration of seven working days (or such longer period as may be specified in the notice) from the publication of the decision.

- 10.11 If, prior to the date at which the proposed decision is to be implemented, at least three non-executive members of the Council consider that the decision should be reviewed, they may give notice, with reasons, to the Chief Executive Officer that the decision should be referred to the relevant Scrutiny Panel for review. Where such a notice has been given, the decision will not be implemented until that Panel has reviewed the decision. (Note: In accordance with paragraph 15.7 of the Council's Standing Orders with respect to meetings, if a motion is referred by the Council to the Executive, the decision of the Executive shall not be subject to the call-in procedure for Executive decisions under this constitution).
- 10.12 On receipt of a notice under the above paragraph, the Chief Executive Officer will arrange for the decision to be considered by a meeting of the relevant Scrutiny Panel within ten working days following the end of the period allowed for call-in of Executive decisions. Where such a notice indicates that the decision is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's budget, the Monitoring Officer and/or the Chief Finance Officer will prepare a report to the Panel. The report will advise on whether the decision was, or was not, a departure from the approved policies or budget.
- 10.13 On consideration of the decision and the report of the Monitoring Officer and/or Chief Finance Officer referred to above, the relevant Panel may:
- a) accept the decision made by the Executive, in which case the Executive may implement the decision immediately, or
  - b) request the Executive to reconsider the decision giving reasons for such request.
- 10.14 After reconsideration of the decision, the Executive may implement its decision, whether amended or not, immediately; or:
- a) may, where the decision is of particular high local significance and public interest, refer the decision to Council for full debate by all members of the Council. In these circumstances, a special meeting of Council will be held within 14 working days and the Executive decision will not be implemented until after the meeting of Council;
  - b) will, where the decision is, in the opinion of the Monitoring Officer and/or the Chief Finance, a departure from the approved policies or budget, refer the decision to Council for full debate by all Members of Council. In these circumstances, a special meeting of Council will be held within 14 working days and the Executive decision will not be implemented until after the meeting of Council.

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- 10.15 Where the Executive's decision is not a departure from approved policies and/or budget and Council refer the decision back to the Executive, the Executive will reconsider the decision in the light of the reasons expressed at Council before adopting and implementing a final decision.
- 10.16 Where the Monitoring Officer and/or the Chief Finance Officer has advised that the decision is contrary to the policy framework, or contrary to or not wholly in accordance with the approved budget, the Council may:
- a) endorse the decision or proposal of the Executive decision-taker as falling within the existing budget and policy framework, in which case the decision may be implemented,
  - b) amend the policy or the budget concerned to encompass the decision or proposal to enable the decision to be implemented, or
  - c) accept the advice of the Monitoring Officer and/or the Chief Finance Officer and require the Executive to reconsider the matter in accordance with that advice.
- 10.17 If, after a meeting of the Scrutiny Panel has been requested, the Executive reconsiders its decision and reaches a conclusion which satisfies the members that called that meeting, the item requiring a review of the Executive's decision will be withdrawn from the agenda. If there is no other business to be transacted at the meeting, the Panel meeting will be cancelled.

### Attendance at Executive and Panel meetings

- 10.18 Whenever any decision of the Executive is being reviewed under this procedure, the Executive will have the right to be represented by an Executive Member at the meeting of the relevant Scrutiny Panel. In addition, the Executive may also call on the appropriate professional officer to provide information to the relevant Panel when considering the proposed decision.
- 10.19 Where the Council refers any decision back to the Executive under the provisions of this procedure, the chairman of the relevant Scrutiny Panel (or in his/her absence the vice-chairman or another member of the Panel) will be entitled to attend the meeting of the Executive to represent the views of the Scrutiny Panel.

### Review of arrangements

- 10.20 The operation of this procedure relating to call-in will be monitored by the Chief Executive Officer and a report submitted to Council at least annually to enable, if necessary, the arrangements to be reviewed.

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## The Constitution - Part Four

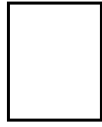
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6. Scheme of Delegation to Individual Members of the Executive







# Standing Orders with Respect to Meetings



5 April 2007  
Amended: Dec 2008  
Further amended: April 2009

Further amended wef:13 May 2010  
Updated December: 2013  
Updated – October 2018  
Updated – December 2019  
Updated – October 2022

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## INTRODUCTION

- i A local authority is permitted, but not required, by the Local Government Acts 1972 and 2000, to make Standing Orders for the regulation of its proceedings and business.
- ii Such Standing Orders are for the purpose of establishing and maintaining the orderly conduct of meetings. The form and operation of the Standing Orders are under the control of the Council and may be worded to regulate meetings in the manner that the Council wishes. Apart from matters referred to in paragraph 4 below, there is no statutory requirement to provide Standing Orders in any form or for them to contain specific provisions. However, the Council is required by law to include its Standing Orders in its written Constitution.
- iii Once Standing Orders have been established, however, failure to comply with them could, in some circumstances, render a decision void or subject to legal challenge. Further, it could be maladministration to do so. Except for those requirements mentioned at paragraph 4 below, the Council may rescind, suspend, waive, or vary Standing Orders in accordance with the procedures contained in them.
- iv The Council is required by law to include in its Standing Orders the following:
  - (a) Provisions as to the Appointment of Chief Officers and other Statutory Officers; and
  - (b) Provisions with regard to Disciplinary Action in respect of the Head of the Paid Service and other Statutory Officers.
- v These matters are contained in separate Standing Orders with respect to the Appointment, Dismissal and Discipline of Employees. ([Part 4: Chapter 2 of this Constitution](#))
- vi These Standing Orders set out the Council's processes to maintain transparency and democracy throughout the decision-making process.
- vii The Appendices ([Deputation](#) and [Petition Schemes](#)) to these Standing Orders is for information only and does not form part of the Constitution. Certain procedures of the Council are, however, prescribed by statute (Local Government Acts 1972 and 2000 etc).
- viii These Standing Orders have been approved by the Council and are written in a form to enable Members to identify the procedures to be followed in relation to any point or matter.

**NOTE:** This introduction does not form part of Standing Orders and is explanatory only.

## PART 1 - ANNUAL MEETING OF THE COUNCIL

### 1.1 DATE AND TIME OF MEETING

- 1.1.1 The Annual Meeting of the Council will be held on the second Thursday of May, subject to any statutory provisions to the contrary. If it cannot be held on that date, it must be held as soon as possible after the second Thursday of May as decided by the Council, or, failing decision by the Council, by the Mayor.
- 1.1.2 The Annual Meeting of the Council shall be held at 10:30 in the morning or such other time as the Mayor shall decide.

### 1.2 ELECTION OF MAYOR

- 1.2.1 The first formal business shall be the election of a Mayor.
- 1.2.2 In addition to electing the Mayor at the Annual Meeting, the Council shall elect a Deputy Mayor.

### 1.3 APPOINTMENT OF EXECUTIVE LEADER

- 1.3.1 The Council shall appoint or confirm, a member to act as Executive Leader in accordance with section 9C (3) Local Government Act 2000.
- 1.3.2 The Executive Leader shall be appointed for a term of office as provided for in the Council's Constitution ([Part 1: Chapter 6](#)). The Executive Leader may hold office for more than one term.

### 1.4 APPOINTMENT OF EXECUTIVE MEMBERS

- 1.4.1 The Executive Leader shall announce the number of Members to be appointed as Executive Members to act with the Executive Leader as the Executive under section 9C of the Local Government Act 2000.
- 1.4.2 The Executive Leader shall appoint Members to act as Executive Members as set out in Part: One – Chapter 6 of the Council's Constitution.
- 1.4.3 The Executive Members shall each be appointed for such term of office as is provided for in the Council's Constitution ([Part 1: Chapter 6](#)). The Executive Members may hold office for more than one term.
- 1.4.4 The appointment of any Executive Member may be terminated as provided for in the Council's Constitution ([Part: One – Chapter 6](#)).

### 1.5 DETERMINATION OF AREA OF EXECUTIVE RESPONSIBILITY

- 1.5.1 The Executive Leader shall determine the separate areas of responsibility to be allocated to individual Executive Members in accordance with the Council's constitution. The areas



of responsibility of the Executive Members are outlined in the Executive Portfolios – [Part 1: Chapter 16, Appendix 5 \(annexe\)](#).

- 1.5.2 A decision of the Executive Leader under [1.5.1](#) above shall be made in accordance with the Council's procedures for the taking of decisions by individual members of the Executive and a written record provided.

## 1.6 APPOINTMENTS OF SCRUTINY PANELS

- 1.6.1 The Council shall appoint Scrutiny Panels, as are provided for in the Council's Constitution, to undertake the functions of overview and scrutiny under sections 9F and 21 of the Local Government Act 2000 ([Part 1: Chapter 7 of this Constitution](#)).
- 1.6.2 Each Scrutiny Panel appointed under Standing Order [1.6.1](#) shall have such terms of reference and areas of responsibility as the Council approves from time to time in accordance with executive arrangements and the Constitution of the Council ([Part 2: Chapter 3 of this Constitution](#)).
- 1.6.3 The number of Members and Deputies appointed for each Scrutiny Panel, shall be decided by Council.
- 1.6.4 The Council shall appoint the Chairmen and Vice-Chairmen of each of the Scrutiny Panels it appoints under Standing Order [1.6.1](#).
- 1.6.5 The Council shall allocate seats on the Scrutiny Panels to Members in accordance with the political balance under [Section 15 of the Local Government and Housing Act 1989](#)
- 1.6.6 Seats allocated shall not last longer than the next Annual Council. This shall not prevent re-appointment to office.

## 1.7 APPOINTMENTS OF OTHER COMMITTEES

- 1.7.1 The Council shall appoint such committees as it is required to appoint under statute and as it considers necessary to carry out its functions.
- 1.7.2 Each Committee appointed under Standing Order [1.7.1](#) shall have such terms of reference and areas of responsibility as the Council approves from time to time in accordance with executive arrangements and the Constitution of the Council ([Part: Two](#)).
- 1.7.3 The number of Members and Deputies appointed for each Committee, shall be decided by Council.
- 1.7.4 The Council shall appoint the Chairmen and Vice-Chairmen of each of the Committees it appoints under Standing Order [1.7.1](#).
- 1.7.5 The Council shall allocate seats on the Committee to Members in accordance with the political balance under [Section 15 of the Local Government and Housing Act 1989](#).

1.7.6 Seats allocated shall not last longer than the next Annual Council. This shall not prevent re-appointment to office.

## 1.8 POLICY FRAMEWORK

1.8.1 The Council must establish or confirm the plans and strategies that are to comprise the Council's overall [policy framework](#) within which the Executive shall operate during the coming year.

## 1.9 OTHER BUSINESS

1.9.1 The Council shall make appointments to outside bodies other than those appointments which are required by law to be made by the Executive.

1.9.2 Other business shall be conducted, where relevant, in accordance with [Part 2](#) of these Standing Orders.

## PART 2 - MEETINGS OF THE COUNCIL

### 2.1 TIME OF MEETINGS

- 2.1.1 Meetings of the Council for the transaction of general business shall be held during each year on dates set by Council. Meetings shall be held at 6:00 p.m. unless the Mayor determines otherwise. The annual budget setting Council meeting held in February will commence at 5pm.
- 2.1.2 Any additional meeting called by the Mayor or by five Members of the Council under [paragraph 3 of Schedule 12 of the Local Government Act 1972](#) shall be on the date and at the time the Mayor decides.

### 2.2 CHAIRMAN

- 2.2.1 The Mayor must act as Chairman of the Council and, if present, must preside at meetings of the Council.
- 2.2.2 If the Mayor is absent, the Deputy Mayor must act as Chairman and shall preside.
- 2.2.3 If both Mayor and Deputy Mayor are absent from a meeting of the Council, the Council must elect a Member to preside.

### 2.3 QUORUM

- 2.3.1 A quorum of the Council is at least one third of the whole number of members of the Council.
- 2.3.2 If, after counting the number of members present during any meeting of the Council, the Mayor declares that there is not a quorum present, the meeting must stand adjourned.
- 2.3.3 The consideration of any business not transacted must be adjourned to a time fixed by the Mayor at the time the meeting is adjourned, or, if he/she does not fix a time, to the next ordinary meeting of the Council.

### 2.4 ORDER OF BUSINESS

- 2.4.1 Except for variations allowed under Standing Order [2.5.1](#), the order of business at ordinary meetings of the Council shall be:
- (a) Prayers;
  - (b) To choose a person to preside in the absence of both the Mayor and Deputy Mayor;
  - (c) To approve as a correct record and sign the minutes of the last meeting of the Council;

- (d) To deal with any business expressly required by statute to be done;
- (e) Mayor's announcements;
- (f) Executive Leader's announcements;
- (g) Executive Members' announcements;
- (h) Declarations of Interest;
- (i) Presentation of Petitions;
- (j) Reception of Deputations;
  - i. To dispose of business (if any) remaining from the last meeting;
  - ii. To receive, consider and answer questions on reports and recommendations of the Executive and of the Scrutiny Panels or other Committees of the Council and minutes of Committees of the Council;
  - iii. To answer questions asked under Standing Order [2.12](#);
  - iv. To consider motions in the order in which notice has been received; and
  - v. Other business, if any, specified in the summons.

## 2.5 Variation of Order of Business

### 2.5.1 The Order of Business may be varied: -

(a) By the Mayor at his/her discretion.

(b) By a resolution passed on a motion properly moved and seconded. Such a motion shall be moved and put without discussion.

## 2.6 MOTION

### 2.6.1 Notice of Motions

2.6.2 Except for motions under Standing Order [2.11](#), written notice must be given of each motion to be moved at the meeting of the Council. Such written notice may be given by electronic means provided that Standing Order [2.6.3](#) is complied with as to signature.

2.6.3 Each notice must be signed by the member or members of the Council giving the notice unless sent electronically, in which case it must be sent from the lead member's Fareham Borough Council e-mail account.

2.6.4 Each notice must be delivered at least seven clear working days before the next meeting

of the Council, to the office of the Chief Executive Officer. The Chief Executive Officer must date each notice and number the notices in the order received. Motions shall be listed on the agenda in the order in which notice was received. The notices received must be retained and be open to the inspection of every member of the Council.

- 2.6.5 If notice is given of a motion which, in the opinion of the Chief Executive Officer is illegal, irregular, improper or repetitive (repeated within the last 6 months), it shall not be accepted. In the event of nonacceptance, the Chief Executive Officer shall immediately inform the member giving notice.

## 2.7 Motions to be Set Out in Summons

- 2.7.1 The summons for every meeting of the Council must have set out in it the properly notified motions, in the order in which they have been received.

## 2.8 Motion Not Moved

- 2.8.1 If a motion set out in the summons is not moved either by a member who gave notice of it or by another member on his/her behalf it must, unless postponed by consent of the Council, be treated as withdrawn and cannot be moved without fresh notice.

## 2.9 Automatic Reference to the Executive, Committee or Scrutiny Panel

- 2.9.1 If the subject matter of any properly notified motion comes within the terms of reference or functions of the Executive or of a committee of the Council it must, on being formally moved and seconded, stand referred without discussion to the Executive, the relevant Committee or relevant Scrutiny Panel. The Executive, Committee or relevant Scrutiny Panel to which the motion has been referred shall consider the motion and report back to the Council provided that, before considering a motion that has been referred to it, the Executive must consult the relevant Scrutiny Panel.

- 2.9.2 If the Mayor considers it appropriate, he/she may allow the motion to be dealt with at the meeting at which it is moved, and they shall inform the proposer accordingly before the meeting, unless the motion relates to an Executive function.

- 2.9.3 For the purposes of clarification, if a motion to Council falls under an Executive Function, the Council must not make a decision unless it would contravene the Policy framework or be outside or not fully in accordance with the approved budget (in which case the Executive has no power to make it).

## 2.10 Scope of Motions

- 2.10.1 Every motion must be directly relevant to some matter in relation to which the Council has powers or duties or which affects the economic, social or environmental well-being of the Borough of Fareham or any of its inhabitants. For the purposes of this Standing Order, Council shall be deemed to include the Executive.

## 2.11 NOTICE NOT REQUIRED

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

- (a) Appointment of a Chairman of the meeting.
- (b) Motions relating to the accuracy of the minutes.
- (c) That an item of business specified in the summons shall have precedence.
- (d) Reference to a committee or to the Executive.
- (e) Appointment of a committee or members thereof, prompted by an item mentioned in the summons to the meeting.
- (f) Receipt of reports and recommendations of the Executive, committees of the Council or officers and of minutes of Committees of the Council and any consequent resolutions.
- (g) That leave is given to withdraw a motion.
- (h) Extending the time limit for speeches.
- (i) Amendments to motions.
- (j) Motion to exclude the public under Section 100A(4) of the Local Government Act 1972.
- (k) Variation of order of business in accordance with Standing Order [2.5](#).
- (l) That a member named under Standing Order [2.28.3](#) be not further heard or must leave the meeting.
- (m) Suspending Standing Orders, in accordance with [Part 1: Chapter 15 of the Constitution](#).
- (n) Removing the confidentiality from any item on the Council agenda provided that the motion must refer to the confidential item by minute reference number only.
- (o) That the Council proceed to the next business.
- (p) That the question is now put.
- (q) That the debate is now adjourned.
- (r) That the Council now adjourn.

## 2.12 QUESTIONS

2.12.1 A member of the Council may ask the Executive Leader, Executive Members or the Chairman of a committee of the Council any question on an item contained in the recommendations or reports of the Executive or of a committee or minutes of a committee when those reports, or recommendations or minutes, are under consideration by the Council.

2.12.2 A member of the Council may: -

- (a) If seven clear working days" notice in writing has been given to the Chief Executive Officer, ask the Mayor or the Executive Leader or the Chairman of any committee of the Council any question on any matter falling within their terms or reference in relation to which the Council has powers or duties or which directly affects the economic, social or environmental wellbeing of the Borough of Fareham or any of its inhabitants. For the purposes of this Standing Order, Council shall be deemed to include the Executive.
- (b) With the permission of the Mayor, put to him/her or the Executive Leader or the Chairman of any committee of the Council, any question relating to urgent business falling within their terms of reference, of which notice has not been given; but a copy of any such question must, if possible, be delivered to the Chief Executive Officer not later than 10am of the day of the meeting.

- 2.12.3 Every question must be put and answered without discussion, but the person to whom a question has been put may decline to answer. If the member asking a question considers that the reply given requires further clarification, he/she may ask for a further reply. Otherwise no further question may be put except by permission of the Mayor.
- 2.12.4 An answer may take the form of:
- (a) a direct spoken answer, or
  - (b) where the desired information is contained in a publication of the Council or elsewhere, a reference to the publication; or
  - (c) a written answer.
- 2.13 PREVIOUS MINUTES
- 2.13.1 The Mayor must put the motion that the minutes of the meeting of the Council held on the.....day of.....be approved as a correct record.
- 2.13.2 No discussion shall take place on the minutes, except as to their accuracy, and any question of their accuracy must be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Mayor must sign the minutes.
- 2.13.3 Where the next meeting is an extraordinary meeting of the Council called under [paragraph 3 of Schedule 12 to the Local Government Act 1972](#), the next following meeting of the Council shall be treated as a suitable meeting for the purposes of signing the minutes (in accordance with [Local Government Act 1972 Schedule 12 paragraph 41\(1\) and \(2\)](#)).
- 2.14 RULES OF DEBATE FOR COUNCIL MEETINGS
- 2.14.1 Motions and Amendments
- 2.14.2 A motion or amendment may not be discussed unless it has been proposed and seconded. Unless notice has already been given in accordance with Standing Order [2.6.1](#), it must, if required by the Mayor, be put into writing and handed to the Mayor before it is further discussed or put to the meeting.
- 2.14.3 [Secunder's Speech](#)
- 2.14.4 If he/she then declares his/her intention to do so, a member seconding a motion or amendment may reserve his/her speech until the end of the debate.
- 2.14.5 [Only One Member to Stand at a Time](#)
- 2.14.6 When speaking, each member must stand and address the Mayor. If two or more members rise at the same time, the Mayor shall call on one to speak; the other or others must then sit. While a member is speaking, the other members shall remain seated, unless rising to a point of order or in personal explanation.

## 2.15 Content and Length of Speeches

- 2.15.1 A member must direct his/her speech to the question under discussion or to a point of order or to a personal explanation. No speech may exceed five minutes except with the permission of the Council.

## 2.16 When a Member May Speak Again

- 2.16.1 A member who has spoken on any motion may not speak again whilst it is the subject of debate, except:

- (a) To speak once on an amendment moved by another member;
- (b) If the motion has been amended since he/she last spoke, to move a further amendment;
- (c) If his/her first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which he/she spoke was carried;
- (d) In exercise of a right given by Standing Order [2.31 to 2.31.4](#);
- (e) On a point of order; or
- (f) By way of personal explanation.

## 2.16.2 Amendments to Motions

- 2.16.3 An amendment must be relevant to the motion and must be either:

- (a) To refer a subject of debate to the Executive or to a committee of the Council for consideration or re-consideration;
- (b) Remove words;
- (c) Replace words; or
- (d) Add words.

Any omissions, insertions or addition of words must not have effect of negating the motion before the Council.

- 2.16.4 Only one amendment may be moved and discussed at a time and no further amendment may be moved until the amendment under discussion has been disposed of.

However, the Mayor may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business. The Mayor may postpone discussion of an amendment which in his/her view materially changes the meaning of the motion until in his/her opinion members who wish to speak on the motion as proposed have had the opportunity to do so.

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



## 2.17 Alterations of Motions

2.17.1 With the consent of the Council signified without discussion, a member may:

- (a) Alter a motion of which he/she has given notice;
- (b) Remove words;
- (c) Replace words; or
- (d) Add words.

## 2.18 Withdrawal of Motion

2.18.1 The mover may withdraw a motion or amendment with the consent of his/her seconder and of the Council. Consent, if given, must be signified without discussion. No member may speak on the motion or amendment after the mover has asked permission for its withdrawal, unless such permission has been refused.

## 2.19 Right of Reply

2.19.1 The proposer of a motion must have a right to reply at the close of the debate on a motion immediately before it is put to the vote.

A member exercising a right of reply shall not introduce a new matter: -

- (a) If an amendment or reference back is moved, its proposer shall have a right of reply at the close of the debate on it, subject to the proposer of the original motion (who shall not otherwise speak on the amendment) having the final right of reply immediately before that amendment or reference back is put to the Council.
- (b) After reply by the proposer of the original motion, a decision shall be taken on that amendment without further discussion or questions asked.

2.19.2 The recommendations, reports or minutes of the Executive, the Scrutiny Panels or of a Committee of the Council shall be presented to the Council by the Executive Leader or the Chairman of the meeting concerned or, in his/her absence, by some other member of the Executive or of the committee who was present at that meeting. The Executive Leader, Chairman or other member shall move that the report or minutes be received, and that any recommendation be approved and adopted.

2.19.3 After a motion has been proposed under Standing Order [2.6](#), a recommendation shall be determined by the members present. The Mayor or person presiding at the meeting shall require that the matter subject to debate be debated and disposed of before proceeding to the next motion except where otherwise agreed by the Council or where Standing Order 2.24.1 applies.

2.19.4 When the Council resolves that two or more motions or amendments shall be considered together, Standing Order [2.19.1](#) shall apply so as to give to each proposer of any such motions or amendments the right of reply. The order specified in Standing Order [2.19.1](#) shall apply. The Mayor may direct as to the order in which the various motions and/or amendments are voted on.

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

- (a) To amend the motion;
- (b) That a member is not further heard;
- (c) By the Mayor under Standing Order [2.28.2](#) that a member must leave the meeting;
- (d) That the public be excluded under Section 100A (4) of the Local Government Act 1972;
- (e) That the subject of debate be referred (back) to the Executive or committee of the Council;
- (f) That the Council proceed to the next business;
- (g) That the question is now put;
- (h) That the debate is now adjourned;
- (i) That the Council now adjourns.

## 2.20 Closure Motions

2.20.1 At the conclusion of a speech of a member, another member may move without comment, "That the Council proceed to the next business," "That the question is now put", "That the debate is now adjourned," or "That the Council now adjourns," on the seconding of which the Mayor shall proceed as follows:

- a) **On a motion to proceed to next business:** unless in his/her opinion the matter before the meeting has not been sufficiently discussed, he/she shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to next business;
- b) **On a motion that the question is now put:** unless in his/her opinion the matter before the meeting has not been sufficiently discussed, he/she shall first put to the vote the motion that the question is now put. If the motion is passed the mover of the original motion shall have a right of reply under Standing Order 2.19.1 before putting his/her motion to the vote;
- c) **On a motion to adjourn the debate (or the meeting):** if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, he/she shall put the adjournment motion to the vote without giving the mover of the motion his/her right of reply on that occasion.

## 2.21 Points of Order and Personal Explanation

2.21.1 A member may rise on a point of order or in personal explanation and shall be entitled to be heard immediately.

2.21.2 A point of order may relate only to an alleged breach of a Standing Order or statutory provision and the member shall specify the Standing Order or statutory provision and the way in which he/she considers it has been broken.

A personal explanation must be confined to:

- (a) some material part of a former speech by him/her which may appear to have been misunderstood in the present debate and must be in order to clarify his/her former speech or to correct such misunderstandings, or

(b) the correction of facts which concern himself/herself contained in a speech of another member in the present debate.

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

## 2.22 Respect for Chairman

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

## 2.23 MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

2.23.1 If any question on a motion 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, such question may not be the subject of discussion until the Council has decided whether or not the power of exclusion of the public under section [100A \(4\) of the Local Government Act 1972](#) shall be exercised. This Standing Order applies also to the Executive or to a committee of the Council to which the Local Government Act 1972 applies by virtue of Sections [100A](#) and [100E](#) of that Act.

## 2.24 RESCISSION OF PRECEDING RESOLUTION

2.24.1 No motion to rescind any resolution passed within the preceding six months and no motion or amendment to the same effect as one which has been rejected within the preceding six months, may be proposed unless:

- (a) a member gives notice as required by Standing Order [2.6.2](#); and
- (b) the notice has been signed by at least six other members.

2.24.2 This Standing Order does not apply to a decision or recommendation of the Executive, a Scrutiny Panel or of a Committee of the Council.

2.24.3 Any motion to rescind a previous resolution of the Council that has been passed within the preceding six months may be dealt with by the Council at the meeting at which it is moved.

## 2.25 MOTIONS ON EXPENDITURE

2.25.1 Any motion or recommendation which is not accompanied by a recommendation of the Executive and which if carried, would materially increase the expenditure on any service or reduce revenue or involve capital expenditure must, when proposed and seconded, be adjourned without discussion to the next ordinary meeting of the Council. The Executive and any committee of the Council affected by the motion must consider and report their view thereon.

## 2.26 VOTING

- 2.26.1 All questions coming or arising before the Council shall be determined by a majority of those members of the Council present and voting. If there is an equality of votes, the person presiding at the meeting shall have a second (or casting) vote.
- 2.26.2 Members shall vote:
- (a) By shows of hands; or
  - (b) By the use of an electronic system of recording votes, as the Mayor shall determine on each occasion.
- 2.26.3 If any member so requests before the vote is taken, the voting on any question shall be by roll call and shall be recorded so as to show how each member present and voting gave his/her vote. The name of any member present and not voting must also be recorded.
- 2.26.4 If any member so requires immediately after a vote is taken at a meeting of the Council, there must be recorded in the minutes of the proceedings of that meeting whether that person cast his/her vote for the question or against the question or whether he/she abstained from voting.

## 2.27 VOTING ON APPOINTMENTS

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

## 2.28 DISORDERLY CONDUCT

### 2.28.1 Misconduct by a Member

- 2.28.2 If, in the opinion of the Mayor notified to the Council, any member misconducts himself or herself by persistently disregarding the ruling of the Mayor or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, the Mayor or any other member may move that the member named be not further heard. If seconded, the motion must be put and determined without discussion.

### 2.28.3 Continuing Misconduct by a Named Member

- 2.28.4 If the member named continues his/her misconduct after a motion under Standing Order [2.28.2](#) has been carried the Mayor shall either: -
- (a) move that the member named shall leave the meeting (in which case the motion shall be put and determined without seconding or discussion); or
  - (b) adjourn the meeting of the Council for such period as he/she in his/her discretion considers expedient.

## 2.28.5 General Disturbance

2.28.6 In the event of general disturbance which in the opinion of the Mayor renders the due and orderly dispatch of business impossible, in addition to any other power vested in him/her, the Mayor may, without question put, adjourn the meeting of the Council for such period as he/she in his/her discretion considers expedient.

## 2.29 DISTURBANCE BY MEMBERS OF THE PUBLIC

2.29.1 If a member of the public interrupts the proceedings at any meeting the Mayor shall warn him/her/them. If he/she/they continue(s) the interruption, the Mayor shall order his/her/their removal from the Council Chamber. In the case of general disturbance in any part of the Chamber open to the public, the Mayor shall order that part to be cleared and/or the meeting to be adjourned.

## 2.30 DURATION OF COUNCIL MEETINGS

2.30.1 After a meeting has lasted three hours, the Mayor may direct that only unopposed or formal business shall be proceeded with and any remaining motions shall stand adjourned to a subsequent meeting.

## 2.31 INTERESTS OF MEMBERS IN CONTRACTS AND OTHER MATTERS

### 2.31.1 Disclosable Pecuniary Interests and Pecuniary Interests

2.31.2 If any member of the Council has any disclosable pecuniary interest or a pecuniary interest within the meaning of the Council's Code of Conduct for Members in any contract, proposed contract, or other financial matter, that member must:

(a) disclose the existence and nature of that interest in accordance with the Council's Code of Conduct for Members; and

(b) withdraw from the meeting while the contract, proposed contract, or other matter, is under consideration by the Council unless he/she has obtained a dispensation from the Monitoring Officer or can attend in accordance with paragraph 7.5 and/or 7.6 of the Code (i.e. making representations).

### 2.31.3 Non-pecuniary Interests

2.31.4 If any member of the Council has a non-pecuniary interest, within the meaning of the Council's Code of Conduct for Members, in any contract, proposed contract, or other matter, that member must disclose the existence and nature of that interest in accordance with the Council's Code of Conduct for Members.

### 2.31.5 General

2.31.6 Any interest under the Council's Code of Conduct for Members must be declared at or as near as possible to the start of a meeting.

2.31.7 Reference in this Standing Order to the Council shall include the Executive, Scrutiny Panels, a Committee, Sub-Committee of the Council.

2.31.8 The agenda for each meeting of the Council, the Executive, Scrutiny Panels, a Committee or Sub-Committee, must include an item at the beginning allowing for members of the Council to declare interests on any matter(s) under consideration at that meeting.

2.32 BUDGET AND POLICY FRAMEWORK

2.32.1 The Council will approve the Budget and Policy Framework in accordance with the Budget and Policy Framework Procedure Rules ([Part 3: Chapter 4 of the Constitution](#)).

## PART 3 - MEETINGS AND PROCEEDINGS OF THE EXECUTIVE

### 3.1 STATUTORY REQUIREMENTS

- 3.1.1 All meetings and proceedings of the Executive shall be conducted in accordance with the [Local Authorities \(Executive Arrangements\) \(Access to Information\) \(England\) Regulations 2012](#) or any amendment or addition to those Regulations.

### 3.2 AREAS OF RESPONSIBILITY

- 3.2.1 The areas of Executive Responsibility shall be as determined by the Executive Leader and recorded in accordance with Standing Order [1.5](#) above.

### 3.3 DELEGATION BY THE EXECUTIVE LEADER

- 3.3.1 The Executive Leader may discharge any Executive function in accordance with [Section 9E Local Government Act 2000](#). The Executive Leader may choose to delegate any Executive function to:

- (a) the Executive;
- (b) an individual member of the Executive;
- (c) a committee of the Executive;
- (d) a sub-committee of the Executive; or
- (e) an officer of the Council.

- 3.3.2 Where the delegation takes place, this will be reflected in the Constitution and/or the terms of reference of the committee or the scheme of delegation, as appropriate. A decision of the Executive Leader under Standing Order [3.2.1](#) above shall be made in accordance with the Council's procedures for the taking of decisions by individual members of the Executive and a written record provided.

Such written record shall include:

- (a) the extent of the authority delegated, including any limitation whether as to time or otherwise; and
- (b) the name of the committee or Executive Member, or the title of the officer to whom the delegation is made.

### 3.4 CONDUCT OF EXECUTIVE MEETINGS

#### 3.4.1 Meeting

- 3.4.2 The Executive shall meet no less than six times a year. The Executive shall meet on such dates and at such times and at such location to be agreed by the Executive Leader.

- 3.4.3 The quorum for a meeting of the Executive, or a committee of the Executive, shall be at least one third of the Members. In no case shall the quorum be less than three.

- 3.4.4 If the Executive Leader is present at a meeting of the Executive, he/she shall preside. In his/her

absence, the Deputy Leader (if appointed) shall preside, and in the absence of the Deputy Leader, a person appointed to do so by those present shall preside.

3.4.5 At a meeting of a committee of the Executive, those present shall appoint a person to preside.

#### 3.4.6 Business to be conducted

3.4.7 At each meeting of the Executive the following business shall be transacted:

- (a) apologies for absence;
- (b) Executive appointments;
- (c) consideration of minutes of the last meeting;
- (d) Executive Leader's announcements;
- (e) declarations of interest;
- (f) petitions;
- (g) deputations;
- (h) matters referred to the Executive (whether by a Scrutiny Panel or by the Council) for consideration by the Executive;
- (i) matters set out in the agenda for the meeting and which shall indicate which are key decisions and which are not;
- (j) consideration of reports from the Scrutiny Panels; and
- (k) other business, if any, specified in the summons.

3.4.8 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 consultation undertaken, including that with the relevant Scrutiny Panel, and the outcome of consultation as appropriate.

3.4.9 Any Non-Executive Member may request to speak at a meeting of the Executive giving notice to the Executive Leader at least one clear working day before the Executive meeting in which they wish to speak.

3.4.10 Any Executive member may require that an item be placed on the agenda of the next available meeting of the Executive for consideration.

3.4.11 There shall be a standing item on the agenda of each meeting of the Executive for matters referred by a Scrutiny Panel. The Chairman or Vice-Chairman of any Scrutiny Panel shall be entitled to attend and speak at a meeting of the Executive when a recommendation or report of that Panel is being considered.

3.4.12 Any member of the Council may ask the Executive Leader to put an item on the agenda of an Executive meeting for consideration and, if the Executive Leader agrees, the item shall be considered at an appropriate meeting of the Executive. The member asking for the item to be considered shall be invited to attend and speak at the meeting, whether or not it is a public meeting.

3.4.13 The Head of Paid Service, Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of an Executive meeting and may require such a meeting to be called in pursuance of their statutory duties.

3.4.14 Notwithstanding the provisions of this section, no matter may be placed on the agenda for an Executive decision or Executive meeting unless it has complied with the requirements of



the Constitution in relation to the Access to Information Procedure Rules ([Part 3, Chapter 1](#)), the Executive Procedure Rules ([Constitution Part 3, Chapter 2](#)), Notice of Key Decisions and Key Decisions ([Constitution Part 3, Chapter 3](#)), Decision making by individual members of the Executive and key decisions by Officers ([Constitution Part 3, Chapter 5](#)) or Urgent Decisions Outside the Policy Framework and / or Budget ([Constitution Part 3, Chapter 6](#)) and the provisions of the Local Authorities (Executive Arrangements) (Meetings & Access to Information) Regulations 2012.

- 3.4.15 Items of business containing exempt or confidential information within the meaning of the [Local Authorities \(Executive Arrangements\) \(Meetings & Access to Information\) Regulations 2012](#) may only be added to the agenda following a period of 28 days' notice of the item containing exempt or confidential material.
- 3.4.16 Urgent business may only be transacted having complied with Regulations 10 (General Exception) or Regulation 11 (Urgency) of the [Local Authorities \(Executive Arrangements\) \(Meetings & Access to Information\) Regulations 2012](#). Regulation 10 requires notice to have been given to the Chairman of the relevant Scrutiny Panel, or in his/her absence, every member of the relevant Scrutiny Panel at least 5 clear days prior to the date of the decision /decision meeting. Regulation 11 (for which there is no required notice period) requires the written consent to the matter being urgent (less than 5 clear working days) having been obtained from the Chairman of the relevant Scrutiny Panel, or in their absence, the Chairman of the Authority, or in both of their absence, the Vice Chairman of the Authority.
- 3.4.17 Confidentiality of Proceedings
- 3.4.18 The provisions of Standing Order [4.6](#), relating to confidentiality of proceedings, shall apply to proceedings of the Executive.
- 3.4.19 Right to Attend Meetings
- 3.4.20 In addition to the rights of members to attend meetings under the Regulations referred to at Standing Order [4.4 to 4.4.3](#) and Standing Order [4.13.1](#) (Right for Mover of Motion to Attend Meeting) shall apply to meetings of the Executive when a motion has been referred by Council.

## PART 4 - SCRUTINY PANELS

### 4.1 GENERAL PROCEDURE

- 4.1.1 In these Standing Orders the term 'Panel' refers to Scrutiny Panels appointed by the Council under Standing Order [1.6](#)
- 4.1.2 The provisions of Standing Orders 4.1 to 4.15.4 shall apply to meetings of all Scrutiny Panels of the Council.
- 4.1.3 Each Scrutiny Panel is scheduled to meet four times per municipal year, with additional meetings created if necessary or a meeting being cancelled for lack of business with the consent of the Chairman.
- 4.1.4 The Scrutiny Panels shall consider the following business at every meeting: -
- (a) minutes of the last meeting;
  - (b) chairman's announcements;
  - (c) declarations of interest;
  - (d) deputations;
  - (e) Executive Business;

### 4.2 TERMS OF REFERENCE

- 4.2.1 Each Panel of the Council shall exercise such functions, duties and powers as are allocated or required by statute.
- 4.2.2 Each Panel of the Council shall, in addition, have the terms of reference and delegated powers that the Council approves for it from time to time.

### 4.3 CHAIRMAN OF COMMITTEE

- 4.3.1 In the absence from a meeting of the Chairman and Vice-Chairman, a Chairman for that meeting may be appointed from those members of the Panel present and voting.

### 4.4 RIGHT TO ATTEND MEETINGS

- 4.4.1 The Mayor and the Executive Leader shall ex officio have the right to attend and speak at meetings of all Panels of which he or she is not otherwise a voting member.
- 4.4.2 Each elected member of the Council has a right to attend any meeting of any Panel of the Council, and in doing has the right to take part in discussions held in the Panel

meeting with direct invitation of the Chairman of that Panel. Standing Orders [2.31 to 2.31.8](#) (Interests) and [4.6](#) (Confidentiality) shall apply to such visiting members.

- 4.4.3 Members who are co-opted for the consideration of specific business or for a specified period only, such appointment being less than a full municipal year, shall not be entitled to receive copies of reports relating to other business of the Scrutiny Panel containing information which is exempt.

#### 4.5 STANDING DEPUTIES

- 4.5.1 When making or terminating appointments of voting members to Panels under Standing Order [1.6.5](#) or to other bodies of the Council under Standing Order [1.7](#), each appointing body shall also make or terminate the appointment of such deputies as nominated by political groups.

- 4.5.2 Each political group may nominate one member to act as deputy for that group for each Panel.

- 4.5.3 In the absence from a meeting of a voting member holding a seat allocated to a political group on a Panel, a deputy appointed under this Standing Order may act as his/her substitute and shall be entitled to attend, speak and vote at the meeting.

- 4.5.4 A deputy attending at a meeting under Standing Order [1.6.3](#) must, before the start of the meeting, advise the Chairman or cause the Chairman to be advised of the member for whom he/she is deputising.

- 4.5.5 Where a person for whom a member is deputising is appointed Chairman or Vice-Chairman of the Panel, the deputy shall not be entitled to act in that capacity.

- 4.5.6 In the case that a deputy appointed to, present at, and participating in a meeting and the voting member for whom he/she is deputising subsequently also attends, the voting member may not take the place of the deputy. The Chairman of the meeting may invite that member to speak on such items of business as the Chairman considers reasonable. However, that member shall not be entitled to vote.

- 4.5.7 If a voting member of a Panel is present at and participating in a meeting, a deputy may not be appointed to subsequently take his/her place.

- 4.5.8 If a meeting at which either a deputy or a voting member has participated is adjourned until a later date, then notwithstanding Standing Orders [4.5.5](#) and [4.5.6](#), the deputy or voting member may take the place of the other at the resumed meeting provided that such substitution may take place only at the beginning of the resumed meeting.

## 4.6 CONFIDENTIALITY OF PROCEEDINGS

- 4.6.1 Where the public have been excluded from a meeting under any paragraph of [Part 1 of Schedule 12A of the Local Government Act 1972](#), no member of the Council or of a Panel (whether elected or co-opted) may disclose (except to another member of the Council) a matter dealt with by or to be brought before the a Panel, without the permission of the Council.
- 4.6.2 Minutes, reports and documents containing exempt or confidential information and marked as such must be treated as confidential until the member is informed otherwise by the Council. Discussions which have taken place on and verbal reports of officers on exempt or confidential matters must not be disclosed except as specifically approved by the Council.

## 4.7 LIMITATION ON EXERCISE OF DELEGATED POWERS

- 4.7.1 The exercise by any Panel of the Council, members or officers of the Council of any of the powers and duties from time to time delegated to them are subject to the following limitations and conditions:
- 4.7.2 Nothing may be done in pursuance of purported exercise of any such powers and duties which would or might involve any commitment on the part of the Council to capital expenditure required to be financed by way of loan or any other expenditure for which no provision has been made in the approved annual estimates or which would be in excess of any amount so provided.
- 4.7.3 In dealing with any matter under delegated powers, effect must be given to any resolution passed by the Council specifically relating thereto and any other general instructions or directions of the Council (or of the Executive or any committee of the Council in the case of powers delegated to an officer) as to the principles to be observed or the policy to be followed in regard to matters of that kind.
- 4.7.4 A Panel of the Council may not deal with any matter under delegated powers where at least one quarter of the membership of the Panel present at the Panel meeting requests that a recommendation on the matter be submitted to the Council.

## 4.8 URGENT BUSINESS

- 4.8.1 Urgent business arising at a time when it is not expedient to await the next scheduled meeting of the relevant Panel shall be dealt with at an extra meeting scheduled as the Proper Officer in consultation with the Chairman may decide.

## 4.9 ADDITIONAL MEETINGS

- 4.9.1 The Proper Officer in consultation with Chairman of a Panel may call an additional meeting of the Panel at any time. Additional meetings will be transacted in the same

way as a scheduled meeting. Call-in meetings will follow a separate procedure as set out at Standing Order [4.14](#).

#### 4.10 QUORUM OF SCRUTINY PANELS

- 4.10.1 Except where authorised by a statute or ordered by the Council, business may not be transacted at a meeting of any Panel unless at least one third of the whole number of the Panel is present. In no case shall less than three members comprise the quorum of a Panel.

#### 4.11 VOTING IN PANELS

- 4.11.1 All questions coming or arising before a meeting of a Panel of the Council, shall be determined by a majority of those members present and voting.

In the case of an equality of votes, the person presiding at the meeting shall have a second (or casting) vote.

- 4.11.2 The mode of voting at meetings of a Panel shall be by show of hands.

- 4.11.3 If, immediately after a vote is taken at a meeting of a Panel, any member of that body requires it, there must be recorded in the minutes of the proceedings of that meeting whether that person cast his/her vote for the question or against the question or whether he/she abstained from voting.

#### 4.12 STANDING ORDERS TO APPLY TO SCRUTINY PANELS

- 4.12.1 The Standing Orders of the Council (except those parts which relate to standing and to speaking more than once), with any necessary modification, apply to meetings of Panels of the Council.

- 4.12.2 Minutes of Panels shall be signed, where possible, at the next following meeting or other suitable meeting as appropriate.

#### 4.13 MOVER OF MOTION MAY ATTEND COMMITTEE, SCRUTINY PANEL OR SUB-COMMITTEE

- 4.13.1 A member of the Council who has moved a motion that has been referred to any committee, scrutiny panel or sub-committee must have notice of the meeting of the committee or sub-committee at which it is proposed to consider the motion. He/she has a right to attend the meeting and if he/she attends must have an opportunity of explaining the motion.

#### 4.14 SCRUTINY PANEL MEETING CONVENED UNDER CALL-IN

- 4.14.1 A Scrutiny Panel meeting convened under the rules of call-in shall be called a Special

Scrutiny Panel meeting.

4.14.2 The Special Scrutiny Panels shall consider the following business at a call-in meeting:

-

- (a) minutes of the last meeting;
- (b) chairman's announcements
- (c) declarations of interest;
- (d) deputations
- (e) Call-in of XXXX decision XXXXX.

#### 4.15 ATTENDANCE BY OTHERS

4.15.1 In scrutinising or reviewing decisions made or action taken in connection with the discharge of any function of the Council, the relevant Scrutiny Panel may require any Executive Member (including the Executive Leader) and/or any senior officer to attend before it to explain in relation to matters with their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance and it is the duty of those persons to attend if so required.

4.15.2 Where any member or officer is required to attend a Scrutiny Panel under Standing Order 4.15.1, the Chairman of the relevant Scrutiny Panel shall inform the Chief Executive Officer. The Chief Executive Officer shall inform the member or officer in writing giving at least five working days' notice of the meeting at which he/she is required to attend. The notice shall state the nature of the item on which attendance is required and whether any papers are required to be produced for the relevant Scrutiny Panel. Where the account to be given to the relevant Scrutiny Panel shall require the production of a report, then the member or officer shall be given sufficient notice to allow for preparation of that documentation.

4.15.3 Where, in exceptional circumstances (unless a statutory notice of attendance has been secured), the member or officer is unable to attend on the required date, then the relevant Scrutiny Panel shall in consultation with the member or officer concerned arrange an alternative date for attendance.

4.15.4 Any Scrutiny Panel may invite people to address it, discuss issues of local concern, and/or and answer questions.

## PART 5 - COMMITTEES AND SUB-COMMITTEES

### 5.1 GENERAL PROCEDURE

- 5.1.1 The provisions of Standing Orders 5.1 to 5.15.3 shall apply to meetings of all Committees and Sub-Committees of the Council.
- 5.1.2 Each Committee and Sub-Committee is scheduled to meet a set number of times per municipal year, as set annually by Council. Additional meetings may be created if necessary or a meeting being cancelled for lack of business with the consent of Council.
- 5.1.3 The Committee and Sub-Committees shall consider the following business at every meeting: -
- (a) minutes of the last meeting;
  - (b) chairman's announcements;
  - (c) declarations of interest;
  - (d) deputations;

### 5.2 TERMS OF REFERENCE

- 5.2.1 Each Committee of the Council shall exercise such functions, duties and powers as are allocated or required by statute.
- 5.2.1.1 Each Committee of the Council shall, in addition, have the terms of reference and delegated powers that the Council approves for it from time to time.

### 5.3 CHAIRMAN OF COMMITTEE

- 5.3.1 In the absence from a meeting of the Chairman and Vice-Chairman, a Chairman for that meeting may be appointed from those members of the committee present and voting.

### 5.4 RIGHT TO ATTEND MEETINGS

- 5.4.1 The Mayor and the Executive Leader shall ex officio have the right to attend and speak at meetings of all committees of which he or she is not otherwise a voting member.
- 5.4.2 Each elected member of the Council has a right to attend any meeting of a committee of the Council or any sub-committee thereof, provided that he or she takes no part whatever in the discussions held in the committee or sub-committee except by direct invitation of the Chairman of that committee or sub-committee. Standing Orders [2.31 to 2.31.3 \(Interests\)](#) and [5.6](#) (Confidentiality) shall apply to such members.
- 5.4.3 The Chairman and Vice-Chairman of a committee of the Council ex officio have the right to attend and speak at meetings of every sub-committee appointed by that committee, if the said Chairman or Vice-Chairman is not otherwise appointed as a voting member.

## 5.5 STANDING DEPUTIES

- 5.5.1 When making or terminating appointments of voting members to committees under Standing Order [1.7](#) or to other bodies of the Council under Standing Order [1.6](#), each appointing body shall also make or terminate the appointment of such deputies as nominated by political groups.
- 5.5.2 Each political group may nominate one member to act as deputy for that group for each committee or other body of the Council, with the exception of the Planning Committee, to which each group may appoint two deputy members.
- 5.5.3 In the absence from a meeting of a voting member holding a seat allocated to a political group on a committee or other body of the Council, a deputy appointed under this Standing Order may act as his/her substitute and shall be entitled to attend, speak and vote at the meeting.
- 5.5.4 A deputy attending at a meeting under Standing Order 5.5 must, before the start of the meeting, advise the Chairman or cause the Chairman to be advised of the member for whom he/she is deputising.
- 5.5.5 Where a person for whom a member is deputising is appointed Chairman or Vice-Chairman of the committee or body concerned, the deputy shall not be entitled to act in that capacity.
- 5.5.6 In the case that a deputy appointed to and is present at and participating in a meeting and the voting member for whom he/she is deputising subsequently also attends, the voting member may not take the place of the deputy. The Chairman of the meeting may invite that member to speak on such items of business as the Chairman considers reasonable. However, that member shall not be entitled to vote.
- 5.5.7 If a voting member of a committee or other body is present at and participating in a meeting, a deputy may not be appointed to subsequently take his/her place.
- 5.5.8 If a meeting at which either a deputy or a voting member has participated is adjourned until a later date, then notwithstanding Standing Orders 5.5.5 and 5.5.6, the deputy or voting member may take the place of the other at the resumed meeting provided that such substitution may take place only at the beginning of the resumed meeting.

## 5.6 CONFIDENTIALITY OF PROCEEDINGS

- 5.6.1 Where the public have been excluded from a meeting under any paragraph of [Part 1 of](#)



[Schedule 12A of the Local Government Act 1972](#), no member of the Council or of a Committee or Sub-Committee (whether elected or co-opted) may disclose (except to another member of the Council) a matter dealt with by or to be brought before the Council, committee or sub-committee, without the permission of the Council or that committee or sub-committee.

5.6.2 Minutes, reports and documents containing exempt or confidential information and marked as such must be treated as confidential until the member is informed otherwise by the Council. Discussions which have taken place on and verbal reports of officers on exempt or confidential matters must not be disclosed except as specifically approved by the Council.

## 5.7 LIMITATION ON EXERCISE OF DELEGATED POWERS

5.7.1 The exercise by any committee of the Council, members or officers of the Council of any of the powers and duties from time to time delegated to them are subject to the following limitations and conditions:

5.7.2 Nothing may be done in pursuance of purported exercise of any such powers and duties which would or might involve any commitment on the part of the Council to capital expenditure required to be financed by way of loan or any other expenditure for which no provision has been made in the approved annual estimates or which would be in excess of any amount so provided.

5.7.3 In dealing with any matter under delegated powers, effect must be given to any resolution passed by the Council specifically relating thereto and any other general instructions or directions of the Council (or of the Executive or any committee of the Council in the case of powers delegated to an officer) as to the principles to be observed or the policy to be followed in regard to matters of that kind.

5.7.4 A committee of the Council may not deal with any matter under delegated powers where at least one quarter of the membership of the committee present at the committee meeting requests that a recommendation on the matter be submitted to the Council.

5.7.5 A sub-committee of the Council may not deal with any matter under delegated powers where at least one quarter of the membership of the subcommittee present at the sub-committee meeting requests that a recommendation on the matter be submitted to the appropriate parent committee.

5.7.6 Notwithstanding (c) and (d) of this Standing Order, except where required by law, applications for planning permission shall not be considered at a meeting of the full Council but shall be determined by the appropriate Committee of the Council or Sub-Committee.

## 5.8 URGENT BUSINESS

- 5.8.1 Urgent business arising at a time when it is not expedient to await the next scheduled meeting of the relevant committee of the Council shall be dealt with at a special meeting of that committee.

## 5.9 SPECIAL MEETINGS OF COMMITTEE

- 5.9.1 The Proper Officer in consultation with the Chairman of a committee may call a special meeting of the committee at any time. A special meeting must also be called on the requisition of at least four members of the committee, delivered in writing to the Chief Executive Officer. The agenda for the special meeting must set out the business to be considered, and no business other than set out in the agenda may be considered at that meeting.

## 5.10 SUB-COMMITTEES

- 5.10.1 Every committee appointed by the Council may appoint sub-committees for such specified purposes as they think fit and may make arrangements for such subcommittees to discharge any of the functions of the authority which the committee may discharge.
- 5.10.2 The number of members and standing deputies to serve on a sub-committee shall be as determined by the relevant committee from time to time, but a sub-committee must have at least three members.
- 5.10.3 Whenever a committee is required to review the allocation of seats on a subcommittee between political groups or a committee resolves to carry out such a review, the committee must determine the allocation of seats to political groups in a way which may best meets the requirements of [Section 15 of the Local Government and Housing Act 1989](#) or other statutory provision.

## 5.11 QUORUM OF COMMITTEES AND SUB-COMMITTEES

- 5.11.1 Except where authorised by a statute or ordered by the Council, business may not be transacted at a meeting of any committee unless at least one third of the whole number of the committee is present. In no case shall less than three members comprise the quorum of a committee.

## 5.12 VOTING IN COMMITTEES AND SUB-COMMITTEES

- 5.12.1 All questions coming or arising before a meeting of a committee of the Council, a sub-committee, a relevant joint committee or sub-committee of such a committee shall be determined by a majority of those members present and voting.

- 5.12.2 In the case of an equality of votes, the person presiding at the meeting shall have a second (or casting) vote.
- 5.12.3 The mode of voting at meetings of a committee, a sub-committee, a relevant joint committee or sub-committee of such a committee, shall be by show of hands.
- 5.12.4 If, immediately after a vote is taken at a meeting of a committee or sub-committee or a relevant joint committee or sub-committee of such a committee, any member of that body requires it, there must be recorded in the minutes of the proceedings of that meeting whether that person cast his/her vote for the question or against the question or whether he/she abstained from voting.
- 5.13 **STANDING ORDERS TO APPLY TO COMMITTEES AND SUB-COMMITTEES**
- 5.13.1 The Standing Orders of the Council (except those parts which relate to standing and to speaking more than once), with any necessary modification, apply to meetings of committees of the Council.
- 5.13.2 Minutes of committees or sub-committees shall be signed, where possible, at the next following meeting or other suitable meeting as appropriate.
- 5.14 **MOVER OF MOTION MAY ATTEND COMMITTEE OR SUB-COMMITTEE**
- 5.14.1 A member of the Council who has moved a motion that has been referred to any committee or sub-committee must have notice of the meeting of the committee or sub-committee at which it is proposed to consider the motion. He/she has a right to attend the meeting and if he/she attends must have an opportunity of explaining the motion.
- 5.15 **SUBMISSION OF ESTIMATES**
- 5.15.1 Every committee of the Council having power to incur expenditure paid for by local taxation must submit to the Executive not later than the first day of February an estimate, in a form approved by the Council of the proposed expenditure to be recommended by such committee for the ensuing year.
- 5.15.2 In the event of the Executive referring estimates back to a committee that committee shall consider such reference and submit revised estimates or observations by the first day of March.
- 5.15.3 A Committee shall, before incurring any expenditure not included in approved estimates, submit to the Executive a supplementary estimate accompanied by a detailed statement in support of the expenditure.

## PART 6 - GENERAL MATTERS AND EFFECT OF STANDING ORDERS

### 6.1 ALLEGATIONS OF MISCONDUCT

6.1.1 Where there is an allegation of misconduct or conduct which amounts to breach of the [Council's Code of Conduct for Members](#), by a member of the Council, such allegation must be dealt with in accordance with procedures approved by the Audit and Governance Committee.

### 6.2 DEPUTATIONS

6.2.1 Deputations shall be heard by Council, a meeting of the Executive, a Committee of the Council or a Scrutiny Panel as appropriate in accordance with such scheme(s) as the Council may from time to time approve.

### 6.3 PETITIONS

6.3.1 A petition is a communication submitted to the Council signed by people who live, work or study in the Borough on a topic which relates to a function of the Council.

6.3.2 All petitions received will be formally acknowledged by the Council.

6.3.3 Any petition received which, in the opinion of the Assistant Director (Democracy) is illegal, irregular or improper it shall not be dealt with under the Council's Petition Scheme. In the event of nonacceptance, the lead petitioner will be notified within 10 working days.

### 6.4 INTERESTS OF OFFICERS IN CONTRACTS

6.4.1 The Chief Executive Officer must record particulars of any notice given by an officer of the Council under [Section 117 of the Local Government Act, 1972](#) of a disclosable pecuniary interest in a contract and the record must be open during office hours to inspection.

### 6.5 INSPECTION OF DOCUMENTS BY MEMBERS

#### 6.5.1 General

6.5.2 For the purpose of his/her duty as a member of the Council or as a member of a committee or sub-committee:

- (a) A member may inspect any document which is in the possession of, or under the control of the Council, which contains material relating to any business to be transacted at a meeting of a committee or sub-committee to which the [Local Government Act 1972](#) applies. However, the right does not apply if the appropriate proper officer is of the opinion that a document discloses certain classes of exempt information described in Paragraphs 1-6, 9, 11, 12 and 14 of Part 1 of Schedule 12A to that Act or is prohibited from disclosure by virtue of the [Data Protection Act 2018](#), the General Data Protection Act or other data protection legislation.
- (b) A member may generally have access to documents in the possession of the Council:
- i. which relate to the work of the committee or sub-committee on which that member serves;
  - ii. which relate to the work of a committee or sub-committee on which he/she does not serve if the member can show good reason;
  - iii. a member who is denied access to documents by a chief officer may refer the matter to the Chief Executive Officer who may consult the Solicitor to the Council and the Mayor. In the event of continued dispute, the matter shall be determined by the committee concerned having regard to any relevant legal advice that may, in the opinion of the Chief Executive Officer, be required to be brought to the attention of the committee.
  - iv. a Chief Officer shall so far as is practicable and lawful, supply on request a copy of any document asked for by a member of the Council, subject to ii above.

### 6.5.3 The Executive

6.5.4 Members shall have, as a minimum, all of the rights of inspection to documents of the Executive, as are provided by the [Local Authorities \(Executive Arrangements\) \(Access to Information\) \(England\) Regulations 2012](#) or any supplementary or amending legislation.

6.5.5 Further to the provisions in Standing Order [6.7](#), any member may inspect and be provided with a copy of any document that is in the possession of, or under the control of, the Executive which:

- (a) contains material relating to any business to be transacted at a public meeting of the Executive;
- (b) contains material which relates to a key decision made by an officer in accordance with executive arrangements.

6.5.6 The rights referred to in Standing Order [6.5.2\(a\)](#) shall include material relating to exempt information except where the appropriate proper officer is of the opinion that a document

discloses exempt information as described in paragraphs 1- 6,9,11, 12 and 14 of [Part I of Schedule 12A to the Local Government Act 1972](#), is prohibited from disclosure under the Data Protection Act 2018 or if the Chief Executive Officer is of the opinion that there would be a disclosure of advice provided by a political assistant or adviser.

#### 6.5.7 Legal Privilege

6.5.8 Standing Orders 6.5 and 6.5.6 shall not preclude the Solicitor to the Council from declining to allow inspection of any document which is or, in the event of legal proceedings would be, protected by privilege arising from the relationship of Solicitor and Client.

### 6.6 RECORDING OF PROCEEDINGS BY THE MEDIA

6.6.1 Audio and visual recordings of a meeting of the Council, the Executive, Committees, Panels and other Council bodies shall normally be permitted. The Mayor or Chairman of the meeting shall advise members that the meeting is being recorded. A request to record a meeting shall only be refused if the Mayor or Chairman of the meeting believes recording would disrupt the meeting and following a motion to refuse a recording request being passed by a two-thirds majority of those members present and voting at the meeting or which otherwise would breach the [Data Protection Act 2018](#), the General Data Protection Regulations.

### 6.7 INSPECTION OF LAND, PREMISES, ETC

6.7.1 Unless specifically authorised to do so by the Council, the Executive or a committee of the Council, a member of the Council may not issue any order in respect of any works which are being carried out by or on behalf of the Council. He/she may not claim by virtue of his/her membership of the Council any right to inspect or to enter on any land or premises that the Council has the power or duty to inspect or enter.

### 6.8 FINANCIAL REGULATIONS, ETC

6.8.1 The Executive, the Scrutiny Panels, Committees, Members and Officers of the Council must observe such Financial Regulations and Standing Orders with Respect to Contracts as are from time to time prescribed by the Council ([Part 4: section 3 of the Constitution](#)).

### 6.9 VARIATIONS AND REVOCATIONS OF STANDING ORDERS

6.9.1 Unless it has been considered by the Audit and Governance Committee (or such other committee or sub-committee with powers delegated to it in this respect) no resolution may be passed by Council which has the effect of adding to varying or revoking these Standing Orders.

6.9.2 No Standing Order made or modified in pursuance of the [Local Authorities \(Standing Orders\) Regulations 1993](#) or such other statutory provision shall be varied other than authorised by statute.

6.10 STANDING ORDERS TO BE GIVEN TO MEMBERS

6.10.1 The Chief Executive Officer must provide access to each member of the Council to a copy of these Standing Orders, and of such statutory code or local code as regulates the proceedings and business of the Council.

6.11 EACH MEMBER TO GIVE AN ADDRESS FOR NOTICES

6.11.1 Every member of the Council must give to the Chief Executive Officer an address to which all notices to that member are to be forwarded until he/she gives another address. Notices sent to the address so given shall be deemed valid and sufficient for all purposes.

6.12 INTERPRETATION OF STANDING ORDERS

6.12.1 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, may not be challenged at any meeting of the Council.

## APPENDIX ONE

## SCHEME FOR DEPUTATIONS TO COUNCIL, EXECUTIVE, SCRUTINY PANEL, COMMITTEE AND SUB-COMMITTEE MEETINGS (other than Planning Committee)

1. Notice of a proposed Deputation, which shall be given in writing, shall be lodged with the Assistant Director (Democracy) no later than by noon two working days before the day of the meeting and:
  - (a) in the case of a meeting of the full Council, shall be addressed to the Mayor
  - (b) in the case of a meeting of the Executive, shall be addressed to the Executive Leader
  - (c) in the case of a Scrutiny Panel, Committee or Sub-Committee of the Council, shall be addressed to the chairman of the relevant Panel, Committee or Sub-Committee.
2. A notice shall give brief details of the subject on which a Deputation wishes to be heard.
3. A Deputation to the Executive or a Committee, shall be entitled to address the meeting only on a matter which forms the subject of an item for discussion on the agenda for that meeting.
4. A Deputation to a meeting of the full Council shall be entitled only to address members on matters concerning functions and powers of the Council.
5. A Deputation to a Scrutiny Panel shall be entitled only to address Members on matters concerning functions and powers of the relevant Panel.
6. If notice of a Deputation is received which, in the opinion of the Assistant Director (Democracy) is illegal, irregular or improper it shall not be accepted. In the event of nonacceptance, the Assistant Director (Democracy) shall notify the Deputee.
7. Deputations shall be received only from persons/organisations who have a vested interest in the Borough, e.g currently living, working, studying, own property or a business in the Borough or are authorised to represent the interests of a person or persons currently living, working, studying own property or a business in the Borough.
8. Councillors may not make deputations under this scheme.
9. With the consent of the Mayor, Executive Leader or Chairman, as appropriate, a Deputation may be presented by one person to speak on his, her or its behalf.
10. Subject to the other provisions of this scheme, deputations may be given in written form in place of a verbal deputation.



11. Where a deputation is received in written form, this will be circulated to all Members of the Committee, Executive, Council or Panel ahead of the meeting to enable them to read, and have consideration of the deputation, ahead of the meeting.
12. Notwithstanding the time limits for Deputations allowed by the Councils Standing Orders (that is, that addresses shall not exceed ten minutes in total for each deputation, this period to include the time taken to read any memorial presented) the total time for receipt of all Deputations at any meeting shall be thirty minutes. If more than three Deputations are received at a meeting, the time allowed for each shall be reduced accordingly.
13. In relation to meetings of the Executive, the Scrutiny Panels or Committees, the item next on each agenda after Apologies for Absence, (election of a Vice-Chairman as required), Minutes, Chairman's Announcements and Declarations of Interests, shall be: -  
*'To receive Deputations of which notice has been lodged'*.
14. If no notice has been lodged or if no Deputation is present to be received, the meeting shall proceed to the next business.
15. In relation to meetings of the full Council, receipt of Deputations shall be timetabled as the Mayor shall decide.
16. Deputations shall not be received at site meetings or at the Annual Meeting of the Council.
17. Arrangements shall be made for a list of Deputations to be circulated to members present at the beginning of each relevant meeting.
18. The Assistant Director (Democracy) in consultation with the Chairman, has the authority to alter this scheme, should circumstances require.

## APPENDIX TWO

## SCHEME FOR DEPUTATIONS TO MEETINGS OF THE PLANNING COMMITTEE

1. Notice of a proposed deputation shall be given in writing and shall be lodged with the Assistant Director (Democracy) no later than noon two working days before the day of the meeting.
2. The notice shall specify the application or other matter on which a deputation wishes to be heard and, in the case of an application for planning consent, shall specify whether the deputation is for or against the proposal.
3. A deputation shall be entitled to address the meeting only on a matter which forms the subject of an item for discussion on the agenda for that meeting.
4. Deputations shall be received only from the applicant or his/her professional agent or from persons/organisations who have a vested interest in the Borough, e.g. currently living, working, studying, own property or a business in the Borough or are authorised to represent the interests of a person or persons currently living, working, studying or own property or a business in the Borough. Only one deputation will be accepted per household. (Note: for this purpose, "household" will be taken to mean all the persons who usually live in the same dwelling unit and who share living arrangements).
5. Where two or more notices of deputation are received on the same matter, the Council will actively encourage the appointment of a single spokesman to present the deputation on behalf of all.
6. Subject to the other provisions of this scheme, deputations may be given in written form in place of a verbal deputation.
7. Where a deputation is received in written form, this will be circulated to all Members of the Planning Committee ahead of the meeting to enable them to take the deputation into account when considering the item to which it refers.
8. Any supporting documents either written, photographic or other material to be presented as part of the deputation shall be lodged with the Assistant Director (Democracy) no later than noon two working days before the day of the meeting. With the consent of the Committee, deputees may be permitted to circulate relevant photographs or drawings at the meeting but no additional written material which has not been lodged prior to the meeting. Planning officers will be invited to comment if appropriate on the photographs or drawings circulated.
9. Deputations shall **not** be received at site meetings.
10. The time limits for presenting deputations shall be:

- (a) In respect of those speaking in support of an application: a single deputation shall be allocated not more than three minutes; a single spokesman representing two or more deputees shall be allocated not more than six minutes; in the event that there is more than one speaker, the total time allowed for all speakers shall be six minutes and the time shall be shared equally among them.
  - (b) In respect of those speaking against an application: a single deputation shall be allocated not more than three minutes; a single spokesman representing two or more deputees shall be allocated not more than six minutes; in the event that there is more than one speaker, the total time allowed for all speakers shall be six minutes and the time shall be shared equally among them.
  - (c) In respect of those deputations to be made by established amenity groups\* on an issue relevant to their area of interest: a single deputation shall be allocated not more than three minutes; a single spokesman representing two or more amenity groups shall be allocated not more than six minutes; in the event that there is more than one speaker, the total time allowed for all speakers shall be six minutes and the time shall be shared equally among them.  
*(\* a list of established amenity groups is maintained by the Committee and may be revised periodically at the discretion of the Chairman in consultation with ward members.)*
11. In respect of deputations on other matters: the total time allocated shall be five minutes for a proposal and five minutes against a proposal when it is appropriate to do so; otherwise the total time allocated shall be five minutes. A single deputation shall be allocated not more than three minutes; a single spokesman representing two or more deputees shall be allocated not more than five minutes; in the event that there is more than one speaker, the total time allowed for all speakers shall be five minutes and the time shall be shared equally among them.
12. The Assistant Director (Democracy) in consultation with the Chairman, has the authority to alter this scheme, should circumstances require.

*Scheme adopted Dec2004 and amended at subsequent meetings. Last updated: **December 2019.***

## PETITION SCHEME

### INTRODUCTION

1. A petition is a communication submitted to the Council signed by people who live, work or study in the Borough on a topic which relates to a function of the Council.
2. All petitions submitted to the council will receive a formal acknowledgement within 10 working days of receipt. This acknowledgement will be sent by Democratic Services.
3. Petitions can be in written paper form or as an online e-petition. Petitions will not be accepted in any other form.
4. The Council's Petition Scheme covers both electronic and paper petitions.
5. Further information relating to the Council's Petition Scheme can be found on the Council's website at [www.fareham.gov.uk/have\\_your\\_say/petitions](http://www.fareham.gov.uk/have_your_say/petitions)

### RULES FOR SUBMITTING A PETITION

6. For a Petition to be valid, which triggers a formal response by the Council, as described in this scheme, a petition must:
  - i Be addressed to the Council;
  - ii Relate to functions of the Council;
  - iii Include a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take;
  - iv Include the contact details, including an address, for the petition organiser (lead petitioner). This is the person we will contact to explain how we will respond to the petition; and
  - v Obtain a minimum of 50 signatures of support from people who live, work or study in the borough. Paper copies should include the names and addresses of those signing the petition so that we may check its validity if required. Those "signing" an electronic petition must provide their house number and postcode and state whether they live, work or study in the Borough.
7. A petition submitted to the Council must follow these rules. If a petition is not accepted, an acknowledgment letter will still be sent to the lead petitioner within 10 working days.
8. Petitions with less than 50 signatures may still be submitted to the Council but may not be dealt in accordance with this scheme. An explanation for the action to be taken will be sent to the lead petitioner within 10 working days of receipt.
9. During a pre-election period, the Council is governed by Guidance which may mean that a petition will be managed differently. In this case the Council will explain the reasons and discuss the revised timescale which will apply to the lead petitioner.

10. Once a petition has been submitted to the Council it must be closed by the Lead Petitioner. No further signatures can be received by the Council once a petition has been submitted.

## RESTRICTIONS

11. The Assistant Director (Democracy) may decide not to accept a petition on behalf of the Council if: -
- i the petition is a request for action that is outside the functions or powers of the council or a statement where no action is required;
  - ii the petition is a request that is substantially the same as an existing petition or one that has been submitted in the past 12 months;
  - iii the content is considered to be malicious, vexatious, abusive or otherwise inappropriate or which is intended to be solely humorous;
  - iv language is offensive, intemperate or inappropriately provocative. This not only includes obvious swear words and insults, but any language to which people reading it could reasonably take offence;
  - v the petition contains party political content, as we are unable to publish such material;
  - vi the petition is potentially libellous, false or defamatory statements or information which may cause loss or personal distress without justified cause;
  - vii the petition contains material which is potentially confidential;
  - viii the petition contains information which is commercially sensitive or is a commercial endorsement or promotion of any product, service or publication;
  - ix the names of individual officials of the council or other public body are displayed. Disputes relating to the actions of individual officers should be presented through the council's complaints procedure. Petitions may however refer to a senior manager responsible for delivery of public services but must relate to their role in delivering that service and not to their character, personality or private life.
  - x the petition contains the names of family members of elected representatives or officials.
  - xi the external e-petition submitted from an external website is not able to be validated by the Council.
12. Petitions which fall within these restrictions will be formally acknowledged within 10 working days of receipt by way of a letter to the petitioner explaining the reasons for nonacceptance under this scheme. No further action will be taken by the Council where these restrictions apply.

## RESPONSES

13. The Council will respond to each petition in accordance with this petition scheme.
14. If the Council can action the request without any further action being required, the lead petitioner will be notified in writing.
15. If the petition contains more than 1500 valid signatures, then this will trigger a debate at Council. The lead petitioner will be notified of the date and time of the relevant meeting and will be formally invited to attend.

16. If the petition relates directly to a planning or licensing application or other quasi-judicial matter, these matters are statutory functions which cannot be debated at Council. The lead petitioner would be notified of the procedure for handling petitions relating to statutory functions.
17. If a petition is received on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on these procedures will be provided to the lead petitioner.
18. A petition with less than 1500 valid signatures may be referred to one of the Council's Committees or Scrutiny Panels for consideration or where appropriate be passed to the relevant service area, for further investigation.
19. If a petition clearly falls under the functions or powers of another local government authority, the Council will, where appropriate, forward the petition to the relevant body.
20. If a petition is about something over which the council has no direct control (for example the local railway or hospital) the Council will forward your Petition to the relevant Authority or Body.
21. If a petition is asking for a senior council officer to give evidence to a committee about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision the lead petitioner will be notified of the relevant details for this meeting.

## EXTERNAL E-PETITIONS

22. E-petitions from external websites can be submitted from any source but must adhere to the Procedure Rules set out within this scheme in order to be accepted by the Council.
23. Petitioners will need to ensure that they are aware of any terms and conditions on external websites regarding the use of their data. The Council cannot be held responsible for how personal information may be used by other websites.
24. In order that an external e-petition can be accepted by the Council the Lead Petitioner must notify the Council once an e-petition has been set up on an external website to ensure that no restrictions set out above apply.
25. The Lead Petitioner is responsible for ensuring that the e-petition adheres to the rules set out in the scheme and that the restrictions set out above do not apply.

## APPEALS

26. If the lead petitioner does not feel that their petition has been handled adequately, they can complain through the Council's formal complaints procedure.



# **STANDING ORDERS WITH RESPECT TO THE APPOINTMENT, DISMISSAL AND DISCIPLINE OF EMPLOYEES**



***Revised May 2015  
Minor update – Sep 2021  
(removal of Appeals Committee)***

## FAREHAM BOROUGH COUNCIL

### STANDING ORDERS WITH RESPECT TO THE APPOINTMENT, DISMISSAL AND DISCIPLINE OF EMPLOYEES

#### **1. General**

- 1.1. These Standing Orders govern the Council's procedures for the appointment, dismissal and discipline of employees, including the provisions required by statutory Regulation.
- 1.2. Schedule 1 Part II to the Regulations, as set out at Appendix A, are deemed to be part of these Standing Orders.

#### **2. Employee Establishment and Filling of Vacancies**

- 2.1. Every appointment of a person to a post or paid office with the Council must be made on merit and in accordance with the provisions of the Disability Discrimination Act 1995 and other legislation, including racial and sexual discrimination legislation, Regulations and Codes of Practice governing the appointment, transfer and/or promotion of employees, particularly in relation to the evidence of unfair discrimination.
- 2.2. The Council will approve the overall permanent employee establishment and structure and the annual employee budget, on the recommendation of the Head of the Paid Service. No change may be made to the structure of the permanent establishment until the Head of the Paid Service has identified the source of any additional funding required.
- 2.3. Unless filled by promotion or transfer, all vacancies will be publicly advertised unless the Head of the Paid Service determines otherwise.
- 2.4. If a similar vacancy occurs within six months of the filling of a vacancy which has been publicly advertised, the appointing Chief Officer may appoint one of the former applicants.
- 2.5. A vacancy for a senior officer (normally graded at local grades 6 or 7) may be advertised in one or more newspapers or in journals circulating primarily among persons who may be expected to meet the person specification for the post.

#### **3. Recruitment and Appointment**

##### **3.1. Declarations**

- (a) A candidate for appointment as an employee must state in writing whether they are the parent, step parent grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or employee of the Council, or of the partner of such a person, and such candidate must also state in writing if they are known to any existing councillor or employee of the Council.



- (b) A candidate who fails to disclose such a relationship will be disqualified for the appointment and if appointed will be liable to dismissal without notice.
- (c) No candidate so related to a councillor or an employee will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.
- (d) For the purpose of this Standing Order, a person will be deemed to be a partner of a candidate if they are living together as a couple.

### 3.2 Seeking support for appointment:

- (a) Subject to paragraph (c) above, the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (b) A member of the Council may not seek support for any person for any appointment with the Council but this will not preclude a member from giving a written reference or testimonial of a candidate's ability, experience or character.

## 4. Recruitment of the Head of Paid Service and Chief Officers

4.1. Where the Council proposes to appoint a Chief Officer/Director and it is not proposed that the appointment will be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - the duties of the post concerned; and
  - any qualifications or qualities to be sought in the person to be appointed
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it, and
- (c) make any arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

## 5. Appointment of Head of Paid Service/Monitoring Officer/Chief Finance Officer

5.1. The full Council will approve the appointment of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Executive.

## 6. Appointment of Chief Officers and Deputy Chief Officers

- 6.1. A committee or sub-committee of the Council will appoint Chief Officers/Directors. That committee or sub-committee must include at least one member of the Executive.
- 6.2. Appointment of Deputy Chief Officers shall be made by the Head of the Paid Service or relevant Chief Officer / Director, provided that the Council or a Committee of the Council may make such appointments as it shall require from time to time.
- 6.3. An offer of employment as a Chief Officer or Deputy Chief Officer shall only be made where no well-founded objection from any member of the Executive has been received.

## **7. Other Appointments**

### **7.1. Officers below Deputy Chief Officer**

Appointment of officers below Deputy Chief Officer is the responsibility of the Head of Paid Service or his/her nominee and may not be made by councillors.

### **7.2. Assistants to Political Groups**

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **8. Disciplinary Action**

- 8.1 The statutory provisions of Schedule 3 to the Regulations, as set out at Appendix B, are deemed to be part of these Standing Orders.

Suspension.

- 8.2 The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

Independent Person.

- 8.3 No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- 8.4 Councillors will not be involved in the disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to the Council's Audit and Governance Sub- Committee in respect of disciplinary action.

## **9. Dismissal**

- 9.1. Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to the Council's Audit and Governance Sub-Committee in respect of dismissals.

## **10. Definitions**

„Regulations“ means the Local Authorities (Standing Orders) (England) (Regulations) 2001 and Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

„Chief Officer“ and „Deputy Chief Officer“ have the same meaning as within section 2 of the Local Government and Housing Act 1989.

„Head of Paid Service“ and „Monitoring Officer“ mean the officers designated by the Council under sections 4 and f5 respectively of the Local Government and Housing Act 1989.

„Chief Finance Officer“ means the officer designated under section 151 of the Local Government Act 1972 or section 6 of the Local Government and Housing Act 1989.

**THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS  
2001 and (AMENDMENT) 2015**

**SCHEDULE 1 PART II**

1. In this Part:

“the 1989 Act” means the Local Government and Housing Act 1989  
 “the 2000 Act” means the Local Government Act 2000;  
 “disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001 and 2015;  
 “Executive” and “Executive Leader” have the same meaning as in Part II of the 2000 Act;  
 “member of staff” means a person appointed to or holding a paid office or employment under the authority; and  
 “proper officer” means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of Head of Paid Service) as the head of the authority’s paid service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:

- (a) the officer designated as the head of the authority’s paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act; or
- (d) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.

- 5 (1) In this paragraph “appointor” means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until:
- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (b) the proper officer has notified every member of the executive of the authority of:
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
    - (i) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
  - (c) either:
    - (i) the Executive Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;
    - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the executive leader; or
    - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
6. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until:
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) the proper officer has notified every member of the executive of the authority of:

- (i) the name of the person who the dismissor wishes to dismiss;
  - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
  - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c ) either:
- (i) the Executive Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal;
  - (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the executive leader; or
  - (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

**APPENDIX B**

1. In paragraph 2, “chief finance officer”, “council manager”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer”, are Relevant Officers and have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and “relevant independent person” has the same meaning as in regulation 4 of those Regulations.
2. No disciplinary action in respect of the Head of the authority’s Paid Service (unless they are also a council manger of the authority), its Monitoring Officer or its Chief Finance Officer, except action described in paragraph 3, may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. This includes the appointment of an Independent Panel and the decision maker having regard to:
  - (i) any advice, views and recommendations of the panel,
  - (ii) the conclusions of any investigation into the proposed dismissal and
  - (iii) any representations from the relevant officer.
3. The action mentioned in paragraph 2 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.





# Procurement and Contract Procedure Rules



**Version 1.3 – July 2022**

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B – Procurement Guiding Principles

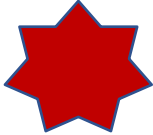
C – Route to Market Options

D – Guide to determine the appropriate type of legal agreement

E – Public Procurement Thresholds

F – Summary of Procedures for the Award of Contracts

## 1. Introduction

- 1.1 These Rules set out the approach that the Council uses for procurement and entering into legal agreements. They are the Rules that the Council will follow to adhere to its Procurement Guiding Principles as set out in [APPENDIX A](#).
- 1.2 These Rules apply to the buying of goods, works and services, entering into contracts and agreements and entering into income generating arrangements. However, the generic term *purchase* will be used and should be interpreted as meaning any of these things. 
- 1.3 These Rules apply to all procurement decisions, regardless of the source of funding.
- 1.4 A glossary of terms used in this document is attached as [APPENDIX A](#). All monetary values referred to in these Rules are the Total Purchase Value with a supplier, not annual values, and exclude VAT unless otherwise stated.

## 2. Compliance

- 2.1 Every Member, employee of the Council and anyone acting on the Council's behalf must comply with these Rules.
- 2.2 Where work is carried out in partnership or collaboration then the Rules of the 'lead' authority should be followed, unless it is agreed by all parties that the Rules of one of the partners prevails.
- 2.3 Failure to comply with these Rules is a breach of the Council's [Disciplinary Code of Practice](#) and will generally result in the application of the Council's disciplinary procedures.
- 2.4 These Rules can only be waived in exceptional circumstances and must be agreed by the Statutory Chief Finance Officer in consultation with the Monitoring Officer. [See Appendix B of Financial Regulations](#) for named officers.
- 2.5 Approval is needed from only one of the Statutory Officers if the waiver would protect the Council's interests in an emergency, as defined in the glossary.
- 2.6 Any waiver approved should be included in the monthly newsletter to members.

### 3. Overriding Principle

The overriding procurement principle in these Rules is to think:



### 4. General Rules

- 4.1 **Comply with Legislation:** Every purchase must be made in compliance with all applicable Legal Requirements.
- 4.2 Where there is a conflict between Legal Requirements and these Rules the Legal Requirements will prevail.
- 4.3 Where the estimated purchase value exceeds the relevant Public Procurement Thresholds, as set out in [APPENDIX E](#), the procurement must be compliant with the Legal Requirements, as well as these Rules.
- 4.4 **Avoid Bias:** Employees must avoid any bias or perception of bias in their buying decisions. In particular:
- No purchase can be wholly awarded or managed by an employee or member who has other interests in the supplier. Any interests must be declared to the appropriate manager (employees) and Monitoring Officer (members) who should act to avoid any conflicts of interest.
  - No gifts or hospitality, other than simple refreshments, can be accepted by employees or members from any bidders to any contract being let by the Council.
- 4.5 **Know your Spend:** Heads of Service must be aware of what suppliers their service uses, the purpose of the purchase and the level of spend with them. This information should be shared with the relevant buyers in the service to ensure these Rules are being complied with.

4.6 **Justify Your Spend:** Buyers must act in the best interest of the tax payer and the Council at all times when making purchases. They should therefore be able to justify that:

- a) There is a valid reason for making the purchase.
- b) The purchase meets the needs of the customer/service and is fit for purpose.
- c) The purchase is affordable and use of a budget for this purpose will be approved.
- d) The purchase meets the due diligence requirements of the Council. ([see below](#))
- e) Value for money is achieved over the life of the contract.
- f) There has been no Artificial Splitting of the purchase to avoid these Rules or reduce the potential for fair and open competition.
- g) Consideration is given to the whole life costs of the purchase, including decommissioning and disposal.

4.7 **Due Diligence:** The due diligence requirements of the Council are that the appropriate risks and mitigations have been considered, where applicable to the purchase, such as:

- a) Health and Safety arrangements
- b) Right to work in the UK
- c) Insurance cover (as stipulated in [Financial Regulation 10](#))
- d) Professional Accreditation
- e) General Data Protection Regulation (GDPR) compliance
- f) Cyber-Security
- g) Safeguarding arrangements
- h) Financial stability
- i) Discretionary or mandatory exclusions (e.g. criminal records)

## 5. Significant Purchases

5.1 Early conversations must be held with the Council's advisors when planning a 'Significant Purchase'. These are purchases which:

- a) are a new and complex purchase for the service;
- b) or, are organisationally sensitive;
- c) or, are over the “**Significant Value Threshold**” which is defined as:
  - any single purchase greater than or equal to **£100k**;
  - or any continuous spend with a supplier expected to be greater than or equal to **£25k** each year;
  - the spend with the supplier all falls under one Head of Service.

The 'Significant Purchase' process can also be followed for any purchase where additional support is needed.

5.2 The conversations should involve the buyer, a member of the Procurement Team, the relevant Finance Business Partner, and other relevant experts.

5.3 The outcomes of the conversations are to agree and record:

- a) the justification of the purchase;
- b) the sources to be used to fund the purchase and any approvals needed to agree the use of funds for that purpose;
- c) the appropriate route to market; ([See Section 7](#))
- d) due diligence requirements; ([See Section 4.7](#))
- e) the best form of tender documentation to be used, if relevant, to maximise engagement with the market;
- f) who will approve the award of the contract to a supplier and any key decision notifications needed; ([See Section 12](#))
- g) the type of legal agreement needed, if any. ([See Section 13](#))

5.4 **Escalation:** Where agreement cannot be reached the proposal should be escalated and where necessary an officer panel will be convened, consisting of 2 of the following: Head of Paid Service, Section 151 Officer, Monitoring Officer, Solicitor to the Council, Head of Finance and Audit, and Head of Democratic Services. [See Appendix B of Financial Regulations](#) for named officers.

## 6. Understanding the Market and Possible Solutions

- 6.1 Research should be carried out before making a purchase to ascertain:
- a) The availability of what is required and/or other solutions available in the market to achieve the required outcome.
  - b) Suppliers in the market place who can provide what is required.

The level of research carried out should be proportionate to the risks associated with the purchase, such as the value, types of good and service, and sensitivity.

- 6.2 **Local Businesses and SMEs:** The Council's policy is to support local businesses, where there is no detriment to the provision of Council services, as a way of assisting the local economy recognised by the Public Services (Social Value) Act 2012.
- 6.3 We also aim to support local Small and Medium-sized Enterprises where possible and are signed up to the Federation of Small Businesses '[Small Business Engagement Accord](#)'. The accord is a voluntary code of practice for local authorities in the South East which seeks to encourage a more proactive approach to engaging with local businesses.
- 6.4 We should therefore aim to invite at least one local SME to compete for a purchase, where possible. See [APPENDIX A](#) for definitions of Local and SME.

## 7. Routes to Market

- 7.1 The appropriate route to market to be used should be considered on a case by case basis. Examples of different routes that could be considered are summarised in [APPENDIX C](#). This list is not exhaustive and alternatives may be used where it is in the interests of the Council.
- 7.2 **Negotiations:** Negotiation with preferred suppliers is permitted as a route to market and during the procurement process to get the best deal for the Council, where relevant and when legally permissible (e.g. not allowed if FTS restricted or open procedure tender route being used).
- 7.3 **Tendering:** The route to market chosen should be one of the tender options if any of the following apply:
- a) we are seeking better knowledge of what is available in the market;
  - b) there are likely to be a few suppliers interested;
  - c) we have clearly specified what we are wishing to purchase;

- d) we are looking for innovative solutions;
- e) the purchase is organisationally sensitive or deemed high risk;
- f) it is believed that better value may be achieved through competition.

7.4 Assistance from the Procurement Team must be sought if using a tender route.

## 8. Preparation of Tender Documentation

8.1 Templates of appropriate documentation for use during tenders should be maintained by the Procurement Team and adapted to maximise engagement with the market.

8.2 The use of alternative tender documentation should be approved by the Procurement Team.

## 9. Advertising Opportunities

9.1 Where the Council decides that the route to market needs to be advertised, the opportunities should be advertised on the Council's Business Portal (the South - East Business Portal) to seek expressions of interest from suitably qualified suppliers.

9.2 Any opportunity which is advertised, where the Total Purchase Value is expected to be **£25,000 or more inclusive of VAT**, must also be advertised on the Government's Contracts Finder site.

## 10. Submission and Opening of Tenders

10.1 All invitations to tender must specify requirements for their submission. Such requirements should include a time by which tenders must be received by the Council. Any decisions to change the tender deadline must be agreed by the Procurement Team and lead buyer and recorded and publicised.

10.2 All tenders should be managed through the South-East Business Portal (SEBP). Support from the Procurement Team should be provided to assist suppliers requesting help with electronic tendering.

10.3 All procurement submissions that have used the tender route should be electronically unsealed by a member of Procurement Team after the tender deadline date. The functionality of the SEBP will be used to maintain the audit trail of the tender submissions and opening.



## 11. Tender Evaluation and Selection

- 11.1 An evaluation matrix should be prepared by the Procurement Team (including the appropriate weightings against the Cost/Service/Quality elements) as part of the initial tender documentation.
- 11.2 A completed evaluation/scoring matrix must be produced to support the selection decision in a level of detail that will allow meaningful feedback to bidders.

## 12. Approval and Award of Contract

- 12.1 Approval must be sought from the appropriate authoriser to award the contract to the highest scoring tenderer, in accordance with the following table below:

Total Purchase Value	Authoriser
<b>Up to £100,000</b>	<b>Head of Service</b>
<b>£100,001 to £250,000</b>	<b>Member of Chief Executive's Management Team</b>
<b>£250,001 to £500,000</b>	<b>Individual Executive Member or those with delegated authority</b>
<b>Over £500,000</b> within Council budget and policy framework	<b>Executive Committee or Full Council</b>
<b>Over £500,000</b>	<b>Full Council</b>

- 12.2 **Other Member Consultation:** If spend involves one of the following, purchasers should consult with the relevant Executive Portfolio holder before awarding the contract: [See here for Portfolio Holders](#)

- Significant assistance to deliver a corporate priority.
- Purchase relates to a regulatory responsibility e.g. gas servicing.
- Organisationally or politically sensitive.
- There are any potential officer conflicts of interest.
- A possible adverse reaction in the market place leading to challenge.

- 12.3 All awards made for Contract Values over **£250,000** or those that affect 2 or more wards in the borough, constitute a key decision and should be formally recorded and reported to the next meeting of the Executive or Full Council. This is summarised in the diagram in [APPENDIX F](#).

- 12.4 **Feedback to Tenderers:** There should be communications with the unsuccessful tenderers to explain why they were unsuccessful in a tender exercise.

## 13. Type and Content of Legal Agreement

13.1 The type of legal agreement to be used for a purchase must be decided before engaging with the market. This should include consideration of the following:

- **Document Type:** What is the appropriate type of document to use for that contract? (e.g. Purchase Order, JCT, call-off agreement, services agreement)
- **Contract versus Deed:** Are the value or risks of the contract such that we want the added protection of a deed?

13.2 The guide in [APPENDIX D](#) should be used to aid this consideration.

## 14. Signing and/or Sealing Contracts and Agreements

14.1 **Signing an Agreement or Contract:** Only Heads of Service and above can sign a contract or agreement on behalf of the Council in accordance with the following table:

Total Agreement Value	Signatory
<b>Up to £100,000</b>	<b>Head of Service</b>
<b>£100,001 or more</b>	<b>Member of Chief Executive's Management Team</b>

14.2 This Rule includes:

- agreements which tie the Council into expenditure (e.g. maintenance);
- agreements which tie the Council into a set of terms and conditions (e.g. grant award);
- contracts awarded through a tender process.

Purchase orders are excluded and can be authorised in accordance with [Financial Regulation 4](#).

14.3 An exception to this are agreements drafted by the Council which are in use multiple times as part of the delivery of a specific service. For example: FBC property leases or council housing tenancy agreements. These can be signed by the appropriate Head of Service, or other post-holders nominated by them, irrespective of the value.

However, if there is a material adverse financial consequence to the Council of signing the agreement then this should be discussed with a Finance Manager before the agreement is signed.

14.4 **Sealing a Deed:** Any contract to be entered into as a deed should be sealed. The officers authorised to sign the seal are identified in [part 1 Chapter 13 of the Constitution](#).

14.5 In exceptional circumstances where the seal is not available the deed can be signed by 2 officers who are authorised to sign the seal.

## 15. Contract Records

15.1 **Central Register:** The Council must maintain a Central Register of all contracts that it has entered into. The following types of contract are exempt from this requirement and will be managed by lead services: Purchase Orders, Employee Contracts, Tenancy Agreements and Tree Preservation Orders.

15.2 All original and signed copies of a contract, must be held in a secure location for the term of the contract (including any agreed extension periods), plus the statutory limitation period (6 years for contracts under hand, 12 years for deeds) plus two years. They must be marked in a way that they can be cross-referenced back to the entry record on the Central Register.

15.3 **Service Contract Records:** Heads of Service must be aware of what contracts their service has in place and where the documentation is held.

15.4 Heads of Service are responsible for ensuring that:

- ✓ summary details of any contract that has been entered into, that binds the Council to the terms and conditions of the contract, have been entered on the Central Register;
- ✓ the original signed/sealed contract and any subsequent signed/sealed variations, have been stored in a secure location, and can be referenced back to the Central Register;
- ✓ an electronic copy of the contract and any subsequent variations to the contract that are entered into during its term are stored in their service's filing areas.

15.5 **Right of Access to Documents:** At any stage of a contract the Statutory Chief Finance Officer or their representatives have the right to examine contract

records and be entitled to make all enquiries and receive such information and explanation as they may require to confirm the accuracy of the records.

15.6 Non-employees employed to supervise and manage contracts on the Council's behalf should be required to provide documents relating to the contract for inspection by the Council, when required. On completion of the contract all such records should be transferred to an appropriate Council manager.

15.7 **Document Retention:** All tender and contract documentation should be retained in accordance with the Council's [retention policy](#).

## 16. Contract Management

16.1 **Contract Payments:** The Council has signed up to the [Prompt Payment Code](#). The Prompt Payment Code signatories undertake to:

- ✓ Pay suppliers on time within the terms agreed at the outset of the contract and without changing payment terms retrospectively and without changing the length of payment for smaller companies on unreasonable grounds.
- ✓ Give clear guidance to suppliers by providing clear and easily accessible guidance on payment procedures ensuring there is a system for dealing with complaints and disputes and advising them promptly if there is any reason why an invoice will not be paid to the agreed terms.
- ✓ Encourage good practice by requesting lead suppliers to adopt the code throughout their own supply chains.

16.2 **Payment in Instalments and Retentions:** Payments for works made in instalments can only be made on an official certificate, the format of which has been approved by the Statutory Chief Finance Officer. These should be issued by the officer(s) named in the contract.

16.3 The certificate should clearly show the total contract sum, any variations, cumulative total and payments and VAT paid to date, any retention sums kept and amount due for payment on that instalment.

16.4 **Variation Orders:** Each variation to the original contract should be priced or have an estimated price and a record kept. They should be confirmed and authorised in writing by the contract manager or their deputy.

16.5 Where one or more variation orders cause the contract sum to increase by the greater of 10% or **£50,000** or more, they should be reported in the next report to the Executive.

- 16.6 **Contractor Claims:** Financial claims from contractors in respect of matters not clearly within the terms of an existing contract should be referred to Legal Services for consideration of the Council's legal liability and to Financial Services to assess the extent of any financial liability.
- 16.7 **Extending Contracts:** Contracts can only be extended in accordance with the terms of the original contract, and generally should not be extended for more than 2 consecutive occasions without reconsidering the market and assessing the associated risks. Any extension must not materially alter the substance of the contract. Refer to Legal Services if in doubt.
- 16.8 **Extension to a Call-off Agreement:** This is only possible when the terms and conditions of the call-off provides for such an extension.
- 16.9 **Risk Monitoring:** The Procurement Team and Finance Business Partners will monitor the financial health of active suppliers to identify and manage those at a higher risk of financial failure where the impact on the Council could be material. Details are outlined in the [Procurement and Contract Procedure Rules Support Document](#).

## 17. Oversight of these Rules

- 17.1 **General:** The Procurement Team and Finance Business Partners will provide general oversight of adherence to these Rules and should log all Significant Purchase opportunities that they have been notified of.
- 17.2 **Transparency to Members:** Any 'Significant Purchase' award that has been made by officers should be published within a month to members.
- 17.3 **Audits:** In addition, testing by the internal audit team of a sample of suppliers above and below the **Significant Value Threshold** will be carried out each year.
- 17.4 **Annual Report:** An annual report should be produced and significant findings presented to the Chief Executive's Management Team providing information in relation to these Rules.
- 17.5 This should include a summary of the different routes to market used for significant purchases and the results of the audit testing.

17.6 This report will also serve as a source of assurance to the Chief Executive's Assurance Group and the Annual Governance Statement presented to the Audit and Governance Committee.

## GLOSSARY

### Artificial Splitting of the Purchase

Separation of components of a contract, so that each is below financial thresholds. If the split did not happen, the total value would be above the threshold and different rules would apply.

### BAFO

Best and Final Offer applies to the final part of a multi stage (negotiated) procurement process whereby the contracting authority is seeking each bidder's best and final offer on which the contract will be ultimately awarded.

### Call-Off Agreements

A call-off agreement can be let from a framework either by direct award or through a mini-competition process. It is an individual contract under a framework agreement which benefits from being treated as if the full procedural steps prescribed by public procurement law have already been fulfilled. The call-off contract may technically be longer than four years and may extend beyond the expiry date of the framework itself albeit that there would need to be clear justification for that.

### Concession

See income generating arrangements.

### Contracts

A contract relates to an agreement between at least two parties and consists of an offer, acceptance and consideration creating reciprocal rights and obligations between those parties. A purchase order is included in the definition of a contract.

### Emergency



Major threat to life, property, security or the environment, or significant damage to the running of any of the Authority's functions or services.

### Find a Tender Service (FTS)

A publication of all public sector body tenders above the Public Procurement Thresholds. England commenced using FTS for any above-threshold (see [APPENDIX E](#)) tenders from 1<sup>st</sup> January 2021.

### Framework Agreement

A Framework Agreement is an agreement between one or more contracting authorities and one or more potential suppliers for the supply of goods, services or works which forms a pre-procured arrangement from which the contracting authority can purchase those goods, services or works, either directly from a framework supplier or following a mini-competition between the framework suppliers. The maximum duration for a Framework Agreement is 4 years (except in certain specified circumstances). Framework Agreements may be structured as single supplier or multi-supplier agreements.

A Framework Agreement does not guarantee that contracting authorities will place any specific £value or volume of business with the awarded framework suppliers. However, where operational demand exists you are encouraged to use available framework suppliers.

Framework Agreements are commonly used in the case of repetitive purchases where the contracting authority knows it will have a requirement but does not know the precise quantity or quantities which it will require. It therefore establishes a pre-existing procured arrangement under which suppliers will, when the time comes, be able to meet the Council's needs.

Framework Agreements may be set up by Central Purchasing Bodies (e.g. Government Procurement Service (GPS), Pro5 procurement organisations, regional buying consortiums) to allow other contracting authorities to benefit from using them.

## Goods / Supplies



These contracts relate to the purchase, hire, siting or installation of goods, but not their maintenance.

**For example: equipment, clothing, vehicles & spare parts, office stationery, consumables, gas.**

## Income Generating Arrangements



There are a number of different types of contract relating to arrangements where the contractor bears a significant part of the risk of being rewarded for the works, goods and services which it provides rather than involving an obligation on the Council to pay the contractor for them. It could involve a right for the Council to receive income in relation to or generated by the provision of the works, goods and services provided by the contractor. Examples include:

- **Concession** – Operator for Leisure Centre (management fees are received on a regular basis to the Council from the operator having gone through a formal procurement process)
- **Licence/Consent** – Agreement to allow car washing franchises to operate from our car parks. Whilst there is no obligation to perform the services the way that operators are selected does fall within the procurement regime.

## Joint Contracts Tribunal (JCT)



Standard form of contract for construction work

## Legal Requirements

The list below is not exhaustive, but are the most common requirements which impact on procurement:

- [Public Contract Regulations 2015](#)
- [Construction \(Design and Management\) Regulations 2015](#)
- [The Concession Contracts Regulations 2016](#)
- [Anti-Bribery Act 2010](#)
- [Public Services \(Social Value\) Act 2012](#)

## Local Businesses

Local Businesses are for the purpose of these Rules regarded as suppliers which are geographically situated within the [Solent Local Enterprise Partnership \(LEP\) economic area](#) comprising of the Isle of Wight, the two cities of Portsmouth and Southampton, the M27 corridor and the Solent waterway.

## OJEU (Official Journal of the European Union)

A publication of all public sector body tenders above a certain threshold. Due to Brexit, England ceased using OJEU for any above-threshold tenders from 1<sup>st</sup> January 2021, and instead uses Find a Tender Service (FTS).

## Off-The-Shelf

Something readily available from a range of suppliers which is not designed or built specifically for that purchaser's own needs.

## Policy Framework

Plans and strategies confirmed annually at Council (typically May each year). They form the framework in which the Executive will operate during the following year.

[Council meetings are archived here](#)

## Procurement Policy Notices (PPNs)

Government issued guidance on best practice for procurement for public sector organisations. The Archive is [here](#)

## Public Contracts Regulations 2015

The Public Contracts Regulations 2015 ("PCR 2015") implement in England and Wales and set out the current rules governing public procurement activity. They came into force on 26 February 2015.

## Public Procurement Thresholds

See APPENDIX E

### Purchase

Includes all the following:

- ✓ buying goods, works and services;
- ✓ entering into contracts and agreements
- ✓ entering into income generating arrangements.



### Services



These contracts relate to the provision by a person or other entity to provide services.

**For example: consultancy agreements, provision of maintenance services, provision of professional services, cleaning services.**

### Significant Purchase

These are purchases which:

- are a new and complex purchase for the service;
- or, are organisationally sensitive;
- or, are over the “Significant Value Threshold”:

### Significant Value Threshold (SVT)

- any single purchase greater than or equal to **£100k**
- or any continuous spend with a supplier expected to be greater than or equal to **£25k** each year
- the spend with the supplier all falls under one Head of Service.

### SMEs

All the following are defined as Small and Medium-Sized Enterprises.

- Micro Business = Annual turnover under £1.6m
- Small Business = Annual turnover under £8.3m
- Medium Business = Annual turnover under £41m



### South East Business Portal (SEBP)

A joint procurement portal used by many Local Authorities in the south-east region to advertise forthcoming contract opportunities and as a register of awarded contracts. The portal is used to bring buyers and suppliers together electronically making it easier to communicate opportunities for the local economies. <https://sebp.due-north.com/>

## Statutory Officer

Officers of the Council who are assigned in the Council's Constitution to perform these 3 statutory roles:

- Section 151 Officer (Finance)
- Monitoring Officer
- Head of Paid Service (usually the Chief Executive Officer)

[See Appendix B of Financial Regulations](#)

## Tender

See table of options in [APPENDIX C](#) that fall under this definition in these Rules.

## Total purchase value with a supplier



The total purchase value with a supplier would typically cover **4 years spend** with that supplier, excluding VAT.

## Works



These contracts relate to construction, demolition, building and civil engineering work and completion work such as joinery, plastering and decoration. It includes major repairs or complete refurbishment.

**For example: building a sports pavilion, resurfacing a road, repairing a roof, installing a heating system.**

## PROCUREMENT GUIDING PRINCIPLES

### 1. Be clear about what you want and why you need it

- How will the purchase benefit your customers?
- Do you know what you want?
- Do you know the market?
- Is this the best deal for the Council?
- Can you afford it within your budget?
- Is this the best solution or is there another way to achieve the desired outcome?

### 2. Be able to justify your thinking to the person on the street who pays council tax

- Treat the spend as if it is your own money
- Be ready to assist in evidencing the thinking/rationale for your approach
- Comply with the Council's Anti-Bribery Policy - and know that you can rely upon it

### 3. Pull in the Experts early

- Have conversations with the Procurement Team and your Finance Business Partner to help agree the right approach.
- Ask for and accept critical friend challenge
  - Be ready to answer - do you know your market, do you have the money, how does this spend help your customer or internal stakeholder, is this spend the most economical way to achieve that outcome

### 4. Anything over Public Procurement Thresholds = must go out tender (non-negotiable)

- Heads of Service to authorise orders and invoices over this value
- Advertise on Contracts Finder and other means

### 5. Get the best deal for the Council you can

- Not always the cheapest
- What does good look like when you're buying something?
- Consider service implications and quality
- Take into consideration whole life costs
- This Council encourages negotiation with preferred suppliers, where relevant and when permissible (not if Find a Tender restricted or open procedure routes)

**6. Engage with local SMEs (principles of FSB Engagement Accord)**

- Don't close the door on SME businesses – help them to work with us
- Meet the buyer events

**7. Buyer beware**

- Remember the risk is on the buyer
- Checks on the supplier need to be carried out – supply vetting

## Route to Market Options

This list is not exhaustive and alternatives may be used where it is in the interests of the Council

ROUTE	Examples of Use
<b>Non-Tender Routes</b>	
<b>Electronic Catalogues</b>	Use of pre-agreed arrangements the Council has with a supplier. Examples include stationery & protective clothing online catalogues for purchasing goods via virtual credit card arrangements.
<b>In-house provision</b>	Use of other parts of the Council able to provide the service.
<b>Corporate Contracts</b>	Purchasing from a contract the Council already has in place which can accommodate that additional need. e.g. Tree maintenance services, cleaning contract, legal partnership
<b>Direct approach</b>	Direct engagement of a known supplier who is capable of meeting the Council's needs and provides value for money for the tax payer. This route must NOT be used where a conflict of interests exists with the supplier or where a competitive process is required.
<b>Contracts with controlled entities</b>	Under PCR 2015 a contracting authority (such as a council) can directly award a contract to another body (such as a local authority company) if all the following conditions are met: <ul style="list-style-type: none"> <li>✓ The contracting authority exercises control over that body which is similar to the control it exercises over its own departments.</li> <li>✓ More than 80% of the activities of the controlled body are carried out performing tasks entrusted to it by the controlling contracting authority</li> <li>✓ There is no direct private capital participation in the controlled body</li> </ul>
<b>Shared Service with another public authority</b>	Under PCR 2015 Regulation 12(7) two or more contracting authorities can enter into a shared service agreement if the following conditions are met: <ul style="list-style-type: none"> <li>✓ the contract establishes or implements a co-operation between the participating contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;</li> <li>✓ the implementation of that co-operation must also be governed solely by considerations relating to the public interest (which includes meaning that it should not be a means to generate profits);</li> <li>✓ and the participating contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation.</li> </ul>
<b>Soft market testing</b>	Pre-tender research into suppliers and their prices. E.g. web searches, phoning suppliers, peer recommendations. It includes testing commercial market capabilities of meeting a set of requirements such as identifying whether there are enough interested suppliers to maintain competitive pressures.
<b>Obtaining 3 Quotes</b>	May be used following soft market testing exercise whereby suitably qualified and capable suppliers may provide a quotation direct to the service.
<b>Auctions</b>	Procurement through auctions is only permissible in exceptional circumstances. In these cases, the Council's policy and procedures for auctions as set out in Financial Regulations Support Document 5 must be followed.

<b>Tender Options – Non - FTS only</b>	
<b>Framework Agreement – direct call off from existing</b>	Direct award from a pre-existing framework in accordance with the process for doing so set out in that framework. The framework's terms and conditions will apply to each such call-off.
<b>Framework Agreement – mini competition</b>	A closed competition between the suppliers on a framework conducted in accordance with the process outlined in that framework.
<b>eRequest for Quote</b>	Opportunity advertised on the South-East Business Portal and managed independently by the Procurement Team. Lightweight tender and usually of a lower contract value.
<b>Closed Tender</b>	This is the process when selected organisations are invited to submit a tender following soft market testing, or using the knowledge of the sourcing officer of the suppliers available in the market. This route to market must be approved by the Procurement Team and is not available for procurements under PCR 2015.
<b>Tender Options – Any</b>	
<b>Occasional Joint Procurement</b>	For example, HIOWPP (Hampshire & Isle of Wight Purchasing Partnership) frameworks available to all members.
<b>Open Procedure Tender</b>	One stage regime. Generally used if the purchase is for something which is readily available from a range of suppliers and whose characteristics are simple to evaluate or where there is a very limited number of potential suppliers.
<b>Competitive procedure with Negotiation</b>	A multi-stage procurement procedure for more complicated needs involving a gradual reduction of participating bidders and interactive sessions with participating bidders to help shape their final proposals. Needs justification if chosen.
<b>Competitive Dialogue</b>	A procedure which is very similar to the Competitive Procedure with Negotiation but without flexibility to potentially accept an initial bid submission. Needs justification if chosen.
<b>Innovation Partnership</b>	A relatively new type of procurement procedure involving multiple stages and geared towards developing an ongoing relationship to develop innovative solutions. Needs justification if chosen.
<b>Dynamic Purchasing System (DPS)</b>	For commonly used purchases and open to any economic operator who satisfies the selection criteria to join at any time. Involves a lot of supplier management as each advertised need requires a full submission which needs evaluation.
<b>Tender Options (FTS Only)</b>	
<b>Restricted Tender – Goods and Services</b>	Two stage pre-qualification and tender regime. The restricted process for Goods and Services must only be used for over Public Procurement Threshold tenders.
<b>Restricted Tender - Works</b>	Two stage pre-qualification and tender regime. For <b>works contracts above the services and goods threshold</b> , you can use a pre-qualification stage. Otherwise the restricted process for Works must only be used for over Public Procurement Threshold tenders.

## Guide to Determine the Appropriate Type of Legal Agreement

### Decision 1 - Document Type

Nature of the Purchase	Examples of Options
<p><b>Goods</b> not using a framework agreement</p>	<ul style="list-style-type: none"> <li>• <b>Purchase Order</b> standard terms &amp; conditions – typically used for lower value arrangements</li> <li>• <b>Supply of Goods Agreement</b> (valued below £100,000)</li> <li>• <b>Standard Supply of Goods Agreement</b> (valued above £100,000)</li> </ul>
<p><b>Services</b> not using a framework agreement</p>	<ul style="list-style-type: none"> <li>• <b>Purchase Order</b> standard terms &amp; conditions – typically used for lower value arrangements</li> <li>• <b>Services Agreement</b> (valued below £100,000)</li> <li>• <b>Standard Services Agreement</b> (valued above £100,000)</li> </ul>
<p><b>Works</b> not using a framework agreement</p>	<ul style="list-style-type: none"> <li>• <b>Purchase Order</b> standard terms &amp; conditions typically used for lower value arrangements</li> <li>• <b>JCT Minor Works</b> with associated Standard schedule of amendments where the works are technically straightforward and there is no design input from the contractor (valued below £50,000)</li> <li>• <b>JCT Minor Works with Design</b> with associated standard schedule of amendments where the works are technically straightforward and there is some design input from the contractor (valued below £50,000)</li> <li>• <b>JCT Design and Build</b> with associated standard schedule of amendments where the works are designed by the contractor based upon outline requirements provided by the Council</li> <li>• <b>JCT Measured Term</b> with associated standard schedule of amendments where there is a regular flow of maintenance and minor works (including improvements) to be carried out by a single contractor over a specified period of time under a</li> </ul>



Nature of the Purchase	Examples of Options
	<p>single contract where the work is to be instructed from time to time (each instruction being an order) and measured and valued on the basis of an agreed schedule of rates.</p> <p>Note: Where the nature of the works is more complicated and /or of high value then more detailed JCT contract forms should be used for example, JCT Intermediate Building Contract or JCT Standard Building Contract (either with or without some contractor design as appropriate).</p> <p>Where the works involve the installation of a system then the NEC3/NEC4 Engineering and Construction Contract or the MF/1 General Conditions of Contract should be used.</p>
<b>Setting up your own framework</b>	<ul style="list-style-type: none"> <li>• <b>Standard Framework Agreement</b> – contains a pro forma call-off agreement. This is a services-based template being the most likely need.</li> </ul>
<b>Calling off from a third party pre-existing framework</b>	<ul style="list-style-type: none"> <li>• Utilise the <b>form of the call-off</b> contained in the framework</li> <li>• Where the framework does not contain a form of call-off use the <b>Standard Call-Off</b> (tailored as necessary)</li> </ul>

## Decision 2 - Contract or Deed

<b>When to use a Deed</b>	<p>When there is a risk that there might be no consideration (i.e. a unilateral promise without giving something in return)</p> <p>AND / OR</p> <p>When you want the period of potential liability (applying to both parties) for breach of contract to last for 12 years rather than 6 years.</p> <p><b>Works contracts</b> should ordinarily be made by deed.</p>
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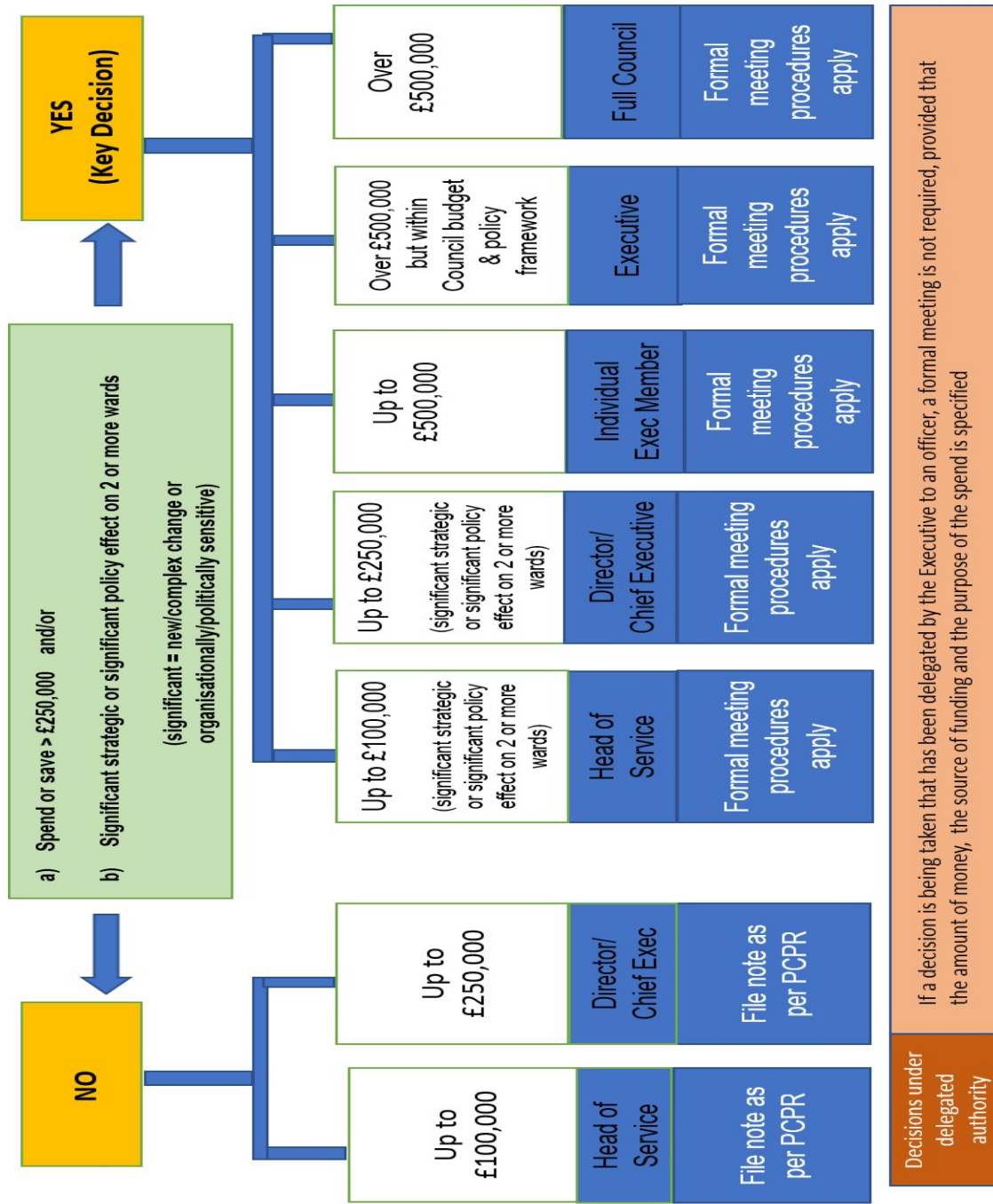
## Public Procurement Thresholds

Start date of Thresholds = 1 January 2022

When calculating the estimated value of the contract to determine which Legal Requirements apply, the contract value estimation should be inclusive of VAT (where applicable).

Goods / Services	<b>Greater than £213,477 (including VAT)</b>
Goods / Services – Social and Other Specific Services subject to the <b>Light Touch Regime</b> .	<b>Greater than £663,450 (including VAT)</b>
Works	<b>Greater than £5,336,937 (including VAT)</b>
Concessions	<b>Greater than £5,336,937 (including VAT)</b>
Utilities – Supplies and Services	<b>Greater than £426,955 (including VAT)</b>
Utilities - Works	<b>Greater than £5,336,937 (including VAT)</b>

Summary of Procedures for the Award of Contracts





# Financial Regulations



**Version 1.2 – June 2023**

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## Status of the Regulations

These Financial Regulations form part of Fareham Borough Council's Constitution and are a statutory requirement under the Local Government Act 2000.

Their purpose is to provide the framework for managing the authority's financial affairs. They are supported by a set of supplementary procedure and guidance notes to assist in the interpretation of the rules contained in the Regulations.

The posts currently fulfilling the responsibilities stipulated in the Regulations are laid out in a supporting table. The Statutory Chief Finance Officer has delegated authority to keep this table up to date.

**The general principle behind these Regulations is:**

***“All financial dealings must be of the highest standard conducive with being custodians of public resources and assets.”***

These Financial Regulations **must be followed** by all members, employees and anyone acting on the council's behalf. Where work is carried out in partnership then the regulations of the 'principal' authority should be followed.

**The Statutory Chief Finance Officer** will maintain a continuous review of these regulations and submit any changes to the Audit and Governance Committee for review and Full Council for approval.

**The Statutory Chief Finance Officer** is responsible for issuing advice and guidance to underpin the Financial Regulations to members, employees and others acting on the authority's behalf.

**The Statutory Chief Finance Officer** may agree to waive the provisions of these Regulations if considered in the Council's best interests. Any material decision to waive the provisions of the Financial Regulations will be reported to **a future meeting of the Executive**.

# Regulation 1: Responsibilities of Members

## 1.1 Overall Responsibilities

1.1.1 **All members** have a general duty of care to the Council and responsibility for taking all reasonable actions to:

- a) Ensure use of resources is legal and properly authorised.
- b) Ensure use of resources achieves best value.
- c) Ensure that at no time any assets, income or other resources under their control are put at an unacceptable risk of loss or waste.

## 1.2 The Council

1.2.1 **Constitution and Governance Framework:** The Council is responsible for approving the Council's constitution and governance framework and ensuring that appropriate action is taken in response to any concerns raised by the Audit and Governance Committee.

1.2.2 **Policy Framework and Budget:** The Council is responsible for approving the Council's policy framework, the annual budget, budget strategy and Treasury Management Strategy within which the decision-making groups and individuals operate.

1.2.3 **Statutory Reports:** The Council should ensure that appropriate action is taken in response to any formal reports issued by the statutory officers or external auditors.

## 1.3 Decision Making Groups and Individuals

1.3.1 Member groups and individuals who are delegated the power to make decisions on behalf of the Council should carry out their responsibilities within the policy, governance and financial frameworks set by the Council.

## 1.4 The Audit and Governance Committee

1.4.1 **Governance Framework:** The Audit and Governance Committee is responsible for recommending changes to the governance framework to the Council, including changes to the Financial Regulations.

1.4.2 **Annual Governance Statement:** The Audit and Governance Committee is responsible for overseeing the annual review of the effectiveness of Council's governance framework and approving the Annual Governance Statement on behalf of the Council.

1.4.3 **Statement of Accounts:** The Audit and Governance Committee is responsible for the approval of the annual Statement of Accounts on behalf of the Council.

- 1.4.4 **Financial Stability:** The Audit and Governance Committee are responsible for overseeing the Council's financial stability and should bring to the attention of the Council any concerns arising from the Statement of Accounts or reports issued by the external auditors.

## Regulation 2: Responsibilities of the Statutory Officers

### 2.1 General

2.1.1 In accordance with the Local Government Act 2000 and subsequent amendments, the Council must appoint the following 3 statutory officers:

- Head of Paid Service (HPS)
- Monitoring Officer (MO)
- Chief Finance Officer (SCFO)

2.1.2 These officers must be free to carry out their obligations as stipulated by legislation which includes:

- Section 151 of the Local Government Act 1972 (SCFO)
- Sections 114 and 114A of the Local Government Finance Act 1988 (SCFO)
- Sections 4 and 5 of the Local Government and Housing Act 1989 (HPS and MO)
- Sections 25 and 27 of the Local Government Act 2003 (SCFO)
- The Accounts and Audit Regulations (SCFO)

### 2.2 The Head of Paid Service

2.2.1 **Management:** The Head of Paid Service is responsible for the overall corporate management and operational activity of the Council.

2.2.2 **Professional Advice:** S/he is responsible for the provision of professional advice to all parties and committees in the decision-making process.

2.2.3 **Records of Decisions:** S/he is responsible, together with the Monitoring Officer, for ensuring a system for recording and reporting Council decisions is maintained.

### 2.3 The Monitoring Officer

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

2.3.2 **Constitution:** The Monitoring Officer will maintain the Constitution and ensure that it is available for consultation by Members, staff and the public.

- 2.3.3 **Records of Decisions:** S/he is responsible, together with the Head of Paid Service, for ensuring that procedures for recording and reporting decisions, and the reasons for those decisions, are operating effectively.
- 2.3.4 **Advice on Budget and Policy Framework:** S/he is responsible, together with the Statutory Chief Finance Officer, for advising the Executive if their decisions are not in accordance with the budget and policy framework.
- 2.3.5 **Unlawfulness and Maladministration:** S/he is responsible for overseeing that no action of the Council contravenes any legislation or code of practice or may lead to a charge of maladministration.
- 2.3.6 If s/he considers that any proposal, decision or omission will give rise to unlawfulness or maladministration s/he will make a Section 5 report to the Council or the Executive, as appropriate, after consultation with the Head of Paid Service and Statutory Chief Finance Officer.

## 2.4 The Statutory Chief Finance Officer (SCFO)

- 2.4.1 **Financial Administration:** The Statutory Chief Finance Officer is responsible for:
- establishing a framework for the proper administration of the Council's financial affairs;
  - setting and monitoring compliance with financial management standards;
  - establishing an adequate and effective system of internal audit;
  - advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
  - giving accurate, impartial advice and information on financial issues and options to the Chief Executive's Management Team, the Council and all its committees and members.
- 2.4.2 Detailed responsibilities of the Statutory Chief Financial Officer as part of the 'financial administration framework' are also included in the relevant sections of the other Financial Regulations.
- 2.4.3 **Robust Budget:** The Statutory Chief Financial Officer shall issue a Section 25 report each year before the Council's budget is approved.
- 2.4.4 **Advice on Budget and Policy Framework:** Along with the Monitoring Officer, the Statutory Chief Finance Officer is responsible for advising the Executive if their decisions are not within the budget and policy framework.
- 2.4.5 **Unlawful Proposals:** The Statutory Chief Finance Officer shall issue a Section 114 (2) report to the Executive, all members and the Council's external auditor if s/he considers that any proposal, decision or course of action by the Council, a committee, a member of the Executive or an officer:

- will involve incurring unlawful expenditure, or
  - is unlawful and likely to cause a loss or deficiency, or
  - is about to enter an item of account which is unlawful.
- 2.4.6 In preparing a report s/he shall consult as far as practicable with the Head of Paid Service and the Monitoring Officer.
- 2.4.7 **Expenditure Exceeds Resources:** The Statutory Chief Finance Officer shall issue a Section 114 (3) report to the Executive, and subsequently the Council, if it appears that the expenditure in the financial year is likely to exceed the resources available.
- 2.4.8 **Deputies:** The Nominated General Finance Manager, Nominated Operational Finance Manager and Nominated Strategic Finance Manager are deputised to perform the Section 114 duties if the Statutory Chief Finance Officer is unable to perform these duties.
- 2.4.9 Members and Officers shall draw to the attention of the Statutory Chief Finance Officer at the earliest opportunity, any subject which may lead to a formal report.

## Regulation 3: Responsibilities of Employees and Agents of the Council

### 3.1 Chief Executive Officer and Directors

- 3.1.1 The Chief Executive Officer and Directors are responsible for the effective management of the financial resources allocated to their areas of responsibility.

### 3.2 Heads of Service

- 3.2.1 Heads of Service are responsible for the effective management of the financial resources allocated to their services in compliance with these Financial Regulations and their budget allocations.
- 3.2.2 Heads of Service must make sure employees and agents within their service are instructed on the relevant requirements of Financial Regulations and have adequate guidance on financial procedures and working practices.
- 3.2.3 Heads of Service must ensure that they consult with the Statutory Chief Finance Officer, and members where required, on any matter liable to materially affect the Council's finances at the earliest opportunity.
- 3.2.4 The financial implications of any decisions must be fully identified and considered before the decision is made.

### 3.3 All Employees and Agents

3.3.1 **Duty of Care:** All employees and agents have a general duty of care when dealing with public money and assets.

3.3.2 All employees and agents are responsible for taking reasonable actions to:

- ensure use of resources is legal and properly authorised;
- ensure use of resources achieves best value;
- ensure that at Council assets, income or other resources are not put at any undue risk.

3.3.3 **Understand the Rules:** All employees and agents must be familiar with these Financial Regulations where they relate to their work. If an employee or agent is unclear about these rules, they must get advice before acting, by talking to their line manager or accountant.

3.3.4 **Financial Records:** All employees and agents must ensure that all financial records maintained meet the requirements of the Statutory Chief Finance Officer and comply with proper standards of financial control.

3.3.5 **Irregularity:** Where there is a suspicion of Financial Irregularity, it is the duty of all individuals to report the matter in accordance with Financial Regulation 10.4.

## Regulation 4: Authorisation Limits

4.1 **Nature of Spend:** Expenditure should only be incurred in relation to the business of FBC and procurement channels should not be used for personal use under any circumstance.

4.2 **Budget Provision:** Expenditure can only be incurred within the revenue and capital budgets approved by the Council.

4.3 **Capital Expenditure:** Only expenditure that meets the capitalisation rules can be charged against a capital scheme.

4.4 **Budget Holder Agreement:** When authorising expenditure, the authoriser should be confident that the budget holder has confirmed that the expenditure can be posted against their budget. The authoriser should take reasonable steps to be able to demonstrate this confirmation if challenged.

Exemptions from the need for budget holder confirmation are:

- Internal recharges
- Employee related costs
- Energy costs
- Vehicle costs
- Insurance premiums and excesses

- Leasing costs
- Capital financing costs
- Bank charges
- Bad debt provisions
- ICT software and hardware costs
- Non-negotiable expenditure e.g. external audit fees
- Accounting transactions and corrections
- Anything else procured centrally or expenditure on a consolidated invoice.

4.5 **Authorisers:** Orders and payments which involve the spending of council funds must be authorised by an employee of the Council, whose powers to incur expenditure are in accordance with the limits set out in Appendix 1, and who has been nominated as an authoriser by their Head of Service.

4.6 **Authorisation rule exceptions:**

- Directors, Heads of Service and Strategic Lead Officers will automatically be set up with level 3 and 2 authorisation rights based on their post.
- Any request for an officer to be set up with an authorisation limit above that which is usually given for their grade will require second approval from an approved Finance Team Authoriser.
- Purchase Desk Officers requested by their Head of Service to be set up on the finance system to input orders and invoices for their department are able to self-approve orders and invoices up to £500 (net of VAT).

4.7 **Procurement Cards:** Payments made on Council Procurement cards which can be made by an approved card holder who has signed a procurement card agreement setting out their authorised limits in accordance with Appendix 1.

An authorised officer, other than the card holder, must be nominated to receive details of the transactions being charged to each card.

4.8 Employees must not authorise any payments which are above these limits unless written approval to do so has been given by the employee's director and Statutory Chief Finance Officer.

4.9 **Emergency Responses:** In the event of the Council being involved in an emergency response, such that a control centre has been established, additional powers of authorisation are allowed in accordance with [Financial Regulation Support Document 29](#).

4.10 **Personal Benefit:** No employee can authorise payments to themselves, or to related bodies/individuals where they have a personal interest. Any exceptions to this must be agreed by the Statutory Chief Finance Officer.

## Regulation 4 - Appendix 1: Current Authorisation Limits

			Level 3	Level 2	Level 1	Other
	Covers	Additional Rules	Member of Chief Executive's Management Team	Head of Service	Other staff nominated by their Head of Service or Director	Finance Team Authoriser
<b>Budget Expenditure</b>	<p>Electronic authorisation on T1, Civica or Technology Forge</p> <p>Manual authorisation of order forms, yellow stickers or payment vouchers/certificate</p>	Written approval must be obtained from the Statutory Chief Finance Officer for any payment over £1,000,000.	<b>No Limit</b>	<b>£100,000</b>	<b>£20,000</b>	Not applicable
<b>Petty Cash</b>	<p>Cash Advances</p> <p>Reimbursement</p> <p>Float Top Up</p>	Any payment over £200 must be counter signed by the Statutory Chief Finance Officer who cannot also be the first signatory.	<b>£200</b>	<b>£100</b>	<b>£50</b>	Not applicable
<b>Procurement Cards</b>	<p>Advance payments</p> <p>In person payments</p> <p>Telephone payments</p> <p>Internet orders</p>	<p>Limits are the upper limit for single transactions.</p> <p>Higher limits can be given in individual cases, up to the maximum single transaction Procurement card limits, on approval of the Nominated General Finance Manager or Statutory Chief Finance Officer.</p>	<b>Up to £5,000</b>	<b>Up to £2,000</b>	<b>Up to £1,000</b>	Not applicable



			Level 3	Level 2	Level 1	Other
	Covers	Additional Rules	Member of Chief Executive's Management Team	Head of Service	Other staff nominated by their Head of Service or Director	Finance Team Authoriser
		<p>The maximum <u>monthly</u> limit that can be set for any card is £10,000. Limits above £5,000 must be approved as above.</p> <p>Actual limits for single and monthly transactions are set out in individual Procurement Card agreements.</p>				
<b>Financial Management</b>	<p>Payment run approval or high level payment to suppliers in the finance system or online banking system.</p> <p>Payroll administration and pension payments</p> <p>Precepts to other precepting authorities</p> <p>Routine transfers to Government Departments (e.g. Inland Revenue. NNDR)</p> <p>Pension payments</p> <p>Authorisation of sundry debtor refunds</p> <p>Tax Adjustments</p> <p>Inter-account transactions</p> <p>Treasury management transactions</p>	<p>Any payment run or individual payment over £50,000 must be additionally approved by an officer with Financial Management authorisation, who is different from the first authoriser.</p> <p>Any Financial Management transaction over £3,000,000 must have been approved by the Statutory Chief Finance Officer who cannot also be the authoriser. An allowed exception to this rule is transfers of money between accounts held by the Council's nominated bank.</p>	Not applicable	Not applicable	Not applicable	<b>£3,000,000</b>

			Level 3	Level 2	Level 1	Other
	Covers	Additional Rules	Member of Chief Executive's Management Team	Head of Service	Other staff nominated by their Head of Service or Director	Finance Team Authoriser
<b>Employee Expenses</b>	Payments to employees made through the electronic expenses system:  Mileage, Overtime, Hourly Salary, Standby, Eye care, Subsistence, Parking, Public transport.	Any claim where the employee's manager is not available can be authorised by a Super User.	A post holder can authorise any claim of an employee whose post reports to theirs in the management structure. A claim submitted by a Director can only be authorised by another Director, Chief Executive Officer or a Super User. A claim submitted by the Chief Executive Officer can only be authorised by another Statutory Officer. This is controlled electronically by the system. Claims shall not be submitted and authorised by the same person.			
<b>Pay Advances</b>		Any payment over £500 must be counter signed by the Statutory Chief Finance Officer who cannot also be the first signatory.	<b>£500</b>	<b>£200</b>	Not applicable	Not applicable

Notes to Appendix 1

1. These limits relate to NET expenditure (net of VAT).
2. The authorisation rules in relation to income are laid out in Financial Regulation 19.
3. The authorisation rules in relation to changes in staff remunerations are laid out in the Pay Policy.
4. The rules in relation to signing agreements are laid out in Contract Procedure Rules and the Constitution
5. Some posts are designated as Heads of Services in relation to this policy where there is not a direct Head of Service available in the management structure. These posts must be approved as such by the Director of the department.
6. A manual signature must be provided for all post holders who are nominated to authorise

## Regulation 6: Financial Planning

### 6.1 The Financial Strategy

- 6.1.1 **Production of Strategy:** The Statutory Chief Finance Officer (SCFO) must ensure that a Financial Strategy showing a 3 year forward assessment, including commitments, for both revenue and capital expenditure is prepared for the Executive and taken to the Council for approval.
- 6.1.2 **Pay Policy Statement:** The annual review of the Council's Finance Strategy must include the Pay Policy Statement for the following year, in a format that meets the requirements of section 38 of the Localism Act 2011.
- 6.1.3 **Council Strategies:** Other Council strategies should be aligned to the corporate aims and objectives and should take account of the Council's Financial Strategy.
- 6.1.4 **Significant Service Proposals:** The SCFO must ensure that when capital projects or significant revenue proposals are considered, the relevant Director includes detailed financial implications of the decision in their report, including the impact on current and future years.

### 6.2 Asset Management Plan

- 6.1.5 **Production of Plan:** The SCFO must ensure that an appropriate Asset Management Plan is prepared for the Executive.

### 6.3 Maintenance of Provisions & Reserves

- 6.1.6 **Level of Reserves:** When formulating the Financial Strategy and setting the annual council tax, the SCFO must advise the Executive and the Council on a prudent level of reserves that needs to be maintained in order to protect the authority's stability.
- 6.1.7 **Section 27 Report:** Where a reserve is likely to be inadequate during the forthcoming year, the SCFO must make a report to the Council on the reasons why the situation has arisen and the remedial action to be taken. *(N.B. Relates to s.27 of the Local Government Act 2003.)*
- 6.1.8 **Use of Reserve:** Any proposal to incur expenditure from a provision or a reserve must be approved by the SCFO.
- 6.1.9 **Earmarked Reserves:** Provisions or earmarked reserves must only be used for the purpose for which they were originally approved, unless agreed by the Council.

### 6.4 Financing Arrangements

- 6.4.1 **Council Tax Setting:** An annual General Fund, Housing Revenue Account Budget and Capital programme proposal shall be agreed by the Executive.

These should then be submitted to the Council to approve the budget, set the council housing rents and agree the Council Tax for the following year, in the context of the Financial Strategy.

- 6.4.2 **Grant Claims:** The relevant Director must ensure that all claims for funds, including grants, are made by the due date and in the manner prescribed by the funding body. Significant grant claims should be supported by appropriate documentation and checks.
- 6.4.3 **Use of Specific Finances:** The relevant Director must ensure that all resources from donations, grants or partnerships are being used for the purpose for which they are intended.
- 6.4.4 **Fees and Charges:** Fees and charges must be reviewed at least annually to take into account the budget setting principles of the Council's Financial Strategy.
- 6.4.5 **Other Financing Options:** Expenditure which involves any leasing, hire purchasing or rental agreements for more than 1 year must not be incurred without the SCFO's approval.

## Regulation 7: Financial Reporting

### 7.1 Accounting Policies and Procedures

- 7.1.1 **Accounting Standards:** The Statutory Chief Financial Officer (SCFO) must ensure that the accounting policies, procedures and financial records adopted by the Council take into consideration published standards and codes of practice and are acceptable to the Council's external auditors.
- 7.1.2 **Integrity of Accounting Systems:** All accounting and financial systems in use must be approved by the SCFO to ensure they provide a comprehensive, consistent and accurate record of the organisation's financial transactions.  
  
Use of such systems must be monitored to ensure that they remain relevant to changing circumstances.
- 7.1.3 **Separation of Duties:** Wherever possible, financial systems of control should be designed so that no one individual is solely responsible for an entire process.

### 7.2 Financial Reports

- 7.2.1 **Quality of Financial Reports:** Any employee producing financial reports must ensure that they are clear, accurate, relevant, reliable, consistent and compatible with the Council's accounting and financial information systems. They should be complete, free from deliberate or systematic bias and material error.

7.2.2 **Supporting Documentation:** Where appropriate, working papers should be maintained to safeguard the quality and transparency of financial reports. In particular these should set out the basis on which sums have been estimated and any assumptions made.

### 7.3 Financial Statements

7.3.1 **Reports to Executive:** The SCFO must ensure that the following accounts and reports are prepared from the Executive for approval by the Council:

- a) the aggregate estimates of all services for the financial year together with other matters related to the revenue budget, including the proposed Council Tax for the following year;
- b) an opinion of the robustness of the estimates made and the adequacy of financial reserves;
- c) the aggregate capital programme, its financing and the implications for the financial year;
- d) the aggregate outturn of all services for the previous financial year.

7.3.2 **Reports to Audit and Governance Committee:** The SCFO must ensure that the following accounts and reports are prepared for approval by the Audit and Governance Committee:

- a) the Annual Statement of Accounts to the 31st March of each year;
- b) an Annual Governance Statement.

7.3.3 **External Audit of Statement of Accounts:** The SCFO must ensure that the draft annual statement of accounts and supporting working documents, are prepared and ready for external audit in sufficient time to enable the audited financial statement to be published within the timetable legally stipulated for the Council.

7.3.4 **Publication of Financial Statements:** The SCFO must ensure that financial statements are published in accordance with statutory requirements and, where appropriate, to interested parties identified by the Council. Other potential users should be made aware of their availability.

## Regulation 8: Revenue and Capital Budgets

### 8.1 Preparation of Revenue Budgets

8.1.1 **Financial Strategy:** Detailed budgets for expenditure and income must be prepared with due regard to the Council's Financial Strategy and spending priorities.

8.1.2 **Procedures:** Revenue budgets must be prepared following the procedures and timetables set by the Statutory Chief Finance Officer (SCFO).

- 8.1.3 **Estimates:** It is the responsibility of the budget holders to ensure that estimates reflect service delivery plans and take account of past performance and assessments of future resources and commitments.
- 8.1.4 **Working Papers:** Estimates should be supported by working papers, which clearly show the assumptions made.
- 8.1.5 **Contingencies:** Individual service budgets cannot include contingency items for unplanned expenditure. However, provision can be made for known expenditure whose impact and value is not known.
- 8.1.6 **Growth Items:** Any significant growth items proposed for inclusion in a revenue budget should be appraised against the criteria laid down in the Finance Strategy.
- 8.1.7 **Trading and Holding Accounts:** Budgets set for trading and holding accounts must net to zero and have an associated method of internal charging established that has been approved by the Statutory Chief Finance Officer.

## 8.2 Preparation and Delivery of the Capital Programme

- 8.2.1 **De-Minimus Level:** No expenditure under **£10,000** will normally be considered for capitalisation. The exception to this is Vehicle and Plant purchases which must be over **£5,000**.
- 8.2.2 **Approval to Capitalise Expenditure:** Any proposal to capitalise expenditure must be approved by the Statutory Chief Finance Officer (SCFO).
- 8.2.3 **Capital Scheme Proposals:** Reports must be prepared for the Executive on any scheme to be added to the Capital Programme. These reports must be prepared in accordance with [Financial Regulation Support Document 39 - New Capital Scheme Proposals](#).
- 8.2.4 **Scheme Approval:** The Executive must consider the scheme in the context of the Council's Finance Strategy and Asset Management Plan, approved by the Council.
- 8.2.5 **Budget Approval:** Budget approval must be given for each individual scheme included in the Capital programme, and the revenue budget implications of the scheme.
- 8.2.6 **Financing of Scheme:** The Statutory Chief Finance Officer must advise on the most appropriate method of financing any approved expenditure.
- 8.2.7 **Start of Schemes:** Schemes can only be initiated when the Statutory Chief Finance Officer has confirmed that the funding has been secured.
- 8.2.8 **Project Monitoring:** It is the responsibility of the capital scheme lead officer to keep the Executive Committee informed of any problems that may occur in relation to the timescales for delivery of the scheme.

8.2.9 **Substitution of Schemes:** Any full or part substitution of an approved capital scheme with a new scheme within the Capital programme must be approved by the Council.

### 8.3 Budgetary Control

8.3.1 **Provision of Information:** Financial Services shall provide budget holders with relevant and timely financial information to enable them to monitor their budgets effectively.

8.3.2 **Budget Holders Responsibilities:** Budget Holders are accountable for the control of income and expenditure within their allocated budgets and should monitor progress, taking account of the financial information available. They should take appropriate action to avoid exceeding their budget allocation and act, as laid out below, if any material variances are anticipated.

8.3.3 **Executive Responsibilities:** It shall be the duty of the Executive Committee to monitor and regulate financial performance across revenue budgets and the capital programme to ensure that income and expenditure remain within the limits of the approved budget.

8.3.4 **Authority to Incur Expenditure:** Expenditure can only be incurred against a budget if the appropriate delegated authority has been given, as set out in [Financial Regulation 4](#).

8.3.5 **Expenditure Outside Budgets:** Expenditure is not permitted if a budget, reserve or financing provision has not been made.

In the event of the Council being involved in an emergency response, such that a control centre has been established, additional powers of expenditure are allowed in accordance with [Financial Regulation Support Document 29](#).

8.3.6 **Decisions Outside Budgets:** Budget holders considering undertaking activities that have financial implications, for which there is no budgetary provision, must consult with the Statutory Chief Finance Officer before either making a commitment or reporting their plans to the Council, Executive, Committees or Panels.

The Statutory Chief Finance Officer must be given a reasonable time scale in which to respond and be satisfied that all financial issues have been considered before a report is submitted to the Executive.

8.3.7 **Arbitration on Expenditure Charges:** The Statutory Chief Finance Officer will be the final arbitrator over any disputed expenditure charges.

8.3.8 **Budget Overspends:** Where it is anticipated that there will be an adverse variance against a revenue or capital budget then the variance should be discussed with the relevant accountant and savings plans or other mitigating measures identified.



- 8.3.9 **Revenue Budgets:** Where no mitigating measures can be identified for a revenue budget and the adverse variance exceeds **£20,000**, for the total net budget of a service listed in the Council's budget book, then the variance should be reported to the service Director and the Statutory Chief Finance Officer, who should then refer it to the Executive, or other relevant committee, if they are of the opinion that this materially affects the estimates.
- 8.3.10 **Capital Budgets:** Where the total cost of a capital scheme is anticipated to exceed the original provision by **10%** (subject to a minimum of **£20,000**) then approval must be obtained from the Executive Committee.
- 8.3.11 Where capital budget overspends are anticipated to be below this threshold the Statutory Chief Finance Officer should be informed who may then refer the issue to the Executive Committee if s/he is of the opinion that it will materially affect the estimates.

## 8.4 Virements

- 8.4.1 **Temporary Effect:** Virements must not increase overall net expenditure, result in a permanent change to the base budget or commit the authority to expenditure in future years.

If the budget transfer is to be permanent, then the growth item rules in the Finance Strategy should be followed.

- 8.4.2 **Detrimental Effect:** Virements must not have a detrimental effect to the delivery of a service from which the budget is vired. If a budget transfer is likely to have a detrimental effect on the delivery of a service that year, then the following rules apply:

Total Value of Transfer	Authorisation required
Up to £20,000	Relevant executive portfolio holders
£20,000 and over	Executive Committee.

- 8.4.3 **Virements Permitted:** Virements are not permitted if:
- a) The virement is between a General Fund budget and a Housing Revenue Account budget.
  - b) The virement involves a Capital budget. Changes to Capital budgets constitute a change to the capital programme which must be approved by the Council.
- 8.4.4 All other virements are permitted if authorisation is obtained in accordance with the following table:



<b>Total Value of Virement</b> (Aggregate within 1 year)	<b>Nature of Virement</b>	<b>Authorisation required</b>
<b>Any Value</b>	Involving “non-controllable” budgets such as employee or Internal Recharge budgets	“Nominated Operational Finance Manager”
<b>Any Value</b>	Involving “controllable” budgets <b>within the same</b> service listed in the Council’s budget book	Relevant Budget Holder
<b>Up to £50,000</b>	Involving “controllable” budgets <b>between</b> 2 or more services listed in the Council’s budget book	All relevant Budget Holders and their directors
<b>£50,000 and over</b>	Involving “controllable” budgets <b>between</b> 2 or more services listed in the Council’s budget book	All relevant Budget Holders, their directors, the Statutory Chief Finance Officer. The relevant executive portfolio holders must also be notified of the change.

8.4.5 All virements must be incorporated into the budget monitoring reports to the Executive Committee and explanations provided for significant variances.

## 8.5 Supplementary Estimates

8.5.1 **When Permitted:** Where a virement is not possible supplementary estimates may be considered if they meet one of the following criteria:

- circumstances of an exceptional nature, which could not have been foreseen;
- a change in Council or national policy, either in providing a new service or altering an existing service, which was not known at the time the estimates were prepared
- the rephasing of payments for schemes in progress, which involves no change in the overall cost, but the adjustment of budget provisions from one year to another.

8.5.2 **Consultation:** The advice of the Statutory Chief Finance Officer must be sought before any proposals for a supplementary estimate are considered.

8.5.3 **Approval:** All supplementary estimates must be approved by the Council.

8.5.4 **Urgent Expenditure:** Where expenditure is required urgently and there is no budget provision, verbal agreement may be obtained from the Executive Portfolio holder for Policy, Strategy and Finance, and the Chairman of the Scrutiny Board in consultation with the Statutory Chief Finance Officer and the Chief Executive Officer, up to a value of **£50,000**. This must be reported to the next meeting of the Executive and the Council.

## 8.6 Journal Transfers

- 8.6.1 **Authority to Action Journal:** Only officers in the Finance Work Group are authorised to action journals on the Council's accounting system.
- 8.6.2 **Authorisation Limits:** Any individual journal item over **£100,000** must be formally authorised by a Finance Officer who sits on the Section 151 Group, who themselves did not create the journal, before the end of the period in which it is created.
- 8.6.3 **Application of Authorisation Limit:** This requirement only applies to journals with the "sub type" referenced to an individual Accountant, (i.e. excludes those automatically generated by the system and referenced GR – "reversing journals").

## 8.7 Outturn

- 8.7.1 **Commitments and Accruals:** All commitments and accruals outstanding at the year-end must be reviewed by the budget holder to identify those for which expenditure or income is still anticipated, so that funding provision can be made which does not impact on the following year's budget.
- 8.7.2 **Carry Forward of Underspends:** Underspends will not be carried forward, unless agreed by the Executive committee when considering the overall outturn position.

# Regulation 10: Risk Management

## 10.1 Risk Management

- 10.1.1 **Framework:** The Audit and Governance Committee are responsible for approving an appropriate approach to risk management for the Council.
- 10.1.2 **Policy:** The "Nominated Chief Officer with responsibility for Risk Management" is responsible for maintaining the Council's **Risk Management Policy** and **Business Continuity Policy**.

## 10.2 Internal Control

- 10.2.1 **Annual Governance Statement:** The Chief Executive's Assurance Group is responsible for maintaining an appropriate assurance framework which supports the production of the Annual Governance Statement in accordance with the latest Accounts and Audit Regulations.
- 10.2.2 All managers should be clear of their responsibilities with respect to the assurance framework and Local Code of Corporate Governance and should provide appropriate assurance information to support the Annual Governance Statement, as necessary.

10.2.3 **Responsibility and Purpose of Internal Controls:** All managers must establish, maintain and keep under review appropriate and effective internal controls which promote and encourage:

- a) the achievement of objectives;
- b) compliance with legislation and council policies, regulations and rules;
- c) the reliability and integrity of Information;
- d) economical and efficient use of resources;
- e) safeguarding of assets.

10.2.4 Managers should ensure that those involved in operating systems are clear as to their responsibilities and reporting lines.

### 10.3 Insurance

10.3.1 **Arranging Cover:** The "Nominated Chief Officer with responsibility for Insurance" shall establish appropriate insurance cover for the Council and review it annually in consultation with relevant managers.

10.3.2 **Notification of Changes:** Managers should give notification to the "Nominated Chief Officer with responsibility for Insurance" of any circumstances, risks, purchases and disposals which may materially affect the insurance arrangements needed.

10.3.3 **Responsibility for Claims:** The "Nominated Chief Officer with responsibility for Insurance" shall negotiate all claims made on the Council's policies, in consultation with other officers as necessary.

10.3.4 **Notification of Claims:** Managers shall give prompt notification in writing to the "Nominated Strategic Finance Manager" of any loss, liability, damage or event likely to give rise to a claim by or against the Council.

10.3.5 **Contractor Cover:** Managers should ensure that suppliers, contractors, consultants or agents engaged must have insurance arrangements that adequately protect the Council's interests in accordance with [Financial Regulation Support Document 22](#).

### 10.4 Fraud and Corruption

10.4.1 **Maintenance of Anti-fraud and Corruption Policy:** The "Nominated Chief Officer with responsibility for Counter fraud" is responsible for maintaining the Council's [Anti-Fraud and Corruption Policy](#).

10.4.2 **Duty to Report Financial Irregularity:** Where there is a suspicion of Financial Irregularity, it is the duty of all individuals to report the matter to their Manager, the "Nominated Audit Manager" or the Statutory Chief Finance Officer. Such disclosures will be treated in accordance with the Council's Code of Practice for Confidential Reporting (also known as the [Raise a Concern Policy](#)).

- 10.4.3 The Nominated Audit Manager" should subsequently be notified of all investigations into fraud, corruption or impropriety and the outcomes.
- 10.4.4 **Investigation Procedure:** The "Nominated Audit Manager" should maintain an **Investigation Policy** and supporting procedures to determine how an investigation into an irregularity should be carried out. The **Investigation Policy** should be approved by the Chief Executive's Management Team.

## Regulation 11: Audit Arrangements

### 11.1 External Audit

- 11.1.1 The external auditors will be appointed in accordance with the Audit Commission Act 1998 or any Local Audit Acts which supersede it.
- 11.1.2 The Statutory Chief Finance Officer will work with the external auditors and advise the Council, Audit and Governance Committee, Executive and Directors on their responsibilities in relation to external audit.
- 11.1.3 The "Nominated Audit Manager" must ensure that there is effective liaison between internal and external audit.

### 11.2 Internal Audit

- 11.2.1 **Responsibility:** The Statutory Chief Finance Officer is responsible for maintaining an adequate and effective internal audit of its accounting records and of its system of internal control in compliance with the latest Accounts and Audit Regulations.

11.2.2 The responsibilities of the Internal Audit Service also extend to organisational partners including collaborations, outsourced and shared services.

- 11.2.3 An annual report should be prepared for the Audit and Governance Committee on the activity and findings of the internal audit service.
- 11.2.4 The internal audit service should comply with the latest Public Sector Internal Audit Standards. This includes maintaining an Internal Audit Charter ([Financial Regulation Support Document 14](#)) which documents the purpose, authority and responsibility of the internal audit activity.
- 11.2.5 **Standard Powers of Auditors:** The Statutory Chief Finance Officer and members of the in-house Internal Audit and Corporate Fraud teams, whilst carrying out their duties, have the authority to:
- a) *Premises:* Enter, at any reasonable time, any premises or land owned, leased or controlled by the Council.

- b) *Documents:* Examine all documents, correspondence or information held by employees, members of the council or other third parties, pertinent to their audit work.
- c) *Explanations:* Obtain such information and explanations from any employee or member as necessary concerning any matter under examination.
- d) *Property:* Require any Council employee, agent or member to produce cash, stores, ICT equipment, or other Council property under their control upon request.

These powers may also be conveyed on the auditors working under contract on agreement with the "Nominated Audit Manager" or Statutory Chief Finance Officer.

**11.2.6 Powers During an Investigation:** Where a significant irregularity is suspected the in-house Internal Audit and Corporate Fraud teams also have the authority to:

- e) *Property:* Carry out a search of or seize any Council owned property and equipment.
- f) *Access systems:* Require any Council employee or member to surrender any keys, cards, de-encryption codes, passwords or any other item or information needed to allow access to Council premises, assets or data.
- g) *Interception:* Intercept and review communications, data or information held on Council's own equipment such as internet logs, email, fax and phone messages.
- h) *Remove documents:* Remove any documents or other material which may be required as evidence.
- i) *Exclusion:* Require an employee to leave the Council's premises immediately.

Execution of these powers shall be in accordance with the Investigation policy and procedures of the Council.

**11.2.7 Responsibility of Auditees:** Auditees are responsible for:

- a) Maintaining a constructive approach to the audit process.
- b) Adhering to agreed timescales.
- c) Making available employees, documents, computerised systems and information in a timely manner.
- d) Providing accurate information to the best of their knowledge.
- e) Providing prompt responses to audit reports.
- f) Implementing any actions arising in a timely manner.

## Regulation 12: Treasury Management

### 12.1 Banking Arrangements

- 12.1.1 **Making Arrangements with the Bank:** All arrangements with the Council's bankers shall be negotiated by the "Nominated Chief Officer with responsibility for Treasury Management" who shall be authorised to operate such banking accounts as considered necessary.
- 12.1.2 **Official Bank Accounts only:** Individuals must not use personal bank accounts for any receipt or payment of monies related to the Council's affairs.
- 12.1.3 **Blank Cheques:** All forms of cheque shall only be ordered, issued and controlled by the "Nominated Chief Officer with responsibility for Treasury Management" who shall make proper arrangements for their safe custody.
- 12.1.4 **Cheque Signatures:** Cheques drawn on the Council's accounts shall bear the facsimile signature of the Statutory Chief Finance Officer (SCFO).
- 12.1.5 **Power to Open Cheques:** Cheques drawn on the Council's accounts can only be opened for encashment at the Council Offices by an officer who has been given that level of authorisation.
- 12.1.6 Exceptions to this are Housing Benefit cheques which can be authorised for encashment by the "Nominated Benefits Manager" or a nominated deputy.
- 12.1.7 **Reason to Open Cheques:** No cheque over £200 should be opened unless there is reasonable evidence that the payee does not have a bank account or other exceptional circumstances apply.
- 12.1.8 **Electronic Payments:** Where payments are to be transmitted electronically, the "Nominated Chief Officer with responsibility for Treasury Management" shall approve the procedures necessary to safeguard the authority against potential losses.
- 12.1.9 **Counter Signatures:** Supporting documents for any payment by cheque or electronic means to be drawn for more than **£50,000**, or **any manual cheque**, must be physically countersigned by another officer, authorised to do so, who was not the originator of the payment.
- 12.1.10 **Bank Statement Reconciliation:** In respect of the Council's main payment and receipt bank accounts, bank statements must be obtained on a daily basis and these must be promptly reconciled to records of transactions and reconciled to ledger postings at least monthly.

Duties should be separated such that those responsible for drawing or paying in monies do not undertake the reconciliation.

- 12.1.11 **Un-presented Cheques:** Cheques drawn on the Council's bank account which remain un-presented should be cancelled in accordance with [Financial Regulation Support Document 36](#).
- 12.1.12 **Procurement Cards:** Only the Nominated Chief Officer with responsibility for Exchequer functions" shall have the authority to arrange these systems of payment and agree credit limits.
- 12.1.13 **Procurement Cards:** Purchases by procurement card must follow the Council's approved **Procurement Card Policy and Guidelines**. This covers card usage, record keeping, supporting receipts, statement reconciliation and monitoring arrangements.
- 12.1.14 **Operation of Trust Funds:** Officers, who are required by their official capacity to operate a bank account for the control of charitable, community or other funds not belonging to the Council, must notify the Statutory Chief Finance Officer and have regard to any guidance given by the SCFO
- 12.1.15 **Third Party Funds and Assets:** No administration of any funds or assets held on behalf of third parties, is permissible except in exceptional cases approved by the Statutory Chief Finance Officer. A written record of all transactions must then be maintained

## 12.2 Treasury Management

- 12.2.1 **Adoption of Code of Practice:** Fareham Borough Council adopts the key recommendations of the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Treasury Management in the Public Services.
- 12.2.2 **Maintenance of Policy and TMPS:** Accordingly, Fareham Borough Council will create and maintain, as the cornerstones for effective treasury management:
- a **treasury management policy statement**, stating the policies and objectives of its treasury management activities. The policy must be approved by the Council after any significant change.
  - Suitable **Treasury Management Practices** (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 12.2.3 **Responsibilities:** The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Executive, and will nominate a body to oversee that the implementation is in accordance with the **Treasury Management Strategy and Policy**.



- 12.2.4 The execution and administration of treasury management decisions is delegated to the "Nominated Chief Officer with responsibility for Treasury Management", who will act in accordance with the **policy statement and Treasury Management Practices** and CIPFA's Standard of Professional Practice on Treasury Management.
- 12.2.5 **Reporting:** The Council will receive reports on its treasury management policies, practices and activities, which will include, an annual strategy in advance of the year, and an annual report produced timely after its close, and any other reports in accordance with the Code of Practice.
- 12.2.6 The "Nominated Chief Officer with responsibility for Treasury Management", will report to the Executive at least twice a year on the activities of the treasury management operation and on the exercise of the delegated treasury management powers, including any breaches of the **Treasury Management Policy**. The last of these reports will be the annual report referred to in 12.2.5.

### 12.3 Loans and Investments

- 12.3.1 **Register of Assets and Liabilities:** All loans and investments shall be affected in the name of the Council by the SCFO who shall maintain a register of all negotiable instruments, stocks, bonds, mortgages and other securities held by the Council.
- 12.3.2 **Adequate records:** Adequate records of money borrowed and invested must be maintained.
- 12.3.3 **Security of Documents:** All documents of title to Council investments must be held securely by a nominated officer.

### 12.4 The Prudential Code

- 12.4.1 **Compliance:** The Council has a statutory duty to adopt and comply with "The Prudential Code for Capital Finance in Local Authorities", a professional code developed by CIPFA. The SCFO is responsible for ensuring that this duty is fulfilled.
- 12.4.2 **Setting the Indicators:** Each year as part of the formal budget setting process, the SCFO will report the Council's "Prudential Indicators" (as defined in the professional Code), to the Executive and Council. It is the responsibility of the SCFO to ensure that Members are presented with all matters to be taken into account when considering the indicators.
- 12.4.3 In setting or revising the indicators, the Council will have regard to the following matters:
- Affordability
  - Prudence
  - Sustainability
  - Value for money



- Stewardship of assets
- Service Objectives
- Practicality

Once adopted by the Council, the prudential indicators will act as a set of parameters within which the Council shall operate during the year.

- 12.4.4 **Treasury Management Indicators:** The SCFO will also ensure that the prudential indicators that relate to Treasury Management will be considered at the same time as the Council's Treasury Management Strategy.
- 12.4.5 **Monitoring and Control:** The SCFO must ensure that appropriate, robust processes are in place for monitoring performance against the indicators.
- 12.4.6 **Reporting Non-Compliance:** Where it is evident that one or more of these indicators has been, or is likely to be, breached the SCFO must make a report to the Executive as soon as is practicable to do so. This report should explain the reasons why the approved parameters have been (or are at risk of being) breached and recommend a course of action to be taken to rectify the situation.

## Regulation 13: Physical Assets

### 13.1 Overview

- 13.1.1 **Asset Register:** The Statutory Chief Finance Officer will maintain the 'Asset Register' which contains details of all assets leased or owned by the Council which exceed the Capital de-minimus levels. This must be maintained in accordance with the accounting policies of the Council.
- 13.1.2 **Updates to Asset Register:** Heads of Service will provide information as required by the Statutory Chief Finance Officer for the maintenance of the asset register.
- 13.1.3 **Due Care:** Heads of Service are responsible for maintaining proper security, care and protection of all building, equipment, vehicles, stocks, stores and cash under their control. This includes minimising the risks of natural hazards, theft, damage and misuse.
- 13.1.4 **Reporting of Thefts:** The Statutory Chief Finance Officer and Nominated Audit Manager shall be informed, as soon as possible, of any break-in, theft or attempt at such, and any loss otherwise suffered.
- 13.1.5 **Reporting of Losses:** The Statutory Chief Finance Officer and Nominated Audit Manager shall be informed of any missing equipment or significant shortfalls in stock as soon as possible after discovery, together with explanations for the loss, if known.

## 13.2 Land and Buildings

- 13.2.1 **Maintenance of Portfolio:** The "Nominated Chief Officer with responsibility for Estates" shall carry out an on-going review of the Council's land and buildings portfolio, to ensure it continues to meet the corporate objectives.
- 13.2.2 **Acquisition of Assets:** All negotiations for the purchase, occupation and development of land and buildings owned by third parties, or use of Council land (with the exception of casual lettings) should be carried out in liaison with the Property, Estates or Procurement teams, as appropriate to the acquisition. Any land acquisition over **£10,000** should be approved by the Executive Committee.
- 13.2.3 Any asset to be obtained by a leasing arrangement must be carried out in liaison with the Statutory Chief Finance officer and meet the conditions stipulated in [Financial Regulation Support Document 12](#).
- 13.2.4 **Property Terrier Record:** The "Nominated Chief Officer with responsibility for Estates" shall maintain a record of all land and buildings owned, mortgaged or leased by the Council (including dwellings provided under the Housing Acts) in accordance with appropriate professional practice.
- 13.2.5 **Clear responsibilities:** The "Nominated Chief Officer with responsibility for Estates" is responsible for ensuring that the Council's arrangements for managing land and buildings owned, mortgaged or leased by the Council, are formally documented.

This should include responsibilities for the following:

- Custody and security of the title deeds.
- Security of buildings
- Arranging for appropriate insurance cover.
- Carrying out condition surveys and prioritising the works.
- Management of budget allocations for building maintenance.
- Procurement of repairs and maintenance works.
- Record keeping of the repairs and maintenance carried out.
- Carrying out and recording inspections of land and buildings.
- Carrying out and acting upon the results of corporate premises hazard and health and safety risk assessments.
- Carrying out and acting upon the results of energy efficiency assessments.

## 13.3 Furniture, Equipment, Vehicles and Plant

- 13.3.1 **Records of Assets held:** The Transport Manager will maintain appropriate records of the vehicles and plant held by the Council
- 13.3.2 The "Nominated Head of Service for ICT" will maintain appropriate records of the IT equipment held by the Council.

- 13.3.3 Heads of Service will maintain appropriate records of all other furniture, equipment, heritage or infrastructure assets held or deployed by their service.

This will include maintaining an up to date inventory of all individual items with a purchase value in excess of **£200**, plus items considered by the Head of Service to be of high importance to the service, vulnerable to loss and/or which could be the subject of an insurance claim if lost or damaged.

- 13.3.4 The inventory records maintained should include the minimum information determined by the Statutory Chief Finance Officer.

- 13.3.5 **Loans of Equipment:** Council property (owned or hired) should not be removed other than in the ordinary course of the Council's business except in accordance with directions issued by the Head of Service concerned.

- 13.3.6 **Inventory Checks:** Heads of Service should arrange for the accuracy of the inventory to be verified periodically at a frequency appropriate to the risk of loss of the individual items recorded.

## 13.4 Stocks and Stores

- 13.4.1 **Stock levels:** Heads of Service must make arrangements for the maintenance of reasonable levels of stocks and stores in his/her control. The level of stock considered reasonable should be that necessary for the effective delivery of the service.

- 13.4.2 **Records of Stock Levels and Movements:** Heads of Service should ensure that appropriate up to date records of the level and value of stocks and stores held are maintained. This should include appropriate records of movements in stock. The Statutory Chief Finance Officer shall be entitled to receive on demand details of the quantities and values held.

- 13.4.3 **Stock Checks:** Periodical physical examinations of stocks and stores held, against the stock records, should be carried out at a frequency based on the value and vulnerability of the stock.

## 13.5 Disposal of Assets

- 13.5.1 **Disposal of Assets:** Any land, building or other asset that the Council wishes to sell, transfer its interest in, or otherwise dispose of, should be done in a way that achieves the best consideration for the Council.

- 13.5.2 **Disposal of ICT equipment:** ICT equipment can only be disposed of by ICT Services, and if it is considered redundant in accordance with the ICT Strategy.

- 13.5.3 **Disposal of Land and Buildings:** Land and buildings can only be disposed of in conjunction with the "Nominated Chief Officer with responsibility for Estates" and in accordance with the Disposal Strategy. Any valuations must be undertaken by the "Nominated Estates Manager" or a suitably qualified person.

13.5.4 **Methods of Disposal of Assets over £1,000:** The following are approved methods of disposal for assets with an estimated potential market value at the time of disposal of £1,000 or more:

- Public Advert or Notice, inviting tenders in accordance with the Council's Contract Procedure Rules;
- Advertisement in specialised journals
- Use of Approved Estate Agents
- Use of Auctions (with a reserve price)
- Part Exchange for Replacements
- Negotiations with neighbouring land owners
- Sealed Bids opened by service with two officers present
- Any other method of disposal endorsed by the "Nominated Chief Officer with responsibility for Estates" (land and buildings) or "Nominated Chief Officer with responsibility for Procurement" (other).

Where the estimated asset value is greater than **£10,000** the method of disposal would normally involve open competitive tenders, unless it can be justified that this would not be in the Council's best interest.

13.5.5 **Methods of Disposal of Assets Under £1,000:** Disposal of assets under **£1,000** should be carried out in accordance with the [Financial Regulations Support Document 42-Policy for Disposal of Council items, equipment, waste and materials in the Council's control](#).

13.5.6 **Authorisation of Disposal:** The method of disposal proposed to achieve the best consideration for the Council must be authorised, and the final disposal reported, in accordance with the table below:

Type of Asset	Estimated potential market value at the time of disposal	Stage 1 - Approval of Method of Disposal	Stage 2 - Reporting of Disposal
All	<b>More than £10,000</b>	Executive Committee	Report to Executive Committee <u>prior</u> to disposal if price to be achieved is below the valuation.
Land and buildings	<b>£10,000 or less</b>	The Nominated Chief Officer with responsibility for Estates	Report to Executive portfolio holder for Policy, Strategy and Finance <u>after</u> disposal.
Furniture, Equipment, Vehicles, Plant, Stocks	<b>£1,000 to £10,000</b>	Director and Statutory Chief Finance Officer	None
Furniture, Equipment, Vehicles, Plant, Stocks	<b>Less than £1,000</b>	Head of Service	None

- 13.5.7 **Release of Asset:** The asset should not be released until receipt of the income has been confirmed.
- 13.5.8 **Exemptions:** The disposal rules above do not apply to properties that are sold as a result of a statutory obligation.

## Regulation 14: Other Council Assets

- 14.1 **IT Systems:** IT system administrators are responsible for maintaining the security of the data held on any system under their control.
- 14.2 The Statutory Chief Finance Officer should be notified of any proposals to introduce or change an IT system that affects the recording of financial transactions.
- 14.3 **Intellectual Property:** Information, data and methodologies created using Council resources remain the property of the Council, unless otherwise agreed by the appropriate Director.
- 14.4 **Document Retention:** Any documents of a financial nature shall be retained for the period stipulated in the Council's Information Disposal Schedule. Where a document is not listed then it should be retained for the minimum periods required for accounting and taxation purposes.
- 14.5 **Controlled Stationery:** The Director with responsibility for that service is responsible for ordering and safeguarding stocks of any stationery that has a financial value such as blank cheques, receipt books, rail warrants and parking permits.
- 14.6 Appropriate records should be kept to account for the issue and use of the controlled stationery.

## Regulation 16: Ordering and Paying for Works, Goods and Services

### 16.1 General Principles

- 16.1.1 **Nature of Purchasing:** This regulation applies to the purchase of goods, services or works. It excludes transactions which form part of the Council's Treasury Management processes.
- 16.1.2 **Emergency Responses:** In the event of the Council being involved in an emergency response, such that a control centre has been established, some of the rules contained in this regulation can be waived in accordance with [Financial Regulation Support Document 29](#).

- 16.1.3 **No Personal Gain:** Employees should not achieve any personal gain when making a purchase for the Council. Orders may only be placed for Council supplies. They must not be used for personal purchases under any circumstances.
- 16.1.4 **Procurement Rules:** Purchasing must be carried out in accordance with the **Procurement and Contract Procedure Rules** which explain the rules and thresholds for ordering and sourcing.
- 16.1.5 **Separation of Duties:** There should be a least 2 council officers, other than the Accounts Payable Section, involved at some point in the chain of ordering, receipt of goods and payment of invoices.
- 16.1.6 **Authorised Officers:** Orders and invoice payments can only be authorised by council officers nominated to do so in accordance with [Financial Regulation 4](#).
- 16.1.7 **Authoriser Checks:** The authorising officer is responsible for verifying that:
- the expenditure is for a purpose approved by the Council and is within the Council's statutory powers to incur;
  - the correct procurement approach has been taken for the level of spend with that supplier, as set out in the **Procurement and Contract Procedure Rules**;
  - an order or payment for the same purchase has not already been placed or made, through the same or another procurement channel;
  - the value of the order or invoice is correct, any extra costs, such as delivery charges, have been included and any applicable discounts have been taken;
  - VAT has been correctly identified and coded in accordance with [Financial Regulation Support Document 10](#);
  - Income tax deductions have been correctly accounted for on payments to sub-contractors in accordance with [Financial Regulation 20](#);
  - the cost has been coded appropriately and budget is available to cover the cost of the order or invoice in accordance with [Financial Regulation 4.4](#).
- 16.1.8 **Additional Authoriser Checks for Invoices:** Where the authorising officer is certifying an invoice for payment, due to no order having been raised, they should also satisfy themselves of the following before authorisation is given:
- the goods or services have been received or the work carried out satisfactorily;
  - the details and prices as stated on the invoice are in accordance with that requested or expected by the Council;
  - the invoice is arithmetically correct.

## 16.2 Orders

16.2.1 **Timing of Order:** Orders for all works, goods and services must be raised at the time the supply / service is requested and prior to the goods being received.

16.2.2 **Exemptions:** Raising orders may not be appropriate in the following circumstances:

- purchases using petty cash floats as covered in [Regulation 17](#);
- purchases made using the Council's Government Procurement Cards (GPC) in accordance with the approved **Procurement Card Policy and Guidelines**;
- works or services provided under contract where the requirements of the Council's **Procurement and Contract Procedure Rules** apply;
- any other exceptions approved by the Statutory Chief Finance Officer.

16.2.3 **Information Contained on Orders:** Orders must indicate the nature, period of supply, and/or quantity of the work, goods or services required and the agreed value of these. In normal circumstances, prices should be pre-agreed, "fixed and firm including delivery charges" excluding VAT.

16.2.4 **Verbal Orders:** Urgent orders may be placed verbally, by an officer authorised to incur expenditure. The supplier should be advised that the order is subject to the Council's standard terms and conditions of purchase. Such orders shall be confirmed as soon as possible by an official order detailing the purchase and indicating that the supplier provides the goods or service in line with instructions previously issued.

16.2.5 **Budgetary Control:** Outstanding commitments and accruals against budgets for incomplete orders should be checked periodically, and at least annually, to ensure management accounting information is accurate.

## 16.3 Receipt of Goods and Services

16.3.1 **Processing Order to Goods Received stage:** The order record should be updated promptly when the works, goods and services have been supplied, once the following checks have been satisfied:

- there is confirmation by a Council Officer that all the required goods or services on the original order, have been received or the work carried out satisfactorily;
- there have been no additional goods and services provided outside of the original order;
- appropriate entries have been made in stores, inventory or other records.

16.3.2 **Disputes and Credit Notes:** Any orders where problems have been found with the works, goods and services should be placed in dispute and the invoice payment withheld until the dispute is resolved.



In these circumstances an appropriate officer from the service making the purchase should:

- raise the matter promptly with the supplier and keep a record of all ensuing negotiations;
- request a credit note or replacement goods for goods returned or incomplete deliveries;
- stop the goods received note being processed against the order;
- inform the Accounts Payable team that the invoice is in dispute.

## 16.4 Payment of Invoices

16.4.1 **Form of Invoice:** Invoices can only be paid if they are supplied in a form recognisable as such by H.M. Revenues and Customs, and clearly show what, if any, VAT has been added to the purchase.

16.1.2 Payments must not be made on Proforma invoices or Statements of Account, except in circumstances approved by the Nominated Operational Finance Manager.

16.4.3 **Suppliers Statements:** Suppliers Statements should be passed to the Accounts Payable who will check the accuracy of the payments listed to those recorded on the Purchase Ledger. Special attention should be made to reconcile any credit notes and unallocated cash listed on the statement, which are not reflected in the Council's Purchase Ledger. Any queries found should be raised with the supplier.

16.4.4 **Transfer of Invoice:** Invoices should be passed to the Accounts Payable Section at the earliest opportunity, for registering in the financial management system. They shall be entitled to make any enquiries necessary to determine the authenticity and accuracy of the payment.

16.4.5 **Responsibilities of the Accounts Payable Section:** The Accounts Payable Section are responsible for checking that *the right people are being paid the right amount and in accordance with the right payment terms.*

They should carry out the following checks on invoices received before processing them for payment:

- the service making the purchase has confirmed that all the works, goods and services have been received and there are no outstanding disputes with the supplier;
- the order or invoice has been appropriately authorised;
- a payment has not already been made for the invoice in question;
- the payment will be made to the correct supplier.

16.4.6 **Authority to Make Payments:** The payment of all monies due from the Council shall be made by the Nominated Chief Officer with responsibility for Exchequer functions", with the exception of authorised petty cash transactions.



- 16.4.7 **Dispatch of Cheques:** Cheques should be dispatched by post except in exceptional circumstances.
- 16.4.8 **Payment Errors:** Any payment error that comes to the attention of an employee must be brought immediately to the attention of the budget holder and the Accounts Payable Section, who should provide assistance in the timely resolution of disputes with suppliers.
- 16.4.9 **Advance Payments:** Payments should only be made in advance in exceptional cases where it is not appropriate to use a Government Procurement Card and the purchase needs to be secured in accordance with the supplier's terms (e.g. for a training course). Where possible, an interim payment should be paid rather than the full amount.
- 16.4.10 In making an advance payment employees must be confident that the goods or service will be received and be of an adequate quality, or a refund will be achievable. In all cases an invoice or VAT receipt must be subsequently obtained and processed.
- 16.4.11 **Urgent Payments:** The need for urgent payments should be kept to a minimum and only used where there is a genuine need. Work flows should be organised to avoid using urgent payments, wherever possible

## Regulation 17: Petty Cash and Floats

### 17.1 Petty Cash and Float Holders

- 17.1.1 **Provision:** The "Nominated Chief Officer with responsibility for Exchequer functions" shall provide petty cash accounts and floats as s/he considers appropriate for council services.
- 17.1.2 Any petty cash or float provided should be operated in accordance with [Financial Regulation Support Document 32](#).
- 17.1.3 **Record of Provision:** The "Nominated Chief Officer with responsibility for Exchequer functions" shall maintain a record of authorised petty cash accounts and floats.
- 17.1.4 **Security:** Petty cash and float holders are responsible for the safekeeping of the cash and must keep a record of any money paid into or out of the account.
- 17.1.5 **Balancing Accounts:** Accounts and floats should be balanced to the total advanced, on a regular basis.
- 17.1.6 All balancing should be appropriately documented which includes a signature and date of the person carrying out the reconciliation. Any discrepancies found **over £25** should be reported to the line manager and "Nominated Audit Manager".

- 17.1.7 **Certificate:** Officers responsible for a petty cash account or a float shall, provide the Statutory Chief Finance Officer with a certificate of the sum held whether in cash or vouchers, when requested.
- 17.1.8 **Leavers:** Heads of Service or managers shall ensure that any staff member has accounted to the Statutory Chief Finance Officer for the amount advanced prior to the staff member leaving the employment of the Council, or otherwise ceasing to hold an imprest account

## 17.2 Reimbursement from Petty Cash

- 17.2.1 **Use of Petty Cash:** Petty cash will only be used as a method of procurement as a last resort and then only for low value expenditure.
- 17.2.2 **Receipts:** All claims from petty cash should be made on an official voucher form and supported by proof of expenditure such as a receipt.
- 17.2.3 **Authorisation:** Cash advances and reimbursements can only be authorised by council officers nominated to do so in accordance with [Financial Regulation 4](#).

# Regulation 18: Payments to Employees and Members

## 18.1 Salaries and Allowances

- 18.1.1 **Overall Responsibility:** The payment of all salaries and other payments to employees shall be made by or under arrangements approved by the Statutory Chief Finance Officer.
- 18.1.2 **Changes to Establishment:** Responsible Officers must follow any corporate processes put in place to control changes made to their employee establishment or salary and allowance payments associated with a post, seeking guidance from finance and personnel as needed.
- 18.1.3 **Changes to Post-holders:** Responsible Officers must follow any corporate processes in place to manage appointments, resignations, dismissals, absences from duty and other such information required in connection with the calculation and payment of salaries and wages. These must be done promptly to avoid unnecessary salary corrections after payment is made.
- 18.1.4 **Budgetary Control:** Responsible Officers must ensure proper financial control of their employee budgets in accordance with their revenue expenditure responsibilities.

## 18.2 Employee Expenses and Deductions

- 18.2.1 **Making an expense claim:** Claims made must contain all necessary information, be made promptly, normally a month in arrears, and be authorised by an appropriate manager before being considered for payment. Corporate processes will be put in place to ensure these requirements are met.
- 18.2.2 **Proof of Expenditure:** VAT receipts as proof of expenditure must be obtained and submitted with the claim form before reimbursement is made. Car park tickets are acceptable for proof of parking expenditure.
- 18.2.3 **Authorisation Checks:** An authorising officer certifying a claim must be satisfied that:
- a) the time or expenditure claimed is reasonable and accurate;
  - b) the duties or activities described have been performed;
  - c) payment is in accordance with the employee's contract of employment or Local / National agreements on Pay and Conditions of Service.
- 18.2.4 **Deductions:** Deductions from salaries must be in accordance with the Wages Act 1986, which requires specific written employee authorisation before any deduction can be made, unless covered by statute or other legal order. These should then be appropriately accounted for and paid promptly to the receiving bodies.
- 18.2.5 **Travel Claims:** Individuals are responsible for establishing the most economical and feasible method of transport to make work related journeys.
- 18.2.6 Any use of personal cars for work related travel must be in accordance with the Council's **Transport Policy**.
- 18.2.7 When travelling from home, claims should only be made for expenditure above that which would normally be incurred by an employee travelling from home to the normal place of duty.
- 18.2.8 **Rail Warrant Books:** Rail warrants should only be used for authorised work related journeys. All books of rail warrants must be accounted for and records maintained of their use.

## 18.3 Payments to Councillors and Co-opted Members

- 18.3.1 **Policy formulation:** Allowances and expenses paid to councillors and co-opted members should be in accordance with a Council approved scheme.
- 18.3.2 **Publication of Allowances:** The Monitoring Officer will ensure that the approved scheme is published as required by the Local Authorities (Members' Allowances) Regulations 2003 (as amended).

- 18.3.3 **Payment Procedure:** Payments to members will be paid in accordance with the procedure approved by the Council.
- 18.3.4 **Proofs of Expenditure:** VAT receipts as proof of expenditure for any expenses claims must be obtained and submitted with the claim form before reimbursement is made. Car park tickets are acceptable for proof of parking expenditure.

## Regulation 19: Income Collection and Banking

### 19.1 General Principles

- 19.1.1 **Fees and Charges:** Except where the Council has no discretion, all fees and charges should be reviewed at least annually and approved by the Executive.
- 19.1.2 **Collection Methods:** The income collection methods employed should ensure the efficient and prompt collection of income due and comply with the Council's **Collection and Recovery Policy**.
- 19.1.3 **Separation of Duties:** There should be more than one person involved in the process for raising accounts, receiving and banking the income and reconciling or verifying the reconciliation of income collected.
- 19.1.4 **Responsibility for Income Collection:** All arrangements for the collection of income are subject to the approval of the Statutory Chief Finance Officer. Directors are responsible for ensuring that all income due is collected in accordance with Council policy.
- 19.1.5 **Point of Collection:** Income should be collected in advance wherever possible and appropriate, or at the point of sale.
- 19.1.6 **Security:** Appropriate arrangements must be made for all income collected to safeguard against loss or theft.
- 19.1.7 **Cash in Transit:** Where income is being collected away from the main Council buildings, appropriate consideration should be given to the security arrangements for both the cash and the personnel involved, in accordance with **Financial Regulation Support Document 35 - Cash in Transit**.
- 19.1.8 **Timeliness:** All income received should be banked in full as soon as practical and within 5 working days. All income received should be processed promptly into the Council's financial accounting systems.
- 19.1.9 **Completeness:** Appropriate arrangements should be used to confirm that all monies collected have been accounted for. Attempts should be made to resolve any variations found, in consultation with the line manager. Appropriate records should be kept.

## 19.2 Invoices for Income due to the Council

19.2.1 **Notification of Debts:** Services should supply the “Nominated Chief Officer with responsibility for Exchequer functions” with all the information necessary for him/her to secure promptly the complete and accurate recording, collection and recovery of sums due to the Council.

19.2.2 **Supporting Documentation:** Services should ensure that adequate documentation is kept to support accounts raised on their behalf.

19.2.3 **Form of Invoices:** Invoices for all sums payable to the Council should only be raised in a form approved by the Nominated Chief Officer with responsibility for Exchequer functions"

19.2.4 **Information on Accounts:** All accounts must detail:

- a) the full name and address of the legal entity responsible for the debt, including relevant contact details;
- b) a description of the goods or services supplied, what it is for, how and when it was incurred and any special conditions relating to the supply;
- c) the price to be paid for the goods or service, and where appropriate the rate and value of VAT and the total sum to be paid;
- d) the terms and conditions of payment including stage payments if appropriate.

19.2.5 **Timing of Accounts:** Invoices which cannot be raised in advance should be raised at the earliest opportunity after supply and within **30 days** of the value of the charge being known.

19.2.6 **Credit Notes:** No debt can be cancelled once raised except by payment or write off. A credit note should be issued to correct factual inaccuracy or administrative errors in the calculation or billing of debt.

## 19.3 Income Collection

19.3.1 **Post Opening:** At least two employees must be present when post, which is expected to contain income, is opened. A record of the total income and the number of items received in a post opening session must be maintained.

19.3.2 **Records of Collection:** Appropriate records must be maintained of any payments received in person at the time of collection.

19.3.3 **Counterfeit Notes:** Any bank notes received in person should be checked to ensure they are genuine, in accordance with [Support Doc 33 - Detection and Handling of Counterfeit Notes](#), before they are accepted.

- 19.3.4 **Money Laundering:** Any large payment received in cash must be handled in accordance with the Council’s [Money Laundering Policy \(Financial Regulation Support Document 30\)](#).
- 19.3.5 **Use of Official Receipts:** Only official receipts or arrangements approved by the “Nominated Chief Officer with responsibility for Exchequer functions” should be used to acknowledge receipt of income received.
- 19.3.6 Records should be kept of any receipts issued and stored for the required retention period.
- 19.3.7 Payments received via electronic transfer, direct debit, BACS, cheque or some other non-cash method do not require a formal receipt unless requested by the payer.
- 19.3.8 **Substitution:** No means should be used to exchange cash collected on behalf of the Council for personal purposes.
- 19.3.9 **Unidentified Income:** Any unidentified income received should be accepted and banked and allocated to the correct account as soon as possible.
- 19.3.10 **Transfer of Income:** Every transfer of official money from one member of staff to another must be recorded and signed for by the receiving officer. On no account shall cash or cheques be transferred between sections using the internal post system.

## 19.4 Recovery and Write-Offs

- 19.4.1 **Recovery Procedures:** Services must establish appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly. Any recovery procedure utilised must conform to the Council’s [Collection and Recovery Policy](#).
- 19.4.2 **Write-Offs:** Debts due to the Council, or credits owing to customers, may only be written off in accordance with the following rules:-

Value of Debt or Credit	Authorised by	Other requirements
£100 or less	Officers of a service designated by a Lead Debt Manager	Proportionate steps have been taken to collect the debt (or trace the credit owner) such that it has been deemed irrecoverable
£100.01 - £1,000	Lead Debt Manager	Appropriate steps have been taken to collect the debt (or trace the credit owner) such that it has been deemed irrecoverable
£1,000.01 - £5,000	Statutory Chief Finance Officer or Nominated General Finance Manager	
£5,000.01 +	Executive, or other relevant committee	
£5,000 or less	Officers of a service designated by a Lead Debt Manager	The reason for the write off is for one of the following reasons: <ul style="list-style-type: none"> <li>The debt was created in error</li> </ul>

Value of Debt or Credit	Authorised by	Other requirements
		<ul style="list-style-type: none"> <li>The debt has become out of date and cannot be pursued</li> <li>The debtor has declared themselves insolvent * and the Council has received official notification of this status, and cannot be named as a preferred creditor or unsecured creditor to the agreement</li> </ul> <p>* <i>Insolvent is defined as declared bankrupt (individual) or in liquidation (company), or has entered into a Debt Relief Order, Individual Voluntary Arrangement or Company Voluntary Arrangement.</i></p>
<b>Penalty charge notices</b> (cancelled or written off)	Nominated Chief Officer or Head of Service with responsibility for Enforcement	Cancelled in accordance with the <b>Parking Enforcement Policy</b>
Housing rent income which has been waived as <b>rent-free weeks</b>	Nominated Chief Officer or Head of Service with responsibility for Housing	

- 19.4.3 Sufficient information about the debt and recovery action taken must be provided and documented before authorisation for write-off can be given.
- 19.4.4 A record must be kept of all write-offs authorised and actioned which must be circulated quarterly to the relevant Lead Debt Manager and the Statutory Chief Finance Officer or Nominate General Finance Manager.
- 19.4.5 Lead Debt Managers must undertake a quarterly sample check of a proportionate number of write-offs processed without authorisation.
- 19.4.6 The total value and number of write-offs carried out by officers, under the delegated powers outlined above, should be reported to the relevant committee each year.
- 19.4.7 A list of officers designated as Lead Debt Managers in accordance with this policy will be maintained as part of the “Posts assigned to the roles required by Financial Regulations” document.

## Regulation 20: Taxation

- 20.1 **Providing Advice:** The Statutory Chief Finance Officer is responsible for advising Directors and Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- 20.2 **Responsibility for Tax Management:** The Statutory Chief Finance Officer is responsible for tax planning, maintaining the Council’s tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date, as appropriate.



- 20.3 **Responsibilities for Tax Administration:** Specific responsibilities for the administration of taxes should be fulfilled in accordance with [Financial Regulation Support Document 23](#).
- 20.4 **Tax Consideration:** Managers should seek advice on the tax implications of delivering their service, including the engagement of individuals and businesses.
- 20.5 **Accuracy of Tax Transactions:** Anyone instigating or authorising an order, invoice, petty cash claim or the collection of income should ensure that tax transactions are:
- a) calculated in accordance with the relevant statutory regulations;
  - b) assigned the correct tax code;
  - c) recorded at the appropriate time;
  - d) accounted for in the proper tax period;
  - e) documented appropriately.

## Regulation 21: Alternative Ways of Delivering Services

- 21.1 Alternative methods of service delivery will be considered where they:
- are legally permissible;
  - have clear aims and objectives;
  - make a positive contribution to the achievement of the Council's corporate objectives;
  - do not put the Council at an inappropriate risk.
- 21.2 Before entering into an alternative method of service delivery appropriate legal and finance advice should be obtained and appropriate governance arrangements should have been considered.
- 21.3 The Statutory Officers are responsible for promoting and maintaining the same high standards of conduct and stewardship, in alternative methods of service delivery, as apply for the Council.

*Examples of what the **Statutory Chief Finance Officer** should consider are:*

- *Who is the accountable party for the funds and other assets of the enterprise?*
- *What set of Financial Regulations and Contract Procedure Rules are to be followed by the enterprise?*
- *Budget forecasting and funding mechanisms.*
- *Expenditure approval processes and limits.*
- *The financial accounting, monitoring, reporting and record keeping arrangements.*



- *Taxation implications*
- *Ownership and audit accessibility to records.*
- *Risk Management and Business Continuity Arrangements.*

*Examples of what the **Monitoring Officer** should consider are:*

- *Format and content of agreement between the parties involved.*
- *Membership, roles and responsibility and powers of each party.*
- *Management, meeting and reporting structures, including reporting arrangements to FBC members.*
- *Appropriate codes of conduct to be followed by members of the enterprise's "Board".*
- *Decision Making Processes.*
- *Processes to allow rules and agreements to be modified.*
- *Exit Strategy.*

- 21.4 **Approval:** All significant alternative methods of service delivery must be approved by the Executive or other appropriate Committee on receipt of a written report.

*The Council's definition of a significant partnership is a partnership that:*

- is a legal requirement or based on statutory guidance; or*
- it commissions or delivers activities at a borough wide or local level that contribute substantially towards the Corporate Strategy outcomes; and*
- there is a significant risk to the Council if there is under-performance in this area.*

*The responsible director will determine whether a proposal meets these criteria in consultation with the Statutory Officers.*

## Regulation 22: External Funding

- 22.1 **Funding Implications:** Directors must confirm with the Statutory Chief Finance Officer that the Council will be able to fulfil any significant financial obligations arising from external funding agreements before entering into them.
- 22.2 **Use of Funds:** The lead applicant must ensure that any external funds are claimed within the required timescale and are properly spent and recorded in accordance with the scheme.

## GLOSSARY

### Accruals

Accruals relate to goods or services received for which an invoice has not yet been paid.

### Accounting Policies and Procedures

These relate to the policies, procedures and records needed to ensure that all financial transactions are recorded completely and accurately in a form that allows the annual accounts to be a *true and fair* representation of the authority's affairs.

### Accounting Practices

These relate to the practices used to produce the Annual Statement of Accounts. They primarily comprise the Code of Practice of Local Authority Accounting in the United Kingdom and the Service Reporting Code of practice, supported by International Financial Reporting Standards (IFRS)

### Agents

An agent is any external contractor, consultant or agent working on the Council's behalf.

### Asset Management Plan

This is a medium-term document laying out the strategic objectives and priorities for capital expenditure and asset utilisation.

### Budgetary Control

Budgetary control relates to the monitoring and control of actual income and expenditure against the budgets set. The main responsibility for budgetary control lies with the nominated 'budget holder' for that budget.

Budgetary monitoring should include details of commitments (orders raised), accruals (goods received) as well as payments actually made and income received.

Generally control should be exercised at the lowest level of detail shown in the budget. However, more significance is given in these regulations to control at the 'Net Budget Book' levels (i.e. services listed as a line in the Council's estimates book).

## **The Capital Programme**

The Capital Programme covers expenditure of a high value which usually results in a Council asset with a life expectancy of more than 1 year. Such expenditure is termed as being 'capitalised' in that it will be incurred over more than one financial year. The programme therefore consists of construction schemes, improvement schemes and purchases of high value or high volume assets.

## **Commitments**

Commitments relate to orders raised but where the goods or services have yet to be received.

## **Employee**

An employee under these regulations is any paid or unpaid permanent, casual or temporary member of staff employed by Fareham Borough Council.

## **Employee Expenses and Deductions**

These relate to expense claims and deductions which are added to or subtracted from the regular salary and allowance payments. Examples of claims would be overtime, or travel and subsistence. Examples of deductions would be union subscriptions.

## **Expenditure**

Expenditure relates to any process, which places a commitment on the Council to commit or spend its monetary resources. These processes include authorising orders, invoices or any type of reimbursement. They do not relate to the administrative activities supporting these processes e.g. setting up an electronic order.

## **Financial Strategy**

This is a medium term document laying out the Councils' projected resources and commitments over a 3-year period, and any actions needed to meet corporate aims and objectives.

## **Financing Arrangements**

These set the limits and controls on methods by which expenditure of the Council can be met.

## **Financial Statements**

These comprise of annual reports that relate to the Council's financial position.

The Annual Statement of Accounts is a public document that includes:

- Outturn actual revenue income and expenditure for the Council in the previous year (Comprehensive Income and Expenditure Statement)
- The Authority's Assets and Liabilities (Balance Sheet)
- Movements in Reserves Statement
- Cash flow for the year (Cash Flow statement).
- Notes to the Accounts
- Housing Revenue Account
- Income Collection in relation to Council Tax and NNDR (Collection Fund),

In addition an Annual Governance Statement must accompany the Annual Statement of Accounts.

### **Floats**

Floats are small amounts of cash maintained on site for the purpose of giving change to customers.

### **Journal Transfers**

Journal transfers relate to the permanent transfer of actual income and expenditure from one part of the Council's accounts to another. These are usually a one-off transaction or involve the management of a temporary holding account.

### **Non-Tangible Assets**

Assets which are less tangible or easy to value such as staff, council information and documents and ICT data.

### **Outturn**

Outturn relates to the Authority's final income and expenditure position at the year-end, in relation to the budgets set.

### **Overspend**

Overspending rules relate to overspends against expenditure budgets or the underachievement of income budgets.

### **Payments to Councillors and Co-opted Members**

These relate to allowances approved by the Council for Councillors conducting their official business. Allowances may also be paid to non-councillors who are appointed to sit on any Council Committee, Board or Panel.

The latest scheme of allowances for the Council is available on the Internet. Any queries on allowances should be referred to Democratic Services.

## Petty Cash

Petty cash accounts (sometimes known as imprest accounts) are small amounts of cash maintained on site to allow employees to make small purchases where the formal ordering process would be considered inefficient in relation to the purchase being made.

Use of petty cash may be by cash advancement or as a reimbursement for expenditure incurred from personal monies, on receipt of an approved claim voucher.

## Physical Assets

Physical assets are things such as land, buildings, equipment or stock, which would be expected to feature as fixed assets on a balance sheet. They differ from Non-tangible assets.

## Provisions and Reserves

These cover balances and earmarked reserves put aside to cover future revenue and capital expenditure.

## The Prudential Code

This code sets out a framework for capital finance, borrowing and managing investment decisions within the principles of prudence, affordability and sustainability.

## Revenue Budgets

Revenue budgets cover expenditure and income 'estimates' which will be incurred within one financial year. The budget cycle should be aligned to the policy planning process and budgets set should support the delivery of the Council's aims and objectives.

## The Statutory Chief Finance Officer

The post-holder designated to hold the statutory post which is responsible for the administration of the local authority's financial affairs under Section 151 of the Local Government Act 1972. Appendix B gives the current post-holder allocated.

## Supplementary Estimates

A Supplementary estimate is a temporary or permanent addition to a net budget provision.

## **Treasury Management**

Treasury Management covers all activities associated with any monies borrowed (Loans) or invested (Investments) on behalf of the Council irrespective of the time period covered by the transactions. It also covers the management and control of the Council's banking arrangements which include Giro and procurement cards.

## **Virements**

Virements are the temporary transfer of surplus budget provision between 'estimate' headings which do not impact on the delivery of a service. These do not affect the base budgets for future years.

# FAREHAM

## BOROUGH COUNCIL

### Posts Assigned to the Roles Required by Financial Regulations

June 2023

The following posts within the Council's establishment have been appointed by the Chief Executive Officer to fulfil the roles required by the Councils' Financial Regulations:

Roles	Current Post Fulfilling the Role	Officer Name	Regulations with this Role	Specific Requirements of Role
<b>STATUTORY OFFICERS</b>				
Head of Paid Service	Chief Executive Officer	Andrew Wannell	2	Overall corporate management and operational activity Provision of professional advice to all parties and committees in the decision-making process. Maintain records of Council decisions (with Monitoring Officer)
Statutory Chief Finance Officer	Chief Executive Officer	Andrew Wannell	Status, 2, 4, 6, 7, 8, 10, 11, 12, 13, 14, 16, 17, 19, 20, 21	Numerous - including maintaining Financial Regulations
Monitoring Officer	Director of Support Services	Sarah Robinson	2, 18.3, 21.1	Contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Governance Committee.

Roles	Current Post Fulfilling the Role	Officer Name	Regulations with this Role	Specific Requirements of Role
				<p>Maintain the constitution and make it available for consultation.</p> <p>Maintain records of Council decisions (with Head of Paid Service)</p> <p>Advise the Executive if their decisions are not within the budget and policy framework.</p> <p>Ensure that the approved scheme for Payments to Councillors and Co-opted Members is published as required by the Local Authorities (Members' Allowances) Regulations 2003 (as amended).</p> <p>Produce a Section 5 report to the Council or the Executive, as appropriate, after consultation with the Head of Paid Service and Statutory Chief Finance Officer, if any proposal, decision or omission will give rise to unlawfulness or maladministration.</p> <p>Approve exemptions from Contract Standing Orders</p> <p>Approval of use of POPs form of contract for procurement of goods over £50,000.</p> <p>Agree format of partnership agreements.</p>
<b>OTHER CHIEF OFFICER ROLES</b>				
Nominated Chief Officer with responsibility for Risk Management	Chief Executive Officer	Andrew Wannell	10.1	Maintain the Council's Risk Management Policy and Business Continuity Policy
Nominated Chief Officer with responsibility for Insurance	Chief Executive Officer	Andrew Wannell	10.3	<p>Establish appropriate insurance cover and review it annually in consultation with relevant managers.</p> <p>Negotiate all claims made on the Council's policies, in consultation with other officers as necessary</p> <p>Receive reports of any loss, liability, damage or event likely to give rise to a claim by or against the Council</p>



Roles	Current Post Fulfilling the Role	Officer Name	Regulations with this Role	Specific Requirements of Role
Nominated Chief Officer with responsibility for Treasury Management	Chief Executive Officer	Andrew Wannell	12	<p>Execution and administration of treasury management decisions in accordance with the Treasury Management Policy Statement and Treasury Management Practices and CIPFA's Standard of Professional Practice on Treasury Management.</p> <p>Negotiate arrangements with the Councils Bankers Order, issue and control all forms of cheques and make proper arrangements for their safe custody.</p> <p>Report to the Executive at least four times a year on the activities of the treasury management operation and on the exercise of the delegated treasury management powers, including any breaches of the Treasury Management Policy</p> <p>Approve the procedures necessary to safeguard the authority against potential losses where payments are to be transmitted electronically.</p>
Nominated Chief Officer with responsibility for Exchequer functions	Chief Executive Officer	Andrew Wannell	12, 16, 17, 19	<p><u>Various in relation to:</u></p> <p>Treasury Management</p> <p>Ordering and Paying for Goods and Services</p> <p>Petty Cash</p> <p>Income Collection</p> <p>Maintain list of Authorised signatories for signing agreements</p>
Nominated Chief Officer with responsibility for Procurement	Director of Support Services	Sarah Robinson	13	Can endorse method of disposal.
Nominated Chief Officer with responsibility for Counter fraud	Chief Executive Officer	Andrew Wannell	10.4	Maintaining the Anti-Fraud and Corruption Policy

Roles	Current Post Fulfilling the Role	Officer Name	Regulations with this Role	Specific Requirements of Role
Nominated Chief Officer with responsibility for Estates	Director of Planning and Regeneration	Richard Jolley	13	Carry out an on-going review of the Council's land and buildings portfolio, to ensure it continues to meet the corporate objectives Maintain a record of all land and buildings owned, mortgaged or leased by the Council  Ensuring that the Council's arrangements for managing land and buildings owned, mortgaged or leased by the Council, are formally documented  Disposal of Land buildings in conjunction with Disposal Strategy. Endorse method of disposal (land and Buildings)
Nominated Chief Officer with responsibility for Housing	Chief Executive Officer	Andrew Wannell	19.4	Approval of rent free weeks.
Nominated Chief officer with responsibility for Enforcement	Director of Leisure and Community	Lindsey Ansell	19.4	Approve waiving of penalty charge notices
OTHER OFFICER ROLES				
Nominated General Finance Manager	Head of Finance and Audit	Elaine Hammell	2, 4, 19	Perform the Section 114 duties if the Statutory Chief Finance Officer is unable to perform these duties.  Approve higher limits to be given to individual procurement car holders  Write off debts where the amount for any one debtor is less than £5,000.
Nominated Operational Finance Manager	Finance Manager	Neil Wood	2, 8.4, 16.4	Perform the Section 114 duties if the Statutory Chief Finance Officer is unable to perform these duties.  Authorise virements on 'non-controllable' budgets

Roles	Current Post Fulfilling the Role	Officer Name	Regulations with this Role	Specific Requirements of Role
				Approve payments made on Proforma invoices or Statements of Account
Nominated Strategic Finance Manager	Finance Manager	Caroline Hancock	2, 10.3	Perform the Section 114 duties if the Statutory Chief Finance Officer is unable to perform these duties. Receive notification of insurance claims
Nominated Audit Manager	Head of Finance and Audit	Elaine Hammell	10.4, 11, 13, 17	Receive notification of suspicion of financial irregularity (with other managers and Statutory Chief Finance Officer) Maintain an Investigation Policy and supporting procedures. Maintain effective liaison between internal and external audit Convey internal audit powers to external audit contractors (also applies to Statutory Chief Finance Officer) Receive reports of any break-in, theft or attempt at such, and any loss otherwise suffered; with SCFO. Receive reports of any missing equipment or significant shortfalls in stock; with SCFO. Receive reports of any float discrepancies over £25
Nominated Benefits Manager	Head of Housing, and Benefits	Caroline Newman	12.1	Authorise Housing Benefit cheques for encashment
Nominated Head of Service with responsibility for Enforcement	Head of Environmental Health	Ian Rickman	19.4	Approve waiving of penalty charge notices
Nominated Head of Service with responsibility for Housing	Head of Housing, and Benefits	Caroline Newman	19.4	Approval of rent free weeks.

Roles	Current Post Fulfilling the Role	Officer Name	Regulations with this Role	Specific Requirements of Role
Nominated Estates Manager	Head of Asset Management	Steve Farndell	13.5	Undertake valuations of land and buildings (along with any other suitably qualified person) when land and buildings are to be disposed of.
Nominated Head of Service for ICT	Director of Support Services	Sarah Robinson	13.3.2	Maintain appropriate records of the IT equipment held by the Council
AUTHORISATION ROLES				
Employee Expenses Super Users	Finance Manager Finance Manager Head of Finance and Audit <i>If above not available:</i> Chief Executive Officer Director of Support Services	Neil Wood Caroline Hancock Elaine Hammell  Andrew Wannell Sarah Robinson	4	Authorise any employee expenses claim where the employee's manager is not available.
Finance Team Authorisers	Chief Executive Officer Finance Manager Finance Manager	Andrew Wannell Neil Wood  Caroline Hancock Elaine	4	Manual signatures on financial instruments (e.g. CHAPS, BACS, Cheques) Life Assurance Claims Precepts to other precepting authorities Routine transfers to Government Departments (e.g. Inland Revenue. NNDR)

Roles	Current Post Fulfilling the Role	Officer Name	Regulations with this Role	Specific Requirements of Role
	Head of Finance and Audit  Finance Business Partner (Treasury Management)	Hammell  Linda Jacobs		Pension payments  Authorisation of sundry debtor refunds Tax Adjustments Inter account bank transactions
Lead Debt Manager	Finance Manager  Head of Housing, and Benefits  Local Tax and Corporate Debt Manager	Neil Wood  Caroline Newman  Adrian Collier	19.4	Managers authorised to write off debts and credits under the threshold set in Financial Regulation 19.4, and nominate other officers to process low value, non-recoverable write offs.  Undertake a quarterly sample check of a proportionate number of write-offs processed without authorisation.





# SCHEME OF DELEGATION TO OFFICERS



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Note : Reference should be made also to Part 1 Chapter 10 of the Constitution – Functions and Areas of Responsibility of Officers.



This delegation scheme is made under section 15(5) Local Government Act 2000

## **1. General**

- 1.1 In this scheme Chief Officer means a Director, a Chief Officer or the Solicitor to the Council and Monitoring Officer.
- 1.2 A local authority is a creature of statute and only has the power to act according to statutory provisions. In the same way, officers of the Council only have power to do those things which they are required by law to do or which the Council or its Executive have validly delegated to them.
- 1.3 Having the power or authority to take the action is a prerequisite for any officer to act but does not replace or override normal managerial arrangements for the performance and allocation of duties, and the need to consider what action to take in the light of the Council's stated priorities aims and objectives.
- 1.4 Whilst the exercise of a function by an officer under these arrangements is not made the subject of any precondition or qualification, an officer shall when exercising a discretion be under a duty to consider whether the decision conforms to Council approved policies and strategies and that in reaching the decision he/she has observed approved practices and procedures.
- 1.5 Any decision made by the Council, Committees, the Executive or an individual Executive Member authorises any officer of the Council to take all action necessary to implement the decision.
- 1.6 Any Executive or individual Executive Member, decision whether before or after the date of adoption of this scheme to delegate any specific function, power or authority is additional to and independent of any delegation made under this scheme.
- 1.7 The delegation of a function to a Chief Officer does not require the Chief Officer to give the matter his / her personal attention. The Chief Officer may delegate the matter to another officer, but the Chief Officer remains responsible for any decisions taken by such officers in his / her name.
- 1.8 The term "function" should be construed broadly and includes action taken which is calculated to facilitate or is conducive or incidental to the discharge of the function.
- 1.9 Save in respect of any statutory roles that are not capable of delegation, any power conferred on a subordinate officer shall be exercised by the relevant service director.
- 1.10 The Monitoring Officer shall have power to amend this scheme to reflect reorganisations, changes in job titles and vacancies, where changes result in the re-distributing existing delegations and not the creation of new ones.
- 1.11 Any post specifically referred to in the scheme shall be deemed to include any successors post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded. Any power contained within this scheme in anticipation of any reorganisation may be exercised in accordance with the

preceding scheme to the date of that reorganisation.

- 1.12 All matters of interpretation of this document will be determined by the Monitoring Officer.

## **2. Delegation to the Chief Executive Officer**

- 2.1 Power to exercise any of the powers conferred by the Council, Executive on any Chief Officer or other officer under this scheme.
- 2.2 Power to undertake any Council or Executive function required to be undertaken by an “authorised officer” and to authorise any officer or other person to undertake any such function.

### **3. Delegation to the Solicitor to the Council**

- 3.1 Power to institute and defend and take any other steps in any legal proceedings on behalf of the Council and to instruct external legal advisers on behalf of the Council.

### **4. Delegation to all Chief Officers**

- 4.1 Power to authorise any officer for whom he or she has managerial responsibility to undertake any Council or Executive function required to be taken by an “authorised officer”.
- 4.2 Power to undertake all Council or Executive functions and make all decisions which the Executive is empowered to make except the following:
- 4.2.1 Matters on which the Executive is required by law or the Council’s constitution to make recommendations to the Council
  - 4.2.2 Amendments to the budget or capital programme which are above the limit for officer virements set out in the Council’s Financial Regulations
  - 4.2.3 The setting of fees and charges
  - 4.2.4 The adoption, amendment and revocation of policies and strategies
  - 4.2.5 The disposal or acquisition of or other dealing with land valued in excess of £ 10,000
  - 4.2.6 Matters which are required to be determined by the Executive under the Council’s Contract Standing Orders or Financial Regulations or other policy or strategy
  - 4.2.7 The making, variation or revocation of any statutory Orders or the granting of any consent or approval thereto
  - 4.2.8 The approval of Front Line Service Plans
  - 4.2.9 Agreements to deliver services in partnership with other local authorities or external partners
  - 4.2.10 Approval of documents forming part of the Fareham Local Development Framework
  - 4.2.11 Approval of Environmental Improvement Schemes in excess of £10,000
  - 4.2.12 The awarding of grants
  - 4.2.13 The amendment of Council house tenancy agreements

- 4.2.14 The writing off of any debt in excess of the amount specified in the Council's Financial Regulations
  - 4.2.15 Adoption or amendment of a concessionary travel scheme
  - 4.2.16 Approval of any member level appointment or attendance at an external meeting or conference as an "approved duty" under the Members' Allowances Scheme where approval of the Executive is required
  - 4.2.17 The allocation of funding on initiatives for the prevention and detection of crime and tackling criminal damage and disorder
- 4.3 Following consultation with the relevant Portfolio Holder or the Executive Leader, authority to take any decision which would otherwise be taken by the Executive, but which requires an urgent decision
-

## **PLANNING COMMITTEE**

This delegation scheme is made under section 101(2) of the Local Government Act 1972 by the Planning Committee of Fareham Borough Council on 14 June 2006 and comes into force with immediate effect.

### **1. General**

- 1.1 In this scheme, Chief Officer means the Director of Planning and Regeneration, the Head of Planning, or the Solicitor to the Council and Monitoring Officer.
- 1.2 Having the power or authority to take the action is a prerequisite for any officer to act but does not replace or override normal managerial arrangements for the performance and allocation of duties, and the need to consider what action to take in the light of the Council's stated priorities aims and objectives. In exercising any power, authority or function the Chief Officer (or any officer to whom he or she has delegated the power or authority or function) shall be under a duty to consider whether the decision conforms to the Council's approved policies and strategies and that in reaching the decision he or she has observed all relevant and appropriate approved practices and procedures and taken into account all responses to publicity and statutory consultations.
- 1.3 A Chief Officer has power to authorise any officer for whom she or he has managerial responsibility, to undertake, discharge or exercise any of the functions or powers listed below. Whilst the Chief Officer may delegate any such matter to another officer, the Chief Officer remains responsible for any decisions taken by such officers in his/her name. Such powers and/or functions include those required to be taken by "an authorised officer".
- 1.4 Any power, authority or function should be construed broadly and includes any action taken which is calculated to facilitate or is conducive or incidental to the exercise or discharge of the power, authority or function.
- 1.5 A reference to any Act or Regulations shall include any revocation, modification or replacement thereof.

### **2. Delegation to the Head of Planning**

- 2.1 Decisions on all applications for
  - Planning permission (including renewals and those submitted by other officers relating to Council owned land)
  - Listed building consent

- Conservation area consent
- Display of advertisements
- Hazardous substance consent
- Approval of reserved matters
- Approval of matters covered by a condition

Except those where:

- (i) An Elected Member registers a request before the expiry of the 21 day neighbour notification period, for a planning application to be reported to the Planning Committee for decision. Requests to call applications onto the Planning Committee are to be made in writing to the Head of Planning and must explain the material planning reasons for the call-in. The reasons for calling items onto the agenda will be set out in the Planning Officers' reports.
- (ii) Any application submitted by or on behalf of a Member or an Officer of the Council, or their respective spouses, partners or close relations.
- (iii) Five or more representations (from different households) raising material planning reasons are received during the 21 day neighbour notification period which are contrary to the intended decision of the Head of Planning. Multiple representations from the same household are to be treated as one representation.

22 The statutory power to decline similar applications

23 Decisions on minor amendments to the permissions, consents or approvals listed in 2.1

24 Authority to enter into agreements or obligations which arise from planning applications decide under delegated powers and power to discharge or modify such agreements or obligations.

25 Any action required in relation to complaints about High Hedges under the Anti-Social Behaviour Act 2003 or Regulations made thereunder other than complaints involving Council owned land or where the complainant or hedge owner is a Councillor or an Officer.

26 Authority to take all enforcement action authorised under the Town and Country Planning Act 1990, the Planning Hazardous Substances Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning and Compensation Act 2004 including (but without prejudice to the generality of the foregoing) the issue, variation and withdrawal of enforcement notices and listed building enforcement notices, stop and temporary stop notices, planning contravention notices, breach of condition notices, completion notices, hazardous

substances contravention notices, building preservation notices, urgent works notices and the carrying out of works in default and the recovery of expenses in connection therewith

- 27 On receipt of a Hedgerow Removal Notice, authority to determine whether the hedge is “important” in accordance with the Hedgerow Regulations 1997 except in respect of hedgerows owned by the Council.
- 28 In the case of “important” hedges, to issue Hedgerow Retention Notices and Hedgerow Replanting Notices in accordance with the above Regulations except in respect of hedgerows owned by the Council.
- 29 Authority to determine telecommunication mast applications, power to make determinations and the granting or refusal of prior approval under the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order).
- 2.10 Authority to decide whether an Environmental Assessment or Environmental Statement is required for any planning application to be determined.
- 2.11 Authority to deal with all future applications for screening and scoping opinions under the Town and Country Planning (Environmental Impact) (England and Wales) Regulations 1999
- 2.12 Authority to issue a notice under Section 215 of the Town and Country Planning Act 1990 (proper maintenance of land).
- 2.13 Authority to determine a certificate of existing or proposed lawful use or development
- 2.14 Power to respond to consultations from neighbouring local authorities and Hampshire County Council upon planning applications and the Forestry Commission upon felling licence applications
- 2.15 Authority to institute, defend, conduct and settle all legal proceedings on behalf of the Council and to instruct external legal advisers in respect of any of the functions and powers which are delegated to them under this Scheme
- 2.16 Authority to grant or refuse consent under a TPO for felling, pruning, lopping or topping a protected tree other than applications submitted by or on behalf of:
  - (i) Elected Members, their spouses or partners
  - (ii) Council employees, their spouses or partners
  - (iii) Hampshire County Council
- 2.17 Authority to determine planning applications, following due consideration of any further material planning considerations, and amendments to and/ or additional planning conditions and amendments to and/ or additional heads of terms in related planning obligations where necessary, to address any likely significant effects identified through appropriate assessments where:

- i. The application has already been considered by the Planning Committee;
- ii. The Planning Committee has resolved to grant planning permission; and
- iii. An appropriate assessment under the Conservation of Habitats and Species Regulations 2017 has been carried out and concluded that the proposed development will not have an adverse effect on European designated sites subject to mitigation where identified.

In the event of point i to iii being completed and planning permission on the 12 applications effected having permission granted by the Head of Planning, this delegation 2.17 be removed.

### **3. Delegation to the Director of Planning and Regeneration**

- 3.1 Authority to make provisional Tree Preservation Orders (TPOs) (including those in Conservation Areas), the making of such Orders to be reported to the next available meeting of the Planning Committee.
- 3.2 The confirmation of unopposed TPOs.

### **4. Delegation to all Chief Officers**

- 4.1 Authority to authorise any officer of the Council or Contractor for whom he/she has responsibility to enter onto land for any of the purposes authorised under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Buildings in Conservations Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, Part 8 of the Anti-Social Behaviour Act 2003, the Planning and Compensation Act 2004 or any Regulations made thereunder.
- 4.2 Authority, following consultation with the Chairman of the Planning Committee (or in his/her absence the Vice Chairman of that Committee), to exercise any of the functions of the Council which are delegated to the Committee, where in the opinion of the Chief Officer, such matter is urgent and cannot await the next scheduled meeting to the Committee, subject to the decision or action taken being reported to the next scheduled meeting of the Committee.



## LICENSING AND REGULATORY AFFAIRS COMMITTEE

This delegation scheme is made under section 101(2) of the Local Government Act 1972 by the Licensing and Regulatory Affairs Committee (“the Committee”) of Fareham Borough Council on 18 September 2007 and comes into force on 19 September 2007.

### 1. General

- 1.7 In this scheme Chief Officer means the Council’s Chief Executive Officer and the Director of Neighbourhoods.
- 1.8 Having the power or authority to take the action is a prerequisite for any officer to act, but does not replace or override normal managerial arrangements for the performance and allocation of duties, and the need to consider what action to take in the light of the Council’s stated priorities aims and objectives. In exercising any power, authority or function the Chief Officer (or any officer to whom he or she has delegated the power or authority or function) shall be under a duty to consider whether the decision conforms to the Council’s approved policies and strategies and that in reaching the decision he or she has observed all relevant and appropriate approved practices and procedures and taken into account all responses to publicity and statutory consultations.
- 1.9 A Chief Officer has power to authorise any officer for whom he or she has managerial responsibility, to undertake, discharge or exercise any of the functions or powers listed below. Whilst the Chief Officer may delegate any such matter to another officer, the Chief Officer remains responsible for any decisions taken by such officers in his/her name. Such powers and/or functions include those required to be taken by “an authorised officer”.
- 1.10 Any power, authority or function should be construed broadly and includes any action taken which is calculated to facilitate or is conducive or incidental to the exercise or discharge of the power, authority or function.
- 1.11 A reference to any Act or Regulations shall include any revocation, modification or replacement thereof.

### 2. Delegation to the Director of Neighbourhoods

- 2.1 The Director of Neighbourhoods is authorised to discharge any function of the Licensing and Regulatory Affairs Committee
- As a licensing and registration authority
  - In relation to Health and Safety
  - In relation to safety at sports grounds

- In relation to fire safety
- In relation to the approval of premises (including vessels and markets)
- In relation to gambling
- In relation to smoke-free legislation
- Under Section 142 of the Highways Act 1980 (Power to licence planting retention and maintenance of trees etc in part of the highway).
- Under Section 149 Highways Act 1980 (Powers relating to the removal of things so deposited on highways as to be a nuisance)
- Under Section 32 of the Acquisition of Land Act 1981 (Power to extinguish certain public rights of way)
- Under Section 294 of the Housing Act 1981 (Power to extinguish public right of way over land acquired for clearance).

and any other function that is or becomes the responsibility of the Committee.

With the exception of those matters reserved to the Committee by law or by any Council policy.

#### **4. Delegation to the Chief Executive Officer of the Council**

- 4.1 The Chief Executive Officer is authorised to discharge any function of the Committee in relation to Election Services with the exception of those matters reserved to the Committee by law or by any Council policy.
- 4.2 The Chief Executive Officer is authorised to make decisions regarding discretionary payments on early termination of employment in accordance with the Council's approved policy statement and with The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006.

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## PROPER OFFICER APPOINTMENTS

Ref No.	Source	Power Delegated	Proper Officer
1.	Local Government and Housing Act 1989 Section 4	To be the “Head of the Paid Service”	Chief Executive Officer
2.	Local Government and Housing Act 1989 Section 5	To be the “Monitoring Officer”	Assistant Chief Executive Officer
3.	Local Government Act 1972 Section 151 as amended by Local Government Finance Act 1988 Section 14  Local Government and Housing Act 1989 Section 139  Schedule 5 Local Government Act 1972 Section 101	To be the officer responsible for financial administration	Assistant Director (Finance & ICT)
4.	Local Government Act 1972 Section 229(5)	To certify a photocopy of a document in the custody of the Council to enable it to be used in legal proceedings instead of the original in any matter	Chief Executive Officer  Solicitor to the Council
5.	Local Government (Misc Provisions) Act 1976 Section 41	To certify a copy of an order, report or minutes as a true copy and evidence in legal proceedings	Chief Executive Officer  Solicitor to the Council
6.	Local Government Act 1972 Section 234(1)and(2)	To sign formal notices, orders or other documents which the Council are authorised or required to do by or under any enactment	Chief Executive Officer  Solicitor to the Council

7.	Local Government Act 1972 Section 101	To attest the Common Seal of the Council for any purpose	Chief Executive Officer Solicitor to the Council Assistant Chief Executive Officer Monitoring Officer Director of Planning and Regeneration Director of Housing Director of Neighbourhoods
8.	Local Government Act 1972 Section 101	To act in all appropriate cases in the event of the “Proper Officer” and designated deputy in respect of a function being absent or otherwise unable to act	Chief Executive Officer
9.	Local Government Act 1972 Section 101	To be the “Proper Officers” in relation to any reference in any enactment passed before or during the 1971/72 Session of Parliament or in any instrument made before 26 October 1972	Chief Executive Officer Solicitor to the Council Directors and Chief Officers
10.	Local Government Act 1972 Section 100B (2)	To determine those reports or parts of reports which contain exempt information and are not available to the public.	Monitoring Officer Assistant Director (Democracy)
11.	Local Government Act 1972 Section 100B (7)	To determine which reports or parts of reports contain exempt information and are not available for supply to newspapers.	Monitoring Officer Assistant Director (Democracy)
12.	Local Government Act 1972 Section 236(1) and (9)	To send copy of Byelaws to the County Council and other authorities.	Solicitor to the Council

13.	Local Government Act 1972 Section 238	To certify printed copy of Byelaws made by Council	Solicitor to the Council
14.	Local Government Act 1972 Section 243 (2)	To keep the Roll of Freemen of the Borough	Chief Executive Officer
15.	Local Government Act 1972 Section 99 and Paras (4)(2)(b) and 3 of Schedule 12	To sign summons to meetings and to specify to whom and where notices should be sent	Chief Executive Officer
16.	Local Government Act 1972 Section.270	To be the Proper Officer for the purpose of taking declarations made by candidates in accordance with the Representation of the People Acts 1983 and 1985 in relation to the election expenses of Borough Council candidates	Chief Executive Officer Assistant Director (Democracy)
17.	Representation of the People Act 1983. Section 8.	To be the Electoral Registration Officer for the Fareham County Constituency and that part of the Gosport Borough Constituency within the administrative area of Fareham Borough Council	Chief Executive Officer
18.	Representation of the People Act 1983. Section 52.	In the event of the absence or incapacity of the Chief Executive Officer or of a vacancy, to undertake any of the acts with respect to the Electoral Registration Officer in accordance with Section 52	Assistant Director (Democracy)
19.	Representation of the People Act 1983 Section 35	To be the Returning Officer for Borough Council Elections	Chief Executive Officer
20.	Local Government Act 1972 8 Section 3	To witness and receive declarations of acceptance of office.	Chief Executive Officer or, in his or her absence, Assistant Director (Democracy)

21.	Local Government Act 1972 Section 84	To receive written notice of resignation by the Mayor, Deputy Mayor and councillors	Chief Executive Officer or, in his or her absence, Assistant Director (Democracy)
22.	Local Government Act 1972 Section 88(2)	To convene meetings of the Council to fill a vacancy in the office of Mayor (where such a casual vacancy occurs)	Chief Executive Officer or, in his or her absence, Assistant Director (Democracy)
23.	Local Government Act 1972 Section 96(1) and (2)	To receive notices of pecuniary interest by councillors and to keep records of disclosures of pecuniary interests	Monitoring Officer Solicitor to the Council
24.	Health and Safety at Work etc Act 1974	<p>(a) To exercise the powers of an Inspector specified in:</p> <p>(1) Sections 20, 21, 22, 25 and 39 of the 1974 Act</p> <p>(2) Any Health and Safety Regulations; and</p> <p>(3) The provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the 3rd column of that schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provision so specified, as enforced from time to time;</p> <p>(b) To institute proceedings pursuant to Section 38 of the 1974 Act;</p> <p>but not to the extent that these functions are</p>	Director of Neighbourhoods or in his absence Head of Environmental Health or a Principal Environmental Health Officer

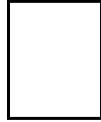
		discharged in the Council's capacity as an employer	
25.	Health and Safety at Work etc Act 1974 Section 19	To exercise the powers of an Inspector specified in:  (1) Sections 20; 21; 22 and 25  (2) Any Health and Safety Regulations; and  (3) The provisions of the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963 mentioned in Schedule 1 to the 1974 Act which are specified in the 3rd column of that Schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provisions so specified as in force from time to time  but not to the extent that these functions are discharged in the Council's capacity as an employer	Director of Neighbourhoods; Head of Environmental Health; Principal Environmental Health Officers; Senior Environmental Health Officers; Environmental Health Officers; and Environmental Health Technical Officers (Section 20 only).
26.	Zoo Licensing Act 1981	Appointment as Inspector for the purposes of Sections 10, 11 and 12 of the Act and any amending statutes and regulations	Veterinary Surgeon
27.	Riding Establishments Acts 1964 and 1970	Appointment as Inspectors to carry out inspections of riding establishments on behalf of the Council	Veterinary Surgeons
28.	Animal Boarding Establishments Act 1963	Appointment as Inspectors to carry out	Veterinary Surgeons

		inspections of animal boarding establishments on behalf of the Council	
29.	Pet Animals Act 1951	Appointment as Inspectors to carry out inspections of pet shops on behalf of the Council	Veterinary Surgeons
30.	Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions) Act 1976 Part II	Appointment as Authorised Officer for the purposes of the Acts and any Regulations made thereunder	Director Neighbourhoods
31.	Local Government Act 1972 Section 101	Designation as District Controller for civil emergency purposes	Chief Executive Officer
32.	Local Government Act 1972 Section 100B, 100C and 100F	To be the “Proper Officer” for the purposes of the Act	Chief Executive Officer, or, in his or her absence, Solicitor to the Council.
33.	Local Government Act 1972 Section 100D	To be “Proper Officers” for the purposes of Section 100D(1)(a) and 100D(5)(a) of the Local Government Act 1972	Chief Executive Officer, Directors and Chief Officers
34.	Local Government and Housing Act 1989	To be the “Proper Officer” and “Designated Officer” for the purposes of the Act	Chief Executive Officer, or, in his or her absence, Solicitor to the Council, Director of Housing
35.	Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012	To be the Proper Officer for the purposes of publication of information under the Regulations	Chief Executive Officer Monitoring Officer Solicitor to the Council
36.	Local Government Act 1972 Section 115(2)	To be the person to whom all officers shall pay moneys received by them and due to the local authority	Assistant Director (Finance & ICT)



37.	Freedom of Information Act 2000	To be the Qualified Person for the purposes of Section 36 of the Act.	Monitoring Officer Chief Executive Officer
38.	Local Government Act 1972 Section 146	To make declarations and to issue certificates in connection with the holding or transfer of securities held by the Council or the payment of dividend or interest	Assistant Director (Finance & ICT)
39.	Local Government Act 1972 Section 191(2)	To receive notices from Ordnance Survey in relation to ascertaining or locating local authority boundaries	Assistant Director (Democracy)
40.	Local Government Act 1972 Section 210(6) and (7)	To exercise any charity functions exercised by officers of the “old” local authority whenever there is no “holder of a corresponding office” in the “new” local authority	Chief Executive Officer
41.	Local Government Act 1972 Section 225	To receive and give receipt for any document required to be formally deposited with the Council	Solicitor to the Council Assistant Director (Democracy)
42.	Para 5 of Schedule 2 of the Licensing Act 1964 as amended by Section 204(3) and Para 6 of Schedule 25 of the Local Government Act 1972	To be the “Proper Officer” to whom notice of application for justices’ licence is to be given.	Director of Neighbourhoods
43.	Public Health (Control of Disease) Act 1984, as amended, and Regulations made thereunder	To act for such of the functions relating to notification, investigation, prevention and control of notifiable diseases and food poisoning as require the services of a registered medical practitioner	Director of Neighbourhoods Consultants in Communicable Disease Control as appointed from time to time
44.	Housing Act 1985 (as amended)	Appointment as “Proper Officer” for the purposes of the Act	Director of Housing
45.	Rent Act 1977	Appointment as “Proper Officer” for the	Director of Housing

46.	Local Authorities (Standing Orders) (England) Regulations 2001, Schedule I, Part II	To notify Executive members of any proposed appointment or dismissal of the Chief Executive Officer (Head of Paid Service) or Chief Officer.	Monitoring Officer or in the event of a conflict of interest, Solicitor to the Council
47.	Local Government and Housing Act 1989  Local Authorities (Standing Orders) (England) Regulations 2001	Appointment and dismissals to Deputy Chief Officer posts, subject to notification to the Executive	Chief Executive Officer  Relevant Chief Officer
48.	National Assistance Act 1948 and Section 1 of the National Assistance (Amendment) Act 1951;  Public Health Acts  The Public Health (Ships) Regulations	Power to Act including application to courts for any necessary orders in relation to removal to suitable premises of persons in need of care and attention.  Control of disease	Director of Housing; and  Such person as is for the time being on the Health Protection Agency Public Health on-call rota covering Hampshire and the Isle of Wight
49.	Regulation of Investigatory Powers Act 2000. Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000.	Authorisation to undertake covert surveillance	Chief Executive Officer  Assistant Chief Executive Officer
50.		To monitor and review the operation of the Code of Corporate Governance and report annually to Audit and Governance Committee on compliance with Code and proposing any changes necessary to ensure its effectiveness	Monitoring Officer
51.	Homelessness Act 2002	Proper Officer for the purposes of the Act	Director of Housing



# SCHEME OF DELEGATION TO INDIVIDUAL MEMBERS OF THE EXECUTIVE



## DELEGATION OF DECISIONS TO EXECUTIVE MEMBERS

DECISION	LIMITS	REASON	DELEGATED TO
Minor amendments to the housing allocations scheme.	None	Enables a fast response to housing clients in need.	Executive Member for Housing
Award of Historic Building Grants.	Maximum limit of £15,000 per grant	Grant applicants have to follow strict criteria and applicants are assessed by officers prior to decision.	Executive Member for Planning & Development
Publication of consultation drafts.	The Executive will still be required to approve the final draft	Speeds up the process and reduces paperwork for the Executive.	All Executive Members
Attendance of members at conferences or seminars.	Maximum limit of £1,000 per conference.	Reduction in paperwork for the Executive and allows flexibility to respond to invitations.	Executive Leader
Tender acceptance*	Between £250,001 up to a maximum limit of £500,000 and relevant to the portfolio of the decision maker.	A faster and more responsive procurement process, as per the Procurement and Contract Procedure Rules.	All Executive Members
Spending on Emergency Repairs.	Maximum limit of £15,000, in agreement with the Director of Finance and Resources	Allows a fast response to emergencies.	Executive Leader

Criminal Damage & Vandalism (Community Safety Initiative)	Up to £15,000 on individual initiatives for the prevention and detection of crime and tackling criminal damage and disorder	So that the Executive retains decision making in respect of the allocation of funding from the budget specifically set up for initiatives relating to crime and disorder.	Executive Member for Health and Public Protection
Approval of proposals under the Homelessness Action Fund	None	Enables a fast response to housing clients in need	Executive Member for Housing
Community Fund Application	Up to £15,000 per individual application	To enable a fast response to applications for funding for small-value cleansing initiatives, small value neighbourhood initiatives, funding applications of small value and applications for funding of biodiversity projects	Executive Member for Leisure and Community
Determine Traffic Regulation Orders (TROs)	None	In order to ensure the efficiency and timeliness of implementing any changes to TROs	Executive Member for Health and Public Protection (or subsequent appropriate Member)

*Approved by Executive 21/06/04; amended : 11/06/07; 16/07/07; 28/07/08, 18/07/10, 07/06/21*

*Approved by Council 26/07/12*

*Approved by the Executive Leader 28/01/14, 11/05/17, 19/02/19*



## The Constitution – Part Five

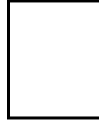
### Codes of Conduct and Practice

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7. Code of Corporate Governance







# **CODE OF CONDUCT FOR MEMBERS**



**December 2015  
Updated July 2022**

# CODE OF CONDUCT FOR MEMBERS

## Part 1: General Provisions and Interpretation

### 1. Introduction

This Code of Conduct is adopted by the Council pursuant to its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members of the Council. This Code applies to all Members and Co-opted Members of the Council.

The Code is based on and is consistent with the following principles as referred to in the Localism Act 2011:

- **Selflessness**
- **Integrity**
- **Objectivity**
- **Accountability**
- **Openness**
- **Honesty**
- **Leadership**

In the interests of transparency and openness, and in accordance with the requirements of the Localism Act 2011, the Register of Members' Interests is published on the Council's website, and is available for public inspection at the Council's offices during opening hours.

### 2. Scope

This Code applies to all Members and Co-opted Members of the Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the Council.

Where a Member or Co-opted Member is a member of more than one local authority, but acting on behalf of Fareham Borough Council, such Member or Co-opted Member is, for the avoidance of doubt, bound by this Code of Conduct.

### 3. General obligations of Members and Co-opted Members

As a Member of Fareham Borough Council, your conduct will address the principles of the Code of Conduct by:

- 3.1 Representing the needs of residents, and putting their interests first.
- 3.2 Dealing with representations or enquiries from residents, members of communities within the administrative area of Fareham Borough Council and visitors fairly, appropriately and impartially.

- 3.3 Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Council's area, or the good governance of the Council in a proper manner.
- 3.4 Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties.
- 3.5 Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit.
- 3.6 Being accountable for your decisions and co-operating when scrutinised internally and externally.
- 3.7 Contributing to making the Council's decision-making processes as open and transparent as possible.
- 3.8 Restricting access to information when the wider public interest, the Council's Constitution or the law requires it.
- 3.9 Behaving in accordance with all the Council's legal obligations, the Council's policies, protocols and procedures.
- 3.10 Ensuring that when using or authorising the use by others of the resources of the Council that such resources are not used improperly for political purposes.
- 3.11 Having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or otherwise.
- 3.12 Not knowingly doing anything which might cause the Council to breach any legislation.
- 3.13 Valuing your colleagues and Officers of the Council and engaging with them in an appropriate manner.
- 3.14 Always treating all people and organisations with respect and propriety.
- 3.15 Providing leadership through behaving in accordance with these principles.

## Part 2: Disclosable Pecuniary Interests

### 4. Introduction

A disclosable pecuniary interest is an interest falling within the Schedule set out at Paragraph 6 below of:

- 4.1 Yourself, or
- 4.2 Your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that the other person has an interest.

### 5. Interpretation

In the Schedule set out at Paragraph 6 below, the following words or expressions mean as follows:

- 5.1 'the Act' means the Localism Act 2011;
- 5.2 'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- 5.3 'director' includes a member of a committee of management of an industrial and provident society;
- 5.4 'land' excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone) or jointly with another) to occupy the land or to receive income;
- 5.5 'M' means a member of a relevant authority;
- 5.6 'member' includes a co-opted member;
- 5.7 'relevant authority' means Fareham Borough Council of which M is a member;
- 5.8 'relevant period' means the period of 12 months ending with the day on which M gives a notification for the purposes of Section 30(1) or Section 31(7), as the case may be, of the Act.
- 5.9 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited within a building society.

## 6. Schedule of disclosable pecuniary interests

Subject	Prescribed description
Employment, office, trade profession or vocation	Any employment, office, trade profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulation (Consolidation) Act 1992
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods and services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge); (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class..

## **Part 3: Registration and Disclosure of Disclosable Pecuniary Interests**

### **7. Obligations**

- 7.1 You must, within 28 days of taking office as a Member or Co-opted Member of the Council, notify the Council's Monitoring Officer of any 'disclosable pecuniary interests' as defined by regulations made by the Secretary of State (as set out at Part 2 of this Code), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- 7.2 You must also, within 28 days of becoming aware of any new disclosable pecuniary interest, or change thereto, notify the Council's Monitoring Officer of such new or changed interest.
- 7.3 If you have disclosable pecuniary interest included on the Register of Members' Interests, you must disclose this interest at any meeting of the Council, its Committees or the Executive at which you are present and participating in the business. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. You do not need to disclose details of the interest itself.
- 7.4 If a disclosable pecuniary interest has not been entered onto the Council's Register of Interests, then you must also disclose the interest to any meeting of the Council, its Committees or the Executive at which you are present where you have such an interest in any matter being considered. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. You do not need to disclose details of the interest itself. Following disclosure of a disclosable pecuniary interest not on the Council's Register or the subject of pending notification, you must notify the Monitoring Officer of such interest within 28 days, beginning with the date of disclosure.
- 7.5 Unless a dispensation has been granted by the Council, you may not participate in any discussion of, vote on, or discharge of any function related to any matter in which you have a disclosable pecuniary interest. You must as soon as it becomes apparent that you have such an interest withdraw from the chamber or room where the meeting considering the business is being held and must not seek improperly to influence a decision about that business. If acting as a single Executive member you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.

## **Part 4: Registration of Gifts and Hospitality**

- 8.1 You must, within 28 days of receipt, notify the Council's Monitoring Officer of any gift or hospitality you receive, if such gift or hospitality has an estimated value of at least £50.

## Part 5: Registration and Disclosure of Personal Interests

- 9.1 Without prejudice to requirements contained at Part 3 of this Code in respect of the Registration and Disclosure of Pecuniary Interests, you may in addition notify the Council's Monitoring Officer of any Personal Interests you consider it appropriate to be entered on the Register of Members' Interests.
- 9.2 You have a "personal interest" in an item of business where it relates to or is likely to affect any of the following bodies of which you are a member: a public or charitable body, any body to which you have been appointed by the authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy.
- 9.3 You also have a "personal interest" in an item of business where a decision in relation to it might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or person with whom you have a close association, more than other council tax payers, ratepayers or inhabitants of the authority's area.
- 9.4 You shall disclose a "personal interest" at a meeting of the Council, its Committees or the Executive, where you consider that interest to be relevant to an item of business being considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting.
- 9.5 Disclosure of a personal interest does not affect your ability to participate in discussion or vote on the relevant item, provided it is not also a disclosable pecuniary interest. If you consider, having taken advice in appropriate circumstances, you should not participate in the business being considered, you should leave the chamber or room where the business is being considered, after exercising any right to speak which a member of the public would have.





**FAREHAM** BOROUGH  
COUNCIL

[www.fareham.gov.uk](http://www.fareham.gov.uk)

# **GUIDANCE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS**

**May 2002**

## **FAREHAM BOROUGH COUNCIL**

### **GUIDANCE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS**

#### **Introduction**

1. The Planning system involves taking decisions about the use and development of land in the wider public interest having regard, in particular, to the Development Plan. The system also includes the processes for preparation of the Development Plan itself and associated supplementary guidance and development briefs. Parties such as landowners, residents and businesses have an interest in all these processes. In their considerations members and officers of the Council have to balance the requirements of the individual, whether the applicant or a neighbour, against the broader public interest.
2. It is fundamentally important that the planning system should not only be fair but should be seen to be fair. Accordingly, a number of bodies including the Local Government Association, the Audit Commission, and the Royal Town Planning Institute, have recommended that planning authorities should agree and adopt guidance for members, officers and developers in the way the authority goes about its business.
3. This Guidance deals with the conduct of members and officers and does not (subject to the provisions relating to site inspections) deal with planning processes or merits of planning issues.

#### **General Role and Conduct of Members**

4. Members of the Council are accountable to the electorate and officers are accountable to the Council as a whole. Members must follow the Council's adopted general Code of Conduct for Members, and officers must comply with any statutory or other adopted Code of Conduct for Officers.
5. In addition, members and officers must comply with all Standing Orders and Financial Regulations.

#### **Role of Elected Members in Relation to Planning**

6. Elected members set the Council's planning policy, make policy decisions, and determine planning applications (except those delegated to officers) and planning enforcement issues within the context of that policy. When members come to make a decision on a planning matter, they must:
  - Act fairly and openly
  - Approach each application with an open mind
  - Carefully weigh up all relevant issues
  - Determine each application on its own merits, taking into account all material planning considerations

- Ensure that there are clear and substantial reasons for their decisions, based on planning considerations, and that those are clearly stated.
7. Members should not favour any individuals or groups and although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members cannot accept an instruction from anyone, including a political group, to determine an application or make other decisions in a particular way but must determine the application or matter on its planning merits, taking into account all material considerations.
  8. Paragraphs 5 and 6 above apply to all members dealing with planning matters, whether as an Executive Member, a member of the Planning Committee, an Overview Panel, in full Council, or other body of the authority.

### **Role of Officers**

9. The function of officers is to advise and assist members in matters of planning policy and in the determination of planning applications and enforcement issues by:
  - Providing impartial and professional advice
  - Making sure that all the information necessary for the decision to be made is given
  - Providing a clear and accurate analysis of the issues
  - Setting applications and enforcement issues against the broader Development Plan policies and other material consideration
  - Giving a clear recommendation where this is possible
  - Carrying out the decisions of members of the Executive or the Planning Committee
  - Exercising any powers delegated to them in accordance with the above principles and any conditions attached to the delegation.
10. Officers should comply with rules of conduct of professional bodies to which they are subject, including the Royal Town Planning Institute, and it is appropriate that officers who are not members of the Institute should work, so far as is possible, to its principles of conduct.

### **Disclosure of Interests**

11. In dealing with any planning matter, including any proposed or actual application for planning permission members must comply with provisions of the Code of Conduct for Members in relation to personal and prejudicial interests, disclosure of and participation in relation to such interests.
12. Members should ensure that they are consistent in disclosing interests covered by their Code of Conduct, whether at a meeting of a body of the Council that they attend, or at full Council.

13. These provisions of this Guidance apply equally to officers involved in planning matters and interests should be disclosed accordingly.

### **Gifts and Hospitality**

14. Gifts and hospitality can give rise to particular problems in respect of the credibility of the planning process, and members and officers should be aware of potential criminal offences under legislation relating to corruption. Members should have regard to the Code of Conduct for Members and also the Council's own Statement of Gifts and Hospitality. Members and officers should avoid any behaviour that might be taken as indicating that they are open to offers of gifts and hospitality.

### **Lobbying**

15. It is quite common for applicants or other interested parties to wish to discuss with members or seek to influence members (whether or not members of the Planning Committee) before a planning application or policy issue is determined.
16. Discussion can help members' understanding of the issues and concerns associated with an application or planning matter. However, members are under an obligation to determine matters on their merits. If they do express an opinion, they should make it clear that they will only be in a position to make a final decision after having heard all the relevant evidence and arguments at committee.
17. When being lobbied, all councillors and members of the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have made up their mind on the issue before they have been exposed to all the evidence and arguments.
18. Members must not put undue pressure upon officers to make a particular recommendation in their report.
19. Members of the Planning Committee must not organise support or opposition or lobby other councillors to the extent that their impartiality may be called into question.
20. It is also common for applicants, objectors and other interested parties to seek to influence or lobby officers. Officers must avoid compromising or binding members in relation to any issue, whether those be members involved in determining policy or in determining applications. They will make it clear to any person seeking to lobby or influence that no commitment can be given and that they can give only personal and provisional views.

### **Pre-Application Discussions**

21. Pre-application discussion and meetings between applicants and officers are encouraged. Officers will make it clear at the outset, and at the end of discussion, that the advice given is personal and provisional and will not bind the Council to a particular decision.
22. Pre-application meetings will normally be at officer level but, exceptionally:
  - Where meetings are to involve members, they will be arranged by and attended by officers and should include the Chairman of the Planning Committee or his/her representative
  - Potentially contentious meetings should normally be attended by at least two officers.

### **Decisions Contrary to Officer Recommendation**

23. From time to time, members dealing with planning matters will disagree with the professional advice given by officers. In cases where there is a decision, for good and valid reason, not to follow officers' advice, those reasons should be recorded in the minutes of the meeting. Where it is not possible for members to define the reasons with sufficient precision at the meeting, determination should be deferred/adjourned until officers have presented draft reasons for approval by members.

### **Applications by Members and Officers**

24. Applications made by serving members and officers should be notified to the Monitoring Officer and the Chief Development Control Officer. The member or officer should take no part in the processing of the application.
25. Such applications will be determined by the relevant Committee and not by officers under delegated powers.
26. Proposals for development by the Council or upon land in which the Council has an interest will not be dealt with by officers under delegated powers and will be treated in the same way as those from private applicants.

### **Site Inspections and Meetings**

27. Site inspections can be useful to identify features of a proposal that may be difficult to convey in written report, but site inspections can cause delay and additional costs. Consequently site inspections and site meetings should only be used where expected benefit is substantial and justifiable.

28. Where a decision is to be made on site, a site meeting must, to be legal and valid, take the form of a formal meeting under the provisions of the Local Government Act 1972.
29. Specific provisions as to site inspections and meetings are set out in an appendix to this Guide.

**APPENDIX****SITE INSPECTIONS AND MEETINGS**

1. Site inspections may be made by the Planning Committee in relation to development control matters and by the Planning Overview Panel or the Executive in relation to other planning matters.
2. A site inspection may be made:-
  - (a) on the recommendation of an officer, or
  - (b) at the request of a member of the relevant body,provided that reasons for the recommendation or request are given and account is taken of paragraph 28 of the Guidance for Members and Officers Dealing with Planning Matters.
3. The relevant body may agree to a site inspection at the request of another member of the Council, an applicant or an objector, provided that reasons are given and paragraph 28 are taken account of as mentioned at (2) above.
4. In all cases, when a site inspection is agreed to, the reasons will be recorded.
5. No site inspection will normally take place on private land without the consent of the owner,
6. If consent is not given, a site may be viewed from outside of it, provided that no obstruction or nuisance is caused,
7. Whilst an inspection is taking place on private land, members will not debate the merits of the application or other matter under consideration. Factual advice only may be sought from officers.
8. Members of the public and objectors, or other persons, will not be allowed to enter private land without the consent of the owner.
9. If it is intended that a decision upon the application or other matter is to be made immediately following the inspection, the decision must be taken during a meeting formally convened under the Local Government Act 1972. Decisions (if required) will always be taken after a site inspection unless it has been agreed otherwise at or prior to the inspection.
10. The meeting must be held in a public place, due notice having been given.
11. The meeting must be held in such a way that members of the public and press are able to hear the debate and the advice of officers.





# Anti-Fraud and Corruption Policy



**Version 1.4 – November 2023**

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## 1. Foreword

Fareham Borough Council ('FBC' or 'the Council') is determined to uphold the highest standards of financial probity and accountability to ensure all public money it is entrusted with is used economically and efficiently to support the Council's vision of a Fareham which is prosperous, safe, and an attractive place to live and work.

The cost of fraud to local government has recently been estimated at £7.8 billion a year (Annual Fraud Indicator 2017). This is money that could be used for local services.

This Anti-Fraud and Corruption Policy details the arrangements at this Council for managing the risk of fraud and corruption and has our full support.

We are committed to reducing losses from fraud by using an integrated approach which uses prevention, deterrence, detection, and investigation. We will pursue those responsible and seek to recover any losses, referring matters to the police and using the courts where appropriate.



As a Council, we cannot afford to be complacent, and we urge all our Members, employees, contractors, and partners to assist us in fighting fraud by having regard to this policy, cooperating with any fraud investigation undertaken by authorised Council officers and understanding the risks of fraud when carrying out their duties, recognising that, if uncontrolled, fraud diverts much needed resources from our communities.



Councillor Seán D.T Woodward  
Executive Leader



Andy Wannell  
Chief Executive Officer

## 2. Introduction

This policy sets out the approach that FBC uses to manage the risk of fraud and corruption and minimise the losses incurred.

The prevention and detection of fraud is not the sole responsibility of one team or of one employee, but the duty of all internal and external stakeholders which includes but is not limited to:

- councillors
- employees at all levels and grades\*
- contractors and suppliers
- partners
- consultants, agency, and contracted staff
- service users
- volunteers
- members of the public.

*\*Key information which all FBC employees need to be aware of has been detailed in a briefing sheet on [Appendix 1](#).*

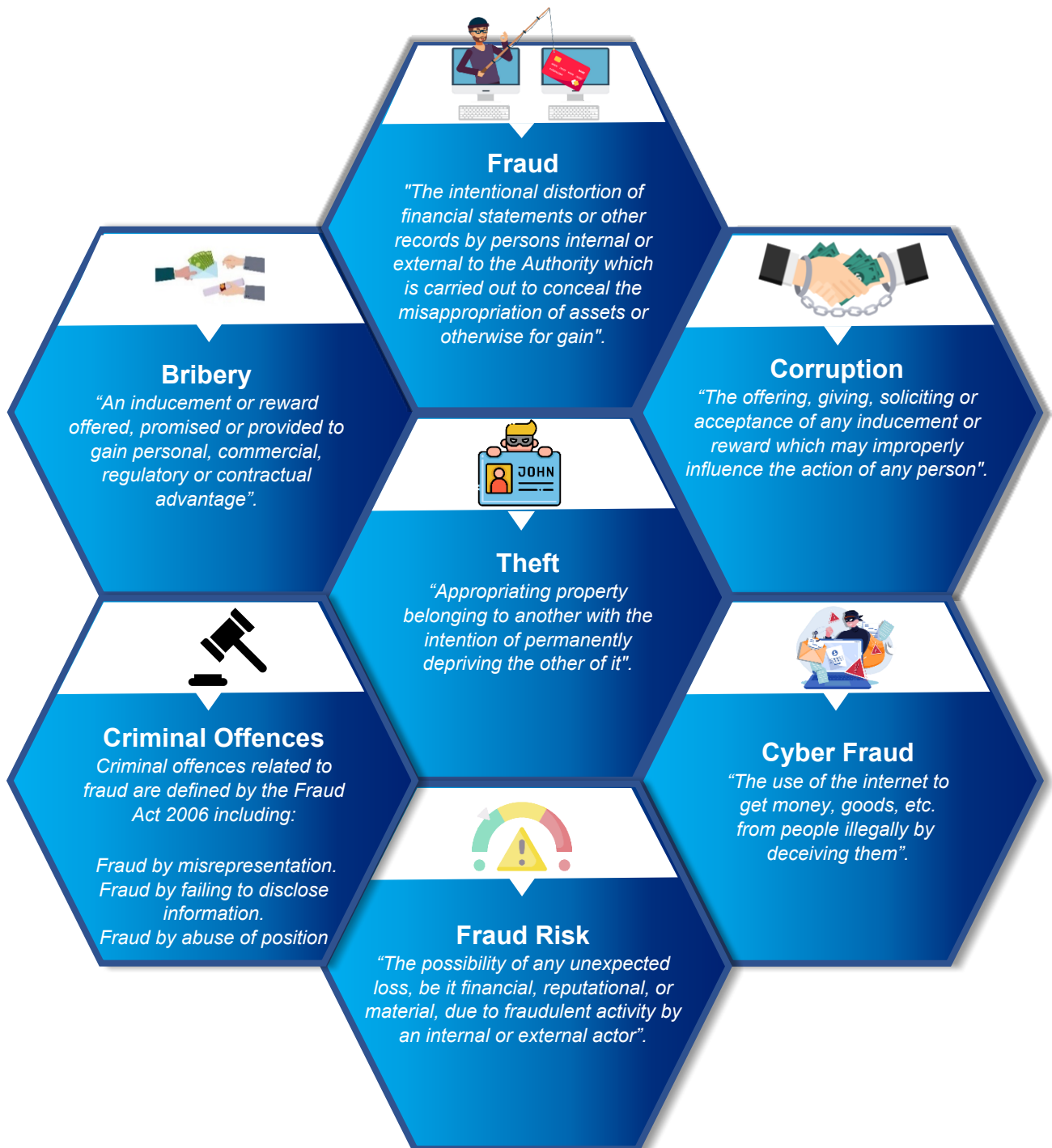
This policy will support the Council's corporate objective to be *"a dynamic, prudent, progressive and best practice Council."* It also supports the Council's statutory duty to *"prevent, detect and deter"* fraud in properly administering its financial affairs. The required outcome is that we have *"confidence that the Council is effective in countering fraud and corruption"*.

Furthermore, the Council will seek to ensure it is compliant with all new legislation relating to Fraud. New relevant legislation includes section 199 ('Failure to Prevent Fraud') of the 'Economic Crime and Corporate Transparency Act 2023'. Additional information on this legislation can be found here: [Economic Crime and Corporate Transparency Act 2023](#).

### 3. Definitions

This policy is designed to cover the risks associated with theft, fraud, corruption, bribery, and cyber fraud, whether they are perpetrated by employees, councillors, FBC residents, visitors, contractors, suppliers or individuals and organisations unconnected with the Council.

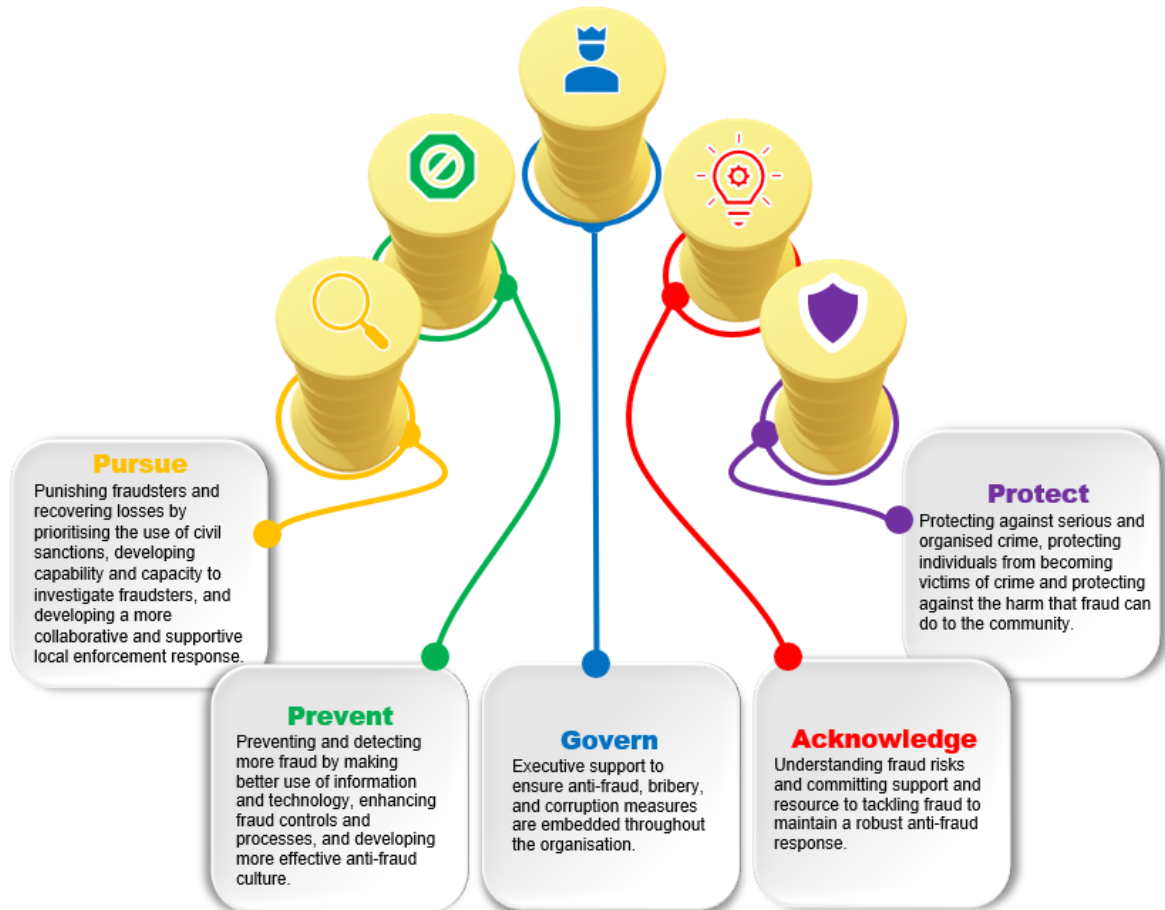
For the purposes of this policy the following definitions:



## 4. Our Counter Fraud Strategy & Risk Management

### 4.1. Counter Fraud Strategy

FBCs Counter Fraud Strategy is being aligned to the Fighting Fraud and Corruption Locally: A Strategy for the 2020s authored by CIFAS (FFCL), with a focus on the following five pillars:



FBC has already implemented many of the measures outlined in the above pillars to exhibit our commitment to fighting fraud, as detailed in this Policy.

All measures implemented to reduce losses due to fraud are balanced with their impact on the cost-of-service provision and on the service experience for the many law-abiding customers.

### 4.2. Risk Management

FBC recognises, **acknowledges**, and actively manages its risks relating to fraud, bribery, and corruption. The Councils Risk Management Policy allows new fraud risk to be brought to life and are encompassed within the Risk Management Monitoring report and presented to the FBC Audit and Governance Committee for scrutiny.

The key fraud risks for local authorities highlighted in FFCL are:



Furthermore, FBC recognises the following as key fraud risks relevant to its services and processes:

<p>Claiming benefits, you're not entitled to on purpose.</p>	 <p><b>Benefit Fraud</b></p>
<p><b>Blue Badge Fraud</b></p>	 <p>Avoiding paying parking charges by misusing disable parking badges (blue badges).</p>
<p>Fraudulent use of a victim's card or bank account details to withdraw cash or buy goods.</p>	 <p><b>Banking Fraud</b></p>
<p><b>Debt Fraud</b></p>	 <p>Misrepresenting your financial situation or location to avoid payment of debt.</p>
<p>Illegal actions aimed at changing or influencing or forcing the results of an election.</p>	 <p><b>Election Fraud</b></p>
<p><b>Member Fraud</b></p>	 <p>Fraudulent activities, including abuse of position committed by Members.</p>
<p>Any deliberate omission, concealment or misinterpretation of information or circumstances to gain a tax advantage.</p>	 <p><b>Tax Fraud</b></p>
<p><b>Phone Misuse</b></p>	 <p>Unauthorized use, tampering or manipulation of a landline or mobile phone or service.</p>

The Council will carry out fraud risk assessments on each of the key fraud risks relevant to FBC highlighted above.

A separate [Anti-Bribery Policy](#) is maintained in response to the Bribery Act 2010.

## 5. Culture and Structures



FBC's fraud **prevention** and **governance** strategy is to recognise that the conservation of a strong anti-fraud culture requires both councillors and employees (at all levels) to play a key role in fighting fraud and corruption. Thus, the role and responsibilities for key internal/external stakeholders, teams as well as committees has been defined below.

### 5.1. Key Structures and roles



Please see a breakdown of each key governance structure and role below:

**Audit and Governance Committee**

The Council has an Audit and Governance Committee to review the policies and measures in place to prevent fraud and corruption. This is a non-executive Committee reporting directly to Full Council.

**Section 151 Officer**

The Council has appointed an officer with the statutory responsibility, under Section 151 of the Local Government Act 1972, "to ensure the proper arrangements of the Council's financial affairs". In addition, the Chartered Institute of Public Finance and Accountancy's Statement on the role of the Chief Financial Officer lists one of the core responsibilities as "implementing appropriate measures to prevent and detect fraud and corruption".

**Monitoring Officer**

The Council has appointed an officer with the statutory responsibilities under Section 5 of the Local Government and Housing Act 1989 to ensure that all decisions made by the Council are within the law. The post holder also promotes high standards of conduct by Members and employees throughout the Council.



### **Nominated Audit Manager**

The Council has appointed an officer with the duty to monitor instances of financial irregularities within the Council and report as necessary to the Audit and Governance Committee and external auditors. The post holder also ensures that an appropriate investigation is carried out.



### **Corporate Internal Audit & Counter Fraud**

The Council maintains an internal audit & counter fraud team who carry out reviews of the adequacy of controls in systems to prevent fraud, amongst other risks, and report on control weaknesses found. They also test aspects of the corporate governance arrangements that are being relied on to prevent and detect fraud.

Furthermore, the internal audit and counter fraud team carry out a programme of work aimed at maintaining and strengthening the counter fraud framework. They also lead on investigations carried out under the Irregularity Response Plan.

In addition, they check that actions required as a consequence of an investigation are implemented.



### **Investigations Team**

The Council has a dedicated investigations officer to investigate suspicions of fraud relating to Council Tax, Business Rates and Housing. The investigations officer and line manager have "Authorised Officer" powers, able to use additional investigative powers in accordance with The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and The Prevention of Social Housing Fraud Act 2013.



### **External Audit**

Part of the External Auditor's statutory duties is to ensure that the Council has adequate arrangements in place for the prevention and detection of fraud and corruption. Complaints of fraud and corruption can be taken directly to them.

## **5.2. Cyber Fraud**

With the advent of the internet allowing fraudsters to evolve and target individuals through ‘cyber attacks’, FBC has also worked to evolve to combat such threats, with the introduction of a **Cybersecurity Officer**.



### **Cybersecurity Officer**

The Cybersecurity Officer maintains a framework to help prevent and detect cyber fraud attacks against FBC. Such prevention tactics include preventing the delivery of malicious/fraudulent emails as well as the implementation of multi-factor authentications.

The main cyber fraud risk currently impacting FBC is business email compromise, where an attacker impersonates an FBC employee or other acquaintance over several emails with the aim of stealing funds or business information. Common examples would be sending fraudulent invoices, requesting a fraudulent change to an employee’s payroll bank account, or requesting gift card purchases.

Furthermore, the rise of Artificial Intelligence (AI) will aid FBC reduce its cyber fraud risk as the email filtering tools in place make use of AI and machine learning techniques to prevent email fraud from being delivered.

### **5.3. Propriety**

The Council is committed to sound corporate governance and supports the “Nolan 7 Principles of Public Life” covering: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, and Leadership. It also seeks to create an environment that prevents and detects fraud and corruption in all its work.



### **Employees**

FBC employees are expected to:

- Act with integrity, honesty, and propriety in all their dealings as a Council representative and lead by example,
- Carry out their duties to the best of their ability for the benefit of the Council and not to take advantage of any situation for personal gain, for themselves, members of their family or friends,
- Take the risk of both internal and external fraud seriously and to follow systems and procedures designed to prevent or detect fraudulent activity,
- Secure all passwords, information, documents, money, equipment etc. in their control which can be stolen or used to perpetrate fraud.



### **Members**

Both elected and non-elected Members are required to sign that they will observe the **Code of Conduct for Members** adopted by the Council which sets out what Members must observe in carrying out their duties as councillors, as a representative of the Council and in conducting the business of the Council.

Further guidance on propriety is available in the Employee Code of Conduct and Disciplinary Rules and Procedure and in Financial Regulation Support Document 18 – Probity and Propriety.

All Council employees are required to read, understand, and abide by the Employee Code of Conduct.

Most professional bodies issue their own rules or policies on ethics and standards and employees also have a professional obligation to familiarise themselves and adhere to these. The Council will support all employees in their observance of such rules and policies.

Residents, other members of the public, suppliers and contractors will be expected to act with integrity in their business with the Council and not to behave dishonestly to the detriment of the Council.

#### **5.4. External Liaison**

Arrangements will be maintained to encourage the exchange of information on national and local fraud and corruption activity and arrangements with external organisations including:

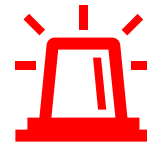
- the Police,
- other Councils and housing associations,
- partner organisations to the Council,
- the External Auditor,
- the Local Government Ombudsman,
- the Department for Work and Pensions (DWP),
- the Cabinet Office (including the national fraud initiative),
- the National Anti-Fraud Network (NAFN),
- the CIPFA Counter Fraud Centre,
- the Centre for Counter Fraud Studies (CCFS),
- the Public Sector Fraud Authority (GCFP)
- the CIFAS UK fraud prevention service,
- the INTEC User Group (including data matching using IDIS)
- National Investigations Officer Group (NIOG)

The Council will also support local forums where matters of anti-fraud and corruption are discussed. These include:

- ❖ the Hampshire Chief Financial Officers Group,
- ❖ the Hampshire Fraud Group,
- ❖ the Hampshire Tenancy Fraud Forum.

## 6. Deterrence

Our **protection** & deterrence arrangements include a clear framework of procedures and responsibilities which make fraud and corruption hard to perpetrate and which will be likely to disclose fraud and corruption at the earliest opportunity.



Sufficient professional resources will be maintained for investigations by authorised officers (Investigations officer or the Corporate Internal Audit and Fraud team) into irregularities and allegations received via the Counter Fraud mailbox or the whistleblowing hotline (details of both can be found under section 8 ([Detection](#))).

### 6.1. Prosecution

In applicable circumstances, the police may be informed where criminal offence could have been committed. Where it is in the public interest the Council will **pursue** and prosecute offenders.



Where possible FBC will seek to take actions to maximise the recovery of any losses incurred. The existence of such a competent response should give a strong warning to any person contemplating acting dishonestly against the best interests of this Council.

### 6.2. Disciplinary Action

Any employee who is evidentially found to be part-taking in any serious offences (e.g., theft, fraud, and corruption) against FBC will face disciplinary action.

The extent of the disciplinary action will be in accordance with the [Employee Code of Conduct and Disciplinary Rules and Procedures](#) and consultation with the Human Resources department if appropriate and depending on the circumstances of each individual case (but in a consistent manner), the Council will look to press for a disciplinary hearing and criminal prosecution.

Reports of incidents involving elected Members will be passed to the monitoring officer to be dealt with in accordance with the [Code of Conduct for Members - Complaints Procedure](#). Action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner. Matters, if not referred to the police, will be referred at the appropriate committee or appropriate group leader.

Members or employees involved in fraud, theft or corruption that does not involve FBC or its finances may still be subject to the above action if it is considered to undermine the Council and its reputation.

### 6.3. Publicity

FBC will maintain a strong message of intolerance to acts of fraud and corruption and will seek to publicise to the public, Members, and employees local or national cases which highlight the consequences of committing fraud.



The authority's communications team will optimise the publicity opportunities associated with anti-fraud and corruption activity within the authority. The communications team will also try to ensure that the results of any action taken, including prosecutions, are reported in the media.

All anti-fraud and corruption activities, including the update of this policy, will be publicised to make Members, employees and the public aware of the authority's commitment to acting on fraud and corruption when it occurs.

Regular reports will be made to the Audit and Governance Committee about countering fraud and corruption activities and their success. The Council will also publish data on its counter fraud activity as part of the Transparency code (2015) disclosures.

## **7. Prevention**

The responsibility for maintaining internal control systems to aid in the **prevention** of fraud and corruption lies with the FBC Chief Executive, Directors, Heads of Service, and Managers. The annual audit plan is designed to provide assurance, highlight control gaps, or recommend improvements where processes are not operating correctly.

Appropriate policies and procedures will be maintained to ensure that internal controls designed to prevent or detect fraud and corruption are built into the Councils systems of operation. Please refer to [Appendix 2](#) for a list of key Council policies.

All FBC employees shall be made aware of and be expected to adhere to any internal control systems designed to prevent or detect fraud and corruption. The Councils ongoing training and development programme should regularly cover internal control systems relevant to the employees' responsibilities.

### **7.1. Recruitment**

A key preventative measure for fraud and corruption is within the recruitment process, where a previous record of potential employees (including temporary and contract staff) can provide evidence regarding an individual's propriety, integrity, objectivity, accountability, openness, honesty, and leadership.

The Council uses an online Recruitment and Applicant Tracking system which ensures that, as part of the onboarding process, appropriate safeguards are taken such as, the taking up of references and verifying of both qualifications and the DBS status of applicants where appropriate.

Staff are expected to abide by the Councils Code of Conduct for Employees which sets out the requirements regarding personal conduct. In addition, staff who are members of professional bodies are expected to follow any code of conduct issued by their professional institute.

Criminal records will be considered where the conviction is relevant. After starting at the Council, employees are required to bring to their manager's attention any new criminal convictions.

## 7.2. Interests, Gifts and Hospitality

As part of the induction process, relevant employee interests will be ascertained and registered in accordance with the Employee Code Conduct and Disciplinary Rules and Procedure. Gifts and Hospitality can only be accepted in accordance with these guidelines. Employees are required to register any subsequent interests or Gifts and Hospitality offered and/or accepted.



of

The Code of Conduct for Members sets out the requirements for Members in relation to registration and disclosure of pecuniary and personal interests.

## 7.3. Fraud Warnings

The Corporate Internal Audit & Fraud Team, Investigations Officer and Cybersecurity Officer will be focal points for any fraud warnings on potential external threats or attacks that have occurred in other organisations and will take appropriate action to identify or prevent similar incidents occurring at FBC and making other services aware of any heightened fraud or cyber risks. This includes processing any Intelligence Bulletins published by the National Anti-Fraud Network (NAFN).

## 7.5. Money Laundering

The Council has adopted an Anti-Money Laundering Policy in response to the Money Laundering Regulations 2007. It has established procedures and a designated Money Laundering Officer (MLRO) to enable the formal reporting and checking of transactions which may indicate Money Laundering.

## 8. Detection

Unfortunately, even with a range of **preventative** measures, internal control systems, and best efforts from managers and auditors, some frauds still slip through and are only discovered by chance or from information received via the following methods:

### Public Referrals

Members of the public are encouraged to report genuine concerns through the designated **Report-IT** channels. Examples are dedicated on-line forms, email addresses (e.g., the corporate fraud mailbox at [corporatefraud@fareham.gov.uk](mailto:corporatefraud@fareham.gov.uk) and the **Fraud Hotline 01329 824667**). Members of the public can also report fraud whilst contacting the Council either by phone or in person for other reasons and systems are built in place to ensure all reports fraud are recorded and acted on.

The Council also has a Corporate Complaints Policy through which complaints can be made on a wide range of subjects. These can reveal suspicions of dishonesty. Alternatively, the complaints may be taken directly to the independent Local Government Ombudsman.

The Council has also established a Code of Conduct for Members - Complaints Procedure which allows possible breaches of the Council's Code of Conduct for Members to be reported to the Monitoring Officer.







## Whistle Blowing

The Council encourages any individual to raise, with the appropriate officer, genuine worries regarding the integrity of anyone acting on behalf of, or in business with, the Council. It has adopted a (a.k.a. the "Raise A Concern Policy") which allows concerns to be raised in the certainty that they will be properly investigated in a confidential manner. The Policy also seeks to reassure individuals that they will be protected from possible reprisals if they make disclosures in good faith.

Contractors with the Council are also encouraged to raise genuine concerns as part of their contract terms and conditions.

## Data Matching

The Council will undertake data matching exercises as it sees as appropriate for the purposes of identifying and reducing fraud and corruption.

Additionally, FBC takes an active part in the National Fraud Initiative as organised by the Cabinet Office. This involves submitting data we hold in various departments for matching to that held by other organisations and investigating promptly any matches received back.



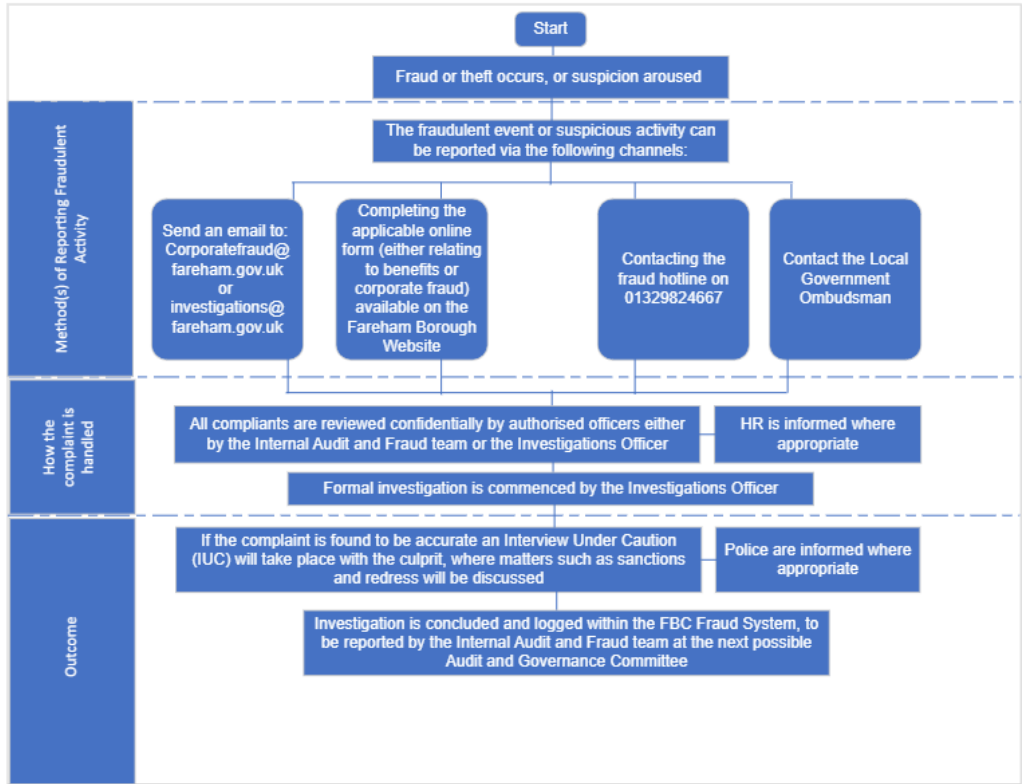
## Probity Audits

Probity audits are included within the Internal Audit Plan, as time allows, aimed specifically at identifying irregularities or providing assurance that they do not exist.

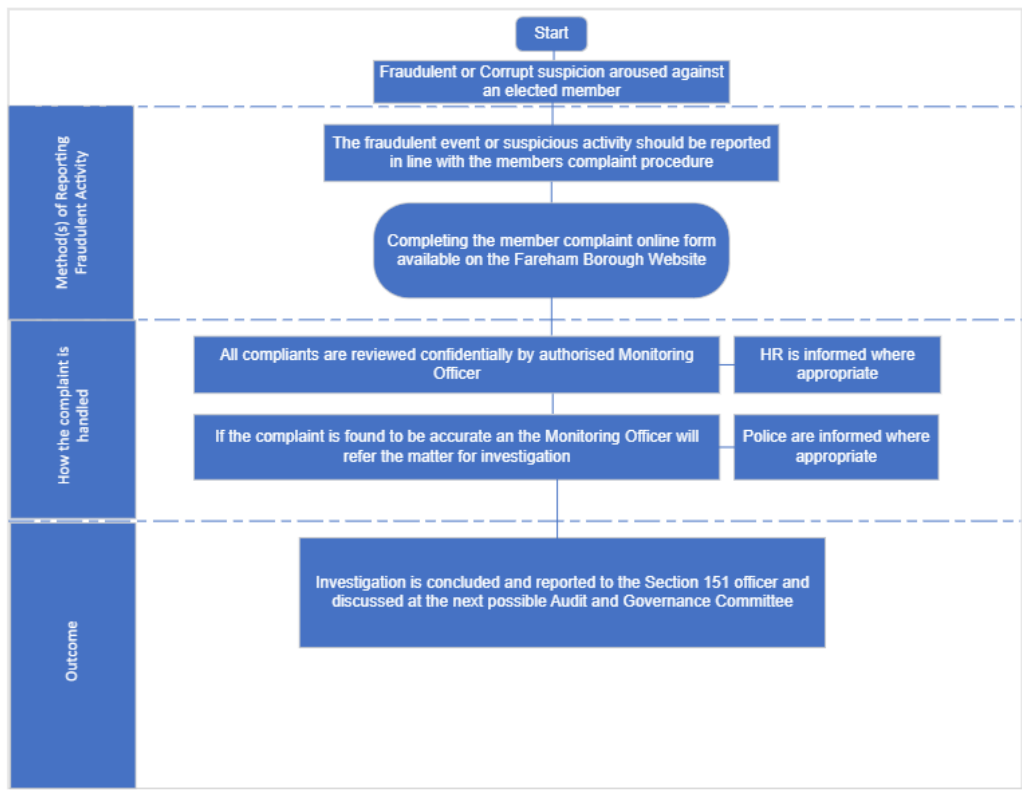
### 8.1. Outline of the FBC Fraud Response process

This process flowchart below provides key information as to how suspicious activity can be reported by any FBC employee or member of the public, how it is handled and the corresponding outcome. Further information on how to report a fraud can be found on the Fareham Borough Council website [here](#).





Additionally, this process flow notes how suspicious fraudulent or corrupt activity against an FBC elected member can be reported.



## 9. Investigations

FBC will maintain an Irregularity Response Plan detailing how allegations of fraud and irregularity will be managed, **pursued** and investigated.

The investigation procedures seek to ensure that:

- there is consistent treatment of fraud and corruption issues,
- a proper investigation is carried out by suitably qualified officers,
- the Authority's and Community's interests are best served.



Authorised investigating officers are required to ensure that investigations are objective, fair, and complete and that they comply with the relevant statutory provisions and internal procedures including The Regulation of Investigatory Powers Act 2000 (RIPA) – Corporate Policy & Procedures.

Where criminal activity is suspected the investigators may notify the police and seek their advice. Any internal investigations will continue to be progressed alongside supporting the Police in their investigation.

## 10. Sanctions

When an investigation's findings support the suspicion that fraudulent or corrupt activity has occurred, action will be taken in accordance with the Fraud-Sanctions and Redress Policy, which requires all types of sanctions – disciplinary, civil, and criminal to be considered.



Any disciplinary action against **employees** will be taken in accordance with the Council's Employee Code of Conduct and Disciplinary Rules and Procedure. For **elected Members**, sanctions used for breaches of the Members Code of Conduct will be taken in accordance with the Code of Conduct for Members - Complaints Procedure.

Where fraud or impropriety has been perpetrated by organisations/ individuals with whom the Council has a contractual relationship, the Council will act, including where appropriate, terminating the contract, publicising findings, and civil recovery proceedings.

## 11. Redress

The Council will seek to recover any losses fraudulently obtained from it and where necessary the costs incurred in doing so.

We will consider all means available to recover these amounts including possession orders, compensation claims, civil litigation, making an application for recovery from an employee's pension fund and general debt recovery.

The Council will also maintain access to an Accredited Financial Investigator under a partnership agreement with Portsmouth City Council to be able to use the investigatory powers available under the Proceeds of Crime Act 2002 and the use of restraint and confiscation orders.

Other forms of redress to recover losses, (such as making a claim against our insurance cover) or to prevent further fraudulent activity by the perpetrator, (such as notifying their professional body); will also be used wherever appropriate.

## 12. Training and Awareness

The Council recognises that the success of the Anti-Fraud and Corruption Policy will depend largely on the effectiveness of Members and employees throughout the organisation.

To facilitate this, appropriate provision will be made through induction, fraud awareness training\*, refresher training and regular communications.

\*As part of a campaign to increase the fraud awareness within FBC, the Internal Audit team will put together a 'Fraud Awareness and Education Strategy' the objective of which will be '*to increase the education and awareness of the different types of Fraud affecting FBC and to ensure accountability of Fraud risk is understood throughout the organisation to help detect and prevent fraud*'.

The Fraud Awareness and Education Strategy will focus on the three key pillars of:



Training on specific fraud topics will also be provided to those Members and employees most likely to encounter that type of fraud.

Authorised officers involved in investigatory work will be provided with relevant specific training that meets their needs and allows for continuous professional development.

## 13. Monitoring Arrangements

The Nominated Chief Officer with responsibility for Counter Fraud will report to the Chief Executive's Assurance Group and the Audit and Governance Committee any actions that they consider are needed to strengthen our arrangements for managing the risk of fraud and corruption.

The Corporate Internal Audit and Fraud team will also report the number of allegations of fraud and corruption that have been received and the outcomes of cases where fraud is concluded from an investigation.

Systems weaknesses identified as a result of an investigation will be addressed through an action plan agreed with the relevant service manager. The Corporate Internal Audit and Fraud team will monitor implementation of the action plan.

Furthermore, the Nominated Chief Officer with responsibility for Counter Fraud will be responsible for ensuring that the '**Anti-Fraud and Corruption**' policy is reviewed and updated periodically to ensure it is kept up to date, and in line with any changes in legislation.

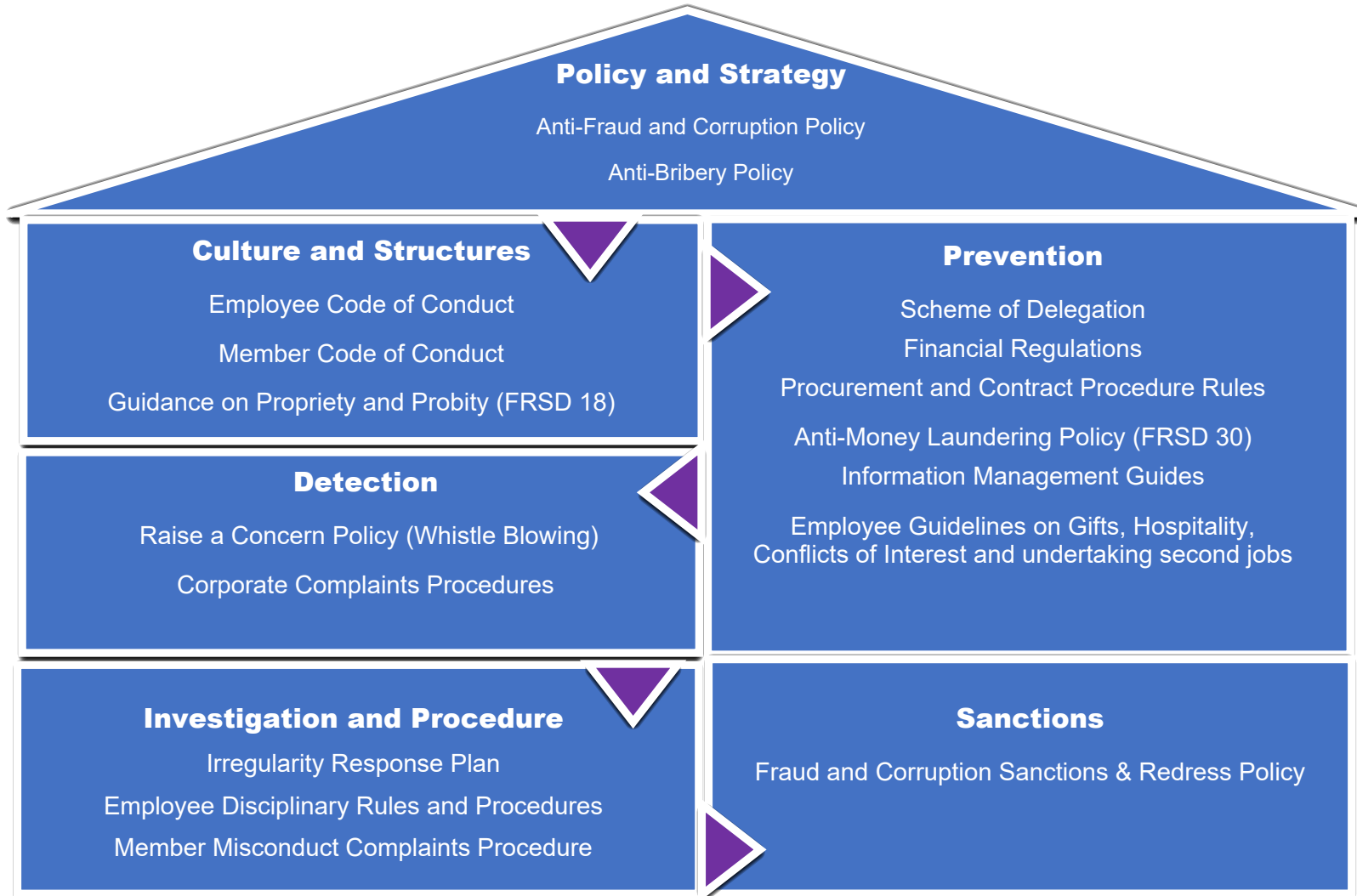
## Appendix 1

### Counter Fraud Briefing Sheet for Employees

- ❖ FBC employees are expected to:
  - act with integrity, honesty, and propriety in all their dealings as a Council representative and lead by example.
  - carry out their duties to the best of their ability for the benefit of the Council and not to take advantage of any situation for personal gain, for themselves, members of their family or friends.
  - take the risk of both internal and external fraud seriously and to follow systems and procedures designed to prevent or detect fraudulent activity.
  - secure all passwords, information, documents, money, equipment etc. in their control which can be stolen or used to perpetrate fraud.
  
- ❖ All employees are required to bring any concerns they have on the adequacy of control measures to the attention of their line manager.
  
- ❖ It is the duty of all individuals to report a suspicion of financial irregularity to their manager, the "Nominated Audit Manager" or the Statutory Chief Finance Officer. Such disclosures will be treated in accordance with the Council's Raise a Concern Policy.
  
- ❖ The Council expects the fullest co-operation from all Members and officers who are called upon to assist with an investigation into suspected fraud and corruption.
  
- ❖ Managers should ensure that staff are adequately trained to carry out their duties and are aware of how to comply with the Council's policies.
  
- ❖ Any incident of suspected or identified fraud must be reported to the Corporate Counter Fraud Team or Investigations Team within Housing, Revenues and Benefits, even if it has been dealt with, so that accurate data on the nature of fraud risks can be kept.

## Appendix 2

### Overview of Policies and Procedures Relevant to the Anti-Fraud and Corruption Policy





**FAREHAM** BOROUGH  
COUNCIL

[www.fareham.gov.uk](http://www.fareham.gov.uk)

## **CODE OF PRACTICE – PROTOCOL FOR MEMBER/OFFICER RELATIONS**

**REVISED FEBRUARY 2009**

## PROTOCOL FOR MEMBER/OFFICER RELATIONS

### 1. Introduction

- 1.1 The purpose of this Protocol is to guide members and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise. It is hoped, however, that the approach that it adopts to these issues will serve as a guide to dealing with other issues.
- 1.3 This Protocol is to a large extent no more than a written-down statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. If the advice is followed it should also ensure that members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from members.
- 1.4 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct that apply to members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they, therefore, demand very high standards of personal conduct.
- 1.5 The Council's Code of Conduct for Members contains the following general obligations:

(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or



(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

Both Councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their committees and sub-committees.

Mutual respect between Councillors and officers is essential to good local government. Close personal familiarity between individual Councillors and officers can damage this relationship and prove embarrassing to other Councillors and officers.

- 1.6 In line with the Code's obligation "to treat others with respect", it is important that any dealings between members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 1.7 Members should not become personally involved in or raise matters relating to the conduct or capability of a Council employee or of employees collectively at meetings held in public. This is a long-standing tradition in public service. Employees have no means of responding to criticisms like this in public. If members feel they have not been treated with proper respect and courtesy, or have any concern about the conduct or capability of a Council employee, they should raise the matter with the Director or Chief Officer of the department concerned if they fail to resolve it through direct discussion with the employee - and then withdraw from the matter. The Director or Chief Officer will then look into the facts and report back to the member. If the member continues to feel concern, the member should then report the facts to the Chief Executive Officer who will look into the matter afresh.
- 1.8 Members should not become personally involved in matters relating to actual or potential disciplinary proceedings concerning an individual officer.
- 1.9 Where an officer feels that he or she has not been properly treated with respect and courtesy, the matter should be raised with his or her Line Manager, Director, Chief Officer or Chief Executive Officer as appropriate, especially if they do not feel able to discuss it directly with the member concerned. In these circumstances the Director, Chief Officer or Chief Executive Officer will take appropriate action either by approaching the individual member and/or group leader.

1.10 The Council's policy statement on Dignity at Work applies to officers and members equally.

## **2. Statutory Officers**

2.1 Councillors and Officers recognise that there is a requirement to appoint particular officers to undertake certain statutory functions.

2.2 Notwithstanding any provisions in this Protocol, the Council confirms that in all arrangements for relationships between Members and Officers and advice from Officers, the statutory responsibilities of the following will not be compromised:-

- Head of Paid Service (Chief Executive Officer) – appointed under Section 4 of the Local Government and Housing Act 1989, with the responsibilities defined within that Act for the overall corporate management and operational activities (including those relating to staff) of the Council.
- Chief Finance Officer (Director of Finance and Resources) – appointed under Section 151 of the Local Government Act 1972 with overall responsibility for the conduct and legality of the Council's financial administration.
- Monitoring Officer (Solicitor to the Council) – appointed under Section 5 of the Local Government and Housing Act 1989 with responsibility for ensuring the lawfulness of any proposals, decisions or omissions of the Council and for the promotion and maintenance of high standards of conduct within the Council.

2.3 In undertaking their functions, the Statutory Officers referred to at paragraph 2.2 above, will ensure the impartiality of any advice or instruction given.

2.4 The Council's Code of Conduct for members contains the following obligations:

(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

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

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

### **3. Officer Advice to Party Groups**

- 3.1 It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council. This will apply no matter what the decision-making structure of the Council.
- 3.2 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner.
- 3.3 The support provided by officers can take many forms, ranging from a briefing meeting with the Executive Leader, another member of the Executive, a Chairman or Spokesman prior to a formal meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 3.4 Certain points must, however, be clearly understood by all those participating in this type of process, members and officers alike. In particular:
  - 3.4.1 Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed;
  - 3.4.2 Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
  - 3.4.3 Similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all

necessary information and advice to the Executive or to the relevant Panel, Committee or Sub-Committee when the matter in question is considered.

- 3.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting that includes persons who are not members of the Council. Such persons will not be bound by the Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and the Council's own Standing Orders with Respect to Meetings. For this and other reasons, officers may not be able to provide the same level of information and advice as they would to a members-only meeting.
- 3.6 Any request for advice, together with the advice given to a political group or member will be treated with strict confidentiality by the officers concerned and will not be accessible to any other Political Group. It is acknowledged, however, that factual information upon which any advice is based will, if requested, be available to all political groups.
- 3.7 It must not be assumed by any Political Group or member that any officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
- 3.8 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group or to anyone else outside the Council without the consent of the group.
- 3.9 Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive Officer who will discuss them with the relevant group leader(s).

#### **4. Support Services to Members and Party Groups**

- 4.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, etc) to members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political activity or for private purposes.

#### **5. Members' Access to Information and to Council Documents**

- 5.1 Members are free to approach any Council Department to provide them with such information, explanation and advice

(about that Department's functions) as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a Department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Director or Chief Officer or another senior officer of the Department concerned. In cases of doubt, officers in the Chief Executive Officer's Department should be asked for assistance.

5.2 Most Council information is available to all under the Freedom of Information Act. Where this is not the case, the legal rights of members to inspect Council documents are covered partly by statute and partly by the common law. Detailed advice regarding members' rights to inspect Council documents may be obtained from the Solicitor to the Council, but a general guide is set out in the appendix to this protocol.

5.3 Members may only use any information provided to them for the purpose for which it was provided, i.e. in connection with the proper performance of the member's duties as a member of the Council. This point is emphasised in the Code of Conduct for Members in the following terms:

You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

## **6. Officer/Executive Member/Chairman Relationships**

- 6.1 It is clearly important that there should be a close working relationship between the Executive Leader, members of the Executive, the Chairman of a Panel or Committee and the Director or Chief Officer and other senior officers of any Department that reports to the Executive or to that panel or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other members and other party groups. It is important that all members of the Council are able to feel confidence in the impartiality of officers.
- 6.2 The Executive Leader and members of the Executive or the Chairman of a Panel or Committee (or Sub-Committee) will routinely be consulted as part of the process of preparing an agenda for a forthcoming meeting. However it must be recognised that in some situations a Director or Chief Officer will be under a duty to submit a report on a particular matter. Similarly, a Director or Chief Officer or other senior officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a member of the Executive or a Chairman and a Director or Chief Officer in this area should be referred to the Chief Executive Officer for resolution in conjunction with the Executive Leader of the Council or the Chairman, as appropriate.
- 6.3 In addition to the Chairman's briefing before any formal meeting, minority group representatives will be afforded the opportunity of a briefing, if required, through their appropriate spokesman.
- 6.4 In relation to action between meetings, it is important to remember that the law only allows members of the Executive and Officers to take decisions in line with Council policies, budgets and within the scheme of delegated powers.
- 6.5 At Executive, Panel, Committee and Sub-Committee meetings, a resolution may be passed, which authorises named officers to take action between meetings in consultation with a particular member. In these circumstances it is the officer, rather than the member, who takes the action and it is the officer who is accountable for it.
- 6.6 Where the Executive delegates a decision to one of its members then it is that member who is responsible, and accountable, for any decision and action taken.
- 6.7 Officers are accountable to their Director or Chief Officer and whilst officers should always seek to assist a member of the Executive, spokesman or chairman (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director or Chief Officer.

## **7. Appointments**

- 7.1 Members should not make personal representations on behalf of any applicant for appointment or promotion by the Council or become involved in appointments other than for Chief Officers and their deputies as provided for in the Council's Officer Employment Standing Orders.
- 7.2 Any member taking part in a formal recruitment and selection process should as soon as possible declare an interest to the Chief Executive Officer where a particular applicant is known to him or her personally other than in the normal working relationship with the Borough Council.

## **8. Correspondence**

- 8.1 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member. Where exceptionally it is necessary to copy the correspondence to another member, this should be made clear to the original member. In other words, a system of "silent copies" should not be employed.
- 8.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate officer, rather than over the name of a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a member.

## **9. Forms of Address to Councillors/Officers**

- 9.1 In the forum of a full Council meeting, or of the Executive, a Panel, Committee or Sub-Committee, or similar formal meeting, officers should address or refer to members as "Councillor...". In other situations, an officer may address an individual member by whichever form or name the member prefers and which the particular context indicates. Similarly, members should not address officers informally during meetings open to the public. Members and officers should always remember the parts of this Protocol which seek to avoid over-close familiarity and which promote mutual respect.

## **10. Involvement of Ward Councillors**

- 10.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any

form of consultative exercise on a local issue, the Ward members should be notified at the outset of the exercise. Where invitations are given by other organisations, through or in association with Council, for members to attend meetings, seminars or similar events, officers should use best endeavours to ensure Ward members and/or group leaders are invited as appropriate.

## **11. Ceremonial Events**

- 11.1 The Mayor, or in his or her absence the Deputy Mayor, will be the appropriate person to lead Council ceremonial events which are not specifically associated with a particular service. A similar arrangement is appropriate where the Council is invited to attend ceremonial events of other organisations which are not specifically associated with a particular service.
- 11.2 Subject to paragraph 11.1 above, the Executive Portfolio Holder is the appropriate representative for ceremonial events within the scope of their areas of responsibility. Where the Portfolio Holder is not available he / she may nominate another member.
- 11.3 Local members should always be informed of, and where possible, invited to ceremonial events taking place within their own wards.
- 11.4 Any member taking part in a ceremonial event must not seek disproportionate personal publicity or use the occasions for party political advantage bearing in mind that the member is representing the Council as a whole.

## **12. Public Relations and Press Releases**

- 12.1 The Council's Public Relations Team serves the Council as a whole and must operate within the limits of the Local Government Act 1986 which prohibits the Council from publishing material which appears to be designed to affect public support for a political party. Officers draft press releases. They will often contain quotations (within the limits of the Local Government Act 1986) from the Executive Leader and Deputy Executive Leader of the Council or Executive Portfolio Holder for a particular service, the Chairman and Vice-Chairman of the Panel, Committee or Sub-Committee whose service is involved and from the Mayor and Deputy Mayor of the Council about ceremonial events. Such press releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from members to indicate their party political affiliation.



## **APPENDIX TO PROTOCOL FOR MEMBER/OFFICER RELATIONS**

### **MEMBERS' RIGHTS OF ACCESS TO COUNCIL DOCUMENTS**

1. Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at an Executive, Council, Panel, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of the Executive, Panel, Committee or Sub-Committee concerned and extends not only to reports that are to be submitted to the meeting, but also to any relevant background papers. This statutory right does not, however, apply to documents relating to certain items which may appear on the agenda for meetings where discussion is or is likely to be in private. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations.
2. The common law right of members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as the "need to know" principle and is based upon case-law.
3. The exercise of this common law right depends therefore, upon the member's ability to demonstrate that he/she has the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the particular Director or Chief Officer whose Department holds the document in question (with advice from the Solicitor to the Council/Chief Executive Officer).
4. However, if a member cannot perform his or her duties as Councillor properly or effectively without access to certain documents, then there is likely to be a "need to know", which will be presumed.
5. In other circumstances (e.g. A member wishing to inspect documents which contain personal information about third parties) a member will normally be expected to justify the request in specific terms.
6. Furthermore, there will be a range of documents which, because of their nature are either not accessible by members or are accessible

only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft committee reports, the disclosure of which prematurely might be against the Council's and the public interest.

7. Whilst the term "Council document" is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party group will not have a "need to know", and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.
8. In the event of a dispute, the question will fall to be determined by the Executive or the relevant Panel, Committee or Sub-Committee, ie the body in connection with whose functions the document is held.
9. It is important to note that this statement of rights applies to all documents, howsoever they are held or stored, on paper media and files or by electronic means.
10. Finally, much information held by the Council is covered by the Data Protection Act, e.g. personal information concerning tenants of the Council, benefit applicants, personnel records, etc. This information may only be used for the purpose for which it is held and which is registered with the Data Protection Register. It is in this area that the "need to know" will need to be demonstrated most particularly and where access is likely to be most circumscribed.

# FAREHAM

## BOROUGH COUNCIL

### FAREHAM BOROUGH COUNCIL DIGNITY AT WORK POLICY

June 2022

## SECTION ONE – INTRODUCTION

### 1. POLICY STATEMENT

Fareham Borough Council is committed to creating a positive and safe working environment for all employees and members. The spirit of equality underpins every aspect of working at Fareham Borough Council and we want to ensure that diversity is celebrated across the organisation and reflects the local community. Everyone is entitled to dignity and respect at work and reasonable adjustments will be made where appropriate. Councillors are committed to promoting equality of opportunities and as such have adopted the spirit of the dignity at work policy.

If any individual feels they're not being treated with respect in accordance with the Code of Conduct, they have the right to challenge such behaviour and/or raise a complaint. All employees are encouraged to challenge unacceptable behaviour.

This policy has been developed with due regard to the Equality Act 2010, the ACAS guidance, the Council's [Protocol for Member/Officer Relations](#) as well as other internal Council policies. Other relevant legislation regarding equality and diversity will be adhered to in all circumstances. The Council has clear standards of behaviour outlined in the Code of Conduct.

Unacceptable behaviour is not tolerated at Fareham Borough Council and such behaviour will be dealt with under the Disciplinary Procedure. Fareham Borough Council provides access to independent and confidential counselling to all employees and may be requested at any time.

### 2. PRINCIPLES

- Honesty – all employees are expected to be truthful and open about decisions and actions taken.
- Trust and Respect – all employees must treat others with trust and respect to create and maintain a safe and positive environment. Mutual respect is expected across the Council and abuse of this will be addressed.
- Accountability – all employees must be accountable for their actions.
- Confidentiality – all information relating to the procedure will remain confidential and not shared with anyone not involved in the procedure. This follows the General Data Protection Regulations 2018 (GDPR).

### **3. SCOPE**

This policy applies to everyone involved with Fareham Borough Council.

Individuals engaging in work with the Council via an external employment agency should inform their agency of any issues and will raise it with the Council on their behalf.

### **4. RESPONSIBILITIES**

Managers must:

- Ensure that this policy is communicated to all employees
- Set a good example
- Take complaints seriously and deal with them promptly
- Be alert to and correct unacceptable behaviour as it happens

Employees must:

- Ensure that they promote a safe and positive working environment for all
- Challenge unacceptable behaviour as it happens
- Support colleagues

HR must:

- Ensure that this policy is applied appropriately and fairly and in conjunction with all other Council policies
- Provide advice and support to enable to effective handling of complaints
- Deal with issues promptly
- Organise support for employees affected by unacceptable behaviour

Members must:

- Behave in a which encourages a safe and positive working environment for all
- Comply with the Protocol for Member/Officer Relations and maintain professional relationships with other Members and Council Officers

Recognised Trade Unions are a source of advice and support for members where they have been a witness of, a victim or are accused of unacceptable behaviour. Employees are encouraged to speak to their representatives who can provide representation where applicable.

## **5. DEFINITIONS**

### *Bullying*

Bullying is unwanted offensive, intimidating or insulting behaviour, an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.

### *Harassment*

Under the Equality Act 2010, harassment is defined as “unwanted conduct related to a relevant protected characteristic which has the purpose of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual”. Though equality legislation only covers protected characteristics, Fareham Borough Council will not tolerate harassment towards any person. There is an expectation that everyone is treated with dignity and respect. The protected characteristics are listed in Appendix 1.

### *Victimisation*

For the purposes of this policy, victimisation is defined as “less favourable treatment of an individual because they’ve made a complaint or intend to make a complaint about bullying or harassment”.

### *Unacceptable behaviour*

There is no single definition of what unacceptable behaviour may be, but for this policy, it refers to bullying, harassment and victimisation.

Examples of actions that may be considered bullying and/or harassment are listed in Appendix 2.

## **6. REVIEW**

This policy will be kept under review and updated from time to time. Any amendments needed in light of developments in legislation will be made in consultation with recognised trade unions.

Any amendments will only be introduced after reasonable notice has been given to all employees.

## **SECTION 2 – THE PROCEDURE**

### **1. INFORMAL PROCEDURE**

Complaints should be resolved informally wherever possible. If complaints are considered to be more severe then they may be dealt with formally. A corporate overview of what is considered severe will be used to maintain consistency. Mediation will be offered to resolve any issues at informal and formal stages of the procedure.

In the first instance, it's encouraged to raise the issue directly with the individual creating the problem. They may not be aware of the impact of their behaviour and raising the issue with them may resolve the matter. If the employee isn't comfortable doing this, they may raise the issue with their line manager, Head of Service or with HR who will deal with the matter on their behalf.

Once the individual has raised a complaint, a remedial meeting may be arranged with the individual and the person who has had the complaint made against them within 3 working days. The aim of the meeting is to obtain agreement for the behaviour to stop. Both parties are entitled to representation. If agreement cannot be reached it may be necessary to move to the formal procedure. A record of all discussions and outcomes will be kept on all individual's HR files.

### **2. FORMAL PROCEDURE**

Any complaint received that's to be dealt with formally must be investigated as soon as possible in conjunction with HR. Complaints must be raised in accordance with the Council's Grievance procedure. Once the complaint has been received by HR, both the individual and the alleged harasser will have opportunity to explain their version of events.

If it's decided that there is a case to answer, a disciplinary hearing will be held in accordance with the Disciplinary Procedure. If it's decided that there is **no** case to answer, both parties will receive written confirmation of any agreed outcomes which will be kept on their HR files, along with any notes from the meetings.

If the individual making the complaint is dissatisfied with the outcome, there is a right of appeal, as per the Grievance Procedure.

If the situation involves individuals where the Council's employment procedures cannot be applied, complaints will be dealt with in another appropriate way.

## APPENDIX 1

### Overview of Legislation

The Equality Act 2010 outlines the following protected characteristics:

1. Age
2. Gender reassignment
3. Disability
4. Marriage and Civil Partnership
5. Pregnancy and Maternity
6. Race
7. Religion or belief
8. Sex
9. Sexual Orientation

Under the Equality Act 2010, it's unlawful to discriminate against anyone with a protected characteristic.

#### *Types of discrimination*

- Direct discrimination – being treated less favourably than another person because they have a protected characteristic; or because they're thought to have a protected characteristic (discriminations by perception); or because they're associated with someone who has a protected characteristic (discrimination by association).
  - Discrimination by perception – occurs when a person is discriminated against because they're thought to have a particular protected characteristic, even if they don't.
  - Discrimination by association – occurs when a person is treated less favourably because they're associated with someone who has a protected characteristic e.g. a child, partner, parent or friend.
- Indirect discrimination – when an organisation's policies or practices apply to everyone but disadvantage individuals with a certain protected characteristic



## APPENDIX 2

NOTE: The below examples of behaviour are not exhaustive lists and HR reserve the right to decide what behaviours are considered unacceptable.

Examples of bullying may include:

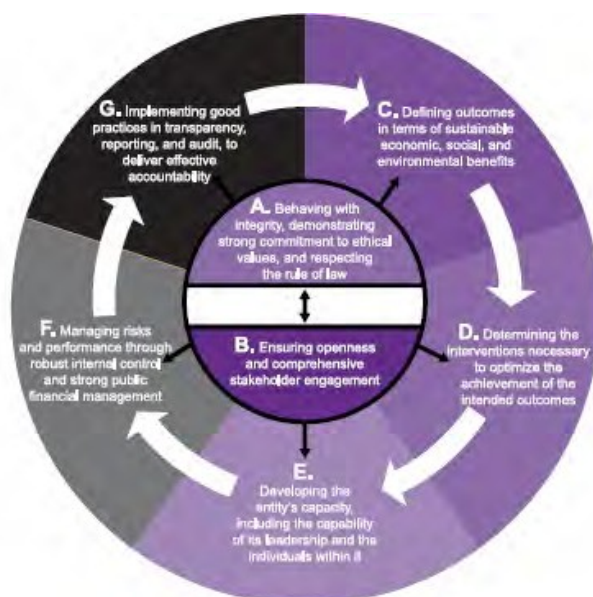
- a) Exclusion with negative consequences
- b) Verbal abuse and/or insults
- c) Persistently ignoring or patronising an individual
- d) Being treated less favourably than a colleague
- e) Persistent unjustified criticism
- f) Being pressured into behaviours
- g) Intimidation
- h) Blame for things out of the individual's control
- i) Spreading rumours about an individual
- j) Unfair allocation of workload and responsibilities
- k) Setting unfair and unrealistic targets
- l) Preventing an individual's progress by blocking promotion, training opportunities or withholding information
- m) Imposing unfair sanctions

Examples of harassment may include:

- a) Unwanted physical contact
- b) Unwelcome communication (written or visual) such as posters, graffiti or gestures
- c) Intrusive questioning
- d) Publicising or threatening to publicise personal information of an individual
- e) Misuse of the internet and social media to upset, embarrass or harass someone
- f) Isolation or exclusion from events
- g) Ridicule or demeaning an individual
- h) Misuse of power or position
- i) Unwelcome sexual advances
- j) Telling jokes that could be considered offensive
- k) Violence or the threat of violence



# FAREHAM BOROUGH COUNCIL



## Local Code of Corporate Governance

For the purpose of this Local Code, Fareham Borough Council has accepted the definition of Governance as stated within the CIPFA/SOLACE Framework, as follows:

*“Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.*

*To deliver good governance in the public sector, both governing bodies and individuals working for public sector entities must try to achieve their entities objectives while acting in the public interest at all times.*

*Acting in the public interest implies primary consideration of the benefits for society, which should result in positive outcomes for service users and other stakeholders”.*

Fareham Borough Council recognises the need for effective corporate governance arrangements and has a range of systems policies and procedures designed to achieve this. The Council also recognises that effective local government relies upon establishing and maintaining the confidence of the public in both the elected members and the officers of the Council.

In adopting this local code, the Council is committing itself to maintaining and improving these arrangements.

**OVERARCHING PRINCIPLE A:** Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.

Local government organisations are accountable not only for how much they spend, but also for how they use the resources under their stewardship. This includes accountability for outputs, both positive and negative, and for the outcomes they have achieved. In addition, they have an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. It is essential that, as a whole, they can demonstrate the appropriateness of all their actions across all activities and have mechanisms in place to encourage and enforce adherence to ethical values and to respect the rule of law.



**Sub-principle**

<p><b>Behaving with integrity</b></p>	<p>Ensuring members and officers behave with integrity and lead a culture where acting in the public interest is visibly and consistently demonstrated thereby protecting the reputation of the organisation.</p> <p>Ensuring members take the lead in establishing specific standard operating principles or values for the organisation and its staff and that they are communicated and understood. These should build on the Seven Principles of Public Life (the Nolan Principles).</p> <p>Leading by example and using the above standard operating principles or values as a framework for decision making and other actions.</p> <p>Demonstrating, communicating and embedding the standard operating principles or values through appropriate policies and processes which are reviewed on a regular basis to ensure that they are operating effectively.</p>
<p><b>Demonstrating strong commitment to ethical values</b></p>	<p>Seeking to establish, monitor and maintain the organisation's ethical standards and performance.</p> <p>Underpinning personal behaviour with ethical values and ensuring they permeate all aspects of the organisation's culture and operation.</p> <p>Developing and maintaining robust policies and procedures which place emphasis on agreed ethical values</p> <p>Ensuring that external providers of services on behalf of the organisation are required to act with integrity and in compliance with ethical standards expected by the organisation.</p>
<p><b>Respecting the rule of law</b></p>	<p>Ensuring members and staff demonstrate a strong commitment to the rule of the law as well as adhering to relevant laws and regulations.</p> <p>Creating the conditions to ensure that the statutory officers, other key post holders, and members, are able to fulfil their responsibilities in accordance with legislative and regulatory requirements.</p> <p>Striving to optimise the use of the full powers available for the benefit of citizens, communities and other stakeholders.</p> <p>Dealing with breaches of legal and regulatory provisions effectively.</p> <p>Ensuring corruption and misuse of power are dealt with effectively.</p>

**OVERARCHING PRINCIPLE B:** Ensuring openness and comprehensive stakeholder engagement.

Local government is run for the public good, organisations therefore should ensure openness in their activities. Clear, trusted channels of communication and consultation should be used to engage effectively with all groups of stakeholders, such as individual citizens and service users, as well as institutional stakeholders.



**Sub-principle**

**Openness**

Ensuring an open culture through demonstrating and communicating the organisation’s commitment to openness.

Making decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes. The presumption is for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential should be provided.

Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used. In due course, ensuring that the impact and consequences of those decisions are clear.

Using formal and informal consultation and engagement to determine the most appropriate and effective interventions/ courses of action.

**Engaging comprehensively with institutional stakeholders**

Effectively engaging with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully and sustainably. *(NB institutional stakeholders are the other organisations that local government needs to work with to improve services and outcomes (such as commercial partners and suppliers as well as other public or third sector organisations) or organisations to which they are accountable).*

Developing formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively.

Ensuring that partnerships are based on: trust, a shared commitment to change, a culture that promotes and accepts challenge among partners, and that the added value of partnership working is explicit.

**Engaging with individual citizens and service users effectively**

Establishing a clear policy on the type of issues that the organisation will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes.

Ensuring that communication methods are effective and that members and officers are clear about their roles with regard to community engagement.

Encouraging, collecting and evaluating the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs.

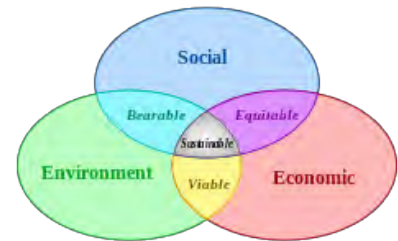
Implementing effective feedback mechanisms in order to demonstrate how views have been taken into account.

Balancing feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity.

Taking account of the impact of decisions on future generations of tax payers and service users.

**CORE PRINCIPLE C:** Defining outcomes in terms of sustainable economic, social and environmental benefits.

The long-term nature and impact of many of local government’s responsibilities mean that it should define and plan outcomes and that these should be sustainable. Decisions should further the organisation’s purpose, contribute to intended benefits and outcomes, and remain within the limits of authority and resources. Input from all groups of stakeholders, including citizens, service users, and institutional stakeholders, is vital to the success of this process and in balancing competing demands when determining priorities for the finite resources available.



**Sub-principle**

<p><b>Defining outcomes</b></p>	<p>Having a clear vision, which is an agreed formal statement of the organisation’s purpose and intended outcomes containing appropriate measures, which provide the basis for the organisation’s overall strategy, planning and other decisions.</p> <p>Specifying the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer.</p> <p>Delivering defined outcomes on a sustainable basis within the resources that will be available.</p> <p>Identifying and managing risks to the achievement of outcomes.</p> <p>Managing service users’ expectations effectively with regard to determining priorities and making the best use of the resources available.</p>
<p><b>Sustainable economic, social and environmental benefits</b></p>	<p>Considering and balancing the combined economic, social and environmental impact of policies and plans when taking decisions about service provision.</p> <p>Taking a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the organisation’s intended outcomes and short-term factors such as the political cycle or financial constraints.</p> <p>Determining the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs.</p> <p>Ensuring fair access to services.</p>

**CORE PRINCIPLE D:** Determining the interventions necessary to optimize the achievement of the intended outcomes.

Local government achieves its intended outcomes by providing a mixture of legal, regulatory, and practical interventions (courses of action). Determining the right mix of these courses of action is a critically important strategic choice that local government has to make to ensure intended outcomes are achieved. They need robust decision-making mechanisms to ensure that their defined outcomes can be achieved in a way that provides the best trade-off between the various types of resource inputs while still enabling effective and efficient operations. Decisions made need to be reviewed frequently to ensure that achievement of outcomes is optimised.



Sub-principle	
<p><b>Determining interventions</b></p>	<p>Ensuring decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and associated risks. Therefore ensuring best value is achieved however services are provided</p> <p>Considering feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts.</p>
<p><b>Planning interventions</b></p>	<p>Establishing and implementing robust planning and control cycles that cover strategic and operational plans, priorities and targets.</p> <p>Engaging with internal and external stakeholders in determining how services and other courses of action should be planned and delivered.</p> <p>Considering and monitoring risks facing each partner when working collaboratively, including shared risks.</p> <p>Ensuring arrangements are flexible and agile so that the mechanisms for delivering goods and services can be adapted to changing circumstances.</p> <p>Establishing appropriate measures as part of the planning process to measure the performance of services and projects.</p> <p>Ensuring capacity exists to generate the information required to review service quality regularly.</p> <p>Preparing budgets in accordance with objectives, strategies and the medium term financial plan.</p> <p>Informing medium and long term resource planning by drawing up realistic estimates of revenue and capital expenditure aimed at developing a sustainable funding strategy.</p>
<p><b>Optimising achievement of intended outcomes</b></p>	<p>Ensuring the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints.</p> <p>Ensuring the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term.</p> <p>Ensuring the medium term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimising resource usage.</p> <p>Ensuring the achievement of 'social value' through service planning and commissioning.</p>



**CORE PRINCIPLE E: Developing the entity’s capacity, including the capability of its leadership and the individuals within it.**

Local government needs appropriate structures and leadership, as well as people with the right skills, appropriate qualifications and mindset, to operate efficiently and effectively and achieve intended outcomes within the specified periods. A local government organisation must ensure that it has both the capacity to fulfil its own mandate and to make certain that there are policies in place to guarantee that its management has the operational capacity for the organisation as a whole. Because both individuals and the environment in which an organisation operates will change over time, there will be a continuous need to develop its capacity as well as the skills and experience of individual staff members. Leadership in local government is strengthened by the participation of people with many different types of backgrounds, reflecting the structure and diversity of communities.



**Sub-principle**

**Developing the entity’s capacity**

Reviewing operations, performance and use of assets on a regular basis to ensure their continuing effectiveness

Improving resource use through appropriate application of techniques such as benchmarking and other options in order to determine how resources are allocated so that defined outcomes are achieved effectively and efficiently

Recognising the benefits of partnerships and collaborative working where added value can be achieved

Developing and maintaining an effective workforce plan to enhance the strategic allocation of resources

**Developing the capability of the entity’s leadership and other individuals**

Developing protocols to ensure that elected & appointed leaders negotiate with each other regarding their respective roles early on in the relationship & that a shared understanding of roles & objectives is maintained.

Publishing a statement that specifies the types of decisions that are delegated & those reserved for the collective decision making of the governing body.

Ensuring the leader & the chief executive have clearly defined & distinctive leadership roles within a structure whereby the chief executive leads in implementing strategy & managing the delivery of services & other outputs set by members & each provides a check & balance for the other’s authority.

Developing the capabilities of members & senior management to achieve effective leadership & to enable the organisation to respond successfully to changing legal & policy demands as well as economic, political & environmental changes & risks by:

- ensuring members & staff have access to appropriate induction tailored to their role & that ongoing training & development matching individual & organisational requirements is available & encouraged
- ensuring members & officers have the appropriate skills, knowledge, resources & support to fulfil their roles & responsibilities & ensuring that they are able to update their knowledge on a continuing basis
- ensuring personal, organisational & system-wide development through shared learning, including lessons learnt from internal & external governance weaknesses.

Ensuring that there are structures in place to encourage public participation.

Taking steps to consider the leadership’s own effectiveness & ensuring leaders are open to constructive feedback from peer review & inspections.

Holding staff to account through regular performance reviews which take account of training or development needs

Ensuring arrangements are in place to maintain the health & wellbeing of the workforce & support individuals in maintaining their own physical & mental wellbeing.



**CORE PRINCIPLE F: Managing risks & performance through robust internal control & strong public financial management.**

Local government needs to ensure that the organisations and governance structures that it oversees have implemented, and can sustain, an effective performance management system that facilitates effective and efficient delivery of planned services. Risk management and internal control are important and integral parts of a performance management system and are crucial to the achievement of outcomes. Risk should be considered and addressed as part of all decision making activities.

A strong system of financial management is essential for the implementation of policies and the achievement of intended outcomes, as it will enforce financial discipline, strategic allocation of resources, efficient service delivery and accountability.

It is also essential that a culture and structure for scrutiny are in place as a key part of accountable decision making, policy making and review. A positive working culture that accepts, promotes and encourages constructive challenge is critical to successful scrutiny and successful service delivery. Importantly, this culture does not happen automatically, it requires repeated public commitment from those in authority.



<b>Sub-principle</b>	
<b>Managing risk</b>	<p>Recognising that risk management is an integral part of all activities and must be considered in all aspects of decision making.</p> <p>Implementing robust and integrated risk management arrangements and ensuring that they are working effectively.</p> <p>Ensuring that responsibilities for managing individual risks are clearly allocated.</p>
<b>Managing performance</b>	<p>Monitoring service delivery effectively including planning, specification, execution and independent post implementation review.</p> <p>Making decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook.</p> <p>Ensuring an effective scrutiny or oversight function is in place which provides constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the organisation's performance and that of any organisation for which it is responsible.</p> <p>Providing members and senior management with regular reports on service delivery plans and on progress towards outcome achievement.</p> <p>Ensuring there is consistency between specification stages (such as budgets) and post implementation reporting (e.g. financial statements).</p>
<b>Robust internal control</b>	<p>Aligning the risk management strategy and policies on internal control with achieving objectives.</p> <p>Evaluating internal control on a regular basis.</p> <p>Ensuring effective counter fraud and anti-corruption arrangements are in place.</p> <p>Ensuring additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor.</p> <p>Ensuring an audit and governance committee, which is independent of the executive and accountable to the governing body:</p> <ul style="list-style-type: none"> <li>• provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment.</li> <li>• that its recommendations are listened to and acted upon.</li> </ul>

**Managing data**

Ensuring effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data.

Ensuring effective arrangements are in place and operating effectively when sharing data with other bodies.

Reviewing the quality and accuracy of data used in decision making and performance monitoring.

**CORE PRINCIPLE G:** Implementing good practices in transparency, reporting, & audit, to deliver effective accountability.

Accountability is about ensuring that those making decisions and delivering services are answerable for them. Effective accountability is concerned not only with reporting on actions completed, but also ensuring that stakeholders are able to understand and respond as the organisation plans and carries out its activities in a transparent manner. Both external and internal audit contribute to effective accountability.



Sub-principle	
<p><b>Implementing good practice in transparency</b></p>	<p>Writing and communicating reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate</p> <p>Striking a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous to provide and for users to understand.</p>
<p><b>Implementing good practices in reporting</b></p>	<p>Reporting on performance, value for money and stewardship of resources to stakeholders in a timely and understandable way.</p> <p>Ensuring members and senior management own the results reported.</p> <p>Ensuring robust arrangements for assessing the extent to which the principles contained in this Framework have been applied and publishing the results on this assessment, including an action plan for improvement and evidence to demonstrate good governance (the annual governance statement).</p> <p>Ensuring that this Framework is applied to jointly managed or shared service organisations as appropriate.</p> <p>Ensuring the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other, similar organisations.</p>
<p><b>Assurance and effective accountability</b></p>	<p>Ensuring that recommendations for corrective action made by external audit are acted upon.</p> <p>Ensuring an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon.</p> <p>Welcoming peer challenge, reviews and inspections from regulatory bodies and implementing recommendations.</p> <p>Gaining assurance on risks associated with delivering services through third parties.</p> <p>Ensuring that when working in partnership, arrangements for accountability are clear and the need for wider public accountability has been recognised and met.</p>



## The Constitution – Part Six – Member’s Allowances

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1. Scheme of Members Allowances





# **MEMBERS' ALLOWANCES**

# **COUNCILLORS' HANDBOOK**

**November 2022 (updated)**

## **MEMBERS' ALLOWANCES**

### **The purpose of this Booklet**

This booklet has been produced to provide members and officers with basic details of the Council's "scheme" of members' allowances. Whilst it is hoped that the information will help members in making claims for allowances, it does not cover every detail of what has now become a somewhat complex subject. On any point which requires clarification please contact any of the officers listed below.

*Please also note that the information given in this booklet is current as at 07 November 2022 (some of the information being illustrative only) and will be subject to update from time to time.*

### **Please direct any enquiries to:**

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### **Please note:**

There is now a separate claim form for conference allowances and a check-sheet to support a claim for carer's allowance – Democratic Services will supply copies on request.

Members' are reminded that all claims must be made within 3 months of the date being claimed. Claims made outside of this time frame will not be processed.

## **ALLOWANCES PAYABLE**

The Council has agreed that the following allowances will be payable:

1. Special Responsibility Allowance ("SRA")
2. Basic Allowance
3. Travelling Allowance
4. Subsistence Allowance
6. Carer's Allowance

Each of the above allowances is explained more fully in the following pages of this booklet. All allowances and expenses are indexed and incrementally increased at the same rate as staff increases.

***Members are, however, reminded that the details contained in this booklet are current as at 7<sup>th</sup> November 2022 and are subject to amendment from time to time.***

### **Giving up an entitlement to an allowance**

A member who wishes to forego the entitlement to any allowance should give notice, in writing, to the Chief Executive Officer.

## SPECIAL RESPONSIBILITY ALLOWANCE 2022/23

The Special Responsibility Allowance (or "SRA" for short) is paid to recognise certain councillors' significant levels of responsibility (see Note 4 overleaf).

A points system operates for the payment of SRA. For the year commencing 1 April 2022, the points which were allocated to each relevant duty are as set out below. The current value of a point is £64.20.

### Duty Individual Points

Executive Leader	360
Executive Member (excluding Leader)	200
Chairman of Scrutiny Panels	125
Vice-Chairman of Scrutiny Panels	15
Leader of Minority Group:	
(i) 1 to 9 members	60
(ii) 10 or more members	120
Chairman of Planning Committee	180
Vice-Chairman of Planning Committee	15
Chairman of Licensing and Regulatory Affairs Committee	125
Vice-Chairman of Licensing and Regulatory Affairs Committee	15
Chairman of Audit and Governance Committee	75
Vice Chairman of Audit and Governance Committee	15
Minority Group Spokesmen (for each Executive Portfolio area)	5
Mayor	80
Deputy Mayor	15
*Designated Independent Person (per annum plus travel expenses)	£761.40

### Notes:

(\* see note (4) overleaf)

- (1) Payments are made at the end of each calendar month, in arrears, directly into a Councillor's nominated bank/building society account.
- (2) A claim is not necessary as the SRA is paid automatically.
- (3) For all the posts listed above, a maximum of one SRA is claimable (i.e. the highest) irrespective of the number of such posts any one Councillor may hold from time to time.
- \* (4) Under the provisions of the Localism Act 2011, Fareham Borough Council is required to appoint at least 1 Independent Person to assist the Council in promoting and maintaining high standards of conduct amongst its elected and co-opted members.

The remuneration received by the Independent Person(s) shall be index linked annually in line with Officer's pay increases.

The Independent Person(s) will be consulted on the decision to investigate complaints and also before any decision is made. The Independent Person(s) may be consulted on other standards included by the member who is subject to an allegation.

## **BASIC ALLOWANCE**

The Basic Allowance is intended to recognise the time commitment of all Councillors, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes.

A points system operates for the payment of the Basic Allowance.

The general provisions covering the payment of Basic Allowance are as follows:

- (a) For 2022/23 the annual monetary value of one point is £64.20 (see note 3 below)
- (b) The number of points allocated for the Basic Allowance is 120.
- (c) Payable as a flat-rate allowance to all Councillors.

### **Notes:**

- (1) Payments are made at the end of each calendar month, in arrears, directly into a Councillor's nominated bank/building society account.
- (2) A claim is not necessary as the Basic Allowance is paid automatically.
- (3) For each year the Basic Allowance will be increased by the same percentage as the officers pay award that will usually follow the NJC for Local Government Services staff pay award. This award has been agreed and this will apply to all Councillors and also the Designated Independent Person(s).

## **TRAVELLING ALLOWANCE**

The Travelling Allowance is paid as a way of recompensing members (i.e. councillors and co-opted members) for expenditure necessarily incurred when performing specified approved duties. The costs may include such expenses as appropriate train, ferry, bus, air and taxi fares, fuel costs, tolls, parking fees and overnight garaging charges.

The general points covering the payment of Travelling Allowance are as follows:

### **(1) Amounts**

See below and also Appendix D which sets out motor mileage rates and related matters in detail.

Travelling Allowances are available to all members at the same rates.

### **(2) Duties**

Generally, Travelling Allowance is currently payable for the following duties:

- (a) Meetings of the Council, Executive (including decision making by individual Executive Members), Scrutiny Panels, Committees and Sub-Committees - see list in Appendix A.  
(This includes other formal internal meetings authorised by those bodies referred to above, (or by a formally constituted joint committee of the Council and other authorities e.g. the Joint Crematorium Committee) provided that representatives of both political groups are invited – See Appendix C).
- (b) Journeys to and from meetings with officers, booked in advance and within criteria set by the Chief Executive Officer.
- (c) Meetings of all other bodies to which the Council makes nominations - see list in Appendix B.
- (d) Any other duty previously approved at a meeting of the Council, the Executive, Scrutiny Panels or appropriate Committee or Sub-Committee (or in certain circumstances, the Chief Executive Officer) as appropriate – see current list and conditions in Appendix C.
- (e) Meetings of the Local Government Association as an approved representative under arrangements in place from time to time.
- (f) Attendance at an approved conference.

*(NB. The above duties are subject to amendment from time to time and, when necessary, are subject to budgetary approval, e.g. from the Council or the Executive).*

### **(3) Starting and Ending of Journeys – Requirements**

The payment of travel allowance for meetings and other relevant duties is subject to the provision that the journey should start and end inside the Borough Boundary, with travel directly to and from the duty.

There is, however, an exception which allows the Chief Executive Officer, at his discretion, to decide whether it is appropriate for the Council to reimburse members for journeys starting or ending outside the Borough. This would apply to such situations as, for instance, temporary employment commitments.

### **(4) Method of Transport – Authority of the Chief Executive Officer**

The travelling allowance payable for any approved duty is the relevant public transport fare or the applicable motor vehicle mileage rate.

Although there is no particular restriction on the method of transport used, members need to be aware that the Chief Executive Officer has power to authorise the use of any reasonable form of transport provided that he is of the opinion that the proposed mode of transport is appropriate having regard to the overall cost benefit to the Council and justified savings in time. It is therefore essential that for long journeys, in particular, members should seek advice from Democratic Services on suitable travel arrangements.

The Chief Executive is also able to authorise, at his discretion, the use of alternative means of transport if any member cannot conveniently use a private vehicle or normal form of public transport, for appropriate valid reasons, such as health or disability. Members should seek advice from Democratic Services before incurring expenditure.

### **(5) Claims**

Claims for Travelling Allowance must be made on the form provided within **3 months** of the date of the relevant meeting or approved duty. There is no discretion for late claims to be paid.

### **(6) Availability of Allowances from more than One Source**

Members must not claim a Travelling Allowance for the same meeting or other approved duty, from more than one source. For example, a member attending a meeting of another organisation which pays allowances, may claim an allowance from **either** the organisation **or** the Council, but not from both.

### **(7) Conditions of Approval**

It is particularly important to note that it remains a condition of the payment of Travelling Allowance that the duty for which it is paid must have been approved by the

Council, the Executive, or as appropriate, a Scrutiny Panel, a Committee or Sub-Committee (or, in certain circumstances, the Executive Leader, the Chief Executive Officer or other designated officer) **before** the duty is performed. It is not possible for the payment of a Travelling Allowance to be authorised after the event.

#### **(8) Insurance**

Members are reminded that the use of a private motor vehicle on any duties connected with their service as a member of the Council can be classed as business use by an insurer. Members should check that their policies include a clause which covers such use.

They should also satisfy themselves that the insurance company is aware of the nature of the duties and accepts those duties for appropriate cover under the policy.

#### **(9) Motor Vehicle Travel - Passengers**

Members are encouraged to travel together in the same vehicle or, preferably, to travel with an officer, whenever possible. Additional payments are made for the carriage of passengers and details are set out in Appendix D.

(Please also see paragraph 4 above which refers to the Chief Executive Officer's power to authorise the most appropriate form of transport).

#### **(10) Taxis**

The use of a taxi is permitted, subject to the following restrictions-

- (a) travel by taxi should only be made if there is no reasonable means of public transport available, or in a case of urgency;
- (b) the amount reimbursed will be the actual fare and also any reasonable gratuity paid;
- (c) should a taxi be used when there is reasonable means of public transport available for the same journey or if the taxi is used in non-urgent circumstances, the relevant public transport fare will be the maximum payable.

#### **(11) Hired Vehicles**

The mileage rate payable for the use of a hired vehicle (other than a taxi-cab) will not be more than the rate which would have been applicable had the vehicle belonged to the member who hires it.

#### **(12) Rail Travel**

The cost of rail travel will be reimbursed at the actual cost incurred.

Members' attention is drawn to the fact that the Council holds an account with the railway operators and rail warrants can be used for all journeys by train. Enquiries



should be made to Democratic Services in the Civic Offices at a reasonable time before any journey is undertaken. The officers will then make the necessary arrangements to supply the rail warrant. If travel takes place without a warrant, a receipt/ticket must be produced to obtain reimbursement (see paragraph 16 below).

(Please also see paragraph 4 above which refers to the Chief Executive Officer's power to authorise the most appropriate form of transport).

### **(13) Bus Travel**

Expenditure incurred for travel by bus will be reimbursed in full, subject to the production of a receipt.

### **(14) Bicycle Allowance**

A bicycle allowance at a rate of 20p per mile is available to all members. For the use of a bicycle, members are also reminded of the **insurance advice on business use** referred to in paragraph (8) above and should consider obtaining appropriate cover for such use.

### **(15) Ferry Fares and Tolls**

Any member travelling to the Isle of Wight as a foot passenger can reclaim the actual cost involved. If it is considered essential that a motor vehicle should be taken to the Isle of Wight then enquiries should first be made to Democratic Services in the Civic Offices, to find out the applicable reimbursement. Other essential ferry fares or tolls (passenger and vehicle) can be reimbursed at cost.

### **(16) Production of Receipts**

Members are required to support all of their claims for travel allowance by the production of receipts. This applies to taxi fares, parking charges, bus fares, train fares, etc. **Claims without relevant VAT receipts cannot be processed.** This condition **does not** apply to car, motorcycle or bicycle journeys where the relevant mileage is stated on the claim form.

### **(17) Travelling Allowance Rates – Effective Dates**

The current rates for Travelling Allowances will remain effective until 31 March 2023.

### **(18) Air Travel**

Expenditure incurred for travel by air will be reimbursed in full at the actual cost paid, but the rate will not be more than the ordinary fare or any available economy fare. (Please also see paragraph 4 above which refers to the Chief Executive Officer's power to authorise the most appropriate form of transport).

Enquiries should be made to Democratic Services in the Civic Offices if any proposals to travel by air are being considered to ensure that the proper approvals are obtained and also for advice on the necessary arrangements.

## **(19) Travel Abroad**

Enquiries should be made to Head of Democratic Services in the Civic Offices if any proposals involving travel abroad (or to return to the UK for a special reason) are being considered. For travel to and from destinations outside the UK, the need to consider the use of the most appropriate form of transport, (also referred to in paragraph 4 above) is particularly important.

## **SUBSISTENCE ALLOWANCE**

The Subsistence Allowance is paid as a way of recompensing members (i.e. councillors and co-opted members) for expenditure necessarily incurred when performing specified approved duties. The costs include day-time meals and refreshments and on occasions, may also include costs for an overnight stay. Expenditure on an overnight stay is most likely to arise as a result of attendance at a conference which is dealt with in another section of this booklet. Nevertheless, should it be likely that an overnight stay will be required for an ordinary approved duty then enquiries should be made to Democratic Services in the Civic Offices at a reasonable time before the duty is undertaken. The officers will then advise on the necessary arrangements.

The general points covering the payment of Subsistence Allowance are as follows:

### **(1) Amounts**

See below and also Appendix E which sets out the day and overnight subsistence rates according to the time of day and the period of absence.

Subsistence Allowances are available to all members at the same rates.

### **(2) Duties**

Generally, Subsistence Allowance may be payable, in appropriate circumstances, for the following duties:

- (a) Meetings of the Council, the Executive (including decision making by individual Executive Members), Scrutiny Panels, Committees and Sub-Committees - see list in Appendix A.  
(This includes other formal internal meetings authorised by those bodies referred to above, (or by a formally constituted joint committee of the Council and other authorities, eg, the Joint Crematorium Committee), provided that representatives of both political groups are invited – see Appendix C).
- (b) Meetings of all other bodies to which the Council makes nominations - see list in Appendix B.
- (c) Any other duty previously approved at a meeting of the Council, the Executive, Scrutiny Panels, or appropriate Committee or Sub-Committee (or, in certain

circumstances, by the Chief Executive Officer), as appropriate – see Appendix C.

(d) Meetings of the Local Government Association as an approved representative under arrangements in place from time to time.

(d) Attendance at an approved conference.

*(NB: The above duties are subject to amendment from time to time, when necessary, and are subject to budgetary approval, e.g. from the Council or the Executive).*

### **(3) Claims**

Claims for Subsistence Allowance must be made on the form provided within **3 months** of the date of the relevant meeting or approved duty. There is no discretion for late claims to be paid.

### **(4) Availability of Allowances from more than One Source**

Members must not claim a Subsistence Allowance for the same meeting or other approved duty, from more than one source. For example, a member attending a meeting of another organisation which pays allowances may claim an allowance from **either** the organisation **or** the Council, but not from both. This would also be the case if the organisation were, for example, to provide refreshments for members attending an event. In such a case, no additional claim should be made to the Council.

### **(5) Conditions of Approval**

It is particularly important to note that it remains a condition of the payment of Subsistence Allowance that the duty for which it is paid must have been approved by the Council, the Executive, or as appropriate, a Scrutiny Panel, a Committee or Sub-Committee, (or, in certain circumstances by the Executive Leader, the Chief Executive Officer or other designated officer), **before** the duty is performed. It is not possible for the payment of a Subsistence Allowance to be authorised after the event.

### **(6) Production of Receipts**

Members are required to support their claims for Subsistence Allowance by the production of receipts – this applies to hotel accommodation, meals taken, etc. **Claims without relevant VAT receipts cannot be processed.**

### **(7) Subsistence Allowance Rates – Effective Dates**

The current rates for Subsistence Allowance will remain effective until 31 March 2023.

### **(8) Discretionary Authority of the Chief Executive Officer – Overnight Subsistence Rates**

For conferences (and other duties necessitating an overnight stay) the Chief Executive Officer has authority to approve overnight absence at a cost above the standard maximum overnight limit shown in Appendix E. However, the Chief Executive Officer must be satisfied that such expenditure is fully justified. In addition, the arrangements must be made directly by the Council with a third party and not by the member concerned.

## **CONFERENCES**

*(Also generally applicable to other meetings involving an overnight stay)*

The general points covering attendance at conference are:

### **(1) Amounts**

Travelling and subsistence allowances are payable for attendance at conference at the same rates as other duties. Appendices D and E set out the various rates in detail. Dependants' carers' allowances are also available to Councillors for conferences. Details are set out in the section on such allowances. Conference attendance allowance is no longer payable and subsistence, carers and (relevant) travel claims must all now be backed by receipts.

### **(2) Duties**

Any conference approved by the Council, the Executive, (or in certain circumstances the Chief Executive Officer or the Executive Leader) or, as appropriate, a Scrutiny Panel or any Committee or Sub-Committee, subject to the necessary budgetary provision being available (see also (5) below).

### **(3) Purpose of a Conference**

A conference (or such similar meeting) can be approved for the payment of allowances provided it is **both** organised by any person or body who is not doing so by way of trade or by anybody whose objects are not wholly or partly political **and** where the purpose of the conference (or similar meeting) is to discuss matters which, in the Borough Council's opinion, relate to the interests of its area, or part of it, or to the inhabitants of its area, or some of them.

### **(4) Conferences Relating to Duties of Joint Committees or Joint Boards, etc**

Special arrangements would need to be made for attendance at a conference on behalf of a body which the Council operates jointly with other local authorities (eg, the Portchester Crematorium Joint Committee). If there are proposals for a member to attend any such conference enquiries should be made to Democratic Services in the Civic Offices at a reasonable time before any such duty is undertaken to ensure that the proper authority has been obtained and that the necessary arrangements can be made.

### **(5) Authority to Attend a Conference**

Prior authorisation for attendance at a conference must be obtained, as appropriate, from the Council, the Executive, the Executive Leader (in certain circumstances), a Scrutiny Panel, a Committee or a Sub-Committee or, if convened at short notice, by the Chief Executive Officer (reference: Delegation Scheme – Part G). *(This includes ensuring that the necessary budgetary authority has also been given, where required. For example, it is often the case that the Executive (or Council) will need to authorise the appropriate financial provision even though another body has authorised attendance).*

Notwithstanding the above, the Council's delegation scheme provides that the Chief Executive Officer, Directors and Chief Officers (after consultation with the appropriate Executive Member) have ongoing authority to select, annually, an appropriate conference for each service area for attendance by a member accompanied by an officer (reference: Delegation Scheme – Part G). In addition, the Executive Leader has authority to approve attendance of members at conferences (and external "seminars") up to a maximum total expenditure of £1,000 on fees for each conference (or "seminar").

#### **(6) Members Eligible to Attend Conferences**

Any member (i.e. councillor or co-opted member) is eligible to attend a conference on behalf of the Council provided that the appropriate authority referred to in (5) above has been first obtained.

#### **(7) Overnight Accommodation and Subsistence**

It is sometimes possible for the authority to obtain savings on the cost of a hotel booking, by making payment, in advance, via the Council. A member who is appointed to attend a conference should, in good time, discuss accommodation needs, in the first instance, with any officer who might be accompanying him or her to the event. At the same time, Democratic Services are able to advise on the most economical way of covering the cost of attendance. See also note 10 below regarding the authority of the Chief Executive Officer to authorise additional overnight subsistence costs in specific circumstances.

Members are also reminded that they cannot claim additional subsistence allowance from the Council if meals or refreshments are provided by some other source, for example, inclusively with accommodation or by conference or meeting organisers, etc.

Unless it is financially beneficial to stay overnight, or there are administrative reasons, a member should return home on a daily basis from a conference organised at a local venue.

#### **(8) Production of Receipts**

Members are required to support their claims for conference allowances by the production of receipts for accommodation, travelling and subsistence expenses, as appropriate. ***Claims without relevant VAT receipts cannot be processed.***

## **(9) Claim Form**

A special claim form is available for conference allowances. Please ask Democratic Services, in the Civic Offices, when required.

## **(10) Discretionary Authority of the Chief Executive Officer – Method of Transport and Overnight Subsistence Rates (Delegation Scheme – Part G)**

For full details see travelling and subsistence allowance sections but, briefly, the Chief Executive Officer has authority to:

- (i) sanction the use of any reasonable form of transport, having regard to overall cost benefit to the Council and justifiable savings in time;
- (ii) agree to the cost of overnight subsistence exceeding the maximum limit, provided that he considers it justifiable and that the arrangements are made directly by the Council and not the member;
- (iii) agree the use of alternative means of transport if public transport or a private vehicle cannot be conveniently used due to, say, possible health, disability or other valid reason; and
- (iv) decide if it is appropriate for the Council to reimburse a member for a journey starting or ending outside of the Borough, in such a situation as, for instance, a temporary employment.

## **DEPENDANTS' CARERS' ALLOWANCES**

The Carer's Allowance is paid to assist councillors with expenditure necessarily incurred in arranging for the care of their dependants or children.

The general points covering the payment of Carer's Allowance are as follows:

### **(1) Amounts**

- Care of Dependants – up to £7.83 per hour.
- Care of Child – up to £7.83 per hour.

Maximum - £1,769 per claimant, per annum, unless the Chief Executive Officer authorises this limit to be exceeded if, in his opinion, this is justified.

### **(2) Duties**

Generally, Carer's Allowance is currently available to councillors for the following duties:

- (a) Meetings of the Council, Executive (including decision making by individual

Executive Members), a Scrutiny Panel, Committees and Sub-Committees - see list in Appendix A.

(This includes other formal internal meetings authorised by those bodies referred to above, (or by a formally constituted joint committee of the Council and other authorities eg, the Joint Crematorium Committee) provided that representatives of both political groups are invited – see Appendix C).

- (b) Subject, where applicable to (a) above, attendance at a formally approved and constituted internal seminar, advisory panel, working (group) party, steering (group) party, special panel, special interest group, workshop, training session, site visit or consultation meeting.
- (c) Attendance at an approved conference (see page 14).  
*(NB. The above duties are subject to amendment from time to time and, when necessary, are subject to budgetary approval, e.g. from the Council or the Executive).*

### **(3) Conditions of Payment and Time Limits**

Payable to all councillors at the same rates.

In connection with carers' allowances, payment periods include travelling time from leaving home until returning home for all approved duties; allowances may be rounded-up overall to the next complete hour and may be in respect of children up to and including 14 years of age and elderly or disabled dependants requiring care and not able to be left on their own, provided that they normally reside with the claimant and that the paid carer is not a member of the claimant's immediate family or household. The payment is to be subject to a written declaration, lodged with the Director of Finance and Resources, outlining the circumstances which entitle the claimant to make a claim and the fee paid, which shall be the exact sum charged up to the maximum allowed by the scheme. The Director has the final authority to make a decision on the approval of any claims.

### **(4) Claims**

Claims for Carer's Allowance must be made on the form provided within **3 months** of the date of the relevant meeting or approved duty. There is no discretion for late claims to be paid.

### **(5) Production of Receipts**

Councillors are required to support claims for Carer's Allowance by the production of receipts from the carer. ***Claims without relevant VAT receipts cannot be processed.***

### **(6) Availability of Allowances from more than One Source**

Councillors must not claim a Carer's Allowance for the same meeting or other approved duty, from more than one source. For example, a member attending a

meeting of another organisation which pays allowances, may claim an allowance from **either** the organisation **or** the Council but not from both.

**(7) Conditions of Approval**

It is particularly important to note that it remains a condition of the payment of Carer's Allowance that the duty for which it is paid must have been approved by the Council, the Executive, or as appropriate, a Scrutiny Panel, a Committee or Sub-Committee (or, in certain circumstances by the Executive Leader, the Chief Executive Officer or other designated officer) **before** the duty is performed. It is not possible for the payment of a Carer's Allowance to be authorised after the event.

**(8) Carers' Allowances – Effective Dates**

The current rates for carers' allowances will remain effective until 31 March 2023.

**(9) Claim Form**

A special form is available to support any claim for carer's allowance. This form acts as a receipt and must be signed by the carer. Please ask Democratic Services, in the Civic Offices, when required.



## **APPENDIX A**

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### **EXECUTIVE ARRANGEMENTS – COUNCIL STRUCTURE**

The following formal bodies are operating under the Council's executive arrangements:

Council meeting  
Executive (Including decision making by individual Executive members)  
Planning Committee  
Licensing and Regulatory Affairs Committee (and Licensing Panels)  
Audit & Governance Committee  
Leisure and Community Scrutiny Panel  
Planning and Development Scrutiny Panel  
Health and Public Protection Scrutiny Panel  
Housing Scrutiny Panel  
Streetscene Scrutiny Panel  
Climate Change Scrutiny Panel  
Daedalus Scrutiny Panel  
Community Action Teams  
Licensing Trading Concession Panel  
PfSH Joint Committee  
PfSH Overview and Scrutiny Committee

Note: Appropriate travelling allowances (and where relevant, subsistence allowances and carers' allowances) are sometimes payable for authorised attendance at a meeting that a member is invited to attend (e.g. as an Executive Member required to attend a Scrutiny Panel to explain any matter) or has the right to attend (e.g. the mover of a motion).

If there is any doubt, please consult Democratic Services in the Civic Offices for advice.

## **APPENDIX B**

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### **TRAVELLING AND SUBSISTENCE ALLOWANCES**

Bodies to which the Council makes nominations and for which travelling, and subsistence allowances are currently payable (in addition to those duties set out in Appendices A and C)

#### **NOTES:**

- (a) See also the general information in the sections commencing on pages 8 and 12.
- (b) Travelling and Subsistence Allowances are payable only to those members acting as representatives, trustees and deputies nominated by the Council, the Executive, and where appropriate, a Committee or a Sub-Committee or in the case of the Local Government Association, those members nominated to serve or act as deputies on LGA bodies through the agreed process in operation from time to time.
- (c) Any member appointed by the Hampshire and Isle of Wight Local Government Association to represent that Association on another body is entitled to travelling and subsistence allowances under this Council's scheme provided that the body concerned undertakes activities connected with the functions of this authority. Such an appointee does not need to be nominated directly by the Borough Council.
- (d) This list is subject to revision at any time (list correct as at 01 April 2022 and subject to amendment):

Abshot Community Association Management Committee  
BurrIDGE Community Association Management Committee  
Citizens' Advice Fareham  
Community Safety Partnership  
Consultation with Businesses  
Crofton Community Association  
Earl of Southampton Trust  
Fareham / Pulheim Twinning Association  
Fareham / Vannes Twinning Committee  
Fareham and Gosport Clinical Commissioning Group – Community Engagement Committee  
Fareham North West Community Association Management Committee  
Fareham Welfare Trust  
Genesis Advisory Committee  
Hammond Memorial Hall Trust

Hampshire and Isle of Wight Community Safety Alliance  
Hampshire and Isle of Wight Local Government Association  
Hampshire County Council South Area Road Safety Council  
Hampshire 2050 Partnership (previously the Hampshire Partnership)  
Historic Environment Champion (English Heritage)  
Joint Gypsy and Traveller Panel for Hampshire  
Local Government Association - General Assembly and Annual Meeting  
Local Government Association - Group Leaders' Briefings  
Local Government Association Coastal Issues Special Interest Group  
Lockswold Community & Sports Association  
North Whiteley Development Forum  
One Community, Eastleigh  
Parking and Traffic Regulations Outside London  
Partnership Action Group (sub-group of the Community Safety Partnership)  
Partnership for South Hampshire - Overview and Scrutiny Committee  
Police and Crime Panel  
Portchester Community Centre Ltd  
Portchester Parish Hall Board of Trustees  
Portsmouth City Council Health Overview & Scrutiny Panel  
Priory Park Community Association Management Committee  
Project Integra - Strategic Board  
Public Transport Representative  
Randal Cremer Trust  
Ranvilles Community Association Management Committee  
River Hamble Harbour Management Committee  
Solent Forum (incorporating the Solent Water Quality Group / Conference)  
Solent Growth Forum  
Solent Local Enterprise Partnership – Joint Leaders Board  
Solent Sea Rescue Organisation  
South East Employer's Local Democracy and Accountability Network for Councillors  
South East Employers  
Standing Conference on Problems Associated with Coastline  
Stubbington Study Centre Management Committee  
The Louisa Seymour Charity Management Committee  
The Solent Transport Joint Committee  
Titchfield Community Association  
Victory Hall Management Committee  
Wallington Village Community Association Executive Committee  
Whiteley Community Association - General and Executive Committees

William Price Charitable Trust

***(NB. There are some bodies to which the Council makes nominations and which are not shown on this list as the nominees are currently not members of the Council. Such bodies are mainly Charitable Trusts).***

## APPENDIX C

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### TRAVELLING AND SUBSISTENCE ALLOWANCES

Specific duties for which travelling and subsistence allowances are currently payable (in addition to those duties set out in Appendices A and B)

#### NOTES:

- (a) See also general information in the sections commencing on pages 8 and 12.
- (b) Travelling and Subsistence Allowances are payable for the duties listed in this section only if members of at least **TWO** political groups have been invited and are appointed/authorised to attend. (**NB** – This provision does not apply to 6, 7, 8 and 9 below – Executive Appointments to formally constituted Joint Committees, Conferences and External Seminars, the Independent Members' Forum and Community Action Team meetings).
- (c) This list is subject to revision from time to time, especially in relation to duties authorised on an 'ad hoc' basis (eg. training sessions, workshops, site visits etc).
- (d) The Chief Executive Officer has authority to approve meetings with representatives of other local authorities for the payment of travelling and subsistence allowances provided that members of at least two political groups are appointed/authorised to attend and also to a report being subsequently made to Council for information purposes. (Delegation Scheme – Part G).
- (e) The Executive Leader has authority to approve attendance of members at conferences or external seminars up to a total maximum limit of £1000 per conference or seminar.

#### 1. Internal Seminars

Fareham Borough Council Internal Seminars approved by the Chief Executive Officer. (Delegation Scheme – Part G) (**NB**. Up to 12 seminars each year can be approved by the Chief Executive Officer for the payment of travelling and/or subsistence allowances. Payment for more than 12 seminars in any year is subject to authorisation by the Council).

#### 2. Member Advisory Panels, Working (Groups) Parties, Steering Groups, Special Panels and Special Interest Groups

#### 3. Member Workshops and Training Sessions

In addition to specific training sessions approved by formal meetings, the Chief Executive Officer has authority to approve up to 12 training sessions each year for payment of travelling and/or subsistence allowances; provided that such training sessions relate to a general area of business where training is advisable and such business does not fall specifically within the remit of one of the Council's bodies.

- 4. Formal Site Visits**
- 5. Statutory Consultation Meetings**
- 6. Executive Appointments to Formally Constituted Joint Committees**
- 7. Conferences and External Seminars**
- 8. Independent Members' Forum**
- 9. Community Action Teams**

Relevant Ward Councillors

- 10. Deputy Mayor**

Formal duties undertaken by the Deputy Mayor

## APPENDIX D

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### TRAVELLING ALLOWANCE MOTOR MILEAGE RATES AND BICYCLE ALLOWANCE PAYABLE

(1) The rate per mile for travel by a councillor or co-opted member's own private motor vehicle or one belonging to a member of his/her family or otherwise provided for his/her use, is as follows:

(a) **Car Allowance** 45p

(b) **Motor Cycle Allowance** 24p

(2) **Passenger Supplements**

The rates referred to in (1)(a) and (b) above may be increased for the carriage of passengers to whom a travelling allowance would otherwise have been payable, by 5p a mile regardless of the number of passengers.

(3) **Bicycle Allowance** 20p per mile

## APPENDIX E

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### SUBSISTENCE ALLOWANCE

#### 1. Maximum Day Subsistence Rates

- (a) Breakfast  
(Payable if you leave home before 7.30am, or you have stayed away from home for business purposes overnight and breakfast is not included)  
£8.42
- (b) Lunch  
(Payable if lunch is not included at the venue attended)  
£11.62
- (c) Tea (after 6.30pm)  
(A snack and/or drink can only be claimed if NOT claiming an evening meal (except on Saturdays and Sundays) and you will be arriving home after 6.30pm)  
£4.60
- (d) Evening meal (after 8.30pm)  
(Payable if work continues after 8.30pm or staying away from home overnight for business purposes)  
£14.39

#### 2. Maximum Overnight Subsistence Rates (inclusive of meals/accommodation)

In the case of an absence overnight from the usual place of residence (deemed to cover a continuous period of absence of 24 hours) and commencing from the time of leaving home – Appropriate day rates to apply after a complete 24 hour period has elapsed until the return home. Please contact the Democratic Services Team for confirmation of the amount of allowance available.

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#### NOTES

- (i) Where a suitable **meal is provided free of charge**, or is already included in a subsistence claim under (2) above, no separate allowance will be payable.
- (ii) Members should be aware that subsistence allowance for a meeting which involves an overnight stay **includes** both the cost of hotel accommodation and meals.
- (iii) For conferences (and other duties necessitating an overnight stay) the Chief Executive Officer has authority to approve overnight absence at a cost above the standard limit shown in (2) above, if in his opinion, such expenditure is justified; in such a case, the arrangements **MUST** be made directly by the Council with a third party and not by the member concerned.
- (iv) All subsistence claims must be supported by VAT receipts.



## APPENDIX F

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### REFERENCES

The main references covering members' allowances are to be found in:

1. **Acts**
  - (a) Local Government Act 1972
  - (b) Local Government and Housing Act 1989
  - (c) Local Government Act 2000.
  
2. **Statutory Instruments**
  - (a) The Local Authorities (Members' Allowances) (England) Regulations 2003 (S.I.No1021 – 2003).  
(As amended by S.I.No1692 – 2003).
  - (b) The Local Government Pension (Local Authority Members in England) Regulations 2003 (S.I. No.1022 – 2003)
  
3. **Circulars and Letters**
  - (a) Covering letters dated 7 and 11 April from the ODPM, accompanying the Statutory Instruments referred to in (2) (a) and (b) above, respectively.
  
4. **Other Regulations**
  - (a) New Council Constitutions – Guidance on Consolidated Regulations for Local Authority Allowances – ODPM and Inland Revenue (July 2003).
  
5. **Fareham Borough Council**
  - (1) Former Policy and Resources Committee – 12 July 2001 – Minute 4
  - (2) Council – 26 July 2001 – Minute 9 (6)
  - (3) Former Political Restructuring Sub-Committee – 18 December 2001 – Minute 6
  - (4) Former Policy and Resources Committee - 24 January 2002 - Minutes 3 and 5(b)
  - (5) Council – 7 February 2002 – Minute 9 (6)(a)
  - (6) Policy, Strategy and Finance Overview Panel – 16 January 2003 – Minute 6
  - (7) Executive – 20 January 2003 – Minute 16
  - (8) Council – 30 January 2003 – Minute 15.
  - (9) Policy, Strategy and Finance Overview Panel – 15 September 2003 – Minute 5.
  - (10) Executive – 22 September 2003 – Minute 7 (17).
  - (11) Council – 25 September 2003 – Minute 17.
  - (12) Scrutiny Board – 15 January 2004 – Minute 4
  - (13) Executive – 19 January 2004 – Minute 5 (17)
  - (14) Council – 29 January 2004 – Minute 15
  - (15) Scrutiny Board – 2 December 2004 – Minute 9
  - (16) Executive – 6 December 2004 – Minute 6 (17)

- (17) Council – 16 December 2004 – Minute 15
- (18) Scrutiny Board – 29 September 2005 – Minute 11
- (19) Executive – 10 October 2005 – Minute 5 (15)
- (20) Council – 13 October 2005 – Minute 15
- (21) Scrutiny Board – 2 February 2006 – Minute 7
- (22) Executive – 6 February 2006 – Minute 6 (21)
- (23) Council – 16 February 2006 – Minute 15
- (24) Scrutiny Board – 30 March 2006 – Minute 9
- (25) Executive – 3 April 2006 – Minute 4 (16)
- (26) Council – 6 April 2006 – Minute 15
- (27) Scrutiny Board – 30 November 2006 – Minute 8
- (28) Executive – 4 December 2006 – Minute 7 (15)
- (29) Council – 14 December 2006 – Minute 16
- (30) Scrutiny Board – 1 February 2007 – Minute 15
- (31) Executive – 5 February 2007 – Minute 7 (21)
- (32) Council – 15 February 2007 – Minute 13
- (33) Scrutiny Board – 29 November 2007 – Minute 10
- (34) Executive – 3 December 2007 – Minute 5 (17)
- (35) Council – 13 December 2007 – Minute 15
- (36) Council - 20 February 2009 - Minute 15
- (37) Council - 25 February 2011 - Minute 15
- (38) Council – February 2013 - Minute 16
- (39) Scrutiny Board – 11 January 2018
- (40) Executive – 05 February 2018
- (41) Council – 23 February 2018
- (42) Council – 11 October 2018
- (43) Council – 16 June 2022

# Annex

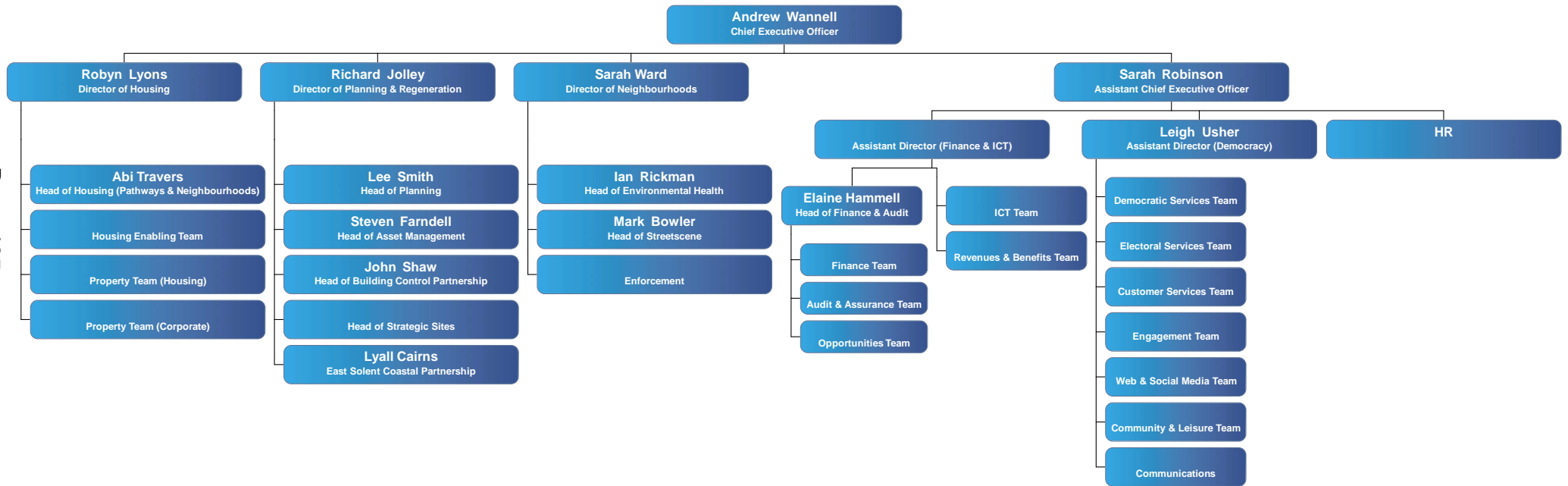
## The Constitution – Part Seven – Senior Management Structure

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1. Senior Management Structure



# Fareham Borough Council





## The Constitution – Part Eight - Councillors

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