



# **TEWKESBURY BOROUGH COUNCIL**

# **CONSTITUTION**



## Updates to this document

| <b>Date updated</b> | <b>Description of change</b>  |
|---------------------|---|
| 28 May 2019         | Council agreed a change in number of Members on the Committee from nine to eleven – changes made to Executive Committee TOR and responsibility for functions table.   |
| 1 April 2020        | Annual update to the Member Allowances Scheme – Part Six.   |
| 23 October 2020     | Amendment of Article 11 to include all partners within One Legal under Legal Services.  |
| 9 July 2021         | Amendments to scheme of delegation as per the delegations log.  |
| 2 September 2021    | Amendments to scheme of delegation as per the delegations log.  |
| 4 March 2022        | Amendments to remove Deputy Chief Executive and change Borough Solicitor to Corporate Director or Director of One Legal.  |
| 11 January 2023     | Amendments to scheme of delegation as per the delegations log.  |
| 1 February 2023     | New Code of Conduct – adopted on 24.01.23 implemented 01.02.23.   |
| 7 March 2023        | New Officer Code of Conduct 2023  |
| 31 March 2023       | Amendments to Scheme of delegation in regards to Council report 09.03.23, Proper Officer provisions regarding elections and to Scheme of delegation in respect of Licensing functions and amendment to Licensing Terms of Reference to delete reference to old legislation. |
| 23 June 2023        | Amendments to titles of officers throughout following management structure review.  |
| 16 August 2023      | Revised Public Speaking at Planning Committee Guide to reflect new time of meetings.  |

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**PART 1**

**SUMMARY**

**AND**

**EXPLANATION**

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## **PART ONE**

# **SUMMARY AND EXPLANATION**

### **Introduction**

The area administered by Tewkesbury Borough Council is predominantly rural by nature. It covers 160 square miles of North Gloucestershire, straddling the M5 and contains a number of key industrial sites. It has a population of approximately 94,900 and 44,500 households. There are 51 Parishes within the Borough, of which 43 are Parish Councils and eight are Parish meetings.

Tewkesbury Borough Council has 38 Councillors and approximately 220 employees.

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

Tewkesbury Borough Council has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure:

- Accountability.
- Transparency.
- Effective decision-making.
- Community leadership.
- Continuous improvement to services.

The Constitution is divided into 15 articles which set out the basic rules governing the Council's business.

More detailed procedures and Codes of Practice are provided in separate Rules and Protocols at the end of the document.

### **What is in the Constitution?**

Article 1 of the Constitution commits the Council to providing clear leadership to the community, actively involving the public in decision-making and helping Councillors represent their Constituents effectively. Articles 2 to 15 explain the rights of the public and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- The Public and the Council (Article 3)
- The Council (Article 4)
- Chairing the Council - The Mayor (Article 5)
- The Overview and Scrutiny Committee (Article 6)
- Executive and other Committees (Article 7)
- Standards Committee (Article 8)
- Area Partnerships (Article 9)
- Joint Arrangements (Article 10)
- Officers (Article 11)
- Decision-Making (Article 12)
- Finance, Contracts and Legal Matters (Article 13)
- Review and Revision of the Constitution (Article 14)
- Suspension, Interpretation and Publication of the Constitution (Article 15)

## **How the Council Operates**

The Council is composed of 38 Councillors elected every four years. The overriding duty and accountability of Councillors is to the whole community in the Borough, but they have a special duty to the constituents in their Ward, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct (set out in Part 5 of this Constitution) to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct.

All Councillors meet together as the Council. The Council decides overall policies, sets the budget each year and agrees the Council's main plans, like the Council Plan and the Medium Term Financial Strategy. The Council appoints and determines the remit of Committees of the Council and approves the discharge of functions by Officers (delegation). It also deals with all functions which it is statutorily required to exercise.

Meetings of the Council are chaired by the Worshipful the Mayor who presides at meetings and acts as the interpreter of the Rules of Procedure. The Mayor has the power to control and to regulate the course of debate and, in so doing, must act impartially. The Mayor has a vote and may have a second or casting vote where this is necessary.

## **How decisions are made**

The overall policy framework and budget of the Council are agreed by the Council. Within that framework and budget, decision-making is delegated to the Executive Committee or to Officers of the Council in accordance with the Scheme of Delegation. In addition to making decisions within the policy framework and budget, the Executive Committee also makes recommendations to the Council on the policy framework and budget.

The Audit and Governance Committee provides assurance on the adequacy of the Council's governance, risk management and internal control environment.

Regulatory functions are dealt with by two Committees, the Planning Committee and the Licensing Committee, which exercise a number of functions, including making decisions on Planning applications, licensing and most other regulatory business.

The Standards Committee comprises seven Borough Councillors, two non-voting independent persons and a non-voting Parish representative.

There are also other ad-hoc Committees as set out in Part 3 of this Constitution.

Meetings of the Council and Committees are open to the public, although the public may be excluded when exempt or confidential information is to be discussed (as defined in the Access to Information Procedure Rules set out in Part 4 of this Constitution).

All Committees may consider the appropriateness of establishing "Task and Finish" Working Groups.



Sub-Committees may be called to exercise the licensing powers and duties of the Council. There are three types of Licensing Sub-Committee: one to determine applications under the Licensing Act 2003 and Gambling Act 2005; one to determine applications for licences and consents, and hold hearings for the suspension or revocation of licences and consents, in respect of Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators; and another to determine applications, variations and revocation of licences under the Scrap Metal Dealers Act 2013.

The Standards Committee can hold a Hearings Sub-Committee to hear cases of alleged breaches of the Code of Conduct of the Borough Council, and its Town/Parish Councils, following a report of the Investigating Officer.

Meetings take place on a quarterly basis to facilitate a line of communication and consultation between Members, Chief Officers Group and the recognised Trade Unions representing staff at the Council Offices. The agenda covers matters relating to workforce plans, staff health and wellbeing, changes to staff policies and examination successes. Matters of policy and conditions, where appropriate, are taken to the Executive Committee for approval after consultation/discussion through the quarterly meetings.

### **Overview and Scrutiny**

There is one Overview and Scrutiny Committee which supports the work of the Executive Committee and the Council as a whole. It reports, and is accountable, to the Council and allows the public to have a greater say in Council matters by holding public inquiries into matters of local interest. These can lead to reports and recommendations which advise the Executive Committee, and the Council as a whole, on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Executive Committee. It can “call in” a decision, which has been made by the Executive Committee but not yet implemented. This enables the Overview and Scrutiny Committee to consider whether the decision is appropriate. It may recommend that the Executive Committee or the Council reconsider the decision. It may also be consulted by the Executive Committee on forthcoming decisions and the development of policy.

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

The Council employs staff, known as Officers, to give advice, implement decisions and manage the day-to-day delivery of its services. There is a Scheme of Delegation whereby Officers are permitted to make decisions in accordance with previously determined policies. Some Officers have a specific duty to ensure that the Council acts within the Law and uses its resources wisely. A protocol, set out in Part 5 of this Constitution, governs the relationship between Members of the Council and Officers.

### **The Rights of the Public**

The public have a number of rights in connection with their dealings with the Council. These are set out in more detail in Article 3 of this Constitution. Some of these are legal rights, whilst others depend on the Council's own procedures.

In addition to any specific rights as users of any of the Council's services, the public has the right to:

- vote at local elections, if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- have access, in accordance with the Law, to information held by the Council;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- inspect Agenda and reports except where, for example, a report has been written about a confidential matter;
- petition to request a referendum on a mayoral form of executive;
- participate in Council and other Committee Meetings in accordance with the Council's Scheme of Public Participation and the Scheme for Public Participation at Planning Committee meetings set out in Part 4 of this Constitution;
- complain to the Council under its internal complaints procedure;
- generate a petition under the Council's Petitions Scheme;
- complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- inspect the Register of Members' Interests;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by the public in its work. For further information on your rights as a member of the public please contact Democratic Services Email: [democraticservices@tewkesbury.gov.uk](mailto:democraticservices@tewkesbury.gov.uk)

**PART 2**

**ARTICLES**

**OF THE**

**CONSTITUTION**

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## **ARTICLE 1 – THE CONSTITUTION**

### **1.1 Powers of the Council**

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

### **1.2 The Constitution**

This Constitution and all its documents, is the Constitution of the Tewkesbury Borough Council ("the Council").

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

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

### **1.4 Interpretation and Review of the Constitution**

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

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## **ARTICLE 2 – MEMBERS OF THE COUNCIL**

### **2.1 Composition and Eligibility**

(a) **Composition**

The Council has 38 elected Members, known as Borough Councillors. Borough Councillors are elected by voters of each electoral Ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.

(b) **Eligibility**

Only registered voters of the Borough, or those living or working within it, will be eligible to hold the Office of Councillor.

### **2.2 Elections and Term of Office**

The election of Borough Councillors takes place every four years on the first Thursday in May. The Term of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. Vacancies arising during the four-year Term of Office are filled by the holding of a by-election.

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

Role descriptions for Councillors are appended to Article 2

(a) **Key Roles**

All Councillors will:

- (i) collectively be the ultimate policymakers and carry out the principal strategic and corporate management functions, taking a Borough wide view;
- (ii) engage with, and represent, their communities whose views they will bring into the Council's decision-making process, i.e. become the advocate of, and for, their communities;
- (iii) provide community leadership;
- (iv) balance different interests identified within their Wards and represent their Wards as a whole;
- (v) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (vi) be involved in decision-making;
- (vii) be available to represent the Council on other bodies;

- (viii) contribute to the good governance of the Borough and actively encourage community participation and public involvement in decision making; and
- (ix) maintain the highest standards of conduct and ethics.

**(b) Leadership roles**

- (i) The position of Leader of the Council shall be subject to annual election and the Leader shall take up the Chairmanship of the Executive Committee.
- (ii) The Chair of the Executive Committee shall act as the principal spokesperson for the Council on major policy issues.
- (iii) Those Members appointed as Lead Members in specific areas/functions of the Council shall act as the Council's spokespersons on these specified areas. Each Lead Member will have a Support Member.
- (iv) Those Members appointed as representatives on Outside Bodies shall follow the following procedure:
  1. Following any Outside Body meeting the Outside Body representative will provide an update to the appropriate Lead Member. Where there is more than one representative on the Outside Body the representatives will agree as to who should provide the feedback.
  2. Lead Members will provide regular written updates, for inclusion on the Member Update Sheet, on matters pertaining to their portfolio including Outside Body issues.
  3. Overview and Scrutiny representatives will report back to the Overview and Scrutiny Committee in accordance with Scrutiny Procedure Rule 9.

Members will be able to obtain assistance from Democratic Services in preparing information for inclusion on the Member Update Sheet and advice on which Outside Bodies relate to which Portfolio etc.

**(c) Rights and Duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the Law.
- (ii) Councillors will not make public any information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it. All Councillors must comply with data protection legislation including the requirements of the General Data Protection Regulation (GDPR).



- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (iv) No Councillor can issue an order or make a contract or any other arrangement binding upon the Council for works to be carried out or for any goods or services to be purchased by or on behalf of the Council.
- (v) A Councillor does not have any right to inspect or enter any land unless specifically authorised to do so by the Council.

## **2.4 Conduct**

Councillors will, at all times, observe the Code of Conduct and the Protocol for Member/Officer Relations set out in Part 5 of this Constitution.

The Council is required to maintain and update a Register of Interests of its Councillors and co-opted Members. The Register is available for public inspection.

## **2.5 Allowances**

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

## **APPENDIX TO ARTICLE 2**

### **Role Descriptions for Members**

1. Borough Councillor.
2. Leader of the Council and Deputy Leader of the Council.
3. Chair of the Council (The Mayor) and Vice-Chair of the Council (the Deputy Mayor).
4. Chair of Executive Committee (Leader of the Council) and Vice-Chair of Executive Committee (Deputy Leader of the Council).
5. Chair of Overview and Scrutiny Committee and Vice-Chair of Overview and Scrutiny Committee.
6. Chairs of Audit and Governance, Regulatory Committees, Standards Committee and other Council Committees/Sub-Committees and Vice-Chairs of Audit and Governance, Regulatory Committees, Standards Committee and other Council Committees/Sub-Committees.
7. Lead and Support Members.

## **BOROUGH COUNCILLORS ROLE DESCRIPTION**

Key Roles – All Councillors will:

- collectively be the ultimate policymakers and carry out the principal strategic and corporate management functions, taking a Borough wide view;
- engage with and represent their communities whose views they will bring into the Council's decision-making process;
- provide community leadership;
- balance different interests identified within their Wards and represent their Wards as a whole;
- deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- be involved in decision-making;
- be available to represent the Council on other bodies;
- contribute to the good governance of the borough and actively encourage community participation and public involvement in decision-making; and
- maintain the highest standards of conduct and ethics, and show respect for fellow Councillors and Officers and the community;

**Specifically** – All Councillors will:

- participate constructively in the good governance of the Borough, ensuring the effective running of the Council and remembering the overriding responsibility of a Councillor is to the whole local community;
- participate in the formulation of policy and in the decision-making process of the Council and to monitor and scrutinise decisions and service provision;
- develop and maintain a close working partnership with Officers of the Council to promote the Council's objectives;
- represent all members of the public within their Ward, providing information or a contact where appropriate, to deal with correspondence and telephone calls from constituents and meet with them, if necessary, to discuss any problems or concerns;
- help Parish Councils and Parish Meetings within their Ward to keep informed about Borough Council activities and, when invited, to discuss Ward matters with them as appropriate;
- attend meetings of the Council and relevant Committees/Sub-Committees and participate in other groups to which the Councillor is nominated;
- represent the Council on the Outside Bodies as agreed;

- keep up to date with the general aims and objectives of the Council, its policies and procedures and to read any relevant documentation and reports prior to participating in any meeting of the Council or Committees/Sub-Committees;
- play an active part in the development, review and implementation of the Council Plan and engage and consult local people through the place programme;
- participate in training for elected Members according to personal need;
- discuss Ward matters with local media as appropriate; and
- comply with the Tewkesbury Borough Council Code of Conduct for Councillors, the Council's Rules of Procedure, data protection legislation including the requirements of GDPR and to ensure that no conflict of interest occurs which might undermine the integrity of the Council.

## **LEADER OF THE COUNCIL ROLE DESCRIPTION**

1. To provide leadership to the Borough Council.
2. To chair the meetings of the Executive Committee and ensure its overall effectiveness.
3. To lead in the development of the Borough Council's policy, strategy and budget proposals.
4. To lead in developing the Borough Council's partnerships with other organisations.
5. To provide the lead on proposals for new policies and strategies or changes to approved policies and strategies to meet changing demands.
6. To act as the principal political spokesperson for the Borough Council at local, regional and national level.
7. The Leader shall:
  - (a) provide an overall cohesive and corporate direction for the Council;
  - (b) ensure the effectiveness of the Executive Committee as a collective decision-making body;
  - (c) ensure the Borough Council's corporate policies are communicated effectively; and
  - (d) represent the Council on countywide, regional and national bodies and events relating to, or organised by, those bodies.

## **DEPUTY LEADER OF THE COUNCIL ROLE DESCRIPTION**

To assist the Leader in his/her role as detailed above and to deputise for the Leader of the Council in all those functions.

To undertake the role of Vice-Chair on the Executive Committee.

### **CHAIR OF THE COUNCIL (THE MAYOR) ROLE DESCRIPTION**

1. To chair the Council in a proper, fair and impartial manner and to be politically neutral in undertaking that role.
2. To preserve order in the conduct of those present.
3. To confine discussion within the scope of the meeting and reasonable limits of time.
4. To decide whether proposed Motions and amendments are in order.
5. To decide points of order and other incidental questions which require decision at the time.
6. To adjourn or suspend the meeting when circumstances justify or require that course.
7. To ensure that Council meetings are a forum for the debate of matters of concern to the local community.
8. To promote public involvement in the Council's activities.
9. To declare meeting closed when its business has been completed.
10. As Mayor to be politically neutral and to act as an ambassador for the Council attending ceremonial occasions and events as well as giving hospitality on all such occasions as would properly fall to the Mayor of the Borough.

### **VICE-CHAIR OF THE COUNCIL (THE DEPUTY MAYOR) ROLE DESCRIPTION**

To assist the Mayor in his/her functions as detailed above and to deputise for the Mayor in all those functions.

## **CHAIR OF EXECUTIVE COMMITTEE (LEADER OF THE COUNCIL) ROLE DESCRIPTION**

1. To chair the meetings of the Executive Committee and ensure its overall effectiveness.
2. To ensure, through the Committee, the development of the Borough Council's policy, strategy and budget proposals to be submitted to Council.
3. To ensure, through the Committee, the development of the Borough Council's partnerships with other organisations throughout the County.
4. To consider the needs of all sections of the community.
5. To act as the principal spokesperson for the Borough Council on major policy issues, at local, regional and national level.
6. To inform himself/herself as to the business and objectives of the meeting.
7. To preserve order in the conduct of those present.
8. To confine discussion within the scope of the meeting.
9. To decide whether proposed motions and amendments are in order.
10. To facilitate discussion on questions which have been moved for the consideration of the meeting.
11. To decide points of order and other incidental questions which require decision at the time.
12. To adjourn or suspend the meeting when circumstances justify or require that course.
13. To declare meeting closed when its business has been completed.

## **VICE-CHAIR OF EXECUTIVE COMMITTEE (DEPUTY LEADER OF THE COUNCIL) ROLE DESCRIPTION**

To assist the Chair in his/her functions as detailed above and to deputise for the Chair in all those functions.

## **CHAIR OF OVERVIEW AND SCRUTINY COMMITTEE ROLE DESCRIPTION**

1. To chair the Council's Overview and Scrutiny Committee and ensure its overall effectiveness.
2. To ensure he/she is sufficiently and effectively briefed on the service and relevant corporate areas and issues pertaining to those areas.
3. To ensure effective consideration and scrutiny by the Committee of recommendations and decisions of the Executive Committee; the effectiveness of the call-in procedures and policies; the development of policies; and, as appropriate, the work of external agencies impacting on the community.
4. To inform himself/herself as to the business and objectives of the meeting.
5. To preserve order in the conduct of those present.
6. To confine discussion within the scope of the meeting.
7. To decide whether proposed Motions and amendments are in order.
8. To decide points of order and other incidental questions which require decision at the time.
9. To adjourn or suspend the meeting when circumstances justify or require that course.
10. To declare meeting closed when its business has been completed.
11. To ensure that an annual programme of work is established for the Committee and to make an annual presentation to Council on the work undertaken.
12. To meet regularly with the relevant Officers to ensure the receipt of appropriate independent advice to inform effective overview and scrutiny and the functioning of the Overview and Scrutiny Committee.
13. To ensure regular contact with Councillors, community representatives and local stakeholders to inform effective overview and scrutiny of policies, strategies, budget and performance.
14. To contribute effectively to the Borough Council's scrutiny process by ensuring the questioning of relevant Senior Officers and, where appropriate, Chairs of the Executive, Regulatory and Audit and Governance Committees and Lead Members on the development of policy and strategies and the performance against such strategies and policies.

## **VICE-CHAIR OF OVERVIEW AND SCRUTINY COMMITTEE ROLE DESCRIPTION**

To assist the Chair in his/her functions as detailed above and to deputise for the Chair in all those functions.



**CHAIRS OF AUDIT AND GOVERNANCE COMMITTEE, REGULATORY COMMITTEES, STANDARDS COMMITTEE AND OTHER COUNCIL COMMITTEES/SUB-COMMITTEES**

1. To chair the Audit and Governance Committee, Regulatory Committee (i.e. Planning Committee or Licensing Committee) Standards Committee or any other Committee/Sub-Committee subsequently established by the Council and ensure their overall effectiveness.
2. To ensure he/she is sufficiently and effectively briefed on the relevant corporate areas/issues relating to the work of the Committee.
3. To act as a principal spokesperson on behalf of the Council on the functions undertaken by the Committee and relevant issues.
4. To inform himself/herself as to the business and objectives of the meeting.
5. To preserve order in the conduct of those present.
6. To confine discussion within the scope of the meeting.
7. To decide whether proposed Motions and amendments are in order.
8. To decide points of order and other incidental questions which require decision at the time.
9. To adjourn or suspend the meeting when circumstances justify or require that course.
10. To declare meeting closed when its business has been completed.

**VICE-CHAIRS OF AUDIT AND GOVERNANCE COMMITTEE, REGULATORY COMMITTEES, STANDARDS COMMITTEE AND OTHER COUNCIL COMMITTEES/SUB-COMMITTEES**

To assist the Chairs in his/her functions as detailed above and to deputise for the Chairs in all those functions.

## **LEAD MEMBER ROLE DESCRIPTION**

1. To act as Lead Member for their portfolio at Council and answer questions raised during debate.
2. To act as Lead Member for their portfolio at meetings of the Executive Committee.
3. To attend meetings, when requested, of the Overview and Scrutiny Committee and any of its Working Groups or Sub-Committees to give advice or answer any questions relevant to their portfolio.
4. To act as the Council spokesperson, attend public meetings and respond to questions from the press and public in relation to their portfolio.
5. To act as ambassador for their portfolio and attend meetings with other partners or organisations.
6. To attend Outside Body meetings in accordance with the Protocol set out in Part 5 of this Constitution.
7. To act as a consultee in respect of decisions proposed to be taken by Officers in exercising powers delegated to them and which:
  1. relate to the setting of service standards and performance measures and approval of business plans; or
  2. are taken under the Council's Urgency Procedure.
8. To attend meetings as and when required with relevant Officers to be updated on matters affecting their portfolio.
9. To report to the Council on Lead Member activity as and when appropriate.
10. To review and monitor performance management reports on their portfolios and to oversee the achievement of performance targets.
11. To answer questions from Members and the public in accordance with Council Rules of Procedure 12 and 13.

## **SUPPORT MEMBER ROLE DESCRIPTION**

To assist the Lead Member in undertaking the above role and to act in accordance with the above in the absence of the Lead Member.

Lead Member Portfolios 2023/24

| Councillor Richard Stanley   | Councillor Stewart Dove   | Councillor Christopher Coleman   | Councillor Mike Szymiak   | Councillor Debbie Harwood   | Councillor Mary Jordan   | Councillor Sarah Hands  | Councillor Cate Cody  | Councillor Alex Hegenbarth  |
|--|---|--|---|---|--|---|---|---|
| Economic Development/Promotion   | Finance and Asset Management  | Corporate Governance   | Customer Focus  | Staff and Culture   | Built Environment  | Clean and Green Environment   | Community   | Housing, Health and Wellbeing   |
| <ul style="list-style-type: none"> <li>• Council Plan</li> <li>• External Relations and Communication</li> <li>• Community Leader for Emergencies</li> <li>• Economic Development and Promotion, including the Growth Hub</li> <li>• LEP and Economic Partnerships</li> <li>• Tourism and the visitor economy</li> <li>• Markets and Festivals</li> <li>• Regeneration and Market town support including High Street Heritage Action Zone</li> <li>• Car parking strategy</li> </ul> | <ul style="list-style-type: none"> <li>• Financial Strategy</li> <li>• Financial management</li> <li>• Procurement</li> <li>• Revenues and Benefits</li> <li>• Investments</li> <li>• Property and Asset Management</li> <li>• Commercial property</li> </ul> | <ul style="list-style-type: none"> <li>• Corporate Governance</li> <li>• Audit</li> <li>• Risk Management</li> <li>• Democratic Service</li> <li>• One Legal</li> <li>• Business Continuity</li> <li>• Member Development</li> <li>• Overview and Scrutiny Process</li> <li>• ICT and Cyber</li> </ul> | <ul style="list-style-type: none"> <li>• Customer Services Strategy</li> <li>• Customer Services</li> <li>• Customer Engagement and Access</li> <li>• Business Transformation (incl Digital)</li> </ul> | <ul style="list-style-type: none"> <li>• Organisational Development</li> <li>• Workforce Development Strategy</li> <li>• Human Resources</li> <li>• Trade Union Liaison.</li> <li>• Organisational Health and safety</li> <li>• Organisational Equalities</li> <li>• Performance</li> </ul> | <ul style="list-style-type: none"> <li>• Strategic Planning</li> <li>• Development Management</li> <li>• Conservation</li> <li>• Building Control</li> <li>• Gypsy and Traveller Site Provision</li> <li>• Land Charges</li> <li>• Garden Communities</li> <li>• Community Infrastructure Levy (CIL) S106 framework.</li> <li>• Neighbourhood plans</li> </ul> | <ul style="list-style-type: none"> <li>• Waste Collection</li> <li>• Recycling</li> <li>• Street Cleansing</li> <li>• Grounds Maintenance</li> <li>• Environmental Health and Licensing</li> <li>• Land Drainage and Flooding Response</li> <li>• Sustainable environment.</li> <li>• Environmental Enforcement</li> <li>• Climate change and carbon reduction</li> </ul> | <ul style="list-style-type: none"> <li>• Community Development</li> <li>• Community Safety</li> <li>• Community Partnerships</li> <li>• Town and Parish Council Support</li> <li>• Emergency Planning</li> <li>• Safeguarding Children and Adults</li> <li>• Cost of Living Response</li> <li>• Shared Prosperity</li> <li>• Voluntary and Community Sector support</li> <li>• Armed Forces Covenant</li> </ul> | <ul style="list-style-type: none"> <li>• Public Health and inequalities</li> <li>• Strategic and Affordable Housing</li> <li>• Operational Housing and Homelessness</li> <li>• Resettlement</li> <li>• Physical activity and mental wellbeing</li> <li>• Equalities</li> <li>• Integrated Locality Partnership</li> <li>• Private sector housing</li> </ul> |
| Support Member – Councillor George Porter  | Support Member – Councillor Kashan Pervaiz  | Support Member – Councillor Gemma Madie  | Support Member – Councillor Philip Workman  | Support Member – Councillor Charlotte Mills   | Support Member – Councillor Paul Ockelton  | Support Member – Councillor Murray Stewart  | Support Member – Councillor Hilarie Bowman  | Support Member – Councillor Thomas Budge  |
| <ul style="list-style-type: none"> <li>• Leadership Gloucestershire</li> <li>• LGA</li> <li>• South West Councils District Councils Network</li> <li>• Glos Economic Growth Joint Committee</li> <li>• Gloucestershire County Region Board</li> </ul>  | <ul style="list-style-type: none"> <li>• Tewkesbury Leisure Centre Partnership Board</li> <li>• PATROL Joint Committee</li> </ul>   |  |   |   |  | <ul style="list-style-type: none"> <li>• Gloucestershire Joint Waste Committee</li> </ul>   | <ul style="list-style-type: none"> <li>• Safer Gloucestershire</li> </ul>   | <ul style="list-style-type: none"> <li>• Health and Wellbeing Partnerships</li> </ul>   |

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## ARTICLE 3 – THE PUBLIC AND THE COUNCIL

### 3.1 The Rights of Members of the Public

Members of the public have the following rights:

#### (a) Information

A member of the public has the right to:

- (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private;
- (ii) see reports and background papers, and any records of decisions made by the Council;
- (iii) obtain a copy of the Constitution;
- (iv) inspect the Council's accounts and make their views known to the external auditor; and
- (v) request disclosure of non-confidential or non-exempt information held by the Council (Freedom of Information Act 2000).

(These rights are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution.)

#### (b) Participation

- (i) A member of the public has the right to submit questions at Council meetings, to present petitions, or to make a deputation in accordance with the Scheme for Public Participation and the Tewkesbury Borough Council Petitions Scheme which are set out in Part 4 of this Constitution.
- (ii) A member of the public has the right to submit questions at Executive Committee meetings or to make a deputation in accordance with the Scheme for Public Participation which is set out in Part 4 of this Constitution.
- (iii) A member of the public may apply to register to speak at Planning Committee on any application contained within the Planning Schedule of applications in accordance with the Scheme for Public Speaking at Planning Committee Meetings.
- (iv) Members of the public also have certain rights in relation to the Council's Petitions Scheme in respect of asking the Overview and Scrutiny Committee to review the way the Council has considered a petition and may be invited to speak at meetings of the Overview and Scrutiny Committee to assist in investigations or in matters of local interest.

**(c) Complaints**

A member of the public has the right to complain to:

- (i) the Council itself under its Complaints Procedure;
- (ii) the Local Government and Social Care Ombudsman after first using the Council's own Complaints Procedure;
- (iii) the Council's Monitoring Officer about a breach of Tewkesbury Borough Council's Code of Conduct. (See Part 5 of this Constitution.)

**(d) Voting and Petitions**

A member of the public who is on the electoral roll for the Borough has the right to vote and sign a petition to request a referendum for an Elected Mayor.

**(e) Recording of Meetings**

Under the Openness of Local Government Bodies Regulations 2014, the public have the right to attend and record meetings.

**3.2 Responsibilities**

A member of the public must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things in the ownership of the Council, Councillors or Officers. Any member of the public who does not honour this responsibility may be excluded from any meetings or any property owned by the Council.

**3.3 Equalities and Inclusion**

In all its dealings with members of the public the Council will endeavour to provide the highest level of services and aim to distribute those services fairly across the community, except where they need to (or by Law must) be targeted to meet special needs, regardless of age, sex, disability, race, marital status, pregnancy and maternity, sexual orientation, gender assignment, religion or belief and will thoroughly investigate any complaint of non-compliance with this policy.

## ARTICLE 4 – THE COUNCIL

### 4.1 Functions of the Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving and adopting the Policy Framework and the Budget (including setting the annual budget and level of Council Tax). [*Policy framework and Budget have the meanings set out at clause 4.3 of this Article*];
- (c) agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them;
- (d) considering recommendations from the Executive Committee in respect of new policy initiatives;
- (e) overseeing and/or amending the Work Programme proposed by the Overview and Scrutiny Committee including deciding upon any Service Review priorities;
- (f) determining matters which have been called in by the Overview and Scrutiny Committee and where the recommendation of the Overview and Scrutiny Committee is not accepted by the Executive Committee;
- (g) considering recommendations from the Overview and Scrutiny Committee on the outcome of scrutiny reviews that are not covered by the Terms of Reference of the Executive Committee;
- (h) considering recommendations from the Standards Committee including adopting the Members' Code of Conduct and any Local Protocols;
- (i) considering Motions submitted by Councillors;
- (j) considering any proposed changes to the boundaries of the Borough or its electoral arrangements or the electoral arrangements (including any change of name) of a Parish;
- (k) adopting a Scheme of Members' Allowances;
- (l) changing the name of the Borough;
- (m) determining any delegation to Officers which does not fall within the remit of any Committee;

- (n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- (o) electing the Leader of the Council and Deputy Leader of the Council annually;
- (p) electing the Mayor and appointing the Deputy Mayor annually;
- (q) appointing Independent Persons and the Parish Council representative to the Standards Committee;
- (r) appointing Councillors to be representatives of the Council on outside bodies, unless the appointment has been delegated by the Council, in line with the Protocol at Part 5 of this Constitution;
- (s) conferring the title of Honorary Alderman/Freeman;
- (t) Appointing or dismissing the following Officers:
  - Head of Paid Service.
  - Chief Finance Officer (Section 151 Officer).
  - Monitoring Officer.
- (u) facilitating opportunities for voicing the concerns of the local community and adopting a community leadership role, promoting the “social, economic and environmental well being” of the area;
- (v) all other matters that by Law must be reserved to the Council; and
- (w) the consideration of reports:
  - (i) by the Head of Paid Service (Section 4 of the Local Government and Housing Act 1989) regarding proposals for the discharge of the Council’s functions and staffing and management of the Council’s staff;
  - (ii) by the Monitoring Officer (Section 5 of the Local Government and Housing Act 1989) regarding any contravention, maladministration or injustice by the Council; and
  - (iii) by the Chief Finance Officer (Section 114 of the Local Government Finance Act 1988) regarding the making of a report in circumstances where it appears to him or her that the Council, a Committee of the authority, a person holding any Office or employment under the authority or a joint Committee on which the authority is represented, has made, or is about to make, a decision which involves, or would involve, the authority incurring expenditure which is unlawful or has taken, or is about to take, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council, or is about to enter an item of account the entry of which is unlawful.



## 4.2 Council Meetings

There are three types of Council meetings:

- (a) The Annual Meeting.
- (b) Ordinary Meetings.
- (c) Extraordinary Meetings.

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

## 4.3 Meaning of Policy Framework and Budget

a. **Policy Framework** means the following plans and strategies:

1. The Council Plan.
2. The Housing Strategy.
3. The Community Safety Strategy.
4. The Statement of Community Involvement.
5. Plans and strategies which together comprise the Council's Local Development Documents.
6. Community Infrastructure Levy Charging Schedule and the publication of an infrastructure list for the purposes of Regulation 123 of the Community Infrastructure Regulations 2010.
7. The adoption of Neighbourhood Development Plans following a successful referendum.
8. The Treasury Management Strategy and Annual Investment Strategy.
9. The Medium-Term Financial Strategy.
10. The Capital Strategy.
11. The Environmental Policy including the Climate Change Strategy.
12. The Waste Strategy.
13. Licensing Policy under the Licensing Act 2003.
14. Gambling Policy.
16. The Food Law Enforcement Service Plan.

**Any other plan required by statute to be approved by Council.**

**Note: The scope of the Policy Framework will be reviewed annually by the Executive Director: Resources and S151 and any changes reported to the Council for approval**

- b. **Budget** includes the allocation of financial resources of different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

#### **4.4 Public Debate**

Upon the report of the Leader of the Council, from time to time as appropriate, the Council may approve a programme to engage and enable public debate on significant issues upon which the authority wishes to engage the public prior to making its decision.

#### **4.5 Lead Members**

The Council shall determine, on an annual basis, following consideration of the report of the Leader of the Council, the number of Lead Members on the Executive Committee, the scope of their Portfolios and the names of those Lead Members.

## **ARTICLE 5 – CHAIRING THE COUNCIL – THE MAYOR**

### **5.1 Role and Function of the Mayor**

The Mayor and Deputy Mayor of the Council will be elected by the Council annually.

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

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to ensure that Council meetings are a forum for the debate of matters of concern to the local community;
- (d) to promote public involvement in the Council's activities; and
- (e) to attend civic and ceremonial functions as appropriate.

**5.2** A detailed role description for the Mayor and Deputy Mayor is set out at Article 2 of the Constitution.

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## **ARTICLE 6 – THE OVERVIEW AND SCRUTINY COMMITTEE**

### **6.1 Functions**

The Council will appoint an Overview and Scrutiny Committee, to discharge the functions conferred by Section 21 of the Local Government Act 2000 or by Regulations made under Section 32 of the Local Government Act 2000.

### **6.2 General role**

Within its Terms of Reference, the Overview and Scrutiny Committee will:

- (a) review and/or scrutinise decisions made, or actions taken, in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Council and/or the Executive Committee in connection with the discharge of any functions;
- (c) consider any matter affecting the Borough or its inhabitants; and
- (d) exercise the right to call-in for reconsideration of decisions made but not yet implemented by the Executive Committee.

### **6.3 Specific functions**

- (a) Policy Development and Review

To include:

- (i) in depth analysis of policy issues;
- (ii) research within the community to consider possible options;
- (iii) enhancement of community participation; and
- (iv) liaison with Councillors, Officers and external organisations operating in the area.

- (b) Scrutiny

To include:

- (i) monitoring and review of decisions;
- (ii) review and scrutiny of the performance of the Council;
- (iii) making recommendations to the Executive Committee and/or Council arising from the outcome of the scrutiny process; and
- (iv) reviewing and scrutinising the performance of other public bodies in the area.

The detailed Terms of Reference for the Overview and Scrutiny Committee are set out in Part 3 of this Constitution.

#### **6.4 Finance**

The Overview and Scrutiny Committee shall exercise overall responsibility for the finances made available to it.

#### **6.5 Annual Reports**

The Overview and Scrutiny Committee must report annually to the Council on its workings and provide details of future work programmes.

#### **6.6 Proceedings of Overview and Scrutiny Committee**

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

## **ARTICLE 7 - EXECUTIVE AND OTHER COMMITTEES**

- 7.1** The Council will appoint the Committees set out in Part 3 of this Constitution: “Responsibility for Functions” and the Committees shall discharge the functions described therein.
- 7.2** The Chair of the Council shall not be the Chair of the Executive Committee.
- 7.3** Committees may establish such Task and Finish Working Groups, Boards, Reference Groups, Management Groups and Panels as considered appropriate.

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## **ARTICLE 8 - THE STANDARDS COMMITTEE**

### **8.1 Standards Committee**

The Council will appoint a Standards Committee.

### **8.2 Membership**

The Standards Committee will comprise:

- Seven Borough Councillors;
- Two Independent persons who are not Members or Officers of any relevant authority; and
- A representative of a Parish/Town Council within the Borough who is not also a Member of any relevant authority.

The Independent Persons and Parish representative are appointed by the Council when vacancies arise.

### **8.3 Independent Persons**

The Independent Persons will not be entitled to vote at meetings.

### **8.4 The Parish Council Representative**

The Parish Council Representative will not be entitled to vote at meetings.

### **8.5 Roles and Functions**

The Terms of Reference for the Standards Committee are set out in Part 3 of this Constitution.

### **8.6 Hearings Sub-Committee**

Three Members of the Standards Committee will meet as a Hearings Sub-Committee to hear cases, including that of Town/Parish Council Members and Co-opted Members, of an alleged breach of the Member Code of Conduct following a report of the Investigating Officer and to impose the relevant sanction as identified in the Terms of Reference which are set out in Part 3 of this Constitution.

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## **ARTICLE 9 - AREA PARTNERSHIPS**

- 9.1** The Council recognises that it has the power to appoint Area Committees and Forums but at the present time it chooses not to establish such bodies. In deciding whether to do so in the future, the Council will consider the effectiveness of such bodies in the context of best value and the provision of more efficient service delivery, and more transparent and accountable decision-making.
- 9.2** In establishing Area Committees or Forums, the Council would ensure that the Terms of Reference of the Committees' functions and the geographical areas were clear and concise. The meetings, and the conduct of the Members of the Area Committees, would be governed by this Constitution, especially with regard to conflict of interest and scrutiny processes.
- 9.3** The Council has a corporate 'place approach' that aims to strengthen and deepen the reach of community work and share involvement in it more widely across the various service teams in the authority.

The Borough is split into three areas: east, south and north-west and each area has a Community and Place Development Officer assigned to it. The approach is focused on maximising the profile of 'place' within the authority overall and, using the three areas, Officers from different services share area specific information, initiatives and actions taking place within the communities which aid understanding and develop greater coordination of support.

In addition, Member meetings are held within the localities to share the key issues – this gives a great level of understanding and develops area focused priorities. The Community and Place Development Officers also base themselves within their area, so they are a significant presence for their locality and help build relationships.

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## **ARTICLE 10 - JOINT ARRANGEMENTS**

### **10.1 Arrangements to Promote Well Being**

The Council, in order to promote the economic, social and environmental wellbeing of its 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; and
- (c) exercise on behalf of that person or body any functions of that person or body

pursuant to the Council's powers under the Local Government Act 2000 (Section 2), the general power of competence and in accordance with statutory guidance for local Councils: power to promote well-being of the area.

### **10.2 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities, and/or their executives, to exercise functions in any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- (b) Details of any joint arrangements, including any delegations to Joint Committees, will be found in the Council's Scheme of Delegation in Part 3 of this Constitution.
- (c) The Council has joint arrangements in place for its Legal Service with Cheltenham Borough Council, Gloucester City Council and Stroud District Council and its Building Control Service with Cheltenham Borough Council. The Council's Waste Service is provided by Ubico (a teckal company) which includes Cheltenham Borough Council, Cotswold District Council, Gloucester City Council Forest of Dean District Council and Stroud District Council.

### **10.3 Access to Information**

The Access to Information Procedure Rules in Part 4 of this Constitution apply.

### **10.4 Delegation to and from other Local Authorities**

- (a) The Council may, by agreement, delegate functions to another local authority or, in certain circumstances, the executive of another local authority and also accept such a delegation from another local authority.
- (b) The decision whether or not to delegate functions to another local authority or to accept such a delegation from another local authority shall be reserved to the Council.

## **10.5 Contracting out**

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

## ARTICLE 11- OFFICERS

### 11.1 Management Structure

#### (a) General

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

#### (b) Chief Officers

The Council will engage persons for the following posts, who will be designated Chief Officers, with the responsibilities as set out below.

|   |   |
|---|---|
| <p>Chief Executive<br/>(Head of Paid Service)</p> | <p>Overall corporate management and operational responsibility (including overall management responsibility for all Officers).</p> <p>Ensure that the Council's organisation and structures remain fit for purpose and that the human, financial and physical resources are optimized and managed effectively.</p> <p>Provision of professional advice to all parties in the decision-making process.</p> <p>Compliance with Health and Safety legislation and the Council's Health and Safety Policy, and ensure that duties are pursued in a safe manner with due regard to the Health and Safety.</p> <p>Manage risk and to help formulate and comply with the council's Corporate Health, Safety and Welfare Plan, and to ensure that both systems and premises are maintained in an acceptable standard to ensure the risk management and health and safety of staff and the public.</p> <p>Adhere and promote all Council Policies, in particular Equal Opportunities.</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Services including:<br/>Business Transformation (including digital strategy).<br/>Communications (including graphics).<br/>Human Resources.</p> |
|---|---|

|  |   |
|--|---|
|  | <p>           Organisation Development.<br/>           Project Management.<br/>           Performance.<br/>           Equalities.<br/>           Customer Services.<br/>           Emergency Planning.<br/>           Elections.<br/>           Electoral Registration.         </p>  |
| <p>           Executive Director:<br/>           Resources and S151         </p> | <p>           Section 151 officer<br/>           Finance.           <ul style="list-style-type: none"> <li>• Strategic financial planning,</li> <li>• Budgetary process and budgetary control activity.</li> <li>• Closure of the council's accounts and the statement of accounts •</li> <li>• Investments and borrowings (in accordance with the council's Treasury Policy).</li> <li>• V.A.T. advice and prompt and accurate returns</li> <li>• Co-ordinate completion grant claims.</li> <li>• Probity of the council's income and bankings.</li> <li>• Responsible for the council's bank account;</li> <li>• Payment of creditors and invoice debtors.</li> <li>• Insurance</li> </ul>           Payroll.<br/>           Internal Audit.<br/>           Scrutiny.<br/>           Senior Information Risk Owner (SIRO)<br/>           Property Services (including Leisure Centre).<br/>           Procurement.<br/>           Information and Communications Technology (ICT).<br/>           Revenues and Benefits.<br/>           Client monitoring of Legal Services.<br/>           Member Support.<br/>           Committee Support.<br/>           Civic<br/>           Deputise for Chief Executive.<br/>           Deputise as Head of Paid Service.         </p> |



**(c) Director of One Legal**

|                       |   |
|-----------------------|---|
| Director of One Legal | Legal Services including those for Cheltenham Borough Council, Gloucester City Council and Stroud District Council following the delegation of the legal services functions to Tewkesbury Borough Council in exercise of their powers under sections 101, 102, 111 and 113 of the Local Government Act 1972 and under Part 1A Chapter 2 Section 9EB of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and any other enabling legislation. |
|-----------------------|---|

**(d) Head of Paid Service, Monitoring Officer and Chief Finance Officer (S151 Officer)**

The Council will designate the following posts as shown:

| <b>Post</b>                            | <b>Designation</b>                   |
|--|--------------------------------------|
| Chief Executive                        | Head of Paid Service                 |
| Principal Lawyer: One Legal            | Monitoring Officer                   |
| Executive Director: Resources and S151 | Chief Finance Officer (S151 Officer) |

Such posts will have the functions described below.

**(e) Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out in Part 7 of this Constitution.

**11.2 Functions of the Head of Paid Service**

**(a) Discharge of Functions by the Council**

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.

**(b) Restrictions on Functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer (S151 Officer), if a qualified accountant.

### **11.3 Functions of the Monitoring Officer**

(a) Ensuring lawfulness and fairness of decision making

After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the Council 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.

(b) Supporting the Standards Committee

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

(c) Conducting investigations

The Monitoring Officer, with the two Independent Persons, will conduct investigations into complaints about breaches of the Code of Conduct and make reports or recommendations in respect of them to the Standards Committee.

(d) Proper Officer for access to information

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

(e) Providing advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.

(f) Restrictions on posts

The Monitoring Officer cannot be the Chief Finance Officer (S151 Officer) or the Head of Paid Service.

### **11.4 Functions of the Chief Finance Officer (S151 Officer)**

(a) Ensuring lawfulness and financial prudence of decision making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer (S151 Officer) will report to the Council and 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.

(b) Administration of financial affairs

The Chief Finance Officer (S151 Officer) will have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to corporate management

The Chief Finance Officer (S151 Officer) will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing advice

The Chief Finance Officer (S151 Officer) will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors and will support and advise Councillors and Officers in their respective roles.

(e) Give financial information

The Chief Finance Officer (S151 Officer) will provide financial information to the media, members of the public and the community.

(f) Restrictions on posts

The Chief Finance Officer (S151 Officer) cannot be the Monitoring Officer.

**11.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer (S151 Officer)**

The Council will provide the Monitoring Officer and Chief Finance Officer (S151 Officer) with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**11.6 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol for Member/Officer Relations set out in Part 5 of this Constitution.

**11.7 Employment**

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

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## ARTICLE 12 – DECISION MAKING

### 12.1 Responsibility for decision making

Responsibility for particular types of decisions or decisions relating to particular areas or functions are set out in Part 3 of this Constitution.

### 12.2 Principles of Decision Making

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

- (a) the Rule of Law;
- (b) clarity of aims and desired outcomes;
- (c) having regard to all relevant and material considerations;
- (d) proportionality (i.e. the action must be proportionate to the desired outcome);
- (e) due consultation and the consideration of professional advice from Officers and/or appropriately qualified consultants;
- (f) a presumption in favour of openness;
- (g) respect for human rights; and
- (h) having due regard to appropriate national, strategic, local policy and guidance.

### 12.3 Types of Decisions

- (a) **Decisions Generally:** All decision-making will follow the procedural requirements and processes set out in the Rules of Procedure in Part 4 of this Constitution and identified as being relevant to the particular part of the Council.
- (b) **Decisions by the Council:** Decisions reserved to Council will be made by the Council and may not be delegated unless specifically authorised in the Rules of Procedure contained in Part 4 of this Constitution.
- (c) **Decisions where Council is acting in a quasi-judicial capacity:** Where a Committee or an Officer is making a quasi-judicial decision or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, it/he/she will observe the above stated principles and follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing.

**12.4 Decision making by the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

**12.5 Decision making by other Committees established by the Council**

Subject to Paragraph 12.3 other Council Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

## **ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **13.1 Financial Management**

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

### **13.2 Contracts**

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

### **13.3 Legal Proceedings**

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

### **13.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Executive Director: Resources and S151, or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **13.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Director of One Legal. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which, in the opinion of the Director of One Legal, should be sealed. The affixing of the Common Seal will be attested by the Director of One Legal or some other person authorised by him/her.

Every sealing of a document will be recorded and consecutively numbered in a book or register kept for the purpose by the Director of One Legal. The entry in the book or register will be signed or initialled by the person who attests the seal.

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## ARTICLE 14 - REVIEW AND REVISION OF THE CONSTITUTION

### 14.1 Duty to monitor and review the Constitution

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

### 14.2 Protocol for monitoring and review of the Constitution by Monitoring Officer

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

- (a) observe meetings of different parts of the Member and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### 14.3 Changes to the Constitution

- (a) **Approval** - Changes to the Constitution will only be approved by the Council after consideration of a written report by the Monitoring Officer.
- (b) **Change to Executive Arrangements** – The Council must take reasonable steps to consult with local electors, and other interested persons in the area, when drawing up proposals for any change from an Alternative Arrangement to any form of Executive Arrangement within the meaning of the Local Government Act 2000.
- (c) **Minor corrections and amendments** – minor changes/amendments to the Constitution such as spelling, grammar, typographical and formatting changes that do not affect the substantive content, and any decisions the Council makes that impact on the Constitution, may be undertaken by the Monitoring Officer and the changes will be notified to all Members.

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## **ARTICLE 15 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **15.1 Suspension of the Constitution**

#### **(a) Limit to suspension**

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council, or the relevant Committee, to the extent permitted within those Rules and the Law.

#### **(b) Procedure to suspend**

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

#### **(c) Rules capable of suspension**

The following Rules may be suspended in accordance with paragraphs (a) and (b) above:

- (i) The Council Procedure Rules except those which are requirements of statutes or regulations.
- (ii) Financial Procedure Rules.
- (iii) Contract Procedure Rules.

### **15.2 Interpretation of the Constitution**

The ruling of the Mayor, or in his/her absence the Deputy Mayor, as to the construction or application of this Constitution, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.3 Publication of the Constitution**

- (i) Once a Councillor has completed their Declaration of Acceptance of Office they will be given access to a copy of the Constitution.
- (ii) In accordance with Section 9(P) of the Local Government Act 2000, a copy of the Council's Constitution is available for inspection at the Council Offices and, in accordance with the Local Government Transparency Code 2015 (as set out in the Local Government (Transparency Requirements) (England) Regulations 2015), the Constitution is published on the authority's website.

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## **Schedule 1: Description of Arrangements**

The following parts of this Constitution constitute the Alternative Arrangements adopted by Tewkesbury Borough Council:

1. Article 6 - Overview and Scrutiny Committee.  
Article 7 – Executive and other Committees.
2. The Terms of Reference of the Committee structure are detailed in Part 3 of this Constitution and the Council Procedure Rules applicable to the procedures to be adopted by the Committees are detailed in Part 4 of this Constitution.

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# **PART 3**

**RESPONSIBILITY**

**FOR**

**FUNCTIONS**

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## Introduction

The following details are set out in this part of the Constitution:

- Summary of Committees appointed by the Council.
- Detailed Terms of Reference for each Committee.
- Diagram of the Council's political management arrangements.
- Scheme of Delegation to Officers.

The Council may alter the Terms of Reference or composition of any Committee from time to time or appoint any individual Committees as appropriate.

Subject to the provisions of the Constitution, and any legal requirements, any function of a Committee may be delegated to any Committee or Officer (but not to a single Councillor).

## Summary of Council and Committee Functions

| NAME    | MEMBERSHIP      | FUNCTIONS   |
|---------|-----------------|---|
| Council | All Councillors | <ul style="list-style-type: none"><li>➤ adopting and changing the Constitution;</li><li>➤ approving and adopting the Policy Framework and the Budget (including setting the annual budget and level of Council Tax). <i>[Policy framework and Budget have the meanings set out at clause 4.3 of Article 4];</i></li><li>➤ agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them;</li><li>➤ receiving annual reports from the Audit and Governance and Overview and Scrutiny Committees;</li><li>➤ considering recommendations from the Executive Committee in respect of new policy initiatives;</li><li>➤ overseeing and/or amending the Work Programme proposed by the Overview and Scrutiny Committee including deciding upon any Service Review priorities;</li><li>➤ determining matters which have been called in by the Overview and Scrutiny Committee and where the recommendation of the Overview and Scrutiny Committee is not accepted by the Executive Committee;</li><li>➤ considering recommendations from the Overview and Scrutiny Committee on the outcome of scrutiny reviews that are not covered by the Terms of Reference of the Executive Committee;</li></ul> |

- considering recommendations from the Standards Committee including adopting the Members' Code of Conduct and any Local Protocols;
- considering Motions submitted by Councillors;
- considering any proposed changes to the boundaries of the Borough or its electoral arrangements;
- To make any changes to the boundaries/electoral arrangements (including size and name) of Parishes within the Borough following the conduct of a Community Governance Review;
- adopting a Scheme of Members' Allowances;
- changing the name of the Borough;
- determining any delegation to Officers which does not fall within the remit of any Committee;
- making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- electing the Leader of the Council and Deputy Leader of the Council annually;
- electing the Mayor and appointing the Deputy Mayor annually;
- appointing Independent Persons as non-voting members of the Standards Committee together with the Parish representative as appropriate;
- appointing Councillors to be representatives of the Council on outside bodies unless the appointment has been delegated by the Council, in line with the Protocol at Part 5 of this Constitution;
- conferring the title of Honorary Alderman/Freeman;
- appointing or dismissing the following officers:
  - Head of Paid Service.
  - Chief Finance Officer (Section 151 Officer).
  - Monitoring Officer.
- approving the appointment of Officers with a salary package of £100,000 or above;
- approving the severance package for any member of staff where that package totals £100,000 or above;

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|                     |  | <ul style="list-style-type: none"> <li>➤ facilitating opportunities for voicing the concerns of the local community and adopting a community leadership role, promoting the “social, economic and environmental well-being” of the area;</li> <li>➤ all other matters that by Law must be reserved to the Council; and</li> <li>➤ the consideration of reports: <ul style="list-style-type: none"> <li>(i) by the Head of Paid Service (Section 4 of the Local Government and Housing Act 1989) regarding proposals for the discharge of the Council’s functions and staffing and management of the Council’s staff;</li> <li>(ii) by the Monitoring Officer (Section 5 of the Local Government and Housing Act 1989) regarding any contravention, maladministration or injustice by the Council;</li> <li>(iii) by the Chief Finance Officer (Section 114 of the Local Government Finance Act 1988) regarding the making of a report in circumstances where it appears to him or her that the Council, a Committee of the authority, a person holding any Office or employment under the authority or a Joint Committee on which the authority is represented has made, or is about to make, a decision which involves, or would involve, the authority incurring expenditure which is unlawful, or has taken, or is about to take, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council, or is about to enter an item of account the entry of which is unlawful; and</li> <li>(iv) to adopt or ‘make’ a Neighbourhood Development Plan following a successful referendum.</li> </ul> </li> </ul> <p>(see also Article 4 of the Constitution)</p> |
| Executive Committee | Leader of Council, Deputy Leader of the Council and 10 other Councillors | <ul style="list-style-type: none"> <li>➤ determining all matters not reserved to Council or delegated to another Committee; and</li> <li>➤ making recommendations to Council in relation to any matters outside its Terms of Reference.</li> </ul>  |

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| Overview and Scrutiny Committee | 15 Councillors (must not be members of the Executive Committee) | <ul style="list-style-type: none"> <li>➤ overseeing and co-ordinating scrutiny and review process including decisions taken by Executive Committee;</li> <li>➤ reviewing Council policies; and</li> <li>➤ considering any other matter affecting the Borough or its inhabitants.</li> </ul>  |
| Audit and Governance Committee  | 9 Councillors   | <ul style="list-style-type: none"> <li>➤ overseeing the work of the Council's external and internal auditors and providing assurance on the adequacy of the Council's governance, risk management and internal control environment.</li> </ul>   |
| Planning Committee              | 13 Councillors  | <ul style="list-style-type: none"> <li>➤ exercising all powers and duties of the Council (except for those delegated to Officers) on the following matters: <ul style="list-style-type: none"> <li>(i) Development management control and appeals.</li> <li>(ii) Enforcement of planning control.</li> <li>(iii) Applications for Listed Building and consent.</li> <li>(iv) Tree Preservation Orders.</li> <li>(v) Hedgerow Regulations.</li> <li>(vi) Control of advertisements.</li> <li>(vii) Footpath Orders;</li> </ul> </li> <li>➤ exercising all powers and duties of the Council on all matters relating to building regulation control;</li> <li>➤ making representations/objections to applications for Heavy Goods Operators Licences in accordance with appropriate legislation; and</li> <li>➤ commenting on development related applications submitted by and to other local authorities upon which the Council is invited to comment.</li> </ul> |

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| Licensing Committee | 15 Councillors   | <ul style="list-style-type: none"> <li>➤ exercising all matters relating to the administration of licences which are determinable by the Council, including the delegation of functional responsibility to individual officers for determination of any application for consents, licences, certificates, permits, registration or the like;</li> <li>➤ reviewing and approving licensing policies and procedures not reserved to Council or delegated to another Committee; and</li> <li>➤ appointing Sub-Committee(s) to discharge the following licensing functions: <ul style="list-style-type: none"> <li>- Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) – To consider and determine applications, appeals and objections in respect of taxi driver and vehicle licencing and street trading that are not otherwise delegated to Officers.</li> <li>- Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) – To consider and determine licensing applications and appeals under the Licensing Act 2003 and Gambling Act 2005 that are not otherwise delegated to Officers.</li> <li>- Licensing Sub-Committee (Scrap Metal Dealers Act 2013) – To determine applications, variations and revocation of licences.</li> </ul> </li> </ul> |
| Standards Committee | 7 Members of the Council<br>2 Independent Persons (non-voting)<br>A Parish Council Representative (non-voting) | <ul style="list-style-type: none"> <li>➤ promoting and maintaining high standards of conduct and assisting Members and Co-opted Members to observe the Code of Conduct, and to: <ul style="list-style-type: none"> <li>• advise the Council on the adoption or revision of the Code;</li> <li>• monitor the operation of the Code; and</li> <li>• provide advice and training;</li> </ul> </li> <li>➤ promoting and maintaining high standards of conduct in Town/Parish Councils and assisting Town/Parish Councils to observe the Code of Conduct;</li> <li>➤ advising Town/Parish Councils on the adoption or revision of Codes of Conduct;</li> <li>➤ monitoring the operation of their Codes; and</li> </ul>  |

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|  |  | <ul style="list-style-type: none"> <li>➤ providing advice and training to Town/Parish Councillors;</li> <li>➤ determining applications for dispensations which have been made by Members of the Borough Council on the following grounds: <ul style="list-style-type: none"> <li>• where it is considered that the dispensation is in the interests of persons living in the authority's area;</li> <li>• where it is considered that it would be otherwise appropriate to grant a dispensation; and</li> <li>• where the Monitoring Officer has exercised her right, under the powers delegated to her, to refer the matter to Committee for determination;</li> </ul> </li> <li>➤ preparing, monitoring and reviewing Codes and Protocols to support the Code of Conduct and recommending them to Council accordingly;</li> <li>➤ considering reports from the Monitoring Officer on the number of complaints received under the Code of Members' Conduct and the decisions taken by the Monitoring Officer in consultation with the Independent Person(s) on such complaints;</li> <li>➤ considering and determining the appropriate action on matters referred by the Monitoring Officer in relation to the assessment of complaints where the Monitoring Officer has been unable to exercise her delegated powers;</li> <li>➤ receiving summary reports from the Monitoring Officer: <ul style="list-style-type: none"> <li>• on complaints that have been investigated where 'no breach' of the Code has been found to have occurred; and</li> <li>• on complaints where a 'breach' of the Code has been found but where it has been possible for a local resolution to be agreed; and</li> </ul> </li> <li>➤ adopting procedures for the hearing of cases of a 'breach of the Code' finding upon investigation to be undertaken by the Hearings Sub-Committee.</li> </ul> <p>(see Article 8 of the Constitution)</p> |
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| Hearings Sub-Committee | Three Members drawn from the voting Membership of the Standards Committee – the Independent Person(s) must be consulted before a decision is made on an investigated allegation. | <ul style="list-style-type: none"> <li>➤ hearing cases, including that of Town/Parish Council Members and Co-opted Members, of alleged breaches of the Member Code of Conduct following a report of the Investigating Officer;</li> <li>➤ in respect of Members of the Borough Council, where it has been determined that a Member has failed to comply with the authority's Code of Conduct, imposing one or more of the following, if appropriate: <ul style="list-style-type: none"> <li>• censure;</li> <li>• reporting findings to Council;</li> <li>• recommending to the Member's Group Leader that the Member be removed from a Committee (in respect of non-aligned Members this would need to be recommended to Council);</li> <li>• removing the Member from an Outside Body appointment;</li> <li>• withdrawing facilities provided to the Member by the Council e.g. email/website/internet access;</li> <li>• excluding the Member from all or part of the premises of the Council (with the exception of meeting rooms); and</li> <li>• requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology;</li> </ul> </li> <li>➤ in respect of the Members of Town/Parish Councils, within the area of Tewkesbury Borough Council, where it has been determined that a Member / Co-opted Member has failed to comply with the authority's Code of Conduct, imposing one or more of the following, if appropriate: <ul style="list-style-type: none"> <li>▪ censure;</li> <li>▪ reporting the findings to the Town/Parish Council;</li> <li>▪ recommending that the Town/Parish Council: <ul style="list-style-type: none"> <li>○ remove the Member from any Outside Bodies to which they have been appointed;</li> <li>○ withdraw facilities provided by the Council to</li> </ul> </li> </ul> </li> </ul> |
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|  |  | <p>the Member;</p> <ul style="list-style-type: none"> <li>○ exclude the Member from the Council premises (except meeting rooms); and</li> </ul> <ul style="list-style-type: none"> <li>● requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.</li> </ul>   |
| Employee Appointments/Disciplinary Committee | 5 Members of the Council (Must not be Members of the Employee Appeals Committee) | <ul style="list-style-type: none"> <li>➤ shortlisting, interviewing and recommending to the Council candidates for Chief Executive (Head of Paid Service) and Chief Officers; and</li> <li>➤ dealing with the disciplinary arrangements in respect of Statutory Officers and Chief Officers.</li> </ul>   |
| The Horsford Trust Management Committee      | The Members of the Council representing the Tewkesbury Wards                     | <ul style="list-style-type: none"> <li>➤ managing the properties belonging to the Trust in accordance with the Scheme prepared by the Charity Commission, including conditions of occupancy, formulation of policy for allocating properties, letting, authorisation of eviction proceedings, repair and maintenance and welfare of residents including liaison with the Social Services Department of the County Council;</li> <li>➤ reviewing the contributions paid by residents as required from time to time; and</li> <li>➤ preparing an annual budget and a programme of maintenance works and repairs and submitting copy accounts to the Charity Commission as and when required.</li> </ul> |



## **EXECUTIVE COMMITTEE**

### **1. AIMS AND OBJECTIVES**

Within the Terms of Reference of, and under the powers and authority delegated to, the Committee and to make decisions within the policies, strategies and agreed budget of the Council:

- (i) to devise, review, revise and determine those plans, policies and strategies which fall outside of the scope of the policy framework;
- (ii) to recommend to the Council amendments to the policy framework; and
- (iii) to deal with all other matters not allocated to a specific Committee.

### **2. CONSTITUTION AND POWERS**

- (i) The Executive Committee will comprise twelve Members which include the Leader and Deputy Leader of the Council, all to be appointed by Council annually, or such lesser interval as may be necessary.
- (ii) Political balance will apply.
- (iii) The quorum of the Executive Committee will be five Members.
- (iv) The Leader of the Council will be the Chair of the Executive Committee. The Chair of the Executive Committee will, in the event of equality of voting, have a second or casting vote.
- (v) The Deputy Leader of the Council will be the Vice-Chair of the Executive Committee.
- (vi) Neither the Leader, nor any Executive Committee Member, can be given individual executive/delegated powers.
- (vii) The Executive Committee may not co-opt any person, whether an elected Member or otherwise, as Members, though for advisory purposes only it may invite any Members or persons to attend its meetings.
- (viii) The Executive Committee may appoint Task and Finish Working Groups, the membership of which may include any Member of the Council, and which will report with recommendations to the Committee.

### **3. TERMS OF REFERENCE**

- (1) To formulate and develop, for adoption by Council, those policies and strategies which comprise the policy framework.
- (2) To review and monitor the operation of the policy framework and to recommend to Council proposals for new initiatives and policy developments.

- (3) To devise, review, revise and determine all policies and strategies which are not within the scope of the policy framework.
- (4) To implement those policies, duties and responsibilities in respect of the Council's functions which are not otherwise the responsibility of Council, or other Committees.
- (5) To prepare a forward plan containing matters for the Committee's consideration which will be reviewed at each scheduled meeting of the Committee.
- (6) To monitor the Council's performance, in conjunction with the Overview and Scrutiny Committee, and ensure that action is taken to review and prepare action plans for improvement if necessary in respect of those key Performance Indicators that meet the Council's priorities.
- (7) To provide the lead on all matters of improvement.
- (8) To formulate the annual budget including capital and revenue spending in accordance with the Council's priorities and make recommendations to the Council on Council Tax levels and the annual budget.
- (9) To take decisions on spending within the annual budget to ensure delivery of the Council's priorities.
- (10) To update the local development scheme in respect of the timetabling of both the Joint Core Strategy and the Tewkesbury Borough Plan as may be required from time to time to reflect the progression of the Joint Core Strategy and the Tewkesbury Borough Plan.
- (11) To provide the lead on partnership working including the joint delivery of services.
- (12) To take the lead on community leadership and consultation with stakeholders.
- (13) To consider requests to undertake a Community Governance Review in relation to the electoral arrangements of Parishes within the Borough (including boundaries, size, name etc.), approve the Terms of Reference of a Review and undertake consultation prior to making recommendations on any changes to the Council.
- (14) To fulfil the Council's responsibilities in respect of risk management upon recommendation from the Audit and Governance Committee.
- (15) To monitor and review the staffing and decision-making structures of the Council and recommend any changes to Council.
- (16) To receive reports from Lead Members as appropriate.
- (17) To receive, as the parent Committee, reports and recommendations from Working Groups appointed by the Committee.
- (18) To determine requests on a case by case basis for Council Tax to be reduced under the locally defined Council Tax discount.

(19) To deal with all other matters not allocated to a specific Committee.

(20) To approve asset purchases in excess of £12million subject to the parameters of the Commercial Investment Strategy being met.

#### **4. DELEGATED POWERS**

Subject to the General Provisions, and Scheme of Delegation to Officers, to determine all matters within the Terms of Reference of the Committee\*.

\* Note: This authority does not preclude the Committee from referring a matter which is delegated to the Committee to the Council for determination should it be deemed appropriate in all of the circumstances.

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## **OVERVIEW AND SCRUTINY COMMITTEE**

### **1. AIMS AND OBJECTIVES**

Within the Terms of Reference of, and under the powers and authority delegated to, the Committee, to promote open and transparent decision-making by scrutinising Council policies; monitoring performance of Council services and other public bodies; and reviewing or scrutinising decisions made, or actions taken, by the Council's Committees.

### **2. CONSTITUTION AND POWERS**

- (i) The Overview and Scrutiny Committee will comprise 15 Members.
- (ii) Political balance will apply.
- (iii) The quorum of the Overview and Scrutiny Committee will be five Members.
- (iv) The Committee will discharge the functions conferred by Section 21 of the Local Government Act 2000 or by Regulations under Section 32 of the Local Government Act 2000.
- (v) No Member of the Executive Committee will be eligible for membership of the Overview and Scrutiny Committee.
- (vi) The Council's representative on the Gloucestershire County Council Health Overview and Scrutiny Committee will be one of the 15 Members of the Committee.
- (vii) The Council's representative on the Gloucestershire Economic Growth Scrutiny Committee will be one of the 15 Members of the Committee.
- (viii) The Committee may co-opt non-Councillors in a non-voting capacity to be involved in specific reviews.
- (ix) The Committee may require the attendance of the Chairs of the Executive and Regulatory Committees, Lead Members and Senior Officers to assist with any reviews, investigations or the development of any policy proposals.
- (x) When exercising the right of call-in, Members of the Executive Committee may be questioned by Members of the Overview and Scrutiny Committee but shall not otherwise be involved in the process.
- (xi) The Overview and Scrutiny Committee may appoint Task and Finish Working Groups, the membership of which may include any Member of the Council, and which will report with recommendations to the Committee.

### **3. TERMS OF REFERENCE**

- (1) Review and/or scrutinise decisions made, or actions taken, in connection with the discharge of any of the Council's functions.
- (2) Make reports and/or recommendations to the Council or the Executive Committee in connection with the discharge of any functions.
- (3) Consider any matter affecting the area or its inhabitants.

- (4) Exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive Committee.
- (5) Assist the Council and Executive Committee in the development of its budget and framework by in-depth analysis of policy issues.
- (6) Conduct research, community and other consultation in the analysis of policy issues and possible options.
- (7) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- (8) To fulfil the Council's duty in scrutinising the NHS.
- (9) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (10) Scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- (11) Question Lead Members and/or other Councillors, officers of the Council and representatives of relevant partner authorities on issues and proposals affecting the area, decisions and performance.
- (12) Review and scrutinise the performance of other public bodies in the area and request them to address the Overview and Scrutiny Committee in relation to their activities.
- (13) To report annually to Council on the work of the Committee and future work programmes.
- (14) To act as a 'critical friend' to the Executive Committee and other Committees of the Council as appropriate (except in respect of quasi-judicial functions).
- (15) To receive reports from the Council's representatives on the Gloucestershire Police and Crime Panel, Gloucestershire Health and Care Overview and Scrutiny Committee and Gloucestershire Economic Growth Scrutiny Committee.
- (16) On, at least an annual basis, to exercise the Council's duty in respect of reviewing/scrutinising actions taken by the authority in pursuit of its functions in relation to crime and disorder.

#### **4. DELEGATED POWERS**

Subject to the General Provisions, and Scheme of Delegation to Officers, to determine all matters within the Terms of Reference of the Committee.

## **AUDIT AND GOVERNANCE COMMITTEE**

### **1. AIMS AND OBJECTIVES**

Within the Terms of Reference of, and under the powers and authority delegated to, the Committee, to provide assurance on the adequacy of the Council's governance, risk management and internal control environment.

### **2. CONSTITUTION AND POWERS**

- (i) The Audit and Governance Committee will comprise nine Members.
- (ii) Political balance will apply.
- (iii) The quorum of the Audit and Governance Committee will be three Members.
- (iv) The Audit and Governance Committee may appoint Task and Finish Working Groups, the membership of which may include any Member of the Council, and which will report with recommendations to the Committee.

### **3. TERMS OF REFERENCE**

#### ***Audit***

- (1) To approve the internal audit charter.
- (2) To approve the internal audit plan and monitor delivery of the plan.
- (3) To review reports from the Chief Audit Executive on work undertaken by internal audit, consider the main issues arising, and seek assurance that action is being taken where necessary.
- (4) To receive a specific report from the Chief Audit Executive on the status of internal audit recommendations, seeking assurance they have been implemented. On occasions of non-implementation, to challenge why this is the case and that future action is planned for implementation. If necessary, the Committee has authority to 'call in' appropriate officers.
- (5) To approve the Chief Audit Executive's annual report and opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with a summary of internal audit activity supporting the opinion and the level of assurance it can give over the Council's corporate governance arrangements.
- (6) To consider summaries of specific Internal Audit reports as requested.
- (7) To receive reports outlining the action taken where the Chief Audit Executive has concluded that management had accepted a level of risk that may be unacceptable to the Council, or there were concerns about the progress with the implementation of agreed actions.
- (8) To consider the internal audit quality assurance and improvement programme and, in particular, the external assessment of internal audit that takes place at least once every five years.

- (9) To approve the letters of representation required by the external auditor and to consider the external auditor's annual letter, audit opinion, relevant reports, and the report to those charged with governance.
- (10) To consider specific reports as agreed with the external auditor.
- (11) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (12) Consider appointment of the Council's external auditor proposed by the appointing person under the Local Audit (Appointing Person) Regulations 2015 and assess whether there are any valid reasons for the Council to object.
- (13) To commission additional work from internal audit and the external auditor as necessary.
- (14) To prepare an annual report on the Committee's performance in relation to the Terms of Reference and the effectiveness of the Committee in meeting its purpose.

### ***Governance and Financial Reporting***

- (1) To review and consider the Council's corporate governance arrangements ensuring they adhere to best practice, and to receive specific reports on governance related items when required.
- (2) To approve the Annual Governance Statement and monitor delivery of any significant governance issues arising.
- (3) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- (4) To review the corporate risk register and seek assurance it is reflective of the Council's risk environment and that key risks are effectively managed.
- (5) To review and consider any changes to the Council's risk management strategy and recommend the strategy to Executive Committee for approval.
- (6) To consider the external auditor's report arising from the audit of the Council's accounts and to approve the accounts on an annual basis, ensuring that appropriate accounting policies have been followed and to identify whether there are concerns arising that need to be brought to the attention of the Council.
- (7) To be responsible for the scrutiny of the Council's treasury management function.
- (8) To approve and monitor Council policies on whistleblowing and the anti-fraud, corruption and bribery strategy and to make recommendations to the Executive Committee as appropriate.
- (9) To consider and review, on an annual basis, a report on the Council's health and safety arrangements and to take appropriate action where necessary.



#### **4. DELEGATED POWERS**

Subject to the General Provisions, and Scheme of Delegation to Officers, to determine all matters within the Terms of Reference of the Committee.

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## **PLANNING COMMITTEE**

### **1. AIMS AND OBJECTIVES**

Within the Terms of Reference of, and under the powers and authority delegated to, the Committee, to make decisions within the policies, strategies and agreed budget of the Council with regard to the control of development.

### **2. CONSTITUTION AND POWERS**

- (i) The Planning Committee shall comprise 13 Members.
- (ii) Political balance will apply.
- (iii) The quorum of the Planning Committee will be five Members.
- (iv) Members shall not serve on the Planning Committee unless they have undergone training on planning matters in accordance with Council's Protocol for Councillors and Officers involved in the Planning Process.

### **3. TERMS OF REFERENCE**

- (1) To exercise all powers and duties of the Council on the following matters:
  - (i) Development management and appeals.
  - (ii) Enforcement of planning control.
  - (iii) Applications for Listed Building Consent.
  - (vi) Tree Preservation Orders.
  - (v) Hedgerow Regulations.
  - (vi) Control of advertisements.
  - (vii) Footpath Orders.
- (2) To exercise all powers and duties of the Council on all matters relating to building regulation control.
- (3) To make representations/objections to applications for Heavy Goods Operators Licences in accordance with appropriate legislation.
- (4) To comment on development related applications submitted by and to other local authorities upon which the Council is invited to comment.

### **4. DELEGATED POWERS**

Subject to the General Provisions, and Scheme of Delegation to Officers, to determine all matters within the Terms of Reference of the Committee.

The Committee shall only recommend to the Council the revocation or modification of any planning permission.

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## **LICENSING COMMITTEE**

### **1. AIMS AND OBJECTIVES**

Within the Terms of Reference of, and under the powers and authority delegated to, the Committee, to make decisions within the policies, strategies and agreed budget of the Council with regard to matters relating to licensing and registration.

### **2. CONSTITUTION AND POWERS**

- (i) The Licensing Committee will comprise 15 Members.
- (ii) Political balance will apply.
- (iii) The quorum of the Licensing Committee will be five Members.
- (iv) Members shall not serve on the Licensing Committee unless they have undergone training on Licensing matters in accordance with the Council's Licensing System Protocol and Procedures.
- (v) When meeting as a Sub-Committee to deal with applications under the Licensing Act 2003 or Gambling Act 2005, three Members of the Licensing Committee will be selected to determine these applications.
- (vi) When meeting as a Sub-Committee to deal with applications for Street Trading Consent and Hackney Carriage & Private Hire Vehicles, Drivers and Operators licences, three Members of the Licensing Committee will be selected to determine these applications.
- (vii) When meeting as a Sub-Committee to deal with applications under the Scrap Metal Dealers Act 2013, three Members of the Licensing Committee will be selected to determine these applications.

### **3. TERMS OF REFERENCE**

- (1) To carry out the functions of the Council as licensing authority so far as required or permitted by the Licensing Act 2003 in accordance with Sections 6, 7, 9 and 10 of the Act and Regulations thereunder.
- (2) To carry out the functions of the Council as licensing authority under the Gambling Act 2005.
- (3) To consider contentious applications, variations and revocations for scrap metal dealer licences with further delegation to Licensing Sub-Committees.
- (4) To determine, and approve, policy for scrap metal dealer licences.
- (5) To exercise all powers and duties of the Council on the licensing, consents, authorisations, permits and registrations of:
  - (a) Hackney carriages and private hire vehicles, drivers and operators.
  - (b) Food premises.
  - (c) Residential caravan sites.
  - (d) Street trading, markets and Sunday trading.

- (e) Pleasure boats.
  - (f) Street collections and house-to-house collections.
  - (g) Acupuncture, tattooing electrolysis and body piercing.
  - (h) Scrap metal dealers.
  - (i) Hypnotism.
  - (j) Sex establishments.
  - (k) Pavement licences.
  - (l) Animals (including Animal Activities, Dangerous Wild Animals and Zoos).
  - (m) All other matters requiring a licence, consent, authorisation, permit or registration which are not either specified above or delegated to a Committee or Officer of the Council.
- (6) In respect of hackney carriages and private hire vehicles to fix a table of fares to which objection has been made.
- (7) In respect of street trading to designate streets as "prohibited streets" in accordance with the Council's policy.

#### **4. DELEGATED POWERS**

Subject to the General Provisions, and Scheme of Delegation to Officers, to determine all matters within the Terms of Reference of the Committee.

## **STANDARDS COMMITTEE**

### **1. AIMS AND OBJECTIVES**

Within the Terms of Reference of, and under the powers and authority delegated to the Committee, to exercise the Council's functions in matters relating to standards of conduct within the Council.

### **2. CONSTITUTION & POWERS**

- i) The Standards Committee will comprise seven Members of the Council and the following co-opted, non-voting Members who will act in an advisory capacity:
  - two Independent Persons (as defined by Section 28 of the Localism Act) (or such other number appointed by the Council); and
  - a Parish Council representative.
- ii) Political balance will apply to the Council's membership.
- iii) The quorum of the Standards Committee will be three voting Members.
- iv) Substitution arrangements will not apply.
- v) The Standards Committee will establish a Hearings Sub-Committee, consisting of three Members of the Committee, to undertake the functions set out below (political balance will apply). In accordance with Section 7(a) of the Localism Act, the Independent Person(s) must be consulted before a decision is made on an investigated allegation.

### **3. TERMS OF REFERENCE**

- (1) To promote and maintain high standards of conduct and to assist Members and Co-opted Members to observe the Code of Conduct, and to:
  - advise the Council on the adoption or revision of the Code;
  - monitor the operation of the Code; and
  - provide advice and training.
- (2) To promote and maintain high standards of conduct in Town/Parish Councils and to assist Town/Parish Councils to observe the Code of Conduct, and to:
  - advise Town/Parish Councils on the adoption or revision of Codes of Conduct;
  - monitor the operation of their Codes; and
  - provide advice and training to Town/Parish Councillors.

- (3) To determine applications for dispensations which have been made by Members of the Borough Council on the following grounds:
  - a) where it is considered that the dispensation is in the interests of persons living in the authority's area;
  - b) where it is considered that it would be otherwise appropriate to grant a dispensation; and
  - c) where the Monitoring Officer has exercised his/her right, under the powers delegated to him/her, to refer the matter to Committee for determination.
- (4) To prepare, monitor and review Codes and Protocols to support the Code of Conduct and recommend to Council accordingly.
- (5) To consider reports from the Monitoring Officer on the number of complaints received under the Code of Members' Conduct and the decisions taken by the Monitoring Officer in consultation with the Independent Person(s) on such complaints.
- (6) To consider and determine the appropriate action on matters referred by the Monitoring Officer in relation to the assessment of complaints where the Monitoring Officer has been unable to exercise his/her delegated powers.
- (7) To receive summary reports from the Monitoring Officer:
  - a) on complaints that have been investigated where 'no breach' of the Code has been found to have occurred; and
  - b) on complaints where a 'breach' of the Code has been found but where it has been possible for a local resolution to be agreed.
- (8) To adopt procedures for the hearing of cases of a 'breach of the Code' finding upon investigation to be undertaken by the Hearings Sub-Committee.

#### **4. HEARINGS SUB-COMMITTEE TERMS OF REFERENCE**

- (1) To hear cases, including that of Town/Parish Council Members and Co-opted Members, of an alleged breach of the Member Code of Conduct following a report of the Investigating Officer.
- (2) In respect of Members of the Borough Council, where it has been determined that a Member has failed to comply with the authority's Code of Conduct, to impose one or more of the following, if appropriate:
  - Censure.
  - Reporting findings to Council.
  - Recommending to the Member's Group Leader that the Member be removed from a Committee (in respect of non-aligned Members this would need to be recommended to Council).
  - Removing the Member from an Outside Body appointment.
  - Withdrawing facilities provided to the Member by the Council e.g. email/website/internet access.
  - Excluding the Member from all or part of the premises of the Council (with the exception of meeting rooms).
  - Requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.



- (3) In respect of the Members of Town/Parish Councils, within the area of Tewkesbury Borough Council, where it has been determined that a Member/Co-opted Member has failed to comply with the authority's Code of Conduct, to impose one or more of the following, if appropriate:
- Censure.
  - Reporting the findings to the Town/Parish Council.
  - Recommending that the Town/Parish Council:
    - Remove the Member from any Outside Bodies to which they have been appointed.
    - Withdraw facilities provided by the Council to the Member.
    - Exclude the Member from the Council premises (except meeting rooms).
    - Request the Member to undertake actions deemed appropriate e.g. training, issue of an apology.

## **5. DELEGATED POWERS**

Subject to the General Provisions, and Scheme of Delegation to Officers, to determine all matters within the Terms of Reference of the Committee/Sub-Committee.

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## **EMPLOYEE APPOINTMENTS/DISCIPLINARY COMMITTEE**

### **1. AIMS AND OBJECTIVES**

Within the Terms of Reference of, and under the powers and authority delegated to, the Committee to deal with appointment and disciplinary matters.

### **2. CONSTITUTION AND POWERS**

- (i) The Employee Appointments/Disciplinary Committee will comprise five Members of the Council.
- (ii) Political balance will apply.
- (iii) The quorum of the Employee Appointments/Disciplinary Committee will be three Members.
- (iv) A Chair for the meeting will be the first item of business for each individual meeting of the Committee.
- (v) Members should attend Recruitment and Selection, Disciplinary and Equal Opportunities Training.

### **3. TERMS OF REFERENCE**

- (1) To shortlist, interview and recommend to Council candidates for Chief Executive (Head of Paid Service), Chief Officers, the Monitoring Officer and the Section 151 Officer.
- (2) To manage and consider any disciplinary and/or capability and any grievance matters arising in relation to the Statutory Officers (Head of Paid Service, Chief Finance Officer (Section 151 Officer) and Monitoring Officer) and Chief Officers including the appointment of an Independent Investigator taken from an approved list held by the National Joint Secretaries.
- (3) To carry out the function of an Investigating and Disciplinary Committee as set out in the Joint Negotiating Committee (JNC) Conditions of Service for Chief Executives and the JNC Conditions of Service for Chief Officers.
- (4) To consider allegations concerning the conduct or capability of Statutory Officers and Chief Officers in order to establish whether or not they are sufficiently well-founded and serious in content to justify investigation.
- (5) If appropriate, following consultation with the Associate Director: People, Culture and Performance, to suspend a Statutory Officer (in an emergency where an exceptional situation arises whereby allegations of misconduct are such that the officers remaining presence at work poses a serious risk to the Health and Safety of others or the resources, information or reputation of the Authority) or Chief Officer under the terms of the JNC Conditions of Service for Chief Executives or the JNC Conditions of Service for Chief Officers.

- (6) In respect of Statutory Officers:
- (a) to decide whether the issue requires no further formal action; or
  - (b) if the allegations could lead to dismissal to appoint an Independent Investigator to look into the allegations. The Investigator will be taken from an approved list held by the National Joint Secretaries (the Statutory Officer has a say in which of a list of three is chosen).
  - (c) the Independent Investigator will consider whether the Statutory Officer should be suspended and recommend to the Committee accordingly.
  - (d) to receive the report of the Independent Investigator and if the proposed recommendation is dismissal to establish an Independent Panel including the two Independent Persons on the Council's Standards Committee. If one or more Independent Persons from the authority's own Standards Committee are not available to serve on the Panel then the authority must invite one or more Independent Persons who sit on the Standards Committee of another local authority or authorities and at least one Member of the EADC

NB. The Independent Panel must be appointed at least 20 days before the Council meeting which will consider whether or not to approve a proposal to dismiss a Statutory Officer.

- (e) the Independent Panel will review the report of the Independent Investigator and compile a report of its own.
  - (f) both reports/recommendations will be presented to Council which will review and make a final decision.
- (7) In respect of Chief Officers
- (a) to appoint, if appropriate, an investigator to carry out an investigation on behalf of the Committee (which power can be delegated to an Officer);
  - (b) to receive, consider, any report of an investigator; or
  - (c) to hold a capability, disciplinary or grievance hearing; and
  - (d) following any capability and/or disciplinary hearing, to determine a course of action (up to and including dismissal) with the Council's powers under law and within its procedures.
- (8) To determine whether to carry out any disciplinary action against/dismissal of any of the Council's Associate Directors.

#### **4. DELEGATED POWERS**

Subject to the General Provisions, and Scheme of Delegation to Officers, to determine all matters within the Terms of Reference of the Committee.

## **THE HORSFORD TRUST MANAGEMENT COMMITTEE**

### **1. AIMS AND OBJECTIVES**

Within the Terms of Reference of, and under the powers and authority delegated to, the Committee to ensure that the duties and responsibilities of the Council as Trustee of the Horsford Trust are satisfactorily implemented.

### **2. CONSTITUTION AND POWERS**

- (i) The Horsford Trust Management Committee will comprise the Councillors representing the Tewkesbury Wards.
- (ii) Political balance will not apply.
- (iii) A Chair for the meeting will be the first item of business for each individual meeting of the Committee.
- (iv) Substitution arrangements will not apply.

### **3. TERMS OF REFERENCE**

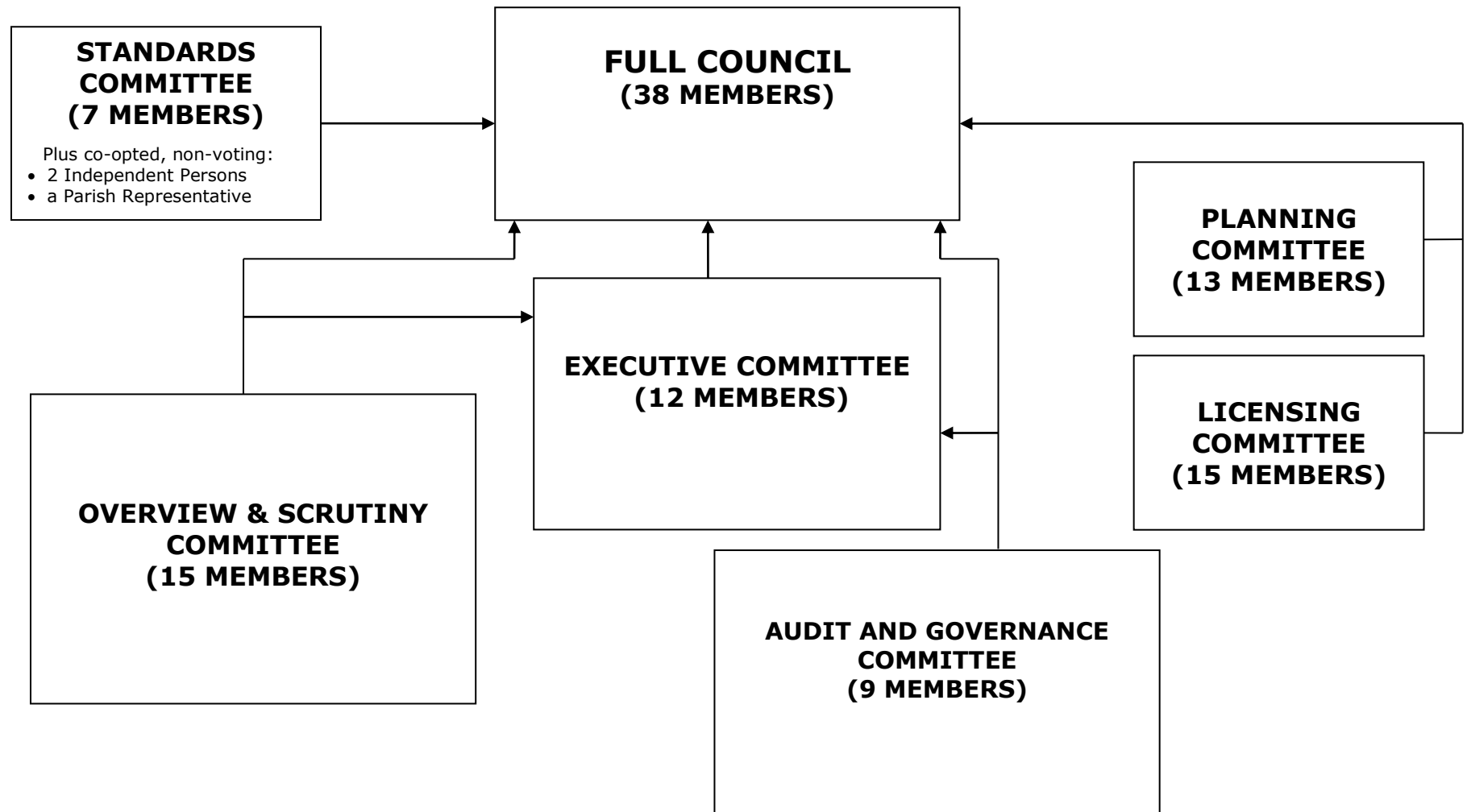
- (1) To manage the properties belonging to the Trust in accordance with the scheme prepared by the Charity Commission including conditions of occupancy, formulation of policy for allocating properties, letting, authorisation of eviction proceedings, repair and maintenance and welfare of residents including liaison with the Social Services Department of the County Council.
- (2) To review the contributions paid by residents as required from time to time.
- (3) To prepare an annual budget and a programme of maintenance works and repairs and to submit copy accounts to the Charity Commission as and when required.

### **4. DELEGATED POWERS**

Subject to the General Provisions, and Scheme of Delegation to Officers, to determine all matters within the Terms of Reference of the Committee.

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# TEWKESBURY BOROUGH COUNCIL DECISION-MAKING STRUCTURE



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## **RESPONSIBILITY FOR FUNCTIONS**

### **LEGISLATION**

The Local Government Act 1972 Section 101 permits the Council to arrange for the carrying out of its powers and duties by a Committee, Sub-Committee or an Officer or by another local authority. The Act does not permit the Council to arrange for a single Councillor to take decisions.

The law allows local authorities to operate the following forms of governance:

- (a) Executive arrangements;
- (b) a Committee system; or
- (c) arrangements prescribed by the Secretary of State.

For those Councils that operate Executive arrangements the Local Government Act 2000, as amended by the Localism Act 2011, allows for individual Councillor decision-making. However, Tewkesbury Borough Council operates a Committee system which does not allow individual decision-making by Members.

### **GENERAL PROVISIONS**

1. In exercising any power, or any matter which relates to service standards, approval of service business plans and performance measures and monitoring, the Officer exercising the delegated power will only do so after consultation with the appropriate Lead Member and the Officer's decision following that consultation should:
  - (1) not conflict with any existing or proposed policy or strategy of the Council.
  - (2) be within approved budgets or virement discretion.
  - (3) not be considered to be sensitive or controversial.
  - (4) be entered onto an Officer decision form and submitted to Democratic Services for publication.
2. Without prejudice to Paragraph 1 above, each Committee has delegated authority to decide matters within their aims and objectives except:
  - plans and strategies reserved to the Council for approval;
  - major new policy;
  - substantial variation or extension of existing policy;
  - the general allocation of capital expenditure;
  - the raising of money by precept or loan;
  - the revenue budget and the level of local taxation;
  - the promotion of any local or personal legislation; and
  - any function which by Law may not be delegated.
3. Committees exercising delegated functions of the Council should, as necessary, make recommendations as to the level of budget to carry out those functions in an efficient and effective manner.

4. Where a power or duty of the Council has been delegated to a Committee, the Chief Executive, a Chief Officer or other nominated Officer, the delegation shall be deemed to include any action that may be incidental to the exercise of the power or duty.
5. In exercising any powers on a matter, a Committee or Officer must have regard to any other Committees or Officers having responsibility for that or related matters.
6. A Committee may delegate any of its functions to a nominated Officer in addition to the General Provisions which have been drawn up by the Council.
7. Any additional duties which are imposed upon the Council by law at any time will be allocated to a Committee by the Monitoring Officer automatically after consultation with the Leaders of Political Groups so long as any additional duties are appropriate to the aims and objectives of that Committee.
8. Officers are empowered in respect of their duties and responsibilities to take any action required to implement a decision of the Council or its Committees.
9. The Chief Executive, the Chief Officers, Directors and Associate Directors are authorised to respond, in consultation with the Chair or Vice-Chair of the appropriate Committee and appropriate Lead Member, to consultation documents where the period during which a response is required does not allow the consultation paper to be reported to the relevant Committee. Any such response will be included in the Members' Update Sheet or reported to the appropriate Committee.
10. The Chief Executive may authorise, in writing, any Chief Officer or other nominated Officer to exercise in his/her absence any power or duty delegated to the Chief Executive.
11. Officers may further delegate, in writing, any function which has been delegated to them to another Officer or Officers. Neither the Chief Finance Officer's nor Monitoring Officer's statutory functions may however be delegated; although they may each appoint a member of their staff to carry out those functions in their absence.
12. Any powers delegated to an Officer under the Scheme of Delegation shall also include the delegation of that function to the Chief Executive or any Chief Officer provided that they hold any statutory qualification necessary for undertaking that function.
13. Any reference to a function or matter shall be deemed to include a reference to all statutory powers relating to that function or matter, whether directly or indirectly, and shall be deemed to include authority to exercise all such powers.
14. Any reference in this Scheme of Delegation to an Act of Parliament or Statutory Instrument includes a reference to any amendment, modification or Statutory re-enactment (with or without modification) of the same.

15. The arrangements made in this Part for the discharge of the Council's functions by a Committee or Officer do not prevent the Council from exercising those functions.
16. As the Council's Senior Information Risk Officer (SIRO), the Chief Executive will provide guidance on information security, develop relevant policy, conduct annual reviews and investigate suspected breaches of relevant procedures or other requirements.
17. A central record of all delegations (including sub-delegations) will be held by the Head of Democratic and Electoral Services. A template for sub-delegations will be used by Officers when required and this should be obtained from the Head of Democratic and Electoral Services.

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## SCHEME OF DELEGATION TO OFFICERS

### DELEGATIONS TO EXECUTIVE DIRECTOR: RESOURCES AND S151

| Ref            | Delegation   | In consultation with                         |
|----------------|--|--|
| <b>Finance</b> |  |  |
| 1.             | To be the “Chief Finance Officer” for the purposes of Section 151 of the Local Government Act 1972.  |  |
| 2.             | To administer the Council’s bank balances (including any necessary borrowing within limits approved by the Council) in accordance with the CIPFA Code of Practice for Treasury Management in Local Authorities, Financial Procedure Rules and the Treasury Policy Statement. |  |
| 3.             | As the Council’s S151 Officer, to amend the Council’s Treasury Strategy and Prudential Indicators to reflect the borrowing requirements of the Commercial Investment Strategy.   |  |
| 4.             | To set the Council Tax Base for the Borough.   |  |
| 5.             | To write-off debts up to £20,000 or debts arising as a result of the debtor being made insolvent, irrespective of the amount.  |  |
| 6.             | To approve virements within budgets up to £20,000.   |  |
| 7.             | To undertake the calculations related to the estimation of the collection fund surplus and deficit.  |  |
| 8.             | To vary, from time to time, the rate of interest charged by the Council on mortgages for which the Council is mortgagee.   |  |
| 9.             | To administer the Council’s banking arrangements including the appointment of bankers.   |  |
| 10.            | To manage the Council’s borrowings and investments in accordance with the Council’s Treasury Management Policy.  |  |
| 11.            | To implement the national wage and salary awards.  |  |
| <b>Other</b>   |  |  |
| 12.            | Agreement of the governance arrangements of the business rates pool and to agree the Council’s entry or exit to/from the pool after consultation with the Lead Member.   | Lead Member for Finance and Asset Management |
| 13.            | To make amendments of a minor nature to the Financial Procedure Rules.   |  |

|     |  |   |
|-----|--|---|
| 14. | To make minor amendments to the Management of Occupational Road Risk Policy, if necessary, following Union consultation.   | Trade Unions  |
| 15. | To manage the Council's insurance, including risk management, and the appointment of the Council's insurers.   |   |
| 16. | To approve future minor amendments to the Proceeds of Crime and Anti-Money Laundering Policy.  | Counter Fraud Unit Manager, One Legal and the Lead Member for Corporate Governance.         |
| 17. | To revise annually all fees and charges relevant to the duties of the Executive Director: Resources and S151.  |   |
| 18. | To approve future minor amendments to the Counter Fraud and Anti-Corruption Policy.  | Counter Fraud and Enforcement Unit, One Legal and the Lead Member for Corporate Governance. |
| 19. | To proceed with the acquisition of assets, subject to the acquisitions meeting the parameters of the Commercial Property Investment Strategy:                      |   |
|     | a. asset purchases of up to £12 million to be approved by the S151 Officer in consultation with the Lead and Support Members for Finance and Asset Management; and | Lead and Support Member for Finance and Asset Management                                    |
|     | b. asset purchases in excess of £12 million being referred to the Executive Committee.   |   |

### **Section 151 Officer and Head of Paid Service**

|     |   |  |
|-----|---|--|
| 20. | To approve, together with the Head of Paid Service, pension expenditure under £20,000 subject to such expenditure being found from within existing budgets. | Lead Member for Finance and Asset Management |
|-----|---|--|

**DELEGATIONS TO DIRECTOR: COMMUNITIES**

| <b>Ref</b>     | <b>Delegation</b>   | <b>In consultation with</b>   |
|----------------|---|---|
| <b>Housing</b> |   |   |
| 1.             | To determine appeals against the decision of the Council's agents in respect of the refusal of applications by individuals to be included on the Council's Housing Register or against any decision to exclude an individual from the Council's Housing Register.   |   |
| 2.             | To determine applications for accommodation under Part VII of the Housing Act 1996 (Homelessness) (As Amended).   |   |
| 3.             | To monitor the performance of Severn Vale Housing Society Limited, or any other Registered Social Landlord under any agency, or other agreement for the time being in operation.  |   |
| 4.             | To monitor other agencies delivering housing related services through Service Level Agreements or otherwise.  |   |
| 5.             | In consultation with the Lead Member, the Chair of the Planning Committee and relevant Local Ward Members, to enter into arrangements, which are within policy and budget, to assist persons in need of affordable solutions resulting from the changes in the housing market provided that any decision made shall not reduce the percentage of social housing on any development. The Director of One Legal is authorised to enter into agreements, or to vary existing agreements, to implement these decisions. | Lead Member, the Chair of the Planning Committee and relevant Local Ward Members<br><br>Director of One Legal                       |
| 6.             | To evaluate and select additional Preferred Registered Providers for the delivery and/or management of new affordable housing on the Strategic Allocation Sites.  |   |
| 7.             | To make further operational decisions within the Affordable Housing Partnership in consultation with the Lead Member for Built Environment.   | Lead Member for Built Environment   |
| 8.             | In consultation with the Executive Director: Resources and S151; the Lead Members for Built Environment and Finance and Asset Management; and the local Ward Members to make decisions on any offers made to the Council to purchase affordable properties at risk of repossession and, where it is not considered to be appropriate to buy them, to make the decision not to buy them.   | Executive Director: Resources and S151; Lead Members for Built Environment and Finance and Asset Management; and local Ward Members |

- |     |   |  |
|-----|---|--|
| 9.  | To determine any future consideration of asset disposals by Registered Providers operating in the Borough.  |  |
| 10. | To issue financial penalties as set out within the Civil Penalty Policy; Rent Repayment Order Policy; and Minimum Energy Efficiency Standards in Privately Rented Homes Policy. | Director of One Legal                          |
| 11. | To make any future amendments to the Housing and Homelessness Strategy Action Plan.   | Lead Member for Housing, Health and Wellbeing. |

**Environmental Health**

- |     |  |  |
|-----|--|--|
| 12. | To serve notices and take all necessary action in respect of abandoned vehicles.   |  |
| 13. | To issue Street Litter Control Notices.  |  |
| 14. | To designate litter control areas.   |  |
| 15. | To take appropriate action in respect of the collection of controlled waste.   |  |
| 16. | To serve Notices concerning litter and refuse on private land.   |  |
| 17. | To serve Notices under Sections 46 and 47 of the Environmental Protection Act 1990 and take all necessary action to enforce the requirements of such Notices including authorising staff as necessary.   |  |
| 18. | To grant/issue, renew, refuse, amend/vary, transfer, suspend, revoke, where appropriate, licences, permits, registrations, designations and authorisations, as the case may be, in connection with the following:  |  |
|     | <ul style="list-style-type: none"> <li>• Licences under the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018.</li> <li>• Registration of scrap metal dealers under of the Scrap Metal Dealers Act 2013.</li> <li>• Licences under the Zoo Licensing Act 1981.</li> <li>• Street Collection permits under the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and Local Government Act 1972.</li> <li>• House to House Collection permits under the House to House Collections Act 1939.</li> <li>• Street trading consents under the Local Government (Miscellaneous Provisions) Act 1982.</li> <li>• Licences under the Dangerous Wild Animals Act 1976.</li> <li>• Licensing of Boats.</li> <li>• Licensing of Caravan Sites and Mobile Homes.</li> <li>• Licences under the Licensing Act 2003.</li> <li>• Licences under the Gambling Act 2005.</li> </ul> |  |



|  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Hackney Carriages and Private Hire Vehicles Drivers and Operators (in accordance with Council Policy).</li> <li>• Licences for sex establishments under the Local Government (Miscellaneous Provisions) Act 1982.</li> <li>• Licences under the Hypnotism Act 1952.</li> <li>• Licences for acupuncture, tattooing, ear piercing and electrolysis under the Local Government (Miscellaneous Provisions) Act 1982.</li> <li>• Licences under the Business and Planning Act 2020.</li> <li>• Any other non-controversial licence, registration or consent after appropriate consultations following local and national guidance.</li> </ul> |  |
| <p>19. In consultation with the Lead Member for Clean and Green Environment, to determine the fees for scrap metal licence applications.</p>   | <p>Lead Member for Clean and Green Environment</p> |
| <p>20. To administer and enforce the provisions of Part 1 of the Health Act 2006.</p>  |  |
| <p>21. To appoint a public analyst and food examiner for the authority.</p>  |  |
| <p>22. To discharge the provision of the Environmental Protection Act 1990 in relation to contaminated land, namely the inspection of land, service of remediation notices and the maintenance of a contaminated land register.</p>  |  |
| <p>23. To issue Abatement Notices and other statutory notices in respect of legislation within the environmental health remit e.g.</p> <ul style="list-style-type: none"> <li>• public health nuisances.</li> <li>• pest control.</li> <li>• drainage and water supplies.</li> <li>• caravan sites.</li> <li>• pollution and noise control.</li> <li>• food safety.</li> <li>• health and safety at work.</li> <li>• dog control.</li> <li>• contaminated land.</li> <li>• licensing.</li> <li>• clean air/air quality.</li> <li>• medical waste.</li> </ul>   |  |
| <p>24. To authorise and appoint suitably qualified and competent staff and inspectors under relevant Environmental Health legislation including:</p> <ul style="list-style-type: none"> <li>• Authorising inspectors under the Zoo Licensing Act 1981 for the purposes of discharging functions of the Council.</li> </ul>   |  |

- Authorising staff under the Food and Environment Protection Act 1985.
- Authorising staff to act in matters arising under the Food Safety Act 1990 and to serve notices.
- Authorising staff to act in matters arising under the European Communities Act 1972.
- Authorising staff under Section 343(1) of the Public Health Act 1936 with powers and other duties of staff arising under the Act and subsequent associated legislation.
- Appointing inspectors of health and safety under Section 19(1) of the Health and Safety at Work etc. Act 1974 with powers of inspection as deemed appropriate including the power for inspectors to authorise other persons to accompany them on inspections under Section 20(2) c(i) and to authorise the Health and Safety Executive and other Councils in Gloucestershire to undertake the inspections.
- Authorising staff to act in matters arising under the Building Act 1984 including powers under Sections 93 and 95.
- Authorising inspectors with powers of inspection under Regulation 8 of the Bovine Products (Production and Despatch) Regulations 1997.
- Appointing inspectors to act in matters arising under the Environmental Protection Act 1990 and subsequent associated legislation for the purposes of the discharge of functions of the authority including having the power to serve notices, authorisations and other documents.
- Appointing inspectors under Part 2 of Schedule 2 of the Sunday Trading Act 1994.
- Appointing the Shellfish Liaison Officer for the Council.
- Designating staff or persons under the Water Industry Act 1991 to exercise powers and perform duties of the authority under the Act including the service of the notices under Sections 80 and 85 of the said Act.
- Authorising staff under Animal Welfare (Licencing of Activities Involving Animals) Regulations 2018.
- Authorising staff under the Animal Welfare Act 2006.
- Authorising staff under the Animal Health Act 1981.

- Authorising staff under the Dangerous Dogs Act 1991.
- Authorising staff under the Deer Act 1991.
- Authorising staff under the Control of Dogs Order 1992.
- Authorising staff under the Rabies (Importation of Dogs, Cats and other Mammals) Order 1974.
- Authorising staff under the Trade in Animals and Related Products Regulations 2011.
- Authorising staff under the Animal By-Products (Enforcement) (England) Regulations 2013.
- Authorising staff under Section 3(1) of the Dangerous Wild Animals Act 1976.
- Appointing specific veterinary surgeons or practitioners as inspectors under the Animal Welfare (Licencing of Activities Involving Animals) Regulations 2018, Zoo Licensing Act 1981 and the Dangerous Wild Animals Act 1976.
- Authorising staff under the Licensing Act 2003.
- Authorising staff under the Gambling Act 2005.
- Authorising staff under the Business and Planning Act 2020.
- Authorising staff under the Refuse Disposal (Amenity) Act 1987.
- Authorising staff under Section 6(2) of the Scrap Metal Dealers Act 1964.
- Authorising staff under the Local Government (Miscellaneous Provisions) Act 1982 & 1976.
- Authorising persons under the Prevention of Damage by Pests Act 1949.
- Authorising staff under Section 56 of the Clean Air Act 1993.
- Authorising the nomination of a Proper Officer for the Control of Notifiable Diseases and Food Poisoning under the Public Health (Control of Disease) Act 1984, and associated legislation, with powers to act in accordance with the powers of a Proper Officer including the signing of Notices and documents under the Act and associated legislation.
- Authorising staff under the Public Health (Control of Disease) Act 1984 and other associated legislation.

- Authorising persons under Section 108 of the Environment Act 1995 with powers specified in Sub-Section 4.
  - Designating persons under the Water Industry Act 1991 (power of entry, inspection and test).
  - Authorising staff under the Performing Animals (Regulation) Act 1925.
  - Authorising staff under Section 50 of the National Assistant Act 1948.
25. On behalf of the local authority, to have powers to declare Orders for air quality management areas under Section 83 of the Environmental Act 1995.
  26. To make purchases of goods and services or undertake sampling for the purposes of ascertaining whether the provisions of relevant legislation are being complied with.
  27. To carry out works in default in respect of legislation, and to recover the amount spent, through the County Courts if necessary.
  28. To certify the required heights of chimneys – Clean Air Act 1993.
  29. To refuse applications, give authorisation and vary authorisation as may be appropriate for the purposes of Part I of the Environmental Protection Act 1990 and associated regulations.
  30. To enter into contracts for the provision of pest control services to commercial premises.
  31. To determine applications including approval, refusal, payment and certification of completion for Renovation Grants, Common Parts Grants, Houses in Multiple Occupation Grants, Disabled Facilities Grants and for Home Repair Assistance under the Housing Grants, Construction and Regeneration Act 1996.
  32. To issue Notices and Orders in relation to the repair or unfitness of individual premises and to take enforcement action, works in default and the recovery of monies.
  33. To take action in relation to area renewal, slum clearance and group repair and to take enforcement action, works in default and the recovery of monies.
  34. To issue Notices in relation to overcrowding in residential premises and to take enforcement action, works in default and the recovery of monies.

35. To issue Notices, Directions or Orders in relation to houses in multiple occupation with reference to repair, fitness, overcrowding, amenities and means of escape, and management; to vary the adopted standards for homes in multiple occupation in individual cases, and to take enforcement action, works in default and the recovery of monies.
36. In respect of Houses in Multiple Occupation:
  - To approve, refuse or vary Licences for Houses in Multiple Occupation and to issue temporary exemption notices as considered appropriate in accordance with the prescribed procedures in the Housing Act 2004.
  - To attach conditions to the Licence in accordance with the prescribed procedures in the Housing Act 2004 using, wherever possible, agreed countywide common standards and procedures.
  - To charge a fee of £350 for a three-year Licence in cases where the application is fully complete enabling the authority to determine it.
  - To review and set the Licence fee on a periodic basis.
  - In consultation with the Director of One Legal, to take any necessary and appropriate enforcement action in relation to Houses in Multiple Occupation as prescribed in the Housing Act 2004.
  - That any action to revoke a Licence for Houses in Multiple Occupation, as considered appropriate in accordance with the prescribed procedures in the Housing Act 2004, be referred to the appropriate Committee for decision.
37. To determine Disabled Facilities Grant property charges on a case by case basis reflecting the individual circumstances of each applicant in accordance with legislation and guidance.
38. To regulate the use and operation of common lodging houses.
39. To make payments in relation to unfit premises including sums for well-maintained houses.
40. To take action in relation to the breach of grant conditions and to require repayment where appropriate.
41. To investigate cases of harassment and illegal eviction and to take appropriate action accordingly.

Director of One Legal

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| 42.          | To make arrangements for the restoration of supply of water, gas or electricity in appropriate cases.  |   |
| 43.          | To maintain and manage (including power to authorise lettings etc.) buildings used for arts, culture, sports, recreation and leisure and to determine their opening hours.   |   |
| 44.          | To allocate grants to organisations from the Lottery Partnership Support Fund in accordance with the approved procedure and criteria.  |   |
| 45.          | To issue grant approvals and refusals to voluntary and charitable organisations and to make payments accordingly.  |   |
| 46.          | To administer formal cautions, in conjunction with the Director of One Legal, in respect of any offences contrary to legislation.  | Director of One Legal   |
| 47.          | To undertake the preparation of an Energy Conservation Report under the Home Energy Conservation Act 1995.   |   |
| 48.          | To set charges for the production of export health certificates for foodstuffs as defined by the UK Export Certification Partnership (UKECP).  |   |
| 49.          | To approve any future minor amendments to the Environmental Health Enforcement Policy and Fixed Penalty Scheme.  | Lead Member for Clean and Green Environment and Director of One Legal |
| <b>Other</b> |  |   |
| 50.          | To supply information to the Gloucestershire County Council, and the Secretary of State as appropriate, on matters pertaining to civil emergencies.  |   |
| 51.          | To assist the Gloucestershire County Council in making or revising civil defence plans and, when necessary, taking steps in carrying out those plans in the event of a civil emergency (including making arrangements for appropriate staff to be trained).  |   |
| 52.          | To operate an emergency standby service.   |   |
| 53.          | To respond to approaches from the Police to take such other action as appears to him/her appropriate under the Provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 to protect and maintain the quality of life of individuals or parts of the community within the Borough, in consultation with the Lead Member and Ward Councillors for the area or areas affected. | Lead Member and relevant Ward Councillors                             |

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| 54. | In consultation with the appropriate Lead Member and the Executive Director: Resources and S151, to vary the Garden Waste Collection service charge in order to ensure full recovery of costs of delivering the service. | Appropriate Lead Member and Executive Director: Resources and S151 |
| 55. | In consultation with the Lead Member and Chair of the Licensing Committee, to make any minor amendments to the Hackney Carriage and Private Hire Driver's Policy in line with legislation.                               | Lead Member and Chair of Licensing Committee                       |
| 56. | To determine a star rating appeal under the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018.   |  |
| 57. | To immediately suspend or revoke a Hackney Carriage or Private Hire vehicle where considered necessary in the interest of public safety.   |  |
| 58. | To immediately suspend or revoke a Hackney Carriage or Private Hire Driver's Licence where considered necessary in the interest of public safety.  |  |
| 59. | In respect of hackney carriages and private hire vehicles to fix a table of fares to which objection has been made.  |  |
| 60. | To immediately suspend or revoke an Animal Activity Licence where considered necessary in the interest of animal welfare.  |  |
| 61. | To revise annually all fees and charges relevant to the duties of the Director: Communities.   |  |
| 62. | To review and make minor amendments to the Council's Sandbag Policy e.g. adding or removing Parish Councils to the list in the appendix to the policy.   |  |
| 63. | To make decisions on allocating grants for the Warm Community Spaces Fund / Community Food Fund.   |  |
| 64. | To make decisions on the criteria and decision-making on allocating grants for further funds that are related to inflationary pressures.   |  |
| 65. | To receive the nomination, undertake a gateway assessment and make a decision on whether to include the asset on the list of assets of Community Value in consultation with the Lead Member for Community                | Lead Member for Community  |
| 66. | In the event of an internal review, to consider the grounds for appeal on decisions made on the List of Assets of Community Value.   | Executive Director: Resources and S106                             |
| 67. | In consultation with the Lead and Ward Members as appropriate, to act as an initial point of contact for any group who wishes to receive advice or submit a nomination for an asset of community value.                  | Lead and Ward Members as appropriate.                              |

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| <p>68. To make the decisions needed to develop and implement the action plan arising from the UK Shared Prosperity Fund and Rural Prosperity Fund, or subsequent funds, or vary it in response to circumstances which may arise as a consequence of the need, including authority to enter into agreements, notices and other legal documents as necessary.</p> <p>69. To be responsible for the management of the Growth Hub.</p> <p>70. To allocate community grants as required.</p> <p>71. To allocate Environmental Improvement Grants.</p> | <p>Executive Director:<br/>Resources and S151,<br/>the Lead Member for<br/>Economic<br/>Development/Promotion<br/>and the Lead Member<br/>for Community.</p> |
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## DELEGATIONS TO EXECUTIVE DIRECTOR: PLACE

| Ref | Delegation  | In consultation with                      |
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| 1.  | To take emergency measures to deal with dangerous buildings under the Building Act 1984.  |   |
| 2.  | To identify buildings of special architectural or historic interest and make proposals to include any such buildings in any listing under the Planning (Listed Buildings and Conservation Areas) Act 1990.  |   |
| 3.  | To allocate grants relating to heritage assets including statutory and non-statutory designations.  |   |
| 4.  | To devise a scheme for Planning Performance Agreements and review and amend as necessary.   |   |
| 5.  | To determine proposals for street naming.   |   |
| 6.  | To allocate numbers to buildings in new streets and in existing streets including renumbering.  |   |
| 7.  | To maintain, improve and construct land drainage works; to maintain flow in watercourses; to deal with the deposit of soil on banks; and to carry out works in default of the responsible party.  |   |
| 8.  | To approve Temporary Road Closures under Section 21 of the Town Police Clauses Act 1847.  |   |
| 9.  | To agree proposals from developers/landowners for the transfer of open space and, subject to the agreement of the Executive Director: Resources and S151, the amount of any commuted sums payable by the developer / landowner in respect thereof.      | Executive Director:<br>Resources and S151 |
| 10. | To lodge objections with the appropriate authority to applications from bus operators to raise fares, or alter routes or schedules, after consultation with the Chair of the Planning Committee.  | Chair of Planning<br>Committee            |
| 11. | To approve the designation of neighbourhood areas where a relevant body proposes a neighbourhood area that follows their Parish Council boundary meeting the requirements of r5A of SI 2012/637 (The Neighbourhood Planning (General) Regulation 2012). |   |

## 12. **Planning and Related Applications**

The Council has delegated its planning responsibilities to the Planning Committee. In order to assist Councillors to focus on the more significant and contentious proposals, and to improve the speed of decision-making on minor and uncontentious matters, the majority of planning applications are delegated to the Executive Director: Place. Subject to the safeguards set out below the Executive Director: Place has the authority to deal with a range of issues on behalf of the Planning Committee including the following:

- Planning applications.
- Environmental Impact Assessment Screening and Scoping Opinions.
- Reserved matters applications.
- Applications for Lawful Development Certificates.
- Advertisement Consent applications.
- Listed Building Consent applications.
- Non-material minor amendments.
- Approval of details required by, and discharge of, conditions.
- Permitted development prior approval notifications.
- Applications for works to trees subject of Tree Preservation Orders.
- Notifications of works to trees in conservation areas.
- Hazardous Substance Consent.
- Permission in Principle.
- Technical Details Consents.
- Other notifications and consultations received by the Council as local planning authority, including those from statutory undertakers and other local authorities.

Under the terms of the Scheme, the Executive Director: Place has authority to approve or refuse submissions subject to the safeguards listed below. In all cases, observations from Town/Parish Councils, Councillors, the local community and other consultees will be taken into account where they have been received before a decision is issued or representations are made.

The Executive Director: Place also has the authority to decline to determine applications under section 70A, 70B and 70C of the Town and Country Planning Act 1990, or section 81A and 81B of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Head of Development Services will 'finally dispose' of applications under the provisions of the Town and Country Planning (Development Management Procedure) (England) Order 2015 where it is appropriate to do so.

### 13. **Planning and Related Applications - Safeguards**

1. The Executive Director: Place cannot grant permission for a proposal which is clearly contrary to the approved policies of the Council, or where the Planning Committee has specifically required that an application be determined by the Committee.
2. Councillors are notified of all planning and related applications/notifications via the Council's Public Access system. Any Councillor who is concerned about a proposal which would normally be delegated will notify the Case Officer in writing within 21 days of receiving the list. If, after discussing the application with Officers, a Councillor wishes the proposal to be determined by the Committee, the application will be referred to the Planning Committee.
3. The opportunity to enhance, amend or otherwise improve proposals in accord with the fairness and good neighbour yardstick, the general planning interest and the Council's policy will be taken where appropriate.
4. The Executive Director: Place will use their discretion to refer any proposal to the appropriate Committee if they are not satisfied that the matter should be dealt with under delegated powers.
5. Planning and related applications will not be dealt with under delegated powers, save where the application is in respect of a previously permitted scheme and only seeks to make either minor material amendments, non-material amendments, or is a S73/S73A application seeking to vary or remove conditions which does not change the nature of the scheme, and shall instead be referred to the Planning Committee for a decision in the following circumstances:

- (i) Applications where a Town or Parish Council has submitted a written objection raising substantive planning issues has been received within the normal consultation/publicity period and it has not been addressed by discussion, amendment, or by written response.
- (ii) Applications submitted by the Council, by or on behalf of, a Tewkesbury Borough Councillor or by, or on behalf of, an employee of the Council.
- (iii) Full or outline applications for the erection of 10 or more residential units.
- (iv) Reserved Matters applications involving more than 20 dwellings.
- (v) Applications for the use of land involving the stationing of five or more caravans for permanent residential use.

The above safeguards shall be subject to, and not affect, the authority of the Executive Director: Place to act in respect of those cases where strict statutory time limits are involved for making a decision or taking action, for example, in cases of agricultural buildings, demolitions and telecommunications determinations and in respect of notifications of works to trees in Conservation Areas, and any other matters where non-action within a set period automatically gives consent.

#### 14. **Planning Enforcement**

1. The Executive Director: Place in consultation with the Director of One Legal, has the authority to carry out the following:
  - a. to issue Notices in respect of clear breaches of planning and listed building control and all other planning related legislation if it is considered expedient to take such action.
  - b. to issue a Planning Contravention Notice or Requisition for Information.
  - c. to issue any Notices under Section 215 of the 1990 Planning Act to require the proper maintenance of land.
  - d. to issue/serve any urgent notices under the Town and Country Planning Act 1990, Planning (Listed Buildings and Conservation Areas) Act 1990 and all other planning related legislation.

Director of One Legal

- e. to take action pursuant to the Rights of Entry under the Town and Country Planning Act 1990, Planning (Listed Buildings and Conservation Areas) Act 1990, Part 8 of the Anti-Social Behaviour Act 2003 and all other planning related legislation.
- f. to issue a Discontinuance Notice under Regulation 8 of the Town and Country Planning (Control of Advertisements) Regulations 2007.

**15. Listed and Unlisted Heritage Assets**

- 1. The Executive Director: Place has the authority to respond to consultations from, or make proposals to, the relevant organisations on potential amendments to the Statutory List of Buildings of Special Architectural or Historic Interest.
- 2. The Executive Director: Place has the authority to make amendments to the local list of heritage assets.

**16. S106 Obligations**

- 1. The Executive Director: Place has the authority to negotiate, and to instruct the Director of One Legal to progress and enter into, s106 legal obligations in respect of any matter being dealt with under delegated powers (including appeals). In cases which have been subject to a Planning Committee decision, which is subject to the completion of a S106 planning obligation, the authority will be subject to the terms of that resolution.
- 2. The Executive Director: Place has the authority to approve any details required to be submitted to the Council for approval under the terms of any S106 planning obligations.

Director of One Legal

3. The Executive Director: Place will approve the expenditure of any monies paid to the Council under the terms of any S106 planning obligations in consultation with a Panel of local/Lead Members to include Lead Member for Community; Lead Member for Built Environment; Lead Member for Finance and Asset Management; and Lead Member for Housing, Health and Wellbeing. A member of the Finance Team, One Legal and the Community Development Team will advise the Panel. Where a member of the panel has a connection to the applicant (e.g. sit on the Board, or Parish Council that is making an application), they will be required to declare this and not be able to sit on the panel for that decision. This may be a virtual panel with information circulated via email.
4. The Executive Director: Place has the authority to agree deeds of variation of existing s106 obligations and to modify/discharge obligations under the Town and Country Planning Act 1990.
5. The Executive Director: Place will use their discretion to refer any proposal to the appropriate Committee if they are not satisfied that the matter should be dealt with under delegated powers.

Executive Director:  
Resources and S151  
In consultation with a panel of Members to include: Lead Member for Community; Lead Member for Built Environment; Lead Member for Finance and Asset Management; Lead Member for Housing, Health and Wellbeing; and the local Member(s).

## 17. **Trees**

1. The Executive Director: Place has the authority to carry out the following:
  - to make and confirm Tree Preservation Orders which are not the subject of objection which cannot be resolved;
  - to revoke or vary existing orders, which are not the subject of objection which cannot be resolved; and
  - to serve Tree Replacement Notices.
2. Tree Preservation Orders, or proposals to revoke or vary existing orders which are subject to objection, shall only be confirmed by the Planning Committee.
3. To make provisional (emergency) Tree Preservation Orders.

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| 18. | <b>High Hedges</b>  | Director of One Legal |
| 1.  | The Executive Director: Place has authority to issue, withdraw, waive or relax a Remedial Notice under Part 8 of the Anti-Social Behaviour Act 2003 and, in consultation with the Director of One Legal, to commence and instigate prosecution proceedings in relation to the failure to comply with the terms of a Remedial Notice served under Part 9 of the Act.   |                       |
| 19. | <b>Hedgerows</b>  | Director of One Legal |
| 1.  | To issue notices under the Hedgerows Regulations 1997.  |                       |
| 2.  | In consultation with the Director of One Legal, to commence and instigate prosecution proceedings in relation to the failure to comply with the provisions of the Hedgerows Regulations 1997.   |                       |
| 20. | <b>Public Rights of Way</b>   |                       |
| 1.  | The Executive Director: Place has authority to make orders affecting public rights of way under the Town and Country Planning Act 1990 and to make observations on consultations from other authorities on public rights of way matters.  |                       |
| 21. | <b>Miscellaneous</b>  |                       |
| 1.  | <p>The Executive Director: Place has the authority:</p> <ul style="list-style-type: none"> <li>a. to make minor changes to the Pre-Application Planning Advice Scheme as necessary.</li> <li>b. to commission appropriate specialist consultants in order to properly carry out the Council's Development Management functions, including appeals.</li> <li>c. to deal with consultations and proposals in respect of hazardous materials.</li> <li>d. to make representations on applications for heavy goods operators' licences to establish or continue vehicle operation centres.</li> <li>e. to undertake any other actions and decisions as a local planning authority and/or the hazardous substances authority under the Town and County Planning Act 1990, the Planning (Listed Building and Conservation Areas) Act 1990, Planning (Hazardous Substances) Act 1990 and all planning related legislation, except as specifically allocated to or by Council.</li> </ul> |                       |

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| 22. | To issue certificates of Lawful use or Development in consultation with the Director of One Legal.  | Director of One Legal     |
| 23. | To issue certificates of Appropriate Alternative Development in consultation with the Director of One Legal.  | Director of One Legal     |
| 24. | To approve applications under Sections 73 and 73A to vary or remove conditions in consultation with the Director of One Legal.  | Director of One Legal     |
| 25. | To make a decision on whether to include the asset on the List of Assets of Community Value in consultation with the Lead Member for Community.   | Lead Member for Community |
| 26. | To agree the adoption of elements of Sustainable Drainage Systems when it is in the interest of the community and environment to do so and where they form part of an agreed land drainage design. Systems are only to be adopted when it is agreed that the Council will receive a commuted sum of money from which the interest, calculated at the rate of 4%, would be sufficient to finance the maintenance of the system in perpetuity. That the reed beds on the Brockworth/Hucclecote airfield site be adopted on these conditions and that all such adoptions be upon such terms and conditions as the Director of One Legal deems appropriate. | Director of One Legal     |
| 27. | To maintain the register of Local Land Charges pursuant to Section 3(2) of the Local Land Charges Act 1975 including the entry, amendment and cancellation of registrations and the issue of an official search certificate and all duties consequent upon that responsibility.   |                           |
| 28. | To revise annually all fees and charges relevant to the duties of the Executive Director: Place.  |                           |



## DELEGATIONS TO DIRECTOR: CORPORATE RESOURCES

| Ref                               | Delegation   | In consultation with  |
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| 1.                                | To be responsible for internal audit arrangements pursuant to the Accounts and Audit Regulations 1996 on behalf of the Section 151 Officer.  |   |
| 2.                                | To approve future minor amendments to the Council's Corporate Enforcement Policy.  | Counter Fraud Unit Manager, the Director of One Legal and the Lead Member for Corporate Governance. |
| <b>Benefits Administration</b>    |  |   |
| 3.                                | To assess and, where necessary, to review entitlement to Housing Benefit and Council Tax Reduction according to the relevant regulations and to undertake all associated administration, including the making of all determinations considered appropriate.  |   |
| 4.                                | To represent the Council in any proceedings before the Social Security Appeals Tribunal in respect of appeals against decisions relating to Housing Benefit.   |   |
| 5.                                | To consider claims for, and make decisions to award, Discretionary Housing Payments.   |   |
| <b>Council Tax Administration</b> |  |   |
| 6.                                | To administer the statutory schemes for the billing, collection and enforcement of Council Tax including the imposition of penalties for breaches of statutory duties; the instruction of enforcement agents; the institution of proceedings in a court of summary jurisdiction for the recovery of unpaid Council Tax and to authorise Officers to represent the Council and to appear in such proceedings. |   |
| 7.                                | To make proposals for the alteration of the valuation list or object to any proposal for alteration of the valuation list.   |   |
| 8.                                | To apply the discount for care leavers, with any dispute being subject to an internal reconsideration by the Executive Director: Resources and S151.   |   |
| 9.                                | To agree the uprating of the working age regulations incorporated into the local Council Tax Reduction Scheme in line with those announced by the Department for Work and Pensions.  | Lead Member for Finance and Asset Management.   |

## National Non-Domestic Rates Administration

10. To administer the statutory schemes for the billing, collection and enforcement of National Non-Domestic Rates including the imposition of penalties for breaches of statutory duties; the instruction of enforcement agents; the institution of proceedings in a court of summary jurisdiction for the recovery of unpaid National Non-Domestic Rates, and to authorise Officers to represent the Council and to appear in such proceedings.
11. To determine applications for mandatory and discretionary relief from Non-Domestic Rates under the Local Government Finance Act 1988.
12. To make proposals for the alteration of the Rating List or object to any proposal for alteration of the Rating List.

## Assets

13. To undertake and agree rent reviews in respect of properties leased by, or to, the Council after consulting with the Director of One Legal. Director of One Legal
14. To regularly inspect, repair, redecorate and otherwise maintain all premises occupied by the Council.
15. To agree the uprating of the working age regulations incorporated into the local Council Tax Reduction Scheme in line with those announced by the Department for Work and Pensions. Lead Member for Finance and Asset Management
16. To regularly inspect all premises let or leased by the Council where there is a liability to repair imposed upon the tenant or lessee and to inform the Director of One Legal if any tenant or lessee has not complied with the conditions of the tenancy or lease as to the maintenance and repair of the premises. Director of One Legal
17. In consultation with the Director of One Legal, to sell any area of land after consultation with any relevant Executive Director, Director or Associate Director and Ward Member, provided that:  
  - (a) the area shall not exceed 0.02ha/200m<sup>2</sup> and shall be for the benefit of the applicant's existing or proposed property;
  - (b) the sale price shall be approved by a properly qualified person; and
  - (c) there shall be a presumption against the sale of land which is subject to an obligation to use only as open land, unless the Executive Director: Place / Associate Director: Planning deems that the presumption should be waived. Director of One Legal and relevant Executive Director, Director or Associate Director and Ward Member

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| 18. | <p>In consultation with the Director of One Legal, in connection with leases and tenancies granted by the Council:</p> <ul style="list-style-type: none"> <li>(a) to issue licences to assign, sublet, charge or part with possession of land or premises;</li> <li>(b) to consent to change of use or alterations;</li> <li>(c) to review rents in accordance with such leases and tenancies; and</li> <li>(d) to serve Notices terminating such leases or tenancies.</li> </ul>  | Director of One Legal   |
| 19. | <p>In consultation with the Director of One Legal in connection with any property which the Council holds on lease tenancy or licence:</p> <ul style="list-style-type: none"> <li>(a) to oppose any Notice terminating the lease;</li> <li>(b) to serve Notices requesting renewals of such leases or tenancies;</li> <li>(c) to agree and enter into licences to assign, sublet, charge or part with possession of land or premises;</li> <li>(d) to apply for and agree licences for change of use or alterations;</li> <li>(e) to agree reviewed rents in accordance with such leases and tenancies; and</li> <li>(f) to serve Notices terminating such leases or tenancies.</li> </ul> | Director of One Legal   |
| 20. | <p>In consultation with the Director of One Legal to grant easements rights and licences after consultation with any relevant Executive Director, Director or Associate Director and the Ward Member.</p>  | Director of One Legal, relevant Executive Director, Director or Associate Director and relevant Ward Member |
| 21. | <p>In consultation with the Director of One Legal to grant leases and tenancies for:</p> <ul style="list-style-type: none"> <li>• service related property on terms not exceeding 10 years after consultation with the Lead Member and the Ward Member; and</li> <li>• commercial investment property on terms not exceeding 20 years after consultation with the Lead and Support Member</li> </ul>   | Director of One Legal, relevant Lead and Support Member, relevant Ward Member                               |

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| <p>22. In consultation with the relevant Ward Member and the Lead Member:</p> <ul style="list-style-type: none"> <li>• to dedicate and/or agree terms for the transfer or lease of land for highway purposes where this does not materially interfere with the proper management of the retained land or its investment value;</li> <li>• to agree terms of the transfer or lease of land for public utilities where this does not materially interfere with the proper management of the retained land or its investment value; and</li> <li>• to grant such rights as may be necessary or advisable in support of the dedications, transfers and leases described above;</li> </ul> <p>upon such terms as the Executive Director: Resources and S151 considers appropriate.</p> | <p>Relevant Ward and Lead Member</p>   |
| <p>23. In so far as they are not included in any of the above categories, in consultation with the Director of One Legal and any other Executive Director, Director or Associate Director:</p> <p>(a) to renew any leases of land and/or premises which expire by effluxion of time;</p> <p>(b) to grant leases of land to the appropriate statutory body for electricity substations, gas governor kiosks and water/sewage pumping stations, together with any rights necessary or desirable for the efficient functioning of such installations;</p> <p>(c) to grant and determine licences, wayleaves and service tenancies in respect of land and/or premises; and</p> <p>(d) to authorise the temporary or seasonal use of land and/or premises.</p>                         | <p>Director of One Legal and relevant Executive Director, Director or Associate Director</p>                 |
| <p>24. In consultation with the Director of One Legal, to release, relax or vary restrictive covenants benefiting or imposed upon the Council after consultation with any relevant Executive Director, Director or Associate Director and the Ward Member.</p> <p>NOTE: For the avoidance of doubt the delegations referred to above are on the basis that:</p> <p>(a) the Director of One Legal shall incorporate such terms and conditions as he/she deems appropriate; and</p>   | <p>Director of One Legal and relevant Executive Director, Director or Associate Director and Ward Member</p> |

- (b) in the event of disagreement between the consultees, or where the Executive Director: Resources and S151 / Director of One Legal deems appropriate, the matter shall be brought before Committee for decision.

and include power:

1. to refuse or oppose such requests;
  2. to enter into Contracts and Deeds effecting the transaction;
  3. to enter into such ancillary agreements and upon such terms as the Director of One Legal deems appropriate; and
  4. to take such ancillary action as the Director of One Legal deems appropriate including, for avoidance of doubt but without limitation, taking court action or making applications to court.
25. To operate and manage the Council's car parks (including the power to deal with applications for the temporary use of car parks).
26. To waive charges or other requirements in respect of off-street parking in cases where there are reasonable grounds for doing so.
27. To operate Decriminalised Parking Enforcement in accordance with the Council's policy and ensure compliance with the Traffic Management Act 2004.
28. To approve adverse possession claims where:
- i. the area of land is less than 200sqm; and
  - ii. there is no strong evidence rebutting the applicant's claim; and
  - iii. the Executive Director: Resources and S151 considers that the land is not of strategic importance to the Council.

**Other |**

29. To begin proceedings, and to represent the Council, in the County Court under the small claims procedure to obtain judgement for unpaid debts; to enforce judgement orders by attachment of earning or allowances Orders and/or distraint; and to prove debts in insolvency proceedings.
30. To participate in National Fraud Initiatives.

|   |  |
|---|--|
| 31. To approve amendments to existing Revenues and Benefits Policies that have no financial impact on the Council.  |  |
| 32. To consider, on an individual case-by-case basis, any exceptional circumstances where it may be appropriate to grant a locally defined Council Tax reduction e.g. flooding.   | Chair and Vice-Chair of Executive Committee  |
| 33. To make minor textual amendments to either the Risk Management Strategy or the Risk Management Policy if and when required.   |  |
| 34. In consultation with the Lead Member for Finance and Asset Management, to implement any further business rate reliefs introduced by the government.   | Lead Member for Finance and Asset Management |
| 35. To present petitions for the liquidation of companies and bankruptcy petitions where necessary to recover debts due to the Council.   | Director of One Legal                        |
| 36. To revise annually all fees and charges relevant to the duties of the Director: Corporate Resources.  |  |
| 37. To undertake Proper Officer functions as set out under the Proper Officer provisions which include designation as Returning Officer, Electoral Registration Officer and Monitoring Officer.   |  |
| 38. To deal with all claims for payment of Members' Allowances (Basic and Special Responsibility) and for Members' Travelling and Subsistence Allowances.   |  |
| 39. To recruit and maintain the Independent Remuneration Panel.   |  |
| 40. To certify the following for Members of staff:<br><br>(a) Official Certificates of Appointment (Identity).<br>(b) Authority to Enter Premises for authorised functions.   |  |
| 41. To make any minor changes/amendments to the Constitution such as spelling, grammar, typographical and formatting changes that do not affect the substantive content and in line with any decisions the Council makes that impact on the Constitution. |  |
| 42. To make changes/fill vacancies on Committees, Working Groups etc. in accordance with Rule of Procedure 2.1.   |  |
| 43. Convening all meetings of Councillors (Council, Committees, Working Groups, Seminars etc.) including setting the time and place of such meetings.   |  |

44. That authority be delegated to the Returning Officer/Electoral Registration Officer and their deputy to keep polling places and polling stations under review and amend any such arrangements where there is an operational need prior to the next full review of polling places.

## DELEGATIONS TO DIRECTOR OF ONE LEGAL

| Ref | Delegation   | In consultation with  |
|-----|--|---|
| 1.  | To institute proceedings in any Courts, as appropriate, as and when necessary, in consultation with the appropriate Committee Chair and Vice-Chair where he/she is satisfied that the matters in question call for urgent action, and where he/she considers that delay could be prejudicial to the Council's interest.  | Chief Executive or other Executive Directors as appropriate.<br>Appropriate Committee Chair and Vice-Chair. |
| 2.  | To brief Counsel where it is considered to be in the Council's interest to be represented by Counsel.  | Chief Executive or other Executive Directors as appropriate.  |
| 3.  | To institute, take or defend legal proceedings under any statute, regulation, order or bylaw within the remit of the Committee, in any Court, tribunal or public inquiry (including taking any necessary steps in connection with such proceedings) or make representations in the name of the Council for any of the purposes mentioned in Article 13 of this Constitution and to authorise suitably qualified Officers to represent the Council and to appear in such proceedings. |   |
| 4.  | To take action (including legal proceedings) to recover any debt owed to the Council.  |   |
| 5.  | To present petitions for the liquidation of companies and bankruptcy petitions where necessary to recover debts due to the Council.  |   |
| 6.  | To take action pursuant to the rights of entry under Sections 196A, 196B and 196C of the Town & Country Planning Act 1990.   |   |
| 7.  | To convene proceedings in the Magistrates Court for failure to return information pursuant to a Planning Contravention Notice or Requisition for Information.  |   |
| 8.  | To institute proceedings for offences of failure to comply with the Tewkesbury Borough Council Car Parking Orders. (Enforcement for non-payment of Penalty Charge Notice).   |   |
| 9.  | To institute and defend, on the Council's behalf, Legal proceedings under any statute, regulation, order or bylaw within the remit of the Committee.   |   |
| 10. | In consultation with the Director: Communities, to negotiate and enter into an Agreement with any Registered Provider for the accommodation of minors and the granting of related legal tenancies to the Housing Services Manager and that the Housing Services Manager be authorised to enter into legal tenancies to facilitate the accommodation of minors housed with Registered Providers within Tewkesbury Borough.  | Director: Communities   |



|  |   |
|--|---|
| <p>11. In consultation with the Executive Director: Place has the authority to carry out the following:</p> <ul style="list-style-type: none"> <li>a. To convene proceedings in the Magistrates Court for failure to return information pursuant to a Planning Contravention Notice or Requisition for Information.</li> <li>b. To apply to the courts for injunctions to restrain breaches of planning and listed building control.</li> <li>c. To instigate prosecution proceedings against non-compliance with any of the above matters.</li> </ul> | <p>Executive Director: Place</p>  |
| <p>12. To negotiate and conclude such documents as deemed necessary or desirable to reflect the Head of Terms negotiated by the Section 151 Officer to enable completion of each acquisition in respect of commercial property investments.</p>  | <p>S151 Officer</p>   |
| <p>13. To make amendments of a minor nature to the Contract Procedure Rules.</p>   |   |
| <p>14. To administer formal cautions in accordance with Home Office guidelines.</p>  |   |
| <p>15. To approve minor amendments to the Regulation of investigatory Powers (RIPA) / Investigatory Powers Act Policies.</p>   | <p>Counter Fraud Unit Manager and the Lead Member for Corporate Governance.</p> |
| <p>16. To approve future minor amendments to the Use of the Internet and Social Media in Investigations and Enforcement Policy.</p>  | <p>Counter Fraud Unit Manager and the Lead Member for Corporate Governance.</p> |

## DELEGATIONS TO CHIEF EXECUTIVE AND ALL EXECUTIVE DIRECTORS

| Ref | Delegation  | In consultation with  |
|-----|---|-----------------------|
| 1.  | To assume responsibility for the recruitment, appointment and conditions of service of all NJC staff, the wages and conditions of other workers, pensions matters, honoraria and gratuities proposed for any employees of the Council including the forgoing of repayment of advances of remuneration to deceased employees.  |                       |
| 2.  | To be responsible for the health, safety and welfare of employees.  |                       |
| 3.  | To implement alterations to conditions of service and/or employment.  |                       |
| 4.  | To extend the period of probationary service of any new entrant beyond the period of six months laid down in the National Conditions of Service.  |                       |
| 5.  | To approve the appointment and termination of staff (including negotiated departures); the working of paid overtime; special leave, with or without pay; attendance of staff on training courses, day release, evening classes and correspondence courses together with the payment of fees and financial assistance within the approved scales; the exercise of discretion in respect of sick leave; disturbance and travelling allowances for employees compulsorily transferred from their centre of duty; job descriptions for members of staff; ill health retirement; disciplinary proceedings and dismissal. Dismissal of any employee may only be effected after consultation with the Director of One Legal* *(Dismissal of posts of Associate Directors and above are subject to specific procedures as set out in Part 4 of the Constitution). | Director of One Legal |
| 6.  | To approve staff reorganisations (including regrading) provided the funding for which is from within existing budgets or from ongoing savings.  |                       |
| 7.  | To make appointments and gradings within the authorised establishment in accordance with agreed procedures provided that any proposals for the filling of vacancies are in accordance with the Officer Employment Procedure Rules within the authorised budget for the establishment.   |                       |
| 8.  | To implement national agreements on salaries terms and conditions of employment and to undertake talks and negotiations on industrial relations as appropriate.   |                       |
| 9.  | To oversee where, and so far as is necessary, the working hours of employees and matters relating to all forms of leave.  |                       |

10. To authorise suitably qualified individual Officers to exercise specific statutory powers on behalf of the Council.
11. To hear and determine employees appeals within the Council's procedures in relation to the suspension of the sickness scheme.
12. Subject to the general provisions, and to any specific provisions within the Scheme, to enter into arrangements (including the setting of fees) for the execution of the day-to-day operation of matters within the Officer's areas of responsibility.
13. To lodge holding objections on behalf of the Council to any proposal appearing adversely to affect the Borough's interests.
14. To exercise powers of entry for the purposes of any statutory power insofar as those powers relate to the function entrusted to that Officer.
15. To invite and accept quotations and tenders and to authorise expenditure in accordance with the Contract and Financial Procedure Rules.
16. To appoint the Supervising Officer in contract documents and authorise him/her to take action regarding defects and defaults in accordance with the procedures set out in contract documents approved by the Council.
17. To procure plant and equipment in accordance with the functions of the Council and the Contract and Financial Procedure Rules.
18. To enter into agreements for the maintenance of equipment purchased by the Council.
19. To seek financial support for activities and special events through grant aid, sponsorship and/or partnership arrangements.
20. To approve a statement to be issued to the press on matters of public interest which have been considered by a Committee or which affect Council policy.
21. To respond and give comments to the press on administrative matters affecting the Officer's own area of responsibility.
22. To submit, on behalf of the Council, applications for planning permission and Building Regulations approval required in respect of its own proposals.
23. To purchase services in accordance with any Council approved procurement policy.

|     |   |  |
|-----|---|--|
| 24. | <p>The appropriate Executive Directors and Chief Executive are given delegated power to take a decision which would normally be taken by Council or a Committee subject to the following:</p> <ul style="list-style-type: none"> <li>i) The matter is urgent.</li> <li>ii) The decision is within Council policy.</li> <li>iii) The action is taken after consultation with appropriate Lead Member(s) (or in their absence the Leader of the Council).</li> <li>iv) The consultation with the Members listed above takes place in liaison with the Chief Executive and other Executive Directors as appropriate.</li> <li>v) The action is reported by the Chief Executive to the next available meeting of the appropriate Committee or Council for information.</li> <li>vi) If, on being consulted, any Member so requests, the Executive Director: Resources and S151 shall convene an Extraordinary meeting of the Council or a Special meeting of the appropriate Committee in accordance with Rule of Procedure Nos. 4 and 38 to deal with the business to which the consultation related.</li> </ul> | <p>Relevant Lead Member(s), Chief Executive and Executive Directors as appropriate.</p>          |
| 25. | <p>To undertake the Tewkesbury Borough Council shareholder representative role in respect of Ubico with delegated authority to make all shareholder decisions, subject to prior consultation with the Leader and Lead Members for Finance and Asset Management and Clean and Green Environment.</p>   | <p>Leader and Lead Members for Finance and Asset Management and Clean and Green Environment.</p> |
| 26. | <p>To be responsible for the day-to-day management of the Human Resources (HR) function.</p>  |  |

## PROPER OFFICER PROVISIONS

The following Officers have been appointed as ‘Proper Officers’ for the purposes of the legal provisions set out in the table below and any future changes:

### Chief Executive

| Legislative Provision   | Function  | Proper Officer  | Delegation  |
|---|---|-----------------|---|
| <b>Local Government and Housing Act 1989</b>                          |   |                 |   |
| S.2   | Deposit list of politically restricted posts with Proper Officer.   | Chief Executive | Associate Director: People, Culture and Performance |
| S.4   | Head of Paid Service - to prepare proposals for the consideration of the Council as to the co-ordination of the discharge of the Council’s functions; the number and grades of staff that are required to discharge those functions; the organisation of the Council’s staff; and the appointment and proper management of the Council’s staff. | Chief Executive | Executive Directors                                 |
| <b>Local Authorities (Standing Orders) (England) Regulations 2001</b> |   |                 |   |
| Schedule 1, Part II, Paragraph 3.                                     | Officer who will give written notice of appointment or dismissal of Officers listed.  | Chief Executive |   |

| <b>Legislative Provision</b> | <b>Function</b>   | <b>Proper Officer</b> | <b>Delegation</b> |
|------------------------------|---|-----------------------|-------------------|
| Other                        | To be the Proper Officer of the Council in relation to any reference in any enactment which is to be interpreted as a reference to a Proper Officer of a local authority where the Council has not appointed another Officer to be its Proper Officer and also excepting any reference which is within the direct remit of one of the Council's Executive Directors, Directors and Associate Directors or which implies that the Council's Monitoring Officer or the Section 151 Officer, shall be so designated. | Chief Executive       |                   |

**Chief Finance Officer / Section 151 Officer – Executive Director: Resources and S151**

| <b>Legislative Provision</b>                            | <b>Function</b>  | <b>Proper Officer</b>                  | <b>Delegation</b>           |
|---|--|--|-----------------------------|
| <b>Local Government Act 1972</b>                        |  |  |                             |
| S.115(2)  | Receipt of money due from Officers.  | Executive Director: Resources and S151 | Associate Director: Finance |
| S.146(1)(a) and (b)                                     | Declarations and certificates with regard to transfer of securities.                           | Executive Director: Resources and S151 | Associate Director: Finance |
| S.151 – and S.114 Local Government and Finance Act 1988 | The Officer responsible for the proper administration of the Council's financial arrangements. | Executive Director: Resources and S151 | Associate Director: Finance |
| S.210(6) and (7)  | Charities.   | Executive Director: Resources and S151 | Associate Director: Finance |
| S.228(3)  | Accounts for inspection by any Member of the Council.  | Executive Director: Resources and S151 | Associate Director: Finance |
| <b>Local Government Finance Act 1988</b>                |  |  |                             |
| S.114   | Reporting on unlawful expenditure.   | Executive Director: Resources and S151 | No delegation permitted.    |

| Legislative Provision                                       | Function  | Proper Officer                         | Delegation                    |
|---|---|--|-------------------------------|
| <b>Local Government and Housing Act 1989</b>                |   |  |                               |
| S.6   | Administration of financial affairs.  | S151 Officer                           | Associate Director: Finance   |
| S.37  | Statement of accounts from a voluntary body.  | Executive Director: Resources and S151 | Associate Director: Finance   |
| <b>Rent Act 1977</b>  |   |  |                               |
|   | Officer authorised to sign certificates on behalf of the Council, as the Local Housing Authority.   | Executive Director: Resources and S151 | Associate Director: Finance   |
| <b>Local Authorities Cemeteries Order 1977</b>              |   |  |                               |
| Regulation 10   | Officer responsible for the registration of burials, for the storage of appropriate records, the operational management of cemeteries and the grant of burial rights. | Executive Director: Resources and S151 | Director: Corporate Resources |
| <b>Local Government (Miscellaneous Provisions) Act 1976</b> |   |  |                               |
| S.16  | Requisition for information about interest in property.   | Executive Director: Resources and S151 | Director: Corporate Resources |
| Executive Director: Resources and S151                      |   |  |                               |
| Legislative Provision                                       | Function  | Proper Officer                         | Delegation                    |

**Local Government Act 1972**

|        |   |  |                               |
|--------|---|--|-------------------------------|
| S13(3) | Officer who, in the circumstances of a Parish not having a separate Parish Council shall, with the Chair of the Parish Meeting, constitute the "Parish Trustees". | Executive Director: Resources and S151 |                               |
| S.83   | Witness and receipt of Declaration of Acceptance of Office.   | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.84   | Receipt of notice of resignation of Elected Member.   | Executive Director: Resources and S151 | Director: Corporate Resources |

| <b>Legislative Provision</b> | <b>Function</b>  | <b>Proper Officer</b>                  | <b>Delegation</b>             |
|------------------------------|--|--|-------------------------------|
| S.86                         | To declare any vacancy in accordance with this section.  | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.87                         | To publish notice of vacancies.  | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.88(2)                      | Arranging a Council meeting to appoint the Mayor.  | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.89                         | Receives requests for filling of vacancies (including Parishes).   | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.89(1)(b)                   | The officer to whom notice in writing of a casual vacancy occurring in the office of Councillor may be given by two local government electors for the Borough. | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.91                         | Appointment of a temporary Councillor.   | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.96(1) and (2)              | Receipt of Member information on interests in contracts.   | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.100 (A)(6)                 | To give public notice of any meeting to which the public are entitled to attend, provide copies of Agenda and facilities for the press.                        | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.100(B)(2)                  | Designation of reports 'not for publication' to the press and public.  | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.100(B)(7)                  | Supply of copies of documents.   | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.100(C)(2)                  | Written summary of the proceedings at Committees and Sub-Committees.   | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.100(D)(1)                  | List of background papers.   | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.100(F)                     | Disclosure of exempt information.  | Executive Director: Resources and S151 | Director: Corporate Resources |



| S.100(G)(1)                  | Register of Elected Members.   | Executive Director: Resources and S151 | Director: Corporate Resources                          |
|------------------------------|--|--|--|
| S.100(G)(2)                  | List of delegated powers of Officers.  | Executive Director: Resources and S151 | Director: Corporate Resources                          |
| S.100(G)(3)                  | Written summary of rights to attend meetings and to inspect and copy documents.        | Executive Director: Resources and S151 | Director: Corporate Resources                          |
| S.191                        | Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent. | Executive Director: Resources and S151 |  |
| S.204(3)                     | Receipt of notice of applications for Justices' Licences.                              | Director: Communities                  |  |
| S.212                        | Registrar of Local Land Charges.   | Executive Director: Place              |  |
| <b>Legislative Provision</b> | <b>Function</b>  | <b>Proper Officer</b>                  | <b>Delegation</b>                                      |
| S223(1)                      | Authorisation to prosecute, defend or appear on the Council's behalf.                  | Director of One Legal                  |  |
| S.224                        | Custodian of documents.  | Executive Director: Resources and S151 | Executive Directors, Directors and Associate Directors |
| S.225                        | Deposit of documents.  | Executive Director: Resources and S151 | Executive Directors, Directors and Associate Directors |
| S.229(5)                     | Certification of photographic copies of documents.                                     | Executive Director: Resources and S151 | Executive Directors, Directors and Associate Directors |
| S.234                        | Authentication of documents.   | Executive Director: Resources and S151 | Executive Directors, Directors and Associate Directors |
| S.236                        | Sending of copies of byelaws to the County Council.                                    | Executive Director: Resources and S151 | Executive Directors, Directors and Associate Directors |
| S.238                        | Certification of byelaws   | Executive Director: Resources and S151 | Executive Directors, Directors and Associate Directors |
| S.248                        | The Roll of Freeman.   | Executive Director: Resources and S151 | Director: Corporate Resources                          |

**Local Government Act 1972 Schedule 12**

|                   |  |  |                               |
|-------------------|--|--|-------------------------------|
| S.99 Para.4(2)(b) | Signing of summons to Council meeting.                                     | Executive Director: Resources and S151 | Director: Corporate Resources |
| Para.4(3)         | Receipt of notice about address to which summons to meeting is to be sent. | Executive Director: Resources and S151 | Director: Corporate Resources |

**Local Government Act 1972 Schedule 14**

|         |  |  |  |
|---------|--|--|--|
| Para.25 | Certification of resolution for legal proceedings. | Executive Director: Resources and S151 | Executive Directors, Directors and Associate Directors |
|---------|--|--|--|

**Local Government Act 1974**

|         |  |  |                               |
|---------|--|--|-------------------------------|
| S.30(5) | Giving notice that copies of a report of the Local Government and Social Care Ombudsman are available. | Executive Director: Resources and S151 | Director: Corporate Resources |
|---------|--|--|-------------------------------|

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

|         |   |  |                               |
|---------|---|--|-------------------------------|
| S.41(1) | Certify copies of evidence of resolutions and minutes of proceedings. | Executive Director: Resources and S151 | Director: Corporate Resources |
|---------|---|--|-------------------------------|

| <b>Legislative Provision</b> | <b>Function</b> | <b>Proper Officer</b> | <b>Delegation</b> |
|------------------------------|-----------------|-----------------------|-------------------|
|------------------------------|-----------------|-----------------------|-------------------|

**Representation of the People Act 1983**

|             |  |                 |  |
|-------------|--|-----------------|--|
| S.8         | Registration Officer.  | Chief Executive | Executive Director: Resources and S151 |
| S.35        | Returning Officer for Local Elections.   | Chief Executive | Executive Director: Resources and S151 |
| S.82 and 89 | Receipt of Election expense declarations and returns and the holding of those documents for public inspection. | Chief Executive | Executive Director: Resources and S151 |

**Local (Principal Area) (England and Wales) Rules 2006**

|         |   |                 |  |
|---------|---|-----------------|--|
| Rule 54 | Retention and public inspection of documents after an Election. | Chief Executive | Executive Director: Resources and S151 |
|---------|---|-----------------|--|

## Local Government and Housing Act 1989

|                                       |   |  |                               |
|---------------------------------------|---|--|-------------------------------|
| S.5                                   | Officer designated as the Council's Monitoring Officer.   | Principal Lawyer – One Legal           |                               |
| S.15 to 17 and associated regulations | <p>Receipt of notices concerning:</p> <ul style="list-style-type: none"> <li>• Constitution of political groups.</li> <li>• Membership of political groups.</li> <li>• Wishes of political groups.</li> <li>• Review of allocation of seats to political groups.</li> </ul> <p>Notification to political groups of:</p> <ul style="list-style-type: none"> <li>• Allocation of seats.</li> <li>• Vacation of seat.</li> </ul> | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.18 and associated regulations       | Officer responsible for the purposes of the Council's Members' Allowances Scheme.   | Executive Director: Resources and S151 | Director: Corporate Resources |
| S.19 and associated regulations       | Officer to whom general notices of interests shall be given and who shall maintain records which are open to public inspection.   | Principal Lawyer - One Legal           |                               |

| Legislative Provision  | Function   | Proper Officer                         | Delegation                    |
|--|--|--|-------------------------------|
| <b>Local Government (Committees and Political Groups) Regulations 1990</b>                   |  |  |                               |
| S.8 and 17   | For the purposes of the composition of Committees and nominations to political groups.   | Executive Director: Resources and S151 | Director: Corporate Resources |
| <b>Local Government Act 2000</b>   |  |  |                               |
|  | All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation (Council structures and Constitution).                 | Executive Director: Resources and S151 | Director: Corporate Resources |
| <b>Freedom of Information Act 2000</b>   |  |  |                               |
|  | Officer responsible for Access to Information.   | Chief Executive                        |                               |
| <b>Regulation of Investigatory Powers Act 2000</b>   |  |  |                               |
| S.29 and 29  | Officer designated to grant authorisation for the carrying out of intrusive surveillance.  | Executive Director: Resources and S151 |                               |
| <b>Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000</b> |  |  |                               |
| Regulation 5   | Publication of the verification number.  | Executive Director: Resources and S151 | Director: Corporate Resources |
| <b>Other</b>   | The signing of notices required by statute to be served and not otherwise provided for within the Scheme of Delegation/Terms of Reference of Committees. | Executive Director: Resources and S151 | Director: Corporate Resources |

| Legislative Provision    | Function  | Proper Officer               | Delegation |
|--------------------------|---|------------------------------|------------|
| <b>Localism Act 2011</b> |   |                              |            |
| 7(a)                     | <p>To receive complaints in writing regarding allegations of failure to comply with the Code of Conduct and:</p> <ul style="list-style-type: none"> <li>i) determine, after consultation with the Independent Person, whether a complaint should be investigated and to arrange such investigation;</li> <li>ii) seek local resolution of complaints without formal investigation where it is possible to do so;</li> <li>iii) close a Code of Conduct complaint if the investigation finds no evidence of failure to comply with the Code of Conduct;</li> <li>iv) agree a local resolution where an investigation finds evidence of a failure to comply with the Code of Conduct, subject to consultation with the Independent Person(s), and the complainant being satisfied with the proposed resolution;</li> <li>v) grant dispensations where it is considered that the business will be impeded because of the number of Members prohibited from participating; or where it is considered that, without the dispensation, the political</li> </ul> | Principal Lawyer – One Legal |            |

proportionality would be distorted to alter the outcome of the vote.

**General Data Protection Regulation (GDPR) 2016 and Data Protection Act 2018**

As the Council's Designated Data Protection Officer to arrange for notification to be given under the Data Protection Act 1998 and to take steps to ensure that the details of the Council's notification are kept up to date.

Director: Corporate Resources

**Executive Director: Resources and S151**

| <b>Legislative Provision</b>                 | <b>Function</b>  | <b>Proper Officer</b>                  | <b>Delegation</b> |
|--|--|--|-------------------|
| <b>Representation of the People Act 1983</b> |  |  |                   |
| S.52(3)                                      | Deputy to the Registration Officer   | Executive Director: Resources and S151 |                   |
| S.35   | Deputy Returning Officer for Local Elections and Neighbourhood Planning Referendums. | Executive Director: Resources and S151 |                   |

**Executive Director: Place**

| <b>Legislative Provision</b> | <b>Function</b>  | <b>Proper Officer</b>        | <b>Delegation</b>        |
|------------------------------|--|------------------------------|--------------------------|
| <b>Building Act 1984</b>     |  |                              |                          |
| S.61                         | Officer who shall be permitted to have free access to works of repair etc. to drains.  | Associate Director: Planning | Building Control Manager |
| S.78                         | Officer who may exercise the powers of sub-section (1) relating to emergency measures necessary in respect of dangerous buildings or structures. | Associate Director: Planning | Building Control Manager |

| Legislative Provision | Function   | Proper Officer               | Delegation |
|-----------------------|--|------------------------------|------------|
| Other                 | Officer authorised to serve any notice in respect of matters within his/her area of responsibility where such service is to be undertaken by an Officer designated by the authority. | Executive Director:<br>Place |            |

#### Local Land Charges Act 1975

|        |                                    |                              |                                 |
|--------|------------------------------------|------------------------------|---------------------------------|
| S.3(2) | Registration of Local Land Charges | Executive Director:<br>Place | Associate Director:<br>Planning |
|--------|------------------------------------|------------------------------|---------------------------------|

#### Director: Communities

| Legislative Provision | Function | Proper Officer | Delegation |
|-----------------------|----------|----------------|------------|
|-----------------------|----------|----------------|------------|

#### Public Health (Control of Disease) Act 1984

|      |  |                       |  |
|------|--|-----------------------|--|
| S.31 | Certification by Officer of need for disinfection of premises.         | Director: Communities |  |
| S.32 | Certification by Officer of need to remove person from infected house. | Director: Communities |  |

#### Public Health Act 1936

|   |   |                       |  |
|---|---|-----------------------|--|
| S.84 and 85 and Public Health Act 1961 – S.37 | Cleaning and disinfestations of verminous people, premises and articles for sale. | Director: Communities |  |
|---|---|-----------------------|--|

#### Housing Act 2004

|     |   |                       |  |
|-----|---|-----------------------|--|
| S.4 | Inspections to determine whether hazards exist. | Director: Communities |  |
|-----|---|-----------------------|--|

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## **PART 4**

### **RULES OF PROCEDURE**

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**RULES OF PROCEDURE**  
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## SECTION 1 – COUNCIL PROCEDURE RULES

### PART I – MEETINGS AND PROCEEDINGS OF THE COUNCIL

#### 1. ANNUAL MEETING OF THE COUNCIL

##### 1.1 Timing and Business

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May, on a date to be fixed and at a time to be determined by the Council.

The Annual Meeting will:

- (a) elect a Councillor to be Mayor of the Borough for the Municipal Year (i.e. until a successor is appointed at the next Annual Meeting). The Mayor will preside at meetings of the Council;
- (b) appoint a Deputy Mayor of the Borough for the Municipal Year (i.e. until a successor is appointed at the next Annual Meeting). The Deputy Mayor will preside at meetings of the Council in the absence of the Mayor;
- (c) elect a person to preside if both the Mayor and Deputy Mayor are absent;
- (d) receive any apologies for absence;
- (e) receive any declarations of interest from Councillors;
- (f) approve the minutes of previous Council meeting(s) as a correct record;
- (g) receive any announcements from the Mayor and or the Chief Executive;
- (h) elect a Councillor to be Leader of the Council for the Municipal Year (i.e. until a successor is appointed at the next Annual Meeting). The Leader of the Council will be the Chair of the Executive Committee;
- (i) elect a Councillor to be Deputy Leader of the Council for the Municipal Year (i.e. until a successor is appointed at the next Annual Meeting). The Deputy Leader of the Council will be the Vice-Chair of the Executive Committee;
- (j) decide the allocation of seats to political groups. [*The Executive Director: Resources and S151 will notify the Leaders of the Political Groups in advance of the allocation of seats and invite nominations to those seats*];
- (k) appoint the Committees listed in Part 3 of this Constitution, and receive nominations of Councillors to serve on each Committee and make those appointments;
- (l) appoint Independent Persons as non-voting members of the Standards Committee together with the Parish representative as appropriate;

- (m) determine those outside bodies to which the Council wishes to make an appointment, the number of such appointments to each body, receive nominations of Councillors to serve on those outside bodies and make those appointments (except where appointment to those bodies has been delegated by the Council);
- (n) agree the number of Lead Members to be appointed and to appoint those Members;
- (o) deal with items from members of the public under Council Procedure Rule 12 (items at the Annual meeting must relate to an item of business on the Agenda);
- (p) deal with questions and/or petitions from Councillors;
- (q) consider any business remaining outstanding from a previous meeting;
- (r) deal with any business expressly required by law to be done including consideration of reports of Officers or other people exercising a statutory responsibility to report to the Council;
- (s) receive and consider reports and recommendations from Committees together with any update reports from Officers;
- (t) consider other business, if any, set out in the Agenda;
- (u) consider Motions of which Notice has been given pursuant to Council Procedure Rule 14.1;
- (v) consider exempt business, if any, set out in the Agenda.

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

Except for items (a)-(f) of Council Procedure Rule 1.1 above the order of business may be varied either:

- (a) by the Mayor at his/her discretion; or
- (b) by a resolution of the Council, passed on a Motion (of which no prior notice is needed) duly proposed and seconded which, once moved, shall be put without discussion.

## **1.3 Adjournment and Resumption of Annual Meeting**

The Annual meeting will stand adjourned following completion of items 1.1 (a) & (b) and will resume at a date, time and place to be announced at the time of adjournment of the meeting.

## **2. CHANGES TO COUNCILLORS ON COMMITTEES**

### **2.1 Authority to make changes**

The Executive Director: Resources and S151 is given delegated authority to appoint Councillors to seats allocated to political groups (or to make changes and fill vacancies) in accordance with the wishes of those Groups subject to the procedure set out below:

- (a) The Councillor or the relevant Political Group Leader must notify the Executive Director: Resources and S151 in writing that the Member will no longer serve on the Committee.
- (b) The name of the Councillor proposed to fill the vacancy created by (a) above shall be notified by the relevant Political Group Leader to the Executive Director: Resources and S151 in writing.
- (c) In order to be effective from the date of the next meeting of the relevant Committee, the cessation of membership and filling of vacancy referred to in (a) and (b) above must be received by the Executive Director: Resources and S151 no later than eight working days prior to the date of the relevant Committee.
- (d) The changes effected as a result of (a), (b) and (c) above will remain in operation for a period of not less than eight weeks.

### **2.2 Political Groups**

For a Political Group to be recognised by the Council, the following must occur:

- the Executive Director: Resources and S151 must receive a notice signed by at least two Councillors who wish to be treated as a Political Group;
- the notice must identify the name of the Political Group and the name of the Group's Leader (who must be one of the Councillors signing the notice);
- all Councillors who wish to be regarded as members of the Political Group must sign the notice.

### **2.3 Review of Political Representation on Committees**

Whenever the Council is required to review the allocation of seats on Committees between Political Groups, the Executive Director: Resources and S151 shall submit a report to the Council showing what allocation of seats would best meet the requirements of the Local Government and Housing Act 1989 (political balance) and the Council shall determine the allocation of seats having regard to that report.

### **3. ORDINARY MEETINGS OF THE COUNCIL**

#### **3.1 Timing**

Ordinary Meetings of the Council will take place in accordance with a programme decided by the Council at its first meeting in the calendar year, at which it will set dates and times for its meetings and for meetings of its Committees throughout the ensuing year. It is open to the Council and Committees to revise or set additional dates/times to suit their work programmes for the year.

#### **3.2 Business**

Ordinary Meetings will:

- (a) elect a person to preside if both the Mayor and Deputy Mayor are absent;
- (b) receive any apologies for absence;
- (c) receive any declarations of interest from Members;
- (d) approve the minutes of the previous Council meeting(s) as a correct record; (Note: There will not be any discussion on matters arising from the Minutes, other than to draw attention to any inaccuracy);
- (e) receive any announcements from the Mayor and/or the Chief Executive;
- (f) deal with items from members of the public under Council Procedure Rule 12;
- (g) deal with questions and/or petitions from Councillors;
- (h) consider any business remaining outstanding from a previous meeting;
- (i) deal with any business expressly required by law to be done including consideration of reports of Officers or other people exercising a statutory responsibility to report to the Council;
- (j) receive and consider reports and recommendations from Committees together with any update reports from Officers;
- (k) consider other business, if any, set out on the Agenda;
- (l) consider Motions of which Notice has been given pursuant to Council Procedure Rule 14.1;
- (m) consider exempt business, if any, set out on the Agenda.

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

Except for items (a)-(e) of Council Procedure Rule 3.2 above the order of business may be varied either:

- (a) by the Mayor at his/her discretion; or
- (b) by a resolution of the Council, passed on a Motion (of which no prior notice is necessary) duly proposed and seconded which, once moved, shall be put without discussion.

**3.4** No item of business should be raised at a Council meeting unless notice has been given at least five clear working days before the meeting. Council Procedure Rule 26 sets out the Rules relating to urgent business.

## **4. EXTRAORDINARY MEETINGS OF THE COUNCIL**

### **4.1 Calling Extraordinary Meetings**

Those listed below may request the Executive Director: Resources and S151 to call Council meetings in addition to Ordinary Meetings:

- (i) the Council by resolution;
- (ii) the Mayor, at his/her discretion;
- (iii) the Monitoring Officer;
- (iv) the Chief Finance Officer;
- (v) the Mayor, in response to a written request from any five Councillors. If the Mayor refuses to call a meeting or fails to call a meeting within seven days of the presentation of the requisition, the five Councillors concerned may require the Executive Director: Resources and S151 to call the meeting. The requisition must specify the single item of business that it is proposed to transact at the meeting and the day and time for the meeting to take place.

### **4.2 Business**

The summons for the Extraordinary Meeting must set out the specific item(s) of business to be transacted, and no other business can be considered at the meeting.

## **5. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Executive Director: Resources and S151 and notified in the summons.

The Executive Director: Resources and S151 is responsible for convening all meetings of Councillors (Council, Committees, Working Groups, Seminars etc).

A central diary of meetings will be maintained by the Executive Director: Resources and S151 to assist in the planning of meetings and to avoid meetings with like membership meeting concurrently.

## **6. NOTICE OF AND SUMMONS TO MEETINGS**

The Executive Director: Resources and S151 will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear days (excluding weekends, the day of publication and the day of the meeting) before a meeting, the Executive Director: Resources and S151 will send a summons by post to every Member or make arrangements for it to be left at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

## **7. REGISTER OF ATTENDANCE**

Councillors will sign a register of attendance and the names of Councillors present will be recorded in the Minutes of all meetings.

## **8. THE MAYOR**

The Mayor is responsible, as Chair, for conducting the meeting.

The powers and duties of the Mayor are:

- to preserve order and ensure the proper and efficient conduct of the meeting;
- to confine discussion to the issue under consideration;
- to ensure all Members have an opportunity to participate;
- to decide whether proposals put to the meeting are in order;
- to decide on procedural matters;
- to conduct voting and to declare the result;
- to sign the Minutes of the previous meeting as a correct record when the meeting authorises it;
- to decide whether urgent items should be added to the Agenda;
- to adjourn the meeting if circumstances justify such action; and
- to declare the meeting closed when its business has been completed.

The ruling of the Mayor is conclusive and shall not be open to discussion.

## **9. CHAIR**

The person presiding at the meeting may exercise any power or duty of the Mayor.

## **10. QUORUM**

The quorum of a meeting will be one quarter of the whole number of Members. During any meeting, if the Mayor counts the number of Members present and declares there is not a quorum, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

## **11. DURATION OF MEETING**

Unless the majority of Members present vote for the meeting to continue any meeting that has lasted for six hours (excluding adjournments) or beyond 11.00pm will adjourn immediately following conclusion of the item of business under consideration. Remaining business will be considered at a time and date fixed by the Mayor. If the Mayor does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

## **12. ITEMS FROM THE PUBLIC**

*(See also Part IV: Scheme for Public Participation at Council and Other Meetings)*

A member of the public is entitled to make a deputation or ask a question at a meeting of the Council.

The following explains how items from the public are dealt with at Council meetings.

### **12.1 Questions**

The Mayor will invite the person giving notice of the question to the front of the Chamber (or other appropriate place) to ask the question of the relevant Councillor.

The Councillor may:

- answer the question;
- ask an Officer to answer it;
- say that a written answer will be provided within five working days; or
- decline to answer the question and may give reasons.

### **12.2 Statements and Deputations**

The Mayor will invite the person making the statement or deputation to the front of the Chamber (or other appropriate place) to speak to the meeting for no more than five minutes.

Councillors will be allowed to ask any questions of the speaker that may help to clarify the points made or to establish the facts.

### **12.3 Action by the Meeting**

The meeting may:

- (a) ask a Committee to consider the matters raised in the submission;
- (b) if it is about a matter on the meeting's Agenda, defer consideration until that item is reached; or
- (c) note the points raised.

### **12.4 Dealing with Items from the Public**

No more than 30 minutes will be allowed in total at a meeting to deal with items from the public.

The Mayor will select the order in which items from the public will be dealt with.

The ruling of the Mayor as to the interpretation and application of these procedures shall be conclusive and not open to challenge.

### **12.5 Petitions**

The Council has a Petitions Scheme and petitions will be dealt with in accordance with this Scheme.

## **13. ITEMS FROM COUNCILLORS**

A Councillor at a Council meeting may present a petition or ask a question.

The following explains how items from Councillors are dealt with at Council meetings.

### **13.1 Petition**

A Councillor may present a petition (no minimum number of signatures). There is no requirement to give formal prior notice of the intention to present a petition, but notification must be given to the Executive Director: Resources and S151 at least one hour before the start of the meeting.

The Council will receive the petition and (a) refer it without debate to the appropriate Committee(s); or (b) if the petition relates to a matter on the Agenda, refer it for consideration with that item; or (c) refer it to a future Council meeting; or (d) note the petition.

The Councillor presenting the petition may attend any meeting considering the petition. The Councillor can speak on the petition, but only vote at a meeting of a Committee if he/she is a Member of that Committee.



## **13.2 Questions**

A Councillor at a Council meeting may ask a written question of the Leader of the Council or relevant Lead Member. All questions must relate to a matter which concerns the Council's powers or duties or affects the Borough.

The question must be submitted in writing to the Executive Director: Resources and S151 by not later than 10.00am six working days before the day of the meeting. NB This does not include the day of the meeting.

The questions to be asked, and the replies to be given, will be printed and circulated to all Councillors 5.00pm on the day before the meeting. The Minutes of the meeting will incorporate the questions and answers and any supplementary questions and answers.

At the meeting, the Mayor will announce each question in turn.

The question and answer will be taken as read without discussion, but the questioner will be allowed to ask one supplementary question arising directly from the question or from the reply. A Councillor to whom a question has been put may, with the permission of the Mayor, ask someone else to answer it.

## **14. MOTIONS FROM COUNCILLORS**

A Councillor may bring a Motion before the Council on any matter relevant to its functions.

### **14.1 Notice**

Except for Motions which can be moved without notice under Procedure Rule 15, written notice of every Motion, signed by at least one Councillor, must be delivered to the Executive Director: Resources and S151 at least seven clear working days (excluding the day of the meeting) before the meeting.

### **14.2 Record of Motions**

Notices of Motions will be dated, numbered and entered in the order in which they are received in a book available for inspection by Councillors.

### **14.3 Motion set out in Agenda**

Motions for which notice has been given will be listed on the Agenda in the order in which notice was received, unless the Councillor(s) giving notice state, in writing, that they propose to move it to a later meeting or withdraw it.

### **14.4 Scope**

Motions must be about matters for which the Council has a responsibility, or which affect the Borough, the ruling on which will be made by the Executive Director: Resources and S151

## 14.5 Dealing with Motions at Meetings

The Mayor will ask the meeting to decide whether:

- (1) The Motion should be discussed at the meeting (although the Motion may **only** be discussed at the meeting if the Mayor considers it convenient and conducive to the despatch of business and the Council considers that it has before it all the information and advice necessary to make a proper decision); or
- (2) To refer the matter without debate to a Committee for consideration with authority either to make a decision on the matter or to bring a recommendation back to Council. The Councillor who gave notice of the Motion may attend any meeting at which it is considered, but only vote if he/she is a Member of that Committee.

If (1) is decided the relevant Councillor will be invited to propose the Motion and speak on it for no more than five minutes and the seconder will speak for no more than three minutes.

If (2) is decided the Councillor proposing the Motion will be permitted to briefly introduce the Motion.

## 14.6 Voting on Motions

At the end of a debate the Motion shall be formally concluded by a vote.

## 15. MOTIONS WITHOUT NOTICE

Any Councillor may propose, at any time during a meeting, a course of action which will enable the meeting to reach a decision or to proceed with its business. No new material may be introduced in putting forward such a proposal and no prior notice is required.

The following Motions may be moved without notice:

- (a) the appointment of a Chair of a meeting when the Mayor and Deputy Mayor are absent;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business on the Agenda;
- (d) to refer or refer back, something to an appropriate Committee, body or individual;
- (e) to appoint a Committee including membership arising from an item mentioned in the Agenda to the meeting;
- (f) to receive reports or adopt recommendations of Committees or Officers;
- (g) to propose a Motion relating to a report of a Committee which has failed to reach agreement and has referred the matter to the Council without specific recommendation(s);

- (h) to propose a Motion for consideration without introducing new material when, as a result of debate, there is no proposal that commands a majority of support, relating to an item on the Agenda (Note: this Motion would normally be moved when there is nothing on the table but a legal deadline to meet);
- (i) to withdraw a Motion;
- (j) to amend a Motion;
- (k) to proceed to the next item of business;
- (l) to put the question immediately to the vote;
- (m) to propose that the method of voting should be other than by a show of hands;
- (n) to adjourn a debate;
- (o) to adjourn a meeting;
- (p) to suspend a particular Council Procedure Rule;
- (q) to exclude the public and press in accordance with the Local Government Act 1972 (as amended);
- (r) to exclude the public in the event of conduct of a disorderly nature;
- (s) to not hear further a Councillor named or to exclude them from the meeting;
- (t) to give the consent of the meeting where its consent is required by this Constitution; and
- (u) to declare "no confidence" in the Mayor.

**NB: In accordance with 4.2 above, items from Councillors will not be included on the Agenda for Extraordinary Meetings.**

## **16. REPORTS OF OUTSIDE BODIES**

Those Members appointed as representatives on Outside Bodies shall follow the following procedure (in accordance with the Protocol set out in Part 5 of this Constitution):

1. Following any Outside Body meeting the Outside Body representative will provide an update to the appropriate Lead Member. Where there is more than one representative on the Outside Body the representatives will agree as to who should provide the feedback.
2. Lead Members will provide regular written updates, for inclusion on the Member Update Sheet, on matters pertaining to their portfolio including Outside Body issues.

Members will be able to obtain assistance from Democratic Services in preparing information for inclusion on the Member Update Sheet and advice on which Outside Bodies relate to which Portfolio etc.

## **17. RULES OF DEBATE**

### **17.1 The Mayor**

The Mayor is responsible for maintaining order and ensuring the proper conduct of the meeting. It is therefore accepted that debate at meetings is subject to the Mayor's ruling. When the Mayor indicates his/her intention to make a ruling, the meeting (including the Councillor making the speech) will be silent.

The following guidance aims to ensure fairness and the efficient conduct of business.

When speaking at meetings, Councillors will address the Mayor.

The Mayor will not normally take part in debate at a Council meeting. If, in respect of a specific matter, the Mayor is a local Councillor, or there are other special circumstances agreed by the meeting, he/she may speak in debate.

Councillors may move a Motion declaring "no confidence" in the Mayor, at any time during the meeting. A vote must be taken immediately following debate and will be carried by a majority. If such a vote is carried, the Chair will be taken by the Deputy Mayor for the remainder of the meeting.

### **17.2 Motions**

A Motion is a proposal aimed at opening a debate on an Agenda item. The Councillor "moves" the Motion. This usually takes the form of a proposal to adopt a course of action based on a recommendation in a report. It can be a different proposal to that recommended in the report. This is **not** an amendment.

A recommendation in a report is not a Motion unless, or until, a Councillor proposes its adoption.

### **17.3 Seconding a Motion**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the Motion has been seconded. When seconding a Motion, a Councillor may reserve his/her speech until later in the debate.

### **17.4 Amendments**

An Amendment is a proposal by a Councillor to change the words of a Motion which has been moved and seconded. The change may be:

- to leave out words;
- to leave out words and add new words;
- to insert or add words; or
- to refer the matter to a Committee for consideration or reconsideration.

An Amendment must not:

- (a) be a direct negative of a Motion; nor
- (b) seek to introduce a brand-new issue, unrelated to the terms of the Motion.

### **17.5 Seconding an Amendment**

No speeches may be made after an Amendment has been proposed until the Amendment has been seconded. When seconding an Amendment, a Councillor may reserve his/her speech until later in the debate.

### **17.6 Order of Amendments**

If an Amendment is successful (carried) the original Motion as amended becomes the new principal (or substantive) Motion to which further Amendments may be moved. If an Amendment is not successful (lost), other Amendments to the original Motion may be moved. When an Amendment has been moved and seconded no other Amendment can be moved until the first Amendment has been voted upon.

Exceptionally, the Mayor may, to facilitate the proper conduct of the Council's business, permit two or more Amendments to be discussed (but not voted on) together.

The mover and seconder of an Amendment may agree to incorporate suggestions made during debate into the Amendment. Any number of Amendments may be proposed but each will be dealt with in turn in the way described.

### **17.7 Content and Length of Speeches**

Speeches must relate to the business under discussion. A mover of a Motion or Amendment may speak for no more than five minutes. All other speeches may not exceed three minutes. (Unless, in each case, the Mayor gives permission for the speaker to continue for a specified time).

### **17.8 Councillor to Speak Once in Debate**

A Councillor may only speak once in a debate on a Motion, unless:

- (a) exercising a right of reply – this applies to those who move Motions and, where remarks are reserved, to the seconder of a Motion;
- (b) raising a point of order;
- (c) raising a point of personal explanation;
- (d) raising a point of information;
- (e) moving an Amendment or speaking on an Amendment moved by another Councillor;
- (f) moving a Motion relating to disorderly conduct (see Council Procedure Rule 15(r));

- (g) moving a new Motion which may be moved during a debate without notice (see Council Procedure Rule 15).

### **17.9 Right of Reply**

At the end of a debate about a Motion which is not amended, the Councillor who first proposed it at the meeting has a right to reply to the points raised in the debate.

The right of reply to a debate on an Amendment is with the Councillor who moved the Amendment not the Councillor who moved the Motion. The mover of the Motion has no right of reply to the debate on the Amendment.

Any procedural Motion moved during debate under Council Procedure Rule 15 shall not deny a Councillor the right of reply.

### **17.10 Procedural Motions**

Procedural Motions which may be proposed at any time during a meeting, without notice, are set out in Council Procedure Rule 15.

### **17.11 Motions affecting employees of the Council**

If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, remuneration, superannuation, conditions of service, or conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council has decided whether or not to exclude the public and press in accordance with the provisions of Section 100A of the Local Government Act 1972.

### **17.12 Motions relating to the Council's budget**

Where a Councillor intends to move a Motion or Amendment in relation to the Council's annual budget, the text of the proposed Motion or Amendment must be submitted in writing to the Executive Director: Resources and S151 by 9.00am on the working day preceding the day of the Council meeting, in order that Officers may have sufficient time to consider and advise the Council of the financial and other implications of any such Motion or Amendment.

### **17.13 Interruption of Debate**

A Councillor may propose, without notice, a Motion to adjourn or terminate the debate by one of the forms detailed below. Providing the Motion is seconded, there will be no debate and a vote will be taken immediately.

#### **(1) Closure of Debate**

To move the closure of a debate means to move "that the question now be put" or "that the vote be taken" i.e. that discussion shall end and the vote on the matter being considered be taken without delay. If seconded and carried, it shall have the effect of ending discussion and securing a decision once the mover of the original Motion or of an Amendment has summed up.

(2) Proceed to Next Business

If it is moved and carried "that the Meeting move to the next business", the discussion in progress is abandoned, and any Motions before the meeting shall be abandoned and not put to the meeting. If an amendment is under discussion, the discussion shall be abandoned, and the meeting shall return to discussion of the Motion in its original form. (This will not prevent the moving of further amendments).

(3) Adjournment of the Debate

A Motion to adjourn the debate shall take the form "that the debate be adjourned". If passed, it shall have the effect of postponing the business under consideration until another time (either fixed or indefinite). An adjournment under this Rule shall not interfere with the continuance of the meeting for the transaction of other business under consideration by the meeting.

(4) Adjournment of the Meeting

A Motion to adjourn the meeting shall take the form "that the meeting be adjourned". If passed, it shall have the effect of adjourning the business remaining to be transacted until the time and date fixed for the adjournment. The meeting, or the Mayor or the Executive Director: Resources and S151 in consultation with the Mayor, will decide the date and time of the adjourned session.

**17.14 Point of Order**

A Councillor may raise a point of order at any time. The Mayor will hear it immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the Law. The Councillor must indicate the Rule or Law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

**17.15 Personal Explanation**

A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor that may appear to have been misunderstood in the present debate. Any Councillor raising a "point of personal explanation" will be heard immediately. The ruling of the Mayor on the admissibility of a personal explanation will be final.

**17.16 Point of Information**

A Councillor may offer a point of information relevant to the discussion and shall be heard immediately if:

- (a) the Councillor speaking is prepared to allow the point of information to be heard; or
- (b) the Mayor directs that the point be heard.

## **18. VOTING**

Voting at meetings shall be by the Mayor announcing the proposal to be voted upon and inviting those in favour and those against or abstaining to indicate in each case by a show of hands. The Mayor shall then decide and announce whether those in favour or against the proposal are in the majority. The majority view becomes the decision.

### **18.1 Mayor's Casting Vote**

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

If the Mayor decides not to exercise a second (or casting vote) and the voting remains equal, the Motion is not carried and is deemed to have been lost. It is always open to a Councillor to put forward another proposal when this occurs.

### **18.2 Recorded Vote**

The mode of voting is by show of hands unless, before the vote is taken, a request is made and supported by five other Councillors for the vote to be taken by ballot or roll call.

### **18.3 Recording of Individual Vote**

Any Councillor may ask, immediately after the vote has been taken, to have his/her name recorded in the Minutes as voting for or against a proposal or abstaining, and this will be recorded.

### **18.4 Voting on Appointments**

If there are more than two people nominated for any position to be filled by the Council, and there is not a clear majority of votes in favour of one person (i.e. the number of votes cast for one person is not greater than the total sum of the votes cast for all other nominees), then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **18.5 Voting at Budget Decision Meetings**

Immediately after any vote is taken at a budget-decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.



## Definition

- (a) “budget decision” means a meeting of the relevant body at which it:
- (i) makes a calculation (whether originally or by way of substitute) in accordance with any of Sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF or 52ZJ of the Local Government Finance Act 1992(6); or
  - (ii) issues a precept under Chapter 4 of Part 1 of that Act

and includes a meeting where making the calculation or issuing the precept, as the case may be, was included as an item of business on the Agenda for that meeting.

- (b) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

## 19. EXCLUSION OF THE PUBLIC

Members of the public and press may only be excluded from meetings either in accordance with the Access to Information Procedure Rules set out in Part 4, Section 2, or in accordance with Rule 23 of the Council Procedure Rules (Disturbance by the Public).

## 20. MINUTES

The Mayor will invite the meeting to approve the Minutes of the previous meeting(s) as a correct record. There will be no discussion on the Minutes other than on their accuracy. When approved the Minutes are signed by the Mayor.

An Extraordinary meeting will not be asked to approve as a correct record the Minutes of the previous Ordinary meeting. These Minutes will be submitted to the next practicable Ordinary meeting.

The Minutes of an Extraordinary meeting will be submitted to the next practicable Ordinary meeting for approval as a correct record.

## 21. SIX MONTH RULE

The Council will not consider any matter which has already been considered, adopted or rejected by the Council within the previous six months. The **exceptions** to this Rule are:

- If the matter is presented to the Council following a report or recommendation of a Committee or Officer of the Council where there has been a significant change in circumstances from those considered previously.
- Where written notice of a proposal for the Council to consider the matter is given to the Executive Director: Resources and S151. The notice must be signed by at least 19 Members of the Council.

## **22. COUNCILLORS CONDUCT**

### **22.1 Standing to speak**

Where a Councillor speaks at Council he/she must stand and address the meeting through the Mayor. If more than one Councillor stands, the Mayor will ask one to speak and the other(s) must sit. Other Councillors must remain seated whilst a Councillor is speaking unless they wish to make a point of order, a point of personal explanation or a point of information. The Mayor has the right to waive the requirement for a Councillor to stand to speak where he/she considers it appropriate to do so.

### **22.2 Mayor standing**

When the Mayor stands and so directs during a debate, any Councillor speaking at the time must stop and sit down. The meeting must be silent.

### **22.3 Councillor not to be heard further**

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

### **22.4 Councillor to leave the meeting**

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

### **22.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

## **23. DISTURBANCE BY PUBLIC**

### **23.1 Removal of member of the public**

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will arrange for their removal from the meeting room and will suspend the meeting until the member of the public has left or has been removed.

## **24. PHOTOGRAPHY AND AUDIO RECORDING OF MEETINGS**

Tewkesbury Borough Council supports the principles of openness and transparency and allows recording at its meetings that are open to the public, subject to the provisions of the Protocol on Recordings at Meetings as set out in Part 5 of this Constitution.

## **25. SUSPENSION OF COUNCIL PROCEDURE RULES**

It is open to any meeting to suspend one or more of the Council Procedure Rules except any of the Rules which are requirements of statute or regulation.

It is necessary for the suspension of Council Procedure Rules to be proposed by a Councillor who should make it clear which Rule is being suspended and for how long. For example, it may be appropriate to suspend a Rule for part or all of the meeting. Suspension can be for no longer than the duration of the meeting.

A Motion to suspend the Council Procedure Rules shall be of no effect unless at least half of the whole number of Members of the Council are present and two thirds of those have voted in favour of suspension.

## **26. URGENT BUSINESS**

No item of business should be raised at a Council meeting unless prior notice has been given on the Agenda or unless the Mayor is satisfied that the item is urgent enough to justify its inclusion on the Agenda. The reasons for urgency will be recorded in the Minutes of the meeting.

The discretion is entirely that of the Mayor.

## **27. URGENCY PROCEDURE**

Under this Rule of Procedure, the appropriate Chief Officer(s) and Chief Executive are given delegated power to take a decision which would normally be taken by Council or a Committee subject to the following:

- i) The matter is urgent.
- ii) The decision is within Council policy.
- iii) The action is taken after consultation with appropriate Lead Member(s) (or in their absence the Leader of the Council).
- iv) The consultation with the Members listed above takes place in liaison with the Chief Executive and other Chief Officers as appropriate.
- v) The action is reported by the Executive Director: Resources and S151 the next available meeting of the appropriate Committee or Council for information.
- vi) If, on being consulted under the provisions of this Rule of Procedure, any Member so requests, the Executive Director: Resources and S151 shall convene an Extraordinary meeting of the Council or a Special meeting of the appropriate Committee in accordance with Rule of Procedure Nos. 4 and 38 to deal with the business to which the consultation related.

## **28. DISCLOSABLE PECUNIARY INTERESTS**

A Member must withdraw from a meeting (including from the public area/gallery) during the whole of the consideration of any item of business in which the Member has a Disclosable Pecuniary Interest, or in which the Member has an 'other' interest where, as a consequence of Paragraph 10(4) of the Council's Code of Conduct, the Member is required to leave the meeting and not participate or vote on the matter, unless the Member is permitted to remain through the granting of a dispensation.

## **PART II – MEETINGS AND PROCEEDINGS OF COMMITTEES**

### **29. APPLICATION OF COUNCIL PROCEDURE RULES TO COMMITTEES**

The Council Procedure Rules will apply to Committees where indicated with any necessary modifications. For the purposes of interpretation of the Council Procedure Rules as they apply to Committees references to the “Mayor” shall be references to the Chair of the Committee and references to the “Deputy Mayor” shall be references to the Vice-Chair of the Committee.

### **30. MEMBERSHIP OF COMMITTEES**

The Annual meeting of the Council will set the membership of its Committees for the Council year (although membership may change during the Council year – Council Procedure Rule 2.1). The allocation of seats on Committees to Political Groups will reflect the legal requirement for proportionality.

### **31. SUBSTITUTIONS**

The following rules will apply to substitutions:

- The number of substitutions shall be equal to the number of absentees from each Political Group.
- Substitution will apply to all Committees, with the exception of the Standards Committee, but in respect of the Planning and Licensing Committees substitutes must have received the appropriate training.
- Substitutes will have all powers of Committee Members and substitution should last for the duration of the meeting only.
- Members of the Executive will not be permitted to act as substitute for Members of the Overview and Scrutiny Committee.
- Members acting as substitutes will have to be Members of the same Political Group as the Member for whom they are substituting.
- The Political Group Leader will notify Democratic Services of the substitution one hour in advance of the meeting.
- Substitutions will be announced at the beginning of the meeting.
- The Member of the Committee for whom substitution has been made will not be able to vote if attending the meeting.
- All Agenda will contain a note on the Council’s practice in respect of substitutions.

## **32. CHAIR AND VICE-CHAIR**

The first item of business at the first meeting of each Committee is the election of a Chair and Vice-Chair with the exception of the Executive Committee. If the Chair of the Committee is absent from a Committee meeting the Vice-Chair shall chair the meeting. In the absence of the Chair and Vice-Chair from a meeting, a Chair for that meeting shall be elected.

In the event of an equal number of votes being cast for two or more candidates, the appointment shall be decided by the person presiding drawing a name.

A Member who is not a Member of a Committee will not be eligible to be elected as Chair or to vote in the election of a Chair.

### **32.1 Chair Taking Part in Debate**

The Chair will not normally take part in debate at a Committee meeting.

The Chair may speak in debate if:

- (a) he/she is a local Councillor; or
- (b) he/she is the only Councillor present from a political group recognised by the Council.

*Note: A Chair would be expected, if wishing to take part in a debate, to relinquish the Chair in favour of the Vice-Chair for the duration of that debate.*

### **32.2 Casting Vote**

The Chair is entitled to vote a second time in order to obtain a decision from an equality of voting "for" and "against". If the Chair did not vote originally, he/she is entitled to a casting vote to decide the matter.

If the Chair decides not to exercise a casting vote, and the voting remains equal, the Motion is not carried and deemed to have been lost.

## **33. CHAIR – CONDUCT OF MEETING**

The Chair is responsible for conducting the meeting.

## **34. POWERS OR DUTIES OF CHAIR**

Council Procedure Rule 8 applies.

## **35. OFFICER SUPPORT**

In carrying out his/her duties the Chair is entitled to call upon the help of the Executive Director: Resources and S151 and other Officers present at the meeting.

### **36. CASUAL VACANCIES**

A vacancy on a Committee arises when a Councillor:

- (a) ceases membership of the Committee, in accordance with Council Procedure Rule 2.1; or
- (b) fails to attend consecutive meetings of a Committee for a period of six months in which case he/she automatically ceases to be a member of that Committee.

The Rule at (b) will not apply if the Committee is satisfied that there is a genuine reason for the absence.

Vacancies which occur on Committees will be filled on behalf of the Council by the Executive Director: Resources and S151, using delegated powers granted under Rule 2.1 to appoint Councillors and substitutes to seats allocated to Political Groups in accordance with the wishes of those Groups. The filling of vacancies will be reported by the Executive Director: Resources and S151 to the next meeting of the Council.

### **37. DATES, TIMES AND LOCATIONS OF MEETINGS**

Council Procedure Rules 1.1 and 5 apply.

Meetings will be held at venues and times to be decided by the Council or Committee.

### **38. SPECIAL MEETINGS**

A Special meeting of a Committee is one which is not scheduled by the Council or by the Committee itself. A Special meeting may be called by the Chair at any time. A Special meeting may be requisitioned by at least five Members of the Committee signing a notice to the Executive Director: Resources and S151, setting out the business of the meeting and, if appropriate, the timescale in which the meeting is to be held.

The Executive Director: Resources and S151 will call the meeting as soon as reasonably practicable.

The Executive Director: Resources and S151 may also convene a Special meeting in consultation with the Chair of the Committee.

### **39. DURATION OF MEETINGS**

Council Procedure Rule 11 applies.

### **40. QUORUM**

A meeting of a Committee, except as provided below, cannot take place unless at least five of its Members who have voting rights are present. If there is no quorum the Chair must adjourn the meeting.

A meeting of the Overview and Scrutiny Committee is subject to the above quorum of five except when undertaking a scrutiny review, in which case a quorum of three Members is required. (See Scrutiny Procedure Rules – Part 4, Section 4.)

Where the membership of a Committee consists of no more than seven Members a meeting of that Committee, unless otherwise provided in this Procedure Rule, cannot take place unless three of its Members who have voting rights are present. If there is no quorum the Chair must adjourn the meeting.

**41. APPOINTMENT OF WORKING GROUPS, BOARDS, REFERENCE GROUPS, MANAGEMENT GROUPS AND PANELS**

A Committee may appoint Task and Finish Working Groups, Boards, Reference Groups, Management Groups or Panels, and draw up their Terms of Reference, to assist in examining detailed issues within the Terms of Reference of that Committee.

Rules for Working Groups, Boards, Reference Groups, Management Groups or Panels are set out in Part III of these Rules of Procedure.

Any resignations will be filled on behalf of the Council by the Executive Director: Resources and S151, using delegated powers granted under Rule 2.1 to appoint Councillors and substitutes to seats allocated to Political Groups in accordance with the wishes of those Groups. The filling of vacancies will be reported by the Executive Director: Resources and S151 to the next meeting of the Committee.

**42. PLANNING COMMITTEE SITE VISIT**

The Planning Committee will meet, when required, to carry out site visits for applications in accordance with the Protocol for Councillors and Officers involved in the Planning Process, as appended at Part 5 of this Constitution.

**43. AGENDA**

The items to be considered at a meeting will be set down on the Agenda. The Agenda will be prepared by the Executive Director: Resources and S151 and will be sent to every Member of the Committee at least five clear working days before the meeting together with a copy of the Minutes of the last meeting of the Committee unless the Minutes have been previously circulated.

The Agenda content and order of business at a meeting of a Committee will be as follows:



- to elect a Chair if the Chair and Vice-Chair are absent;
- to receive any apologies for absence and notice of any substitutions;
- to receive any declarations of interest from Councillors in relation to items on the Agenda;
- to approve the Minutes of previous meetings of the Committee;
- to deal with items from the public;
- to deal with items from Councillors referred by the Council;
- to deal with matters referred by the Council or other Committees including the Overview and Scrutiny Committee;
- to consider any business set out in the Notice convening the meeting;
- any other business which the Chair has accepted as urgent; and
- exempt Minutes and Reports.

The order of business may be varied at the discretion of the Chair by the Chair or at the wish of the meeting itself.

#### **44. REGISTER OF ATTENDANCE**

Council Procedure Rule 7 applies.

#### **45. URGENT BUSINESS**

Council Procedure Rule 26 applies.

#### **46. URGENCY PROCEDURE**

Council Procedure Rule 27 applies.

#### **47. COUNCILLORS ATTENDING COMMITTEES**

Council Procedure Rules 13 and 14 apply.

A Councillor who is not a Member of the Committee may speak at a meeting of the Committee (but not vote, move or second Motions):

1. during the consideration of any item or Motion brought by the Councillor direct to the Committee or referred by the Council in accordance with Council Procedure Rules 13 and 14;
2. with the agreement of the Chair of the meeting; or
3. during the consideration of any matter specifically affecting that Councillor's Ward subject to the provisions of the Scheme for Public Participation at Planning Committee in respect of the Planning Committee.

**48. REPORTS OF OUTSIDE BODIES**

Council Procedure Rule 16 applies.

Overview and Scrutiny representatives will report back to the Overview and Scrutiny Committee in accordance with Scrutiny Procedure Rule 9.

**49. MATTERS REFERRED BY COUNCIL OR OTHER COMMITTEES**

Committees will receive reports on matters referred by Council or other Committees.

When this happens, the Executive Director: Resources and S151 include the matter on the Agenda for the next available meeting of the receiving body. If it is not possible for comprehensive Officer advice to be included in the report to the meeting, the matter may be deferred at the meeting until the subsequent meeting. The Executive Director: Resources and S151 will then ensure the submission of a comprehensive report to that meeting. He/she will ensure that the referring body is advised of the outcome.

A Committee may refer a matter to another Committee or Working Group for consideration.

**50. EXCLUSION OF THE PUBLIC**

Council Procedure Rule 19 applies.

**51. SUSPENSION OF RULES OF PROCEDURE**

Council Procedure Rule 25 applies.

**52. PHOTOGRAPHY AND AUDIO RECORDING OF MEETINGS**

Council Procedure Rule 24 applies.

**53. PUBLICATION OF DECISIONS**

When a decision is made by the Executive Committee, the decision shall be published by electronic means and shall be available at the main offices of the Council normally within three working days of the decision being made. Members of the Council will be sent copies of the records of all such decisions within the same timescale, by the Executive Director: Resources and S151. The notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the call-in procedure is invoked.

When a decision is made by the Planning Committee, the decisions shall be published by electronic means normally within three working days of the decision being made.

When a decision is made by one of the Licensing Sub-Committees, the decisions shall be published by electronic means normally within three working days of the decision being made.

## **54. MINUTES**

Council Procedure Rule 20 applies.

## **55. SIX MONTH RULE**

Council Procedure Rule 21 applies.

## **56. ITEMS FROM THE PUBLIC**

(See also Part IV - Scheme for Public Participation at Council and Other Meetings and Scheme for Public Participation at Planning Committee.)

The following Rules of Procedure explain how items referred from the meeting of the Council in accordance with Council Procedure Rule 12, or presented directly to the appropriate Committee are dealt with at Meetings.

### **56.1 Petitions**

The Council has a Petitions Scheme and petitions will be considered in accordance with that Scheme.

### **56.2 Action by the Committee**

The meeting may either ask an Officer to report on the matter at this or a future meeting or, if the matter relates to an item already on the Agenda for the meeting, defer consideration of the petition until that item is reached.

### **56.3 Statements and Deputations**

The person giving notice will be invited to address the meeting for no more than five minutes.

Councillors may ask questions of the presenter of the statement or the deputation to clarify points made or to establish facts.

### **56.4 Action by Committee**

The meeting may (1) ask Officers to report to the next, or next following, meeting on the issues raised in the submission; or (2) agree to note the submission; or (3) if it relates to a matter on the meeting's Agenda, to defer consideration until that item is reached.

## **56.5 Questions**

The Chair will invite the person giving notice of the question to ask the question of the relevant Councillor.

The Councillor may:

- answer the question;
- ask an Officer to answer it;
- say that a written answer will be provided within five working days; or
- decline to answer the question and may give reasons.

## **56.6 Time Limit**

No more than 30 minutes (or such longer time at the Chair's discretion) will be allowed in total at a Committee meeting to deal with items from the public.

## **57. ITEMS FROM COUNCILLORS**

The following Council Procedure Rules explain how items from Councillors referred from Council Meetings in accordance with Council Rules of Procedure 13 and 14 are dealt with at Meetings.

### **57.1 Petitions**

The Chair will invite each Councillor giving notice to present the petition and to speak to it. (N.B: the Councillor can speak to it but can only vote on it if they are a Member of the Committee).

The meeting may call for a report from Officers on the petition. If the matter raised is about an item on the meeting's Agenda, the meeting may defer its consideration until that item is reached.

### **57.2 Motions**

The Chair will invite each Councillor giving notice to present the Motion and to speak to it.

The meeting may call for a report from Officers on the Motion. If the matter raised is about an item on the meeting's Agenda, the meeting may defer its consideration until that item is reached.

### **57.3 Action required by Council**

The meeting will be told whether the Council has asked the Committee to decide the matter or to make a recommendation to the Council.

## **58. RULES OF DEBATE**

Council Procedure Rule 17 applies. However, the Chair and/or the meeting may decide to relax the general Rules relating to speaking only once in debate, or the time limit, if this is conducive to the conduct of the Committee's business.

**59. MOTIONS AND AMENDMENTS**

Council Procedure Rule 17 applies.

**60. PROCEDURAL MOTIONS WITHOUT NOTICE**

Council Procedure Rule 15 applies other than 15(d) in respect of referral back to a Committee (e), (f) and (g).

**61. VOTING**

Council Procedure Rule 18 applies.

**62. MATTERS REFERRED TO COUNCIL BY COMMITTEE**

The Council will receive reports from its Committees making recommendations on matters where the Committee has no delegated power.

**63. COUNCILLORS CONDUCT**

Council Procedure Rule 22 applies.

**64. DISTURBANCE BY THE PUBLIC**

Council Procedure Rule 23 applies.

**NOTE: These Rules should be read in conjunction within the Localism Act, the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and the Scrutiny Procedure Rules within Part 4 of this Constitution.**

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### **PART III – MEETINGS AND PROCEEDINGS OF WORKING GROUPS, BOARDS, REFERENCE GROUPS, MANAGEMENT GROUPS AND PANELS**

#### **65. APPLICATION OF COUNCIL PROCEDURE RULES TO WORKING GROUPS, BOARDS, REFERENCE GROUPS, MANAGEMENT GROUPS AND PANELS**

The Council Procedure Rules will apply to Working Groups, Boards, Reference Groups, Management Groups and Panels where indicated with any necessary modifications. For the purposes of interpretation of the Council Procedure Rules as they apply to Working Groups, Boards, Reference Groups, Management Groups and Panels, references to the “Mayor” shall be references to the Chair of the Working Group, Board, Reference Group, Management Group or Panel and references to the “Deputy Mayor” shall be references to the Vice-Chair (if any) of the Working Group, Board, Reference Group, Management Group or Panel.

#### **66. APPOINTMENT OF TASK AND FINISH WORKING GROUPS, BOARDS, REFERENCE GROUPS, MANAGEMENT GROUPS AND PANELS**

Task and Finish Working Groups, Boards, Reference Groups, Management Groups and Panels to examine and report on any detailed issue that has arisen may be appointed at any time by the Council or a Committee in accordance with Council Procedure Rule 41.

When appointing a Working Group, Board, Reference Group, Management Group or Panel the Council or a Committee will, at that time, name the membership. Any casual vacancies on that Working Group which occur in the future will be filled by the Executive Director: Resources and S151, in consultation with the Leader and Deputy Leader, using delegated powers granted under Rule 2.1 to appoint Councillors to seats allocated to Political Groups in accordance with the wishes of those Groups. The filling of vacancies will be reported by the Executive Director: Resources and S151 to the next meeting.

#### **67. POWERS AND DUTIES OF WORKING GROUPS, BOARDS, REFERENCE GROUPS, MANAGEMENT GROUPS AND PANELS**

Working Groups, Boards, Reference Groups, Management Groups and Panels do not have powers to determine issues. In all matters they must prepare reports for the Council or a Committee to consider as appropriate.

#### **68. MEMBERSHIP**

Membership of a Working Group, Board, Reference Group, Management Group or Panel may be drawn from Councillors who do not serve on the parent Committee and may include non-Councillors as Members.

#### **69. CHAIR AND VICE-CHAIR**

A Working Group, Board, Reference Group, Management Group or Panel will, at its first meeting, appoint a Chair and may, at the same time, appoint a Vice-Chair for the duration of its work.

#### **70. CASUAL VACANCIES**

Casual vacancies arising within Working Groups, Boards, Reference Groups, Management Groups and Panels will be filled in accordance with Council Procedure Rule 36.

**71. DATES, TIMES AND LOCATION OF MEETINGS**

Meetings of Working Groups, Boards, Reference Groups, Management Groups and Panels will be held at dates, times and venues to be arranged by the Executive Director: Resources and S151 in accordance with the wishes of the membership.

A Working Group, Board, Reference Group, Management Group or Panel will have regard to any instruction from its parent Committee about the timescale within which it must report and set dates accordingly, but it must have regard to the Schedule of Meetings as approved by the Council.

**72. TIME LIMIT FOR MEETINGS**

Council Procedure Rule 11 applies.

**73. AGENDA DESPATCH**

Where an Agenda is prepared in advance for Working Groups, Boards, Reference Groups, Management Groups and Panels, it will normally be sent to appointed Councillors only.

**74. REGISTER OF ATTENDANCE**

Members of Working Groups, Boards, Reference Groups, Management Groups and Panels will sign a register of attendance.

**75. QUORUM**

The quorum for Working Groups, Boards, Reference Groups, Management Groups or Panels is three Members.

**76. CHAIR**

The first item of business at the first meeting of each Working Group, Board, Reference Group, Management Group or Panel is the election of a Chair and/or Vice-Chair if required. In the absence of the Chair and/or Vice-Chair, if appointed, a Chair for that meeting shall be elected.

**77. OFFICER SUPPORT**

Council Procedure Rule 35 applies.

**78. CHAIR TAKING PART IN DEBATE**

In Working Groups, Boards, Reference Groups, Management Groups and Panels, it is accepted that the Chair will participate fully in the discussion at the meeting.

**79. NOTES**

A nominated Officer attending a meeting of a Working Group, Boards, Reference Group, Management Group or Panel will take Notes of the meeting in a format to be prescribed by the Executive Director: Resources and S151. A copy of all Notes of Working Groups, Boards, Reference Groups, Management Groups and Panels will be held by the Executive Director: Resources and S151.



**80. WORKING GROUP, BOARD, REFERENCE GROUP, MANAGEMENT GROUP AND PANEL REPORTS**

It is usual for a Working Group, Board, Reference Group, Management Group or Panel to issue a report at the end of its work programme, giving its recommendations. Interim reports may be submitted if the Working Group, Board, Reference Group, Management Group or Panel feels this to be appropriate or if the parent body requires. Notes of each meeting will not normally be submitted to the parent body/bodies for information.

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## **PART IV - SCHEME FOR PUBLIC PARTICIPATION AT COUNCIL AND OTHER MEETINGS**

### **81. DETAILS OF SCHEME**

#### **81.1 Why have a Scheme?**

The Council is a democratic body elected to serve the people of Tewkesbury Borough.

The Council wishes to encourage the public to take an interest in local democracy. The Council will give the public the opportunity to tell Councillors directly at the meetings about things that concern them.

All issues raised by the public under this Scheme will be given careful consideration.

Whilst it will not be possible in every case to resolve an issue to the satisfaction of everyone, the Council is committed to a process that ensures the issue is fairly considered.

#### **81.2 What can the public do?**

The Council has a Scheme for Public Participation at Planning Committee (as appended) which enables people to speak at Planning Committee meetings. In addition, the public may use the Council's Scheme of Public Participation to make a submission to meetings of the Council or its Executive Committee (See 81.9 below) in one of the following ways.

#### **81.3 Petition**

The Council has a Petitions Scheme (as appended) and petitions will be considered in accordance with that Scheme.

#### **81.4 Question**

To ask a question of the relevant Member at a Council or at the Executive Committee meeting. Questions must concern a matter of general interest to taxpayers of the Borough, e.g. policy decisions.

#### **81.5 Statement**

To make a statement to the Council or to the Executive Committee meeting about a Council service, about something the Council has or has not done, or about a matter of local interest or concern. Statements must concern a matter of general interest to taxpayers of the Borough, e.g. policy decisions.

## **81.6 Deputation**

To present to a Council or to the Executive Committee meeting a deputation calling for action by the Council, registering a view about something the Council has or has not done, or making a position statement about a matter of local interest or concern.

A deputation will normally be made on behalf of an organised community group, organisation or body of interest. Deputations must concern a matter of general interest to taxpayers of the Borough, e.g. policy decisions.

## **81.7 Who can use the Scheme?**

The Scheme is open to any resident of the Borough of Tewkesbury who must be present at the meeting at which the Question, Statement or Deputation is presented.

This Scheme is also open to a representative of a business or voluntary organisation operating in the Borough of Tewkesbury, provided that the representative is present at the meeting at which the Question, Statement or Deputation is presented.

## **81.8 At which Meetings may Submissions be made?**

Any submission under this Scheme may be made at any ordinary meeting of the Council or at any meeting of the Executive Committee. Submissions at the Annual Meeting or any Extraordinary meeting must relate to an item on the Agenda.

The purpose of submissions is to assist the decision-making process.

The Planning Committee has its own Scheme for Public Participation.

## **81.9 Executive Committee**

Information on the individual areas of responsibility of the Executive Committee can be obtained from Democratic Services at Tewkesbury Borough Council Tel: 01684 272021/ Email: [democraticservices@tewkesbury.gov.uk](mailto:democraticservices@tewkesbury.gov.uk) / visit the website [www.tewkesbury.gov.uk](http://www.tewkesbury.gov.uk)

## **81.10 Period of Notice**

Members of the public wishing to use this scheme must give advance written notice to the Executive Director: Resources and S151 at least three clear working days before the meeting (excluding Saturdays, Sundays, public holidays, the day of publication and the day of the meeting). This will ensure that time is available to prepare advice for the meeting, for an individual Councillor or for the person making the submission. The deadline will be 5.00pm on the relevant date.

## **81.11 What the Notice should contain**

The written notice must describe what form of submission is to be made and any question must be set out in full.

### **81.12 Relevance to Council**

In the case of a submission the content must be about something that is within the Council's responsibilities. This includes matters relating to Council services and matters of concern to Tewkesbury Borough people who wish their Council to pursue the matter or exercise community leadership. The matter must be of general interest rather than individual personal grievance. Certain matters fall outside the scheme and these include those set out in 81.20.

### **81.13 Named Individuals**

The notice must identify the name of the individual who will be making the presentation. This will enable the Chair of the meeting to introduce the individual to the meeting. The individual's name will not normally be included in the Minutes of the meeting.

### **81.14 Advice on Content**

The Executive Director: Resources and S151 will be available to give advice to the public about the content of their submissions and the process.

The Executive Director: Resources and S151 will also give advice to the Council on such matters as are necessary.

### **81.15 Support for Public**

The prospect of speaking at a formal meeting of a local authority may be daunting for the public. Every help and support will be made available to those who wish to use this Scheme, including the reading out of the submission if the member of the public requests.

The Council offices are accessible for those with a disability and we are happy to make adjustments with advanced notice of any individual requirements.

Councillors will receive members of the public with courtesy and understanding.

### **81.16 Time Limits**

No individual submission will be allowed more than five minutes time at a meeting. This Rule will be strictly enforced in fairness to all those who wish to address the meeting. Any questions that are not dealt with within the time limit will receive a written response.

The overall time allowed at a meeting to hear submissions from the public is 30 minutes. However, the Chair of the meeting may exercise discretion to allow more time if he/she feels the circumstances warrant this. This will take into account the issues to be raised in the submissions and the other business of the meeting.

### **81.17 Questions on Submissions**

It is necessary for Councillors to have a complete understanding of the issues raised in a submission from the public. Councillors will be allowed to ask only factual questions of the person making the submission.

### **81.18 Written copies of Submission**

To assist understanding, those making statements or deputations to meetings will be asked to provide a written text or summary of the points mentioned. This should be passed to the Executive Director: Resources and S151.

### **81.19 Action the Meeting may take**

If the subject matter of the submission is already on the Agenda for the meeting, the meeting may agree to refer the submission for consideration when that item on the Agenda is reached.

If necessary, and convenient to the other business, the Chair, or the meeting itself, may agree to advance that item in the order of proceedings.

In other cases, the matter will either be noted or the relevant Officer(s) will be asked to present a report to a future meeting.

The meeting will decide on the most appropriate course of action and will take advice from Officers in doing this.

In respect of statements and deputations, the Council may pass the matter to the appropriate Committee for consideration.

### **81.20 What falls outside the Scheme?**

There are some matters that need to fall outside the scope of this Scheme. These include:

- an individual's circumstances where it would be inappropriate for details to be aired in public;
- applications for legal permissions or consents where alternative procedures exist; e.g. applications for Licences, Building Control, Planning Permission etc;
- matters which are, or should be, subject to established appeals procedures or which have been decided by an appeal hearing e.g. Housing and Council Tax benefits, planning refusals, enforcement matters, etc;
- the Local Plan/Local Development Framework which has an alternative statutory procedure for dealing with objections and appeals;
- the Community Infrastructure Levy Charging Schedule which is subject to a statutory consultation procedure.
- matters which are the same or substantially the same as that put at a previous meeting of the Council, unless circumstances relating thereto have materially changed;
- matters where the answer would involve the likely disclosure of exempt or confidential information;
- allegations against individual Councillors or Officers;
- individual applications for grant aid;

- any breach, or potential breach, of legislation e.g. individual cases of enforcement, or potential enforcement, arising from a breach, or possible breach, of planning control, disputes between individuals i.e. neighbours etc; and
- Extraordinary/Special meetings or the Annual meeting of the Council unless the matter relates to an item of business on the Agenda.

### **81.21 Outside the Public Interest**

The Chief Executive and the Executive Director: Resources and S151 in consultation with either the Chair and Vice-Chair of the Executive Committee or the Mayor and Deputy Mayor (subject to there being no conflict of interest), shall have the right to refuse to accept questions/submissions etc. that do not appear to be in the general public interest.

### **81.22 Disorderly Conduct**

The Council shall have the right to determine that a person participating in this Scheme shall be not heard for a specified period of time should that person's conduct in addressing the Council be of a disorderly manner.

## **82. GENERAL INFORMATION**

In addition to these arrangements, members of the public are welcome to attend at Council and Executive Committee meetings where open business is discussed.

All meetings will be held, wherever possible, in accommodation that has reasonable access and seating for the public. Sound enhancement equipment will be provided where practicable.

Tewkesbury Borough Council supports the principles of openness and transparency and allows recording at its meetings that are open to the public, subject to the provisions of the Protocol on Recordings at Meetings as set out in Part 5 of this Constitution.

Agenda papers can be inspected at least five clear working days before the meeting and will be made available to those attending meetings. These, and the Minutes of the meeting once they have been approved, may be inspected at the Council Offices and on the Council's website for a period of six years.

A member of the public has the right, should he/she be dissatisfied with any action or decision taken by the Council, to make a formal complaint under the authority's Complaints Procedure. Should the member of the public remain dissatisfied after an internal investigation then he/she has the right to make a complaint against the authority to the Local Government and Social Care Ombudsman.

In making a submission to the Council under the Scheme of Public Participation, members of the public will be expected to behave with decorum.

Questions will be put to the Council in the order that notice of them was received.

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## Matters excluded from the scheme

- Reference to an individual's circumstances where it would be inappropriate for details to be aired in public.
- Applications for legal consents where alternative procedures exist, e.g. applications for licences, building control, planning permission etc.
- Matters which are, or should be, dealt with through established appeals procedures or which have been decided by an appeal hearing, e.g. housing and council tax benefits, planning refusals, enforcement matters, etc.
- The local plan/local development framework which has an alternative statutory procedure for dealing with objections and appeals.
- Community infrastructure levy charging schedule which is subject to a statutory consultation procedure.
- Matters which are the same, or substantially the same, as those put to a previous meeting of the Council, unless circumstances relating thereto have materially changed.
- Matters where the answer would involve the likely disclosure of exempt or confidential information.
- Allegations against individual councillors or officers.
- Individual applications for grant aid.
- Any breach, or potential breach, of legislation, e.g. individual cases of enforcement or potential enforcement arising from a breach, or possible breach, of planning control.
- Disputes between individuals, e.g. neighbours.
- Extraordinary/special meetings or the annual meeting of the Council unless the matter relates to an item of business on the agenda.

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## General information

In making a submission to the Council under the Scheme of Public Participation, members of the public will be expected to behave in an orderly manner.

In addition to this scheme, the council welcomes the public to attend at Council and Executive Committee meetings where open business is discussed.

Agenda papers for the council's meetings can be inspected [beforehand](#) and will be made available to those attending meetings.

As a member of the public you have the right, should you be dissatisfied with any action or decision taken by the council, to make a formal complaint under the authority's complaints procedure. Should you remain dissatisfied after an internal investigation, you have the right to make a complaint against the authority to the Local Government and Social Care Ombudsman.

Forms for the council's complaints procedure, and on how to complain to the Local [Government and Social Care Ombudsman](#), are available from the main reception at the borough council offices and on the council's [website](#).

As part of the public participation process, you will be required to provide your name and contact details. This information will only be used to contact you in relation to your wish to participate in a Council/Committee meeting and will be retained until the minutes of that meeting are approved as a correct record. For more information, please [visit our website](#).

# Scheme of public participation



## Council and Executive Committee meetings

A guide to how you can **participate at meetings**



# Scheme of Public Participation

## What is it?

The Scheme of Public Participation gives members of the public the opportunity to tell council members, at a Council meeting or Executive Committee meeting, about things of concern to them.\*

## Who can use the scheme?

The scheme is open to any resident of Tewkesbury Borough or representative of a business or organisation operating in Tewkesbury Borough, provided that the representative is present at the meeting at which the petition, question, statement or deputation is presented.

## How can I use the scheme?

You can use this scheme to present either a question, a statement or a deputation to either the Executive Committee or Council.

### Petition

The Council has a separate petitions scheme.

### Question

You are able to ask a question of the relevant member at a meeting of either the Executive Committee or Council.

### Statement

You can make a statement to a meeting of the Council or Executive Committee, about a council service, about something the council has done or not done, or about a matter of local interest or concern.

### Deputation

You can present a deputation to any meeting of the Council or the Executive Committee calling for action by the council, to register a view about something the council has done or not done, or to make a position statement about a matter of local interest or concern.

Whichever method you choose, the content must concern a matter of general interest to taxpayers of the borough and something that is within the council's responsibility.

\*Submissions to the annual meeting of Council or any extraordinary meeting must relate to an item on the agenda

## What do I do next?

You must give advance written notice to the Executive Director: Resources and S151, at least three clear working days before the meeting. This notice excludes the day of the meeting, Saturdays, Sundays and public holidays.

Please email [democraticservices@tewkesbury.gov.uk](mailto:democraticservices@tewkesbury.gov.uk) or phone: 01684 272021.

## What details do I need to include in the written notice?

The written notice must describe what form of submission is to be made (e.g. question, statement or deputation); with any question being set out in full. It must also identify the name of the person who will be making the presentation, so that the mayor/chair knows who to call at the meeting.

If you are making a statement or deputation you will be asked to provide a copy of the statement or a written summary of the points mentioned to the Executive Director: Resources and S151.

## Can I get help and support with my submission?

Yes - the Executive Director: Resources and S151 will be able to advise you both on what you can put in your submission and the process. Help and support will be given to those who wish to use the scheme, including the reading out of the submission, if you request it.

Please email [democraticservices@tewkesbury.gov.uk](mailto:democraticservices@tewkesbury.gov.uk) or phone: 01684 272021.

## Is there a time limit for presenting submissions at a meeting?

Yes - you will be allowed no more than five minutes. The overall time at a meeting to hear submissions from the public is 30 minutes, although the mayor/chair may allow more time if necessary.

## Will I be asked any questions at the meeting about my submission?

It might be necessary for members to ask you questions in order to have a complete understanding of the issues. However, members can only ask factual questions of the person making the submission.

## Are there any matters that I cannot raise through the scheme?

Yes. Please turn the page for a list of the matters that fall outside the scope of this scheme

## Can I use visual aids or circulate documents?

No written material, documents, plans, photographs or other visual aids may be presented at the meeting. If you wish to circulate supporting documents to councillors this must be done by 5pm on the day before the meeting and planning officers must also be made aware of the material. Councillors' contact details are available on our [website](#).

## What are speakers allowed to say?

Speaking slots are purely provided to enable views to be expressed on specific planning applications being considered by the Planning Committee. Speakers are advised to:

- Keep observations brief and relevant.
- Speak clearly using the microphone.
- Limit their views to relevant planning issues, for example:
  - Impact of the development on the character of the area.
  - External design, appearance and layout.
  - Impact of development on neighbouring properties.
  - Highway safety.
  - Government guidance.
- Avoid referring to non-planning matters as these cannot be taken into account when the committee determines the application e.g:
  - 'Trade' objections such as competition issues.
  - Boundary or property disputes.
  - The developer's motives.
  - 'Moral' arguments.
  - Matters covered by other laws.
  - Loss of 'view'.
  - Personality issues.
  - Reduction in property values.
- Please remember that you are addressing members of the Planning Committee and not the public gallery.

## When and where are the committee meetings held?

The Planning Committee usually meets on the third Tuesday of every month at 9.30am in the Severn Room at Tewkesbury Borough Council Offices. Scheduled meeting dates are set out on our [website](#).

## How are parish/town councils involved?

Parish/town councils are consulted on all planning applications. If a parish/town council wishes to speak at the Planning Committee they will need to register in the same way as other public speakers as set out under "How do I arrange to speak at the meeting" overleaf. They must put forward considered views of that Council/meeting rather than the individual's own independent views.

## The role of borough councillors

You may like to contact your councillor to discuss the planning application, whether or not you will be speaking at the meeting. It is worth noting, however, that a councillor who is a member of the Planning Committee will not be able to commit him or herself to a decision before hearing all the evidence and debate at the relevant Planning meeting. He or she will need to take into account the law and planning guidance as well as public representations.

## Who do I ask if I have any queries?

If you have any questions not answered by this leaflet, you are welcome to contact:  
Democratic Services  
Phone: **01684 272021**  
Website: [www.tewkesbury.gov.uk](http://www.tewkesbury.gov.uk)

# Public speaking at planning committee



## A guide to how the scheme operates

This leaflet explains the council's public speaking scheme for supporters, objectors and parish/town councils at Planning Committee meetings. It tries to answer some of the questions you may have about the procedures and what to expect at the meeting. It is based on simple rules, which the council has formulated to make the system as fair and easy to operate as possible, so please read the entire leaflet.

## Which applications are reported to the Planning Committee?

Not all applications are determined by the Planning Committee. The majority of straightforward planning applications are determined by officers under the council's delegation scheme. You may wish to check the expected decision level online by clicking [here](#). If you are unable to do this, you can check with the planning case officer.

## Do I need to attend the meeting to make my comments known to the committee?

No - your written comments submitted on an application will be reported to and considered by the committee. As the meetings are open to the public you may, if you wish, attend the meeting to see what happens, without registering an intention to speak.

## How can I find out when an application will be considered?

The Planning Committee usually meets on the third Tuesday of each month at 9.30am. The agenda is normally published on the Monday of the week prior to the meeting. Public speaking is allowed on any application contained within the section of the Planning Agenda entitled 'Development Control - Applications to the Borough Council'.

## Who is allowed to speak?

The following individuals can speak and will be called in the following order:

1. A representative of the town or parish council or parish meeting(s) within which the application is located – to put forward considered views of that council/meeting rather than their own independent views.
2. A representative on behalf of the objectors.
3. A representative on behalf of the supporters (this includes the applicant or their agent).
4. Ward councillors.

If you wish to speak it is **your** responsibility to check that an item is going to Planning Committee. The agenda can be viewed on our [website](#).

## How long are public speakers allowed to speak?

Within each speaking slot, a maximum of three minutes per speaker per application will be allowed. This time must be strictly adhered to and speakers are encouraged to practice their presentation in order to use the time constructively.

## What is the order of speaking on each application?

The chair will introduce the application and the planning officer may then provide a short presentation. Speakers will be asked by the chair of the committee to move to a designated seating area before they speak. The three minute limit will be strictly applied by the chair and speakers will be asked to return to their seat in the public area after that time. When there are no further speakers, the chair will start the debate. Finally the committee will be asked to take a decision on the application.

## How do I arrange to speak at the meeting?

If you want to speak you will need to phone **Democratic Services on 01684 272021**. Please note that calling this number is the only way to register a request to speak; emails will not be accepted. You can only register to speak on an application once the Agenda for the meeting has been published and you must call no later than 10am on the working day before the meeting. Registering will not guarantee an opportunity to speak at committee as there may be many requests to speak on certain applications. The chair will only allow one speaker "for" and one speaker "against".

**As part of the registration process, you will be required to provide your name and contact details. This information will only be used to contact you in relation to your registration and will be retained until the application has been determined and the minutes of that meeting approved as a correct record. For more information please visit our [website](#).**

Registration is on a first come first served basis and the speaking slot will be given to the first registered speaker. This will mean that, for each application, the name of the first person to register will be noted and any subsequent callers will be asked to provide their contact details which will be passed on to the registered speaker in order for them to discuss how they feel the slot should be used. Public speakers are requested to submit a hard copy of their speech to the committee administrator at the meeting. This will only be used to inform the minutes of the meeting.

## Can I ask questions of other speakers?

No - you must not interrupt other speakers or the committee debate. It is essential that you seek answers to your questions before the meeting and state your case on the basis of information given to you and set out in the application.



## TEWKESBURY BOROUGH COUNCIL PETITIONS SCHEME

### 1. PETITIONS

- 1.1** Tewkesbury Borough Council welcomes petitions and recognises that petitions are one way in which people can let the Council know their concerns. All petitions sent, or presented, to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what the Council plans to do with the petition. The Council will treat something as a petition if it is identified as being a petition, or if it seems to the Council that it is intended to be a petition.
- 1.2** Paper petitions can be sent to Democratic Services, The Council Offices, Gloucester Road, Tewkesbury, Glos, GL20 5TT.
- 1.3** Petitions can also be presented to a meeting of the Council or Executive Committee. Scheduled meetings of the Council take place throughout the year and the Executive Committee meets on a regular basis, the dates and times can be found at <http://minutes.tewkesbury.gov.uk/mqCalendarMonthView.aspx?GL=1&bcr=1> . If you would like to present a petition to the Council, or would like your Councillor, or someone else, to present it on your behalf, please contact Democratic Services on 01684 272021, at least 10 working days before the meeting, for an explanation of the process. If the petition has received 100 signatures or more, it will also be scheduled for a Council debate. Should this be the case, the petition organiser will be advised as to whether this will happen at the same meeting, or a later meeting, of the Council.



## **2.0 WHAT ARE THE GUIDELINES FOR SUBMITTING A PETITION?**

### **2.1** Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- The name and address and signature of any person supporting the petition.

### **2.2** Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person that Democratic Services will contact to explain how the Council will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, Democratic Services will contact signatories to the petition to agree who should act as the petition organiser.

### **2.3** Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum it may be necessary to deal with petitions differently – if this is the case Democratic Services will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In this case, Democratic Services will write to the petition organiser to explain the reasons.

## **3.0 WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?**

### **3.1** An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let the organiser know what the Council plans to do with the petition and they can expect to hear from the Council again.

### **3.2** If the Council can do what the petition asks for, the acknowledgement may confirm that the action requested has been taken and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a Senior Officer giving evidence, then the acknowledgement will confirm this and tell the organiser when and where the meeting will take place. If the petition needs more investigation, the organiser will be advised of the planned steps.

### **3.3** If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an Elected Mayor) or is on a matter where there is already an existing right of appeal, such as Council Tax banding and non-domestic rates, other procedures apply and this scheme will not be relevant.

- 3.4** The Council will not take action on any petition which it considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in the acknowledgement of the petition.
- 3.5** To ensure that people know what the Council is doing in response to the petitions received, a summary of petitions submitted to the Council will be published on Tewkesbury Borough Council's website, except in cases where this would be inappropriate. The details of Petitions received will remain on the website for a period of at least one year.

*As identified above, as part of the petitions process the petition organiser will be required to provide their name and contact details. This information will only be used to contact them in relation to the petition. For more information, please visit our [website](#).*

#### **4.0 HOW WILL THE COUNCIL RESPOND TO PETITIONS?**

- 4.1** The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition.
- considering the petition at a Council Meeting.
- holding an inquiry into the matter.
- undertaking research into the matter.
- holding a public meeting.
- holding a consultation.
- holding a meeting with petitioners.
- referring the petition for consideration by the Council's Overview and Scrutiny Committee. \*
- calling a referendum.
- writing to the petition organiser setting out the Council's views about the request in the petition.

\* Overview and Scrutiny Committees are Committees of Councillors who are responsible for scrutinising the work of the Council – in other words the Overview and Scrutiny Committee has the power to hold the Council's decision-makers to account. Tewkesbury Borough Council's Overview and Scrutiny Committee consists of Members of the Council who are tasked with scrutinising the work of the Executive Committee and holding the Members of that Committee to account.

**4.2** In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples:

| <b>Petition Subject</b>            | <b>Appropriate Steps</b>  |
|------------------------------------|---|
| Alcohol related crime and disorder | If your petition is about crime or disorder linked to alcohol consumption, the Council may, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a Designated Public Place Order or, as a last resort, imposing an Alcohol Disorder Zone. When an Alcohol Disorder Zone is established the licensed premises in the area where alcohol related trouble is being caused is required to contribute to the costs of extra policing in that area. The Council's response to your petition will set out the steps it intends to take and the reasons for taking this approach.  |
| Anti-Social Behaviour (ASB)        | As the elected representatives of the local area, and the licensing authority, the Council has a significant role to play in tackling anti-social behaviour. The Council, in conjunction with its partners in the local Community Safety Partnership, has set out minimum service standards for responding to issues of anti-social behaviour. When responding to petitions on ASB, the Council may consider, in consultation with its local partners, all the options available including the powers and mechanisms to intervene as part of its role as licensing authority. For example, the Council will work with the Neighbourhood Policing Team in the affected area to identify what action might be taken, including what role CCTV might play, consider identifying a dedicated contact within the Council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, the Council will alert the Community Safety Partnership and Overview and Scrutiny Committee to the issues highlighted in the petition. |



Under Performing Health Services

The Council may work with local health partners to consider the matter raised in the petition including, where appropriate, exploring what role the Local Involvement Network (LiNK) might have in reviewing and feeding back on the issue (the LiNK is run by local individuals and community groups and independently supported – their role is to find out what people want in terms of local health services, monitor those services and to use their powers to hold them to account). The County Council Health Community and Care Overview and Scrutiny Committee will also be alerted to the petition and, where the matter is sufficiently or potentially serious, the issue will be referred to that Committee for consideration.

- 4.3** If the petition is about something over which the Council has no direct control (for example, the local railway or hospital) the Council will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and, where possible, will work with these partners to respond to the petition. If the Council is not able to do this for any reason (for example, if what the petition calls for conflicts with Council Policy), then the petition organiser will be advised accordingly. More information on the services for which the Council is responsible can be found on the Council’s website at [www.tewkesbury.gov.uk](http://www.tewkesbury.gov.uk).
- 4.4** If the petition is about something that a different Council is responsible for, consideration will be given to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council but could involve other steps. In any event the petition organiser will be notified of what action has been taken.

## **5.0 FULL COUNCIL DEBATES**

- 5.1** If a petition contains more than 100 signatures it will be debated by the Council unless it is a petition asking for a Senior Council Officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of fifteen minutes. The Council will decide how to respond to the petition at this meeting. The Council may decide to take the action that the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. Where the issue is one on which the Council's Executive Committee is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website.

## **6. OFFICER EVIDENCE**

- 6.1** A petition may ask for a Senior Council Officer to give evidence at a public meeting about something for which the Officer is responsible as part of their job. For example, the petition may ask a Senior Council Officer to explain progress on an issue, or to explain the advice given to Members to enable them to make a particular decision.
- 6.2** If your petition contains at least 100 signatures, the relevant Senior Officer will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. Members of the Council's Corporate Officers Group may be called to give evidence in this respect. The organiser should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another Officer to give evidence instead of any Officer named in the petition – for instance if the named Officer has changed jobs. The Committee may also decide to call the relevant Lead Member to attend the meeting. Members of the Overview and Scrutiny Committee will ask the questions at this meeting, but the petition organiser will be able to suggest questions to the Chair of the Committee by contacting Democratic Services no later than three working days before the meeting.

## **7. WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?**

- 7.1** Should the petition organiser feel that the Council has not dealt with the petition properly, the petition organiser has the right to request that the Council's Overview and Scrutiny Committee reviews the steps that the Council has taken in response to the petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.
- 7.2** The Overview and Scrutiny Committee will endeavour to consider the request at its next meeting, although, on some occasions, this may not be possible, and consideration will take place at the following meeting. Should the Committee determine that the Council has not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Executive Committee and arranging for the matter to be considered at a meeting of the Council.
- 7.3** Once the appeal has been considered, the petition organiser will be informed of the results within five working days. The results of the review will also be published on the Council's website.

## **8.0 E-PETITIONS**

- 8.1** The Council welcomes e-petitions which are created and submitted through the [website](#). E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide the Council with their name, postal address and email address.
- 8.2** Once registered, the organiser will be asked for the title of the petition. The system will automatically search to see if there is already a petition in operation that deals with the same issues. If there is, the organiser will be asked to review that petition or to decide if their petition covers a new area. After this has been ascertained, the organiser of the petition will be asked to provide further details, including the options for signatories i.e. agree, agree/disagree or agree/disagree/don't know. The organiser will also need to decide how long the petition should be open for signatures. The system will default to allow for a period of two months, but this can be overridden and extended for up to 12 months in line with the requirements of the organiser.
- 8.3** When an e-petition is created, it will take up to five working days before it is published online as the suitability of the content must be checked before it is made available for signature.

**8.4** If for some reason the Council is unable to publish the petition, the organiser will be contacted within the five-day period.

**8.5** When an e-petition has closed for signature, it will automatically be submitted to Democratic Services. In the same way as a paper petition, an acknowledgement will be sent within 10 working days.

#### **HOW DO I 'SIGN' AN E-PETITION?**

**8.6**

- Go to the Council's website at [www.tewkesbury.gov.uk](http://www.tewkesbury.gov.uk).
- Go to 'About the Council'.
- Click on 'Petitions and Public Participation'.
- A list of the e-petitions that are currently active will be displayed under E-Petitions.
- Click on the appropriate petition and then "sign a petition".
- Contact details will need to be provided (name, address and email address) but only the name will be displayed on the website.

**8.7** A petition may gather names and addresses both in electronic and paper form, although repeat names will be removed. Both petitions must run for the same period of time and must be submitted together.

**8.8** The Council accepts no liability for the petitions published on the website and the views expressed in the petitions do not necessarily reflect those of the Council.

**8.9** For further information, help and advice on how to submit an e-petition, contact Democratic Services on 01684 272021 or email [democraticservices@tewkesbury.gov.uk](mailto:democraticservices@tewkesbury.gov.uk)

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

### **1. SCOPE**

These Rules apply to all meetings of the Council, its Committees and Sub-Committees (called "Relevant Meetings"). They do not apply to meetings of Working Groups, Boards, Reference Groups, Management Groups or Panels.

### **2. ADDITIONAL RIGHTS TO INFORMATION**

These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the Law.

### **3. RIGHT TO ATTEND MEETINGS**

Members of the public may attend all relevant meetings subject only to the exceptions in these Rules.

### **4. NOTICES OF MEETING**

The Council will give at least five clear days' notice of any relevant meeting by posting details of the meeting at the Council Offices and on its website.

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the Agenda and reports open to the public available for inspection at the Tewkesbury Borough Council Offices at least five clear days before the relevant meeting. If an item is added to the Agenda later, the revised Agenda will be open to inspection from the time the item was added to the Agenda. Where reports are prepared after the summons to the meeting and Agenda has been sent out, the Executive Director: Resources and S151 shall make each such report available to the public as soon as the report is completed and sent to Councillors. Any item which the Chair of the relevant meeting accepts, for reasons of urgency, to be tabled at a relevant meeting, will be made available for public inspection and will be circulated to any public and press who are present at the relevant meeting.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any Agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items on the Agenda;
- (c) any other documents supplied to Councillors in connection with an item, if the Executive Director: Resources and S151 thinks fit

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

These are available free of charge if downloaded from the Council's website.

## **7. ACCESS TO MINUTES ETC. AFTER THE MEETING**

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

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the Agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of Background Papers**

The Executive Director: Resources and S151 will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Access to Information Procedure Rule 10).

### **8.2 Public Inspection of Background Papers**

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

## **9. SUMMARY OF RIGHTS OF MEMBERS OF THE PUBLIC**

A written summary of the rights of members of the public to attend relevant meetings, and to inspect and copy documents, will be kept at, and available to the public at, the Council Offices, Gloucester Road, Tewkesbury, GL20 5TT.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential Information - Requirement to Exclude Public**

The public must be excluded from relevant meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

## **10.2 Exempt Information - Discretion to Exclude Public**

- (a) The public may be excluded from relevant 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.
- (b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of that Act.

## **10.3 Meaning of Confidential Information**

Confidential information means information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

## **10.4 Meaning of Exempt Information**

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

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 any 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.
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.

#### **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Executive Director: Resources and S151 thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Access to Information Procedure Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed.



## **SECTION 3 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The Framework for decision making**

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4 of this Constitution. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Executive Committee to oversee its implementation.

### **2. Review of the Framework**

The scope of the Policy Framework will be reviewed annually by the Executive Director: Resources and S151 and any changes reported to the Council for approval.

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## **SECTION 4 SCRUTINY PROCEDURE RULES**

### **1. INTRODUCTION**

#### **1.1 Purpose of Scrutiny**

The purpose of scrutiny is to enable continuous improvement in Council services, practices and procedures and to ensure that the Committees which make the decisions are accountable for them.

### **2. OVERVIEW AND SCRUTINY COMMITTEE**

The Council will set up one Overview and Scrutiny Committee as described in Article 6 of this Constitution.

### **3. TERMS OF REFERENCE**

The Overview and Scrutiny Committee shall have the responsibilities and functions set out in Part 3 of this Constitution.

### **4. MEMBERSHIP**

#### **4.1 Number**

The Overview and Scrutiny Committee will consist of 15 Councillors.

#### **4.2 Eligibility**

Members of the Executive Committee will not be Members of the Overview and Scrutiny Committee and will not act as substitutes for Overview and Scrutiny Committee Members

Members of the Overview and Scrutiny Committee will not be Members of the Executive Committee.

No Member shall scrutinise a decision in which he/she has been directly involved.

#### **4.3 Co-optees**

The Overview and Scrutiny Committee shall be entitled to co-opt up to a maximum of five named people for the appointment as non-voting co-optees. Any appointments shall be for a specific task and be for a limited duration.

### **5. MEETINGS**

#### **5.1 Number of meetings**

Ordinary Meetings of the Overview and Scrutiny Committee shall take place in line with the Council's approved Schedule of Meetings.

## **5.2 Special meetings**

Special Meetings may be called from time to time as and when appropriate. A Special Committee meeting may be called by the Chair of the Overview and Scrutiny Committee, by any three Members of the Committee or by the Executive Director: Resources and S151 if he/she considers it necessary or appropriate.

## **6. QUORUM**

The quorum for the Overview and Scrutiny Committee is five Members.

## **7. CHAIR AND VICE-CHAIR**

The Chair and Vice-Chair of the Overview and Scrutiny Committee will be appointed in accordance with Council Procedure Rule 30 and the Committee may appoint such persons, as it considers appropriate as Chair and Vice-Chair.

## **8. AGENDA ITEMS**

### **8.1 Members of the Council**

Any Member of the Council shall be entitled to give written notice to the Executive Director: Resources and S151 that he/she wishes an item relevant to the functions of the Committee to be included on the Agenda for the next available meeting of the Committee if it is received not later than 10 working days prior to that meeting. The written notice shall identify the subject matter and the reasons for the request. On receipt of such a request the Executive Director: Resources and S151 will ensure that it is included on the next available Agenda.

### **8.2 Implementation of decision not to be affected**

The right given by Scrutiny Procedure Rule 8.1 is not the same as the calling-in of a decision under Scrutiny Procedure Rule 14 and the implementation of any decision referred to in the item placed on the Agenda is not suspended.

### **8.3 Requests for reviews from the Council and Executive Committee**

The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council, and from the Executive Committee, to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Executive Committee and/or the Council. The Council and/or the Executive Committee shall normally consider the report of the Overview and Scrutiny Committee within two months of receiving it.

## **9. PROCEDURES**

- (a) An Overview and Scrutiny Committee shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Committee for a decision in relation to the calling in of a decision;
  - (iv) responses of the Council, and/or the Executive Committee to reports of the Overview and Scrutiny Committee;
  - (v) the business otherwise set out on the Agenda for the meeting; and
  - (vi) reports from representatives on Outside Bodies appointed by the Committee.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak; and
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy.
- (c) Following any investigation or review, the Overview and Scrutiny Committee shall prepare a report, for submission to the Executive Committee and/or Council as appropriate and shall make its report and findings public.

## **10. WORK PROGRAMME**

The Overview and Scrutiny Committee must report annually to the Council on its work and provide details of future work programmes.

## **11. POLICY DEVELOPMENT AND REVIEW**

- 11.1** The role of the Overview and Scrutiny Committee on the development and review of policy includes: in depth analysis of policy issues; research within the community to consider possible options; enhancement of community participation; and liaison with Councillors, Officers and external organisations operating in the area.
- 11.2** Overview and Scrutiny Committee may make proposals to the Executive Committee for policy development as far as they relate to matters within their Terms of Reference.

**11.3** The Overview and Scrutiny Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public inquiries, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay, to any advisors, assessors and witnesses, a reasonable fee and expenses for doing so.

## **12. MEMBERS AND OFFICERS GIVING ACCOUNT**

### **12.1 Requirement to attend**

The Overview and Scrutiny Committee may scrutinise and review decisions (other than quasi-judicial decisions) made or actions taken in connection with the discharge of any of the Council's functions subject to Council approval if required. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Executive Committee, Lead Members, the Chair or Vice-Chair of any Committee, Chief Executive, Executive Directors, Directors or Associate Directors to attend before the Committee to explain in relation to matters within their remit:

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

**(NOTE: Save in exceptional circumstances, and in agreement with the Chief Executive, no Officer below Executive Director, Director or Associate Director or other Senior Officer reporting directly to a Chief Officer shall be required to appear before the Overview and Scrutiny Committee).**

### **12.2 Notice to attend**

Where any Councillor or Officer is required to appear before the Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Chief Executive. The Chief Executive shall inform the Councillor or Officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation and for compliance with the Access to Information Procedure Rules.

### **12.3 Alternative date**

Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Councillor or Officer, arrange an alternative date for attendance to take place within a maximum of 20 working days from the date of the original request.

### **12.4 Obligation to comply**

- (a) It is the duty of those persons mentioned in Scrutiny Procedure Rule 12.1 to attend if so required.
- (b) Any Councillor or Officer who is required to attend will not however be obliged to answer any question which he or she would be entitled to refuse to answer in a court of law.
- (c) Without prejudice to paragraph (b) above, questions to an Officer appearing to give evidence to the Overview and Scrutiny Committee shall, as far as possible, be confined to questions of fact and explanation relating to policies and decisions rather than seeking views on alternative policies especially where this is politically contentious. Any comment by Officers on the Council's policies and decision-makers' actions should always be consistent with the requirement for Officers to be politically impartial.
- (d) Subject to paragraph (c) above, Officers may explain what the relevant policies are; the justification and objectives of those policies as decision makers see them; the extent to which those objectives may have been met; and how administrative factors may have affected both the choice of policy measures and the manner of their implementation as well as explaining and justifying the advice given to Members prior to decisions being taken.

## **13. ATTENDANCE BY OTHERS**

The Overview and Scrutiny Committee may invite people other than those people referred to in Scrutiny Procedure Rule 12.1 above to address it, to discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

The Council has adopted a protocol in respect of attendance at Overview and Scrutiny Committee meetings by Officers from other local authorities. A copy of the protocol is contained in Part 5 of this Constitution.

## **14. CALL-IN**

### **14.1 Circumstances in which call-in is to apply**

Call-in should only be used in exceptional circumstances. These are when either there is evidence which suggests that the Executive Committee did not take decisions in accordance with the principles set out in Article 12 (Decision Making) or the Executive Committee took a decision outside of its Terms of Reference.

## **14.2 Exclusion of certain decisions**

Call-in will not apply to:

- (a) quasi-judicial decisions e.g. development control and licensing; or
- (b) decisions that have been implemented;
- (c) decisions to which Scrutiny Procedure Rule 15 applies;
- (d) recommendations to Council; or
- (e) decisions that have been made by the Council.

## **14.3 Limitation on exercise**

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

- (a) where decisions involve expenditure or reductions in service, only those over a value of £15,000; and
- (b) either:
  - (i) three Members of the Overview and Scrutiny Committee; or
  - (ii) seven Members of the Council who were not involved in the decision on the matter “called in”

are needed for a decision to be called in.

## **14.4 Procedure**

The call-in procedure is as follows:

- (a) When a decision is made by the Executive Committee, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within three working days of the decision being made. Members of the Council will be sent copies of the records of all such decisions within the same timescale, by the Executive Director: Resources and S151.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the call-in procedure is invoked.
- (c) If, during the period mentioned in Paragraph (b) above, the Executive Director: Resources and S151 receives a request in writing in accordance with appendices 1-3 to this Procedure Rule 14.3(b) to call-in a decision he/she shall:
  - (i) call-in the decision for scrutiny by the Overview and Scrutiny Committee;



- (ii) notify Members of the Executive Committee of the call-in; and
  - (iii) arrange for the decision to be considered by the Overview and Scrutiny Committee as soon as is practicable.
- (d) If, having considered the decision, the Overview and Scrutiny Committee is concerned about it, then it may refer it back to the next meeting of the decision-making Committee for reconsideration, setting out in writing the nature of its concerns or refer the matter to the next meeting of the Council.
- (e) If, following an objection to the decision, the Overview and Scrutiny Committee does not meet on the date specified in 14.4(c)(iii) above, or does meet but does not refer the matter back to the decision-making Committee or to the Council, the decision shall take effect on the date of the meeting.
- (f) If the matter is referred to the Council, and the Council does not object to a decision that has been made, then no further action is necessary, and the decision will be effective in accordance with the provisions below. However, if the Council does object, the Council may substitute its own decision for that of the Executive Committee.
- (g) If the Overview and Scrutiny Committee refers the decision to the Executive Committee, the Executive Committee shall reconsider the decision in the light of the concerns mentioned by the Overview and Scrutiny Committee. The Executive Committee may then:
- (i) revise the decision so that it addresses the Overview and Scrutiny Committee's concerns; or
  - (ii) affirm the decision.
- (h) If the decision is affirmed by the Executive Committee the decision will be referred to the next meeting of the Council and Scrutiny Procedure Rule 14.4(f) will apply to any such referral as if the referral had been made by the Overview and Scrutiny and Committee directly.

## **15. CALL-IN AND URGENCY**

### **15.1 Call-in not to apply to urgent decisions**

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Executive Committee is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest. The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the Executive Director: Resources and S151 or his/her nominee, the decision is an urgent one, and therefore not subject to call-in.
- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually by the Executive Director: Resources and S151, or his/her nominee, and a report submitted to Council with proposals for review if necessary.

**16. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE WHEN DEALING WITH A CALL-IN**

16.1 See Appendix 3 to these Procedure Rules.

**17. REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEE**

**17.1 Formal Report**

Once the Overview and Scrutiny Committee has completed its deliberations on any matter (excluding call-in), it will prepare a formal report and submit it to the Executive Director: Resources and S151 who will allocate it for consideration by the relevant Committee (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from, or a change to, the agreed Budget and Policy Framework).

**18. CONSIDERATION OF REPORTS OF OVERVIEW AND SCRUTINY COMMITTEE**

**18.1 Consideration by the Council**

- (a) If the matter is referred to the Council, the Executive Director: Resources and S151 will provide copies of the report(s) of the Overview and Scrutiny Committee to the Chair of the Executive Committee with notice that the matter is to be referred to Council. The Executive Committee will have four weeks in which to respond to the Overview and Scrutiny Committee's report(s) and the Council shall not consider it within that period.
- (b) The Executive Director: Resources and S151 shall ensure that the report(s) of the Overview and Scrutiny Committee is/are considered by the Council as soon as is reasonably practicable.

**18.2 Consideration by the Executive Committee**

- (a) If the matter is referred to the Executive Committee, rather than the Council, the Executive Director: Resources and S151 will also provide copies of the report(s) of the Overview and Scrutiny Committee to the Chair of the Executive Committee with notice that the matter is to be referred to the Executive Committee. The Executive Director: Resources and S151 shall ensure that the report is considered by the Executive Committee as soon as is practicable.
- (b) In the event that the Executive Committee decides not to change its practice or policy in the light of the Overview and Scrutiny Committee's report(s) the Executive Committee must provide reasons for doing so when advising the Overview and Scrutiny Committee of its intended action.
- (c) If, having considered the reasons given by the Executive Committee, the Overview and Scrutiny Committee stands by its original report, the Overview and Scrutiny Committee may refer the matter to Council for the Council to determine. The decision of the Council will be final.

## **19. THE PARTY WHIP**

The use of the party whip is incompatible with the role of the Overview and Scrutiny Committee and shall not be used.

*“Party Whip” is a phrase referring to any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor is to speak or vote on a matter before the Council or any Committee or Sub-Committee or the application of any threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner.*

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## PROCEDURE PRIOR TO COMMITTEE CONSIDERATION OF CALL-IN

Standard Proforma to be completed for a decision to be called-in.

Proforma to contain

- Decision to be called in.
- Details as to which principles of Article 12 have been breached.
- An outline of the evidence that supports the breach.
- The signature of the Members supporting the call-in.

Either three Members of the Scrutiny Committee or seven Members of the Council not involved in the decision.

Call-in to be placed on next appropriate Overview and Scrutiny Committee Agenda.

Those Members calling-in a decision will prepare a submission to present to the Overview and Scrutiny Committee.

Members of the Overview and Scrutiny Committee will receive relevant papers including the Committee report and draft Minute, action that the Overview and Scrutiny Committee may take and the procedure to be followed at the meeting.

The Members of the decision-making Committee will be notified of the call-in and invited to attend the meeting of the Committee. However, if they do so, they must be prepared to answer questions if asked.

The Chair and Vice-Chair of the decision-making Committee will be required to attend the Overview and Scrutiny Committee to account for their Committee's decision.

Copies of all of the papers will be sent to the Members of the decision-making Committee.

Relevant Senior Officers will be required to attend the meeting to answer any questions of fact. Officers will be provided with a full copy of the documentation prior to the meeting.

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## CALL-IN OF DECISION

This form must be completed in order to call-in any decision in accordance with Scrutiny Procedure Rule 14 of the Council's Constitution.

| <b>A. DECISION TO BE CALLED-IN</b>   |  |
|--|--|
| Committee  |  |
| Date of Committee  |  |
| Date of Decision Notice (NOTE: decisions are subject to the five working days call-in period unless otherwise stated): |  |
| Item No.   |  |
| Details of Decision  |  |
|  |  |

| <b>B. WHICH PRINCIPLES OF ARTICLE 12 HAVE BEEN BREACHED?</b>   |                          |
|--|--------------------------|
| Article 12 of the Constitution lists eight principles in accordance with which all decisions of the Council must be made. Please indicate which of these have been breached in the case of the decision to be called-in: |                          |
| PRINCIPLES   | BREACHED                 |
| (i) the rule of law.   | <input type="checkbox"/> |
| (ii) clarity of aims and desired outcomes.   | <input type="checkbox"/> |
| (iii) having regard to all relevant and material considerations.   | <input type="checkbox"/> |
| (iv) proportionality i.e. the action must be proportionate to the desired outcome.   | <input type="checkbox"/> |
| (v) due consultation and consideration of professional advice from Officers.   | <input type="checkbox"/> |
| (vi) a presumption in favour of openness.  | <input type="checkbox"/> |
| (vii) respect for human rights.  | <input type="checkbox"/> |
| (viii) having due regard to appropriate national, strategic, local policy and guidance.  | <input type="checkbox"/> |

**C. EVIDENCE**

Please give an outline of the evidence that supports the breach(es) identified above.

**A DETAILED WRITTEN SUBMISSION WILL BE REQUIRED. THIS WILL BE SENT TO THE MEMBERS OF THE OVERVIEW AND SCRUTINY COMMITTEE IN ADVANCE OF THE MEETING.**



**D. DETAILS OF MEMBERS SUPPORTING THE CALL-IN**

Please provide names and signatures at **EITHER** (i) **OR** (ii) below

(i) Three Members of the Overview and Scrutiny Committee:

| NAME    | SIGNATURE |
|---------|-----------|
| 1. .... | .....     |
| 2. .... | .....     |
| 3. .... | .....     |

(ii) Seven Members of the Council who were not involved in the decision on the matter called in:

| NAME    | SIGNATURE |
|---------|-----------|
| 1. .... | .....     |
| 2. .... | .....     |
| 3. .... | .....     |
| 4. .... | .....     |
| 5. .... | .....     |
| 6. .... | .....     |
| 7. .... | .....     |

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## PROCEDURE AT THE MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

1. The Chair will invite those Members who have called-in the decision to present their case.

At the conclusion of the presentation Members of the Overview and Scrutiny Committee may ask questions of those Members.

2. The Chair will invite the Chair and Vice-Chair of the decision-making Committee to respond.

At the conclusion of the response Members of the Overview and Scrutiny Committee may ask questions of the Chair and Vice-Chair or any other Members of the decision-making Committee present at the meeting.

3. Members of the Overview and Scrutiny Committee may ask Officers any factual questions relevant to the call-in.
4. Those Members calling-in the decision and the Chair and Vice-Chair of the decision-making Committee may ask questions of any party present for the purposes of clarification.
5. The Chair and Vice-Chair of the Committee will summarise their submission to the Overview and Scrutiny Committee.
6. Those Members calling-in the decision will summarise their submission to the Overview and Scrutiny Committee.
7. At the conclusion of the presentations the Overview and Scrutiny Committee can:
  - a) refer the decision back to the next meeting of the decision-making Committee for reconsideration, setting out in writing the nature of its concerns;
  - b) refer the matter to the next meeting of the Council; or
  - c) take no action on the call-in and the decision will take effect on the date of the Overview and Scrutiny Committee that the call-in was considered.

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## **SECTION 5 FINANCIAL PROCEDURE RULES**

(Revised April 2019)

### Section 1 – Financial Governance

1. Financial Governance
2. Internal Audit & Systems of Internal Control

### Section 2 – Budget Management

3. Financial System and Procedures
4. Preparing and Managing the Revenue and Capital Budget
5. Changes to the overall Agreed Revenue and Capital Budget

### Section 3 – Financial Processes

6. Payment of Invoices
7. Income
8. Taxation
9. Payment Cards
10. Banking Arrangements, Cheque Signing and Imprest Account
11. Treasury Management
12. Insurance
13. Fraud and money laundering

### Section 4 - Employees

14. Workforce
15. Salaries, Wages and Pensions
16. Travel, Subsistence and other Allowances
17. Gifts and Hospitality

### Section 4 – Tangible assets

18. Capital Plan Preparation and Management
19. Assets
20. Security

### Section 5 – Third Party arrangements

21. Unofficial and Voluntary Funds
22. Financial Control of Partnerships, Joint Ventures, Associated Organisations and Similar Arrangements

## 1) FINANCIAL GOVERNANCE

### Council's responsibilities

The Council has a statutory duty to make arrangements for the proper administration of its financial affairs and to ensure that one of its Officers has responsibility for the administration of those affairs. The S.151 Officer has been designated as being responsible for those arrangements.

The Council is responsible for the approval of the Financial Procedure Rules to be used by all Members and Officers, including any amendments or additions presented by the S.151 Officer.

The Council is responsible for approving the procedures for recording and reporting decisions taken, by the Council itself, or under approved delegation arrangements. The Scheme of Delegation, which includes financial limits, is set out in the Constitution at Part 3.

The Audit and Governance Committee is responsible for reviewing the draft Annual Statement of Accounts and approving the audited Annual Statement of Accounts.

### Executive Committee's responsibilities

The Executive Committee is responsible for ensuring that the Financial Procedure Rules are followed across the Council. The Executive Committee is also responsible for arranging for a review of the Financial Procedure Rules at least every three years and for recommendations for any changes to be made to the Council.

The Executive Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management arrangements.

### S.151 Officer

The S.151 Officer is responsible for the proper administration of the Council's financial affairs, and particularly for

- maintaining a continuous review of this Financial Procedure Rules and the submission of any additions or changes necessary for Council approval;
- providing corporate financial advice and information to the Council.
- ensuring that arrangements are in place to maintain proper accounting records
- setting standards for good financial management including accounting policies which are set in accordance with proper practice and accounting regulations.
- advising on the key financial controls necessary to secure sound financial management;
- ensuring that proper systems of internal control are operated and reporting breaches of the Financial Procedure Rules to Council, Executive Committee, Audit & Governance Committee, or the Standards Committee as appropriate;
- coordinating the preparation of the revenue budget and capital plan,
- preparing the annual financial statements in accordance with the relevant accounting standards and codes of practice and any necessary technical accounting adjustments. Ensuring that arrangements are in place for the audit of the financial statements;
- treasury management activities, including reporting on prudential indicators;

The S.151 Officer also has a range of statutory duties, rights and responsibilities in relation to the financial administration and stewardship of the Council. The S.151 Officer must report to the Council under Section 114 of the Local Government Finance Act 1988, if:-

- a decision has been made, or is about to be made, which involves the incurring of expenditure which is unlawful;
- there has been, or is about to be, an unlawful action resulting in a financial loss to the Council; or
- Anyone or anybody is about to make an unlawful entry in the Council's accounts.

The S.151 Officer may issue any instruction intended to fulfil these responsibilities and is entitled to any information or explanations as he/she may require.

The S.151 Officer shall issue instructions and guidance to the Council in line with S.25 of the 2003 Local Government Act.

#### Chief Executive, Monitoring Officer (COG) and Senior Officers

Senior Officers (defined as Executive Directors, Directors and Associate Directors within the current structure), must ensure that;

- proper financial controls are maintained in their service area.
- arrangements are in place to ensure that all Officers involved in financial matters are aware of, and competent in the use of, these Financial Procedure Rules, Contract Procedure Rules and the Council's financial ledger.
- the extent of delegated authority to Officers must be recorded. See further guidance on the Scheme of Delegation in Part 3 of the Constitution. The financial implications of all proposals in advance of any "key decision" report have been subject to approval by the S.151 Officer and their representatives and the subsequent report sets out the financial implications.
- the legal implications of all proposals in advance of the "key decision" report production have been subject to approval by the Monitoring Officer and the subsequent report sets out the legal implications.

#### Head of Paid Service

The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. They must report to and provide information for the Council; the Executive Committee; the Overview and Scrutiny Committee; and any other Committees of the Council. The Head of Paid Service is responsible for establishing the framework for management direction, style and standards and for the monitoring of performance for the organisation. The Head of Paid Service, Monitoring Officer and S.151 Officer are responsible for the system(s) of record keeping in relation to all the Council's decisions.

#### Monitoring Officer

The Monitoring Officer is responsible for promoting and maintaining high standards of conduct, including about financial matters. They are also responsible for ensuring the legality and the powers to enter into transactions and the terms and conditions of contracts and other agreements.

The Monitoring Officer is also responsible for reporting any actual or potential breaches of law or maladministration to the Council and/or to the Executive Committee, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

The Monitoring Officer must ensure that Executive Committee decisions and the reasons for them are made public and that Councillors are aware of the decisions made by: the Executive Committee; those made by anyone from the workforce; or anyone else acting on the Authority's behalf, who have delegated Executive Committee responsibility.

The Monitoring Officer is also responsible for providing advice to anyone about who has responsibility or authority to take a particular decision. In relation to financial matters, s/he will consult with the S.151 Officer before giving advice.

The Monitoring Officer is responsible for advising the Council or Executive Committee about whether a decision is likely to be considered contrary to or wholly in accordance with the Policy Framework. Responsibilities for actions contrary to budget lie with the S.151. Officer.

#### External agencies and partnerships

Where, as a result of legislation or decision of the Council, part of the Council's functions are delivered by an associated organisation, funded partly or wholly by the Council, the organisation must submit for approval by the Council its own arrangements for corporate governance. These arrangements will incorporate the spirit of the Council's Financial Procedure Rules, and will include the Council's right of access to financial information about the associated organisation. The Audit & Governance Committee shall monitor the overall Council risks on partnerships as part of its governance role.

Specific terms and conditions will be required when the Council is deemed the Accountable Body for external funding. Where the establishment of such terms and conditions are the responsibility of the Accountable Body they have to be agreed by the Executive Committee

#### Officers and Councillors

All Officers and Councillors within the authority are required to maintain and provide the highest standards of financial management, integrity and administration in line with these Financial Procedure Rules. Their conduct is also set out in the relevant Codes of Conduct which they must be aware of and comply with at all times.

#### Delegated responsibilities

A reference in the Financial Procedure Rules to the S.151 Officer includes the Deputy S.151 Officer as having the same powers and responsibilities. Other nominees can be made by the S.151 Officer and will be notified to the Head of Paid service and Monitoring Officer.

An Officer means any employee of the Council, or other persons contracted to carry out functions of the Council, including but not limited to agency workers, third party contractors and partnership bodies where these Financial Procedure Rules apply.

#### Non Compliance with regulations

When an Officer is aware of a breach of these regulations they have a duty to report it to the S.151 Officer. Any such report will be treated in the strictest confidence

Failure of any Officer to comply with these regulations may constitute misconduct or gross misconduct, depending on the circumstances, and may result in disciplinary action being taken in accordance with the Council's Disciplinary Procedure.



## 2) INTERNAL AUDIT AND SYSTEMS OF INTERNAL CONTROLS

### Responsibility & Authority

Under the Accounts and Audit (England) Regulations 2015 a Council must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control, and at least once in each year, conduct a review of the effectiveness of its internal audit.

The Chief Audit Executive is responsible for Internal Audit. An annual risk based audit plan is produced to identify systems and process that require audit. This includes consideration of controls in place relating to accounting records. The plan is approved by the Audit Committee.

The S.151 Officer is responsible for identification of:-

- the risks inherent in and associated with each financial system;
- the soundness, adequacy and application of the financial and other management controls and systems within each Service;
- the extent of compliance with, and the financial effects of, established policies, plans and procedures;
- the extent to which the organisation's assets and interests are accounted for and safeguarded from losses of all kinds arising from fraud, other offences, waste, extravagance and inefficient administration, poor value for money and other cause;
- the suitability, accuracy and reliability of financial and other management data within the organisation; and
- value for money aspects of service provision.

The Chief Audit Executive will report to the Audit & Governance Committee on a cyclical basis about the findings of Internal Audit.

### Investigations and Suspected Fraud or Corruption

The Chief Officers Group is responsible for ensuring that Officers are:

- aware of the Council's Anti-Fraud and Anti-Corruption Strategy;
- aware of the Whistleblowing Policy;
- operating in a way that maximises internal check against inappropriate behavior.

The S.151 Officer is responsible for the development and maintenance of the Anti-Fraud & Anti -Corruption Strategy and for directing the Council's efforts in fraud investigation. The Executive Director: Resources and S151 / Director: Corporate Resources supported by the relevant Senior Officer is responsible for the development and maintenance of the Whistleblowing Strategy.

It is the duty of any Officer who suspects or becomes aware of any matter which may involve loss or irregularity concerning cash, stores or other property of the Council or any suspected irregularity in the operations or exercise of the functions of the Council to immediately advise Senior Officers. The Senior Officer concerned must immediately notify the S.151 Officer who may take action by way of investigation and report.

Where, following investigation, the S.151 Officer considers that there are reasonable grounds for suspecting that a loss has occurred as a result of misappropriation, irregular expenditure or fraud, appropriate action will be taken including following internal disciplinary procedure and/or reporting to the police

### 3) FINANCIAL SYSTEMS AND PROCEDURES

The S.151 Officer is responsible for setting the standards on the operation of the Councils accounting and financial systems, the form of accounts and the supporting financial records. Any changes to the existing financial systems, processes or procedures; or the establishment of new systems to meet the specific needs of a Service must have prior approval of the S.151 Officer before being implemented.

The financial systems in operation at the Council include

- Financial Ledger, Creditors and Debtors functions
- Purchasing commitment system for raising all purchase orders.
- Income Management System

Senior Officers are responsible for

- ensuring that Officers understand and are competent to undertake their financial responsibilities.
- ensure that Officers are able to use the financial systems in operation at the Council.
- where appropriate make sure Officers receive relevant financial training, to their level of responsibility, that has been approved by the S.151 Officer.
- the proper operation of financial processes in their own departments and must ensure that all financial, costing, and other statistical information is recorded fully and accurately.
- ensure that financial documents are retained in accordance with the Council's approved retention schedule.
- make arrangements, where appropriate, for the separation of duties between the carrying out of transactions and the examining and checking of transactions.

Any departure from using corporate accounting and financial systems must be approved and justified on cost/service grounds to the S.151 Officer before the commitment to change is agreed.

Bid documents for external funding must be completed in conjunction with advice from finance and legal departments and approved by the Monitoring Officer and the S.151 Officer. Grant claims, financial returns and submissions must be completed by the relevant Senior Officers and authorised by the S.151 Officer prior to submission to the Government Department.

Any proposals to enter into an arrangement involving a lease to finance any expenditure should be subject to review by the S.151 Officer to ensure the financial implications receive appropriate consideration.

#### 4) PREPARING AND MANAGING THE REVENUE AND CAPITAL BUDGET

##### Financial Planning Framework

It is a legal requirement for the Council to ring-fence and separately manage many of its financial resources and expenditure. The main “ring-fenced” areas include:

- capital expenditure and resources;
- the Collection Fund

Any income or expenditure, which does not fall within the above categories, is deemed to fall within General Fund.

Ring-fencing means that the Council is not permitted or is heavily restricted in its ability to vire resources in or out of a particular ring-fenced area. The situation is further complicated by the fact that certain resources within each of the above ring-fenced areas have to be earmarked to particular activities. For example, capital grants that have been provided specifically to finance particular schemes.

Having regard to all statutory ring-fencing arrangements, the S.151 Officer, after consulting the Chief Officer Group and Executive Committee, shall be responsible for designing and implementing the annual budget and medium-term financial planning system. The S.151 Officer is responsible for the preparation of a corporate revenue budget, capital program and advice on the setting of Council Tax.

##### Preparation of the Council Plan

The Chief Executive is responsible for proposing the Council Plan to the Executive Committee for consideration before its submission to the Council for approval. When compiling the Plan, and in conjunction with other Senior Officers, the Chief Executive will ensure that the plan is commented on by the S.151 Officer

##### Budget Preparation

The S.151 Officer is responsible for

- the preparation of a Medium Term Financial Strategy for the following five-year period to be submitted annually to the December meeting of the Council for approval
- Preparation of an annual balanced revenue budget, capital budget and reserves statement for approval by the Council in February of each year.

The S.151 Officer will make arrangements to consult with the public, partners and business community on the budget options being considered.

The Executive Committee will consider these budget option proposals in detail and make its recommendations to the Council before the date set for the meeting of the Council which will determine the budget.

The S.151 Officer will advise the Executive Committee and the Council on the overall budget, the levels of Council Tax, the use of reserves and the need for contingency budgets, and on the risks involved in the forecasts of spending levels and income.

The S.151 Officer is responsible for designing the process to be able to set a balance budget. The budget process and timetable is set out in detail in the Financial Services Handbook. This handbook will be updated when necessary, to reflect any changes, and notified to all senior Officers.

## Resource Allocation

It is imperative that objectives are carefully prioritised and that limited resources are allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials. The S.151 Officer is responsible for identifying the sources and level of funding available, covering grants from Central Government Departments, the Business Rates regime and from increasing Council Tax. The S.151 Officer is responsible for ensuring that the resource allocation is adequate.

To assist with the resource allocation the Council will maintain a general level of balances and reserves. These levels shall be calculated and recommended for approval by the S.151 Officer using a risk based approach in advance of the setting of the Budget for the approaching financial year. This will support the budget decisions being taken at the Council meeting which sets the Council Tax. This level of balances and reserves shall be subject to regular review in the budget monitor reports. At the year-end as part of the production of the Annual Statement of Accounts the S.151 Officer shall assess the risks facing the Council and prepare the Statements to utilise reserves to meet expenditure incurred.

## Reporting

The Executive Committee is responsible for implementing Service and Corporate Plans within the resources allocated in the revenue and capital budgets. The S.151 Officer will provide information on the Council's performance against the revenue and capital budgets to Executive Committee quarterly during the financial year. Senior Officers will receive monthly budget monitoring updates from the S.151 Officer.

The general format of the budget proposed by the Executive Committee to Council will follow that advised by the S.151 Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds. The headings proposed will be those advised by the S.151 Officer.

The S.151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively by Senior Officers. Senior Officer must monitor and control expenditure against budget allocations and report to the S.151 Officer any significant under/overspends. The S.151 Officer will report to the Executive Committee on the overall position on a quarterly basis, noting significant variances in the reported position from the set budget. The S. 151 Officer will recommend any corrective action that is deemed necessary, including the use of a S.114 Notice if necessary.

Senior Officers will control income and expenditure within their areas of responsibility. They will monitor performance, taking account of financial information provided by the S.151 Officer. They should report on actual variances within their own areas, and on the possible likelihood of them. They must also: alert the S.151 Officer to any problems; consult with the S.151 Officer about the remedial action necessary to avoid exceeding their budget allocations and take the remedial action agreed.

## Managing budgets

Senior Officers are responsible for managing budgets within their delegated authority. They must take action to avoid overspending budgets and report any difficulties to the S.151 Officer. Delegated Officers with budget responsibility must support their Senior Officers with all arrangements for the preparation and management of the budget as set out in the financial procedure rules.

Senior Officers should delegate authority to commit budgets to the appropriate level of management, make arrangements to set out clearly the extent of authority of managers, and review the performance of managers in managing these budgets. Senior Officers should complete the relevant form and return it to the S.151 Officer. The Finance Team will ensure that records of delegated authority are maintained, regularly reviewed and updated.

Senior Officers must in accordance with their financial support, including using the financial reports on the financial ledger, review their budgets on a monthly basis to support the regular budget meeting due by the S.151 Officer. All budget holders have access to the financial reporting system and will receive a monthly report on the 1<sup>st</sup> of each month detailing their current position against budget. Financial officers will meet with budget holders, at least, quarterly to support the financial reporting to the Executive committee.

The S.151 Officer is accountable for all corporate contingency budgets, which will be managed in the same way as service and activity budgets.

Where, as a result of a mistake or error by an Officer, the Council becomes liable for any charges, penalties or additional expenses, such costs will be met by the Service in which the error is made.

#### Carry forwards and recovery of overspends

Carry forward is a mechanism for transferring budget provisions from one year to another. This will be done during the production of the Statement of Accounts. The Executive Committee is responsible for determining changes to the Council's Revenue Budget arising from the carry forward process. Carry forwards are one-off gains which can be utilized to

- fund future projects and/or
- service improvements
- forward management of Council finances.

They should not be used to fund recurring revenue expenditure. Additions to recurring revenue expenditure will be dealt with through the budget setting process.

After the end of each financial year, the S.151 Officer will report to the Executive Committee on the financial performance of each service and of the Council as a whole.

#### Risk Management and Control of Resources

It is essential that robust, integrated systems exist to identify and evaluate all significant operational risks to the Council. These systems will be maintained by the proactive participation of everyone associated with the planning and delivery of services to its citizens.

The Executive Committee is responsible for approving the Council's Risk Management Policy Statement and the Strategy and has delegated the monitoring of the effectiveness of risk management to be Audit Committee.

The S.151 Officer is responsible for advising Senior Officers and the Executive Committee Member of any financial implications into the risk management process and that appropriate insurance cover is in place.

Internal Control is the systems of control devised by management to help ensure the Council's objectives are achieved in ways which promote economical, efficient and effective use of resources and which ensure that the Council's assets and interests are safeguarded.

The S.151 Officer will advise the Council at all levels on the requirements for an effective system of Internal Control. Arrangements devised and implemented will ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They will also ensure that Public Monies are properly safeguarded; and are used economically, efficiently, and in accordance with the statutory and other authorities which govern their use.

It is the responsibility of Senior Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets. In doing this they must consult as necessary with the S.151 Officer about matters past and present and future which bear upon the framework of Internal Control.

#### Production of Accounts

The S.151 Officer shall consolidate and produce the Authority's statutory accounts. Accounts will be prepared in accordance with the relevant statutory requirements and proper practice.

Senior Officers shall assist the S.151 Officer to undertake the closure of their Service area ledger accounts which must be in accordance with the standards, timescales and format set by the S.151 Officer. A detailed set of instructions and timescales will be sent out by the 1<sup>st</sup> March prior to the end of the financial year. It is the responsibility of budget holders to ensure that evidence is collated and held in line with retention schedules for financial information and that all deadlines are adhered to as set out in the Year End instructions.

The S.151 Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Council Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC). This will include an assessment of the financial risks facing the Council. The Audit Committee is responsible for approving the Annual Statement of Accounts.

The S.151 Officer shall report to Executive Committee before the end of June the outturn for the previous year for both revenue and capital identifying the outturn against budget. This will include details of variations to budget and the implications for general reserves and balances.

## 5) CHANGES TO THE OVERALL AGREED REVENUE AND CAPITAL BUDGET

In the normal course of the Council business during a financial year, proposals are likely to be made which could have financial implications, increase the overall agreed net revenue and/or capital budget of the Council.

Any increase to the Council annual budget (outside of annual budget setting process) must be reported to the Executive Committee for recommendation to Council. In each case, the proposal needs to be fully costed to show the additional impact on the budget, with details of how any additional cost will be financed. Where the expenditure is capital in nature there is a requirement to consider fully the recurring and non-recurring revenue implications. If the net impact is nil on the budget then, with the approval of the S.151 Officer, the money can be spent

All proposals which involve a change to the overall revenue or capital budget need to be considered in accordance with the advice of the Executive Director: Resources and S151 and S.151 Officer.

### Virements

The Executive Committee is responsible for agreeing procedures for virements between department, earmarked reserves and service budget headings. A virement is the mechanism to make a significant change in the level of resources allocated to service areas from that set out in the budget setting process. A virement cannot make a change to the overall level of resources available to the Council as agreed during budget setting.

Senior Officers are responsible for identifying and agreeing any transfer of resources between budget codes. They must then seek the approval of the S.151 Officer for the transfer. The S.151 Officer will make arrangements to record their approval of any in-year virements and for the financial systems to be updated to reflect the approved change. Where it is above the S.151 Officers limit, then s/he will prepare a report to the Executive committee setting out the reason for the change in resource allocation.

- Up to £20,000                      - S.151 Officer
- Above £20,000                    - Report from the S.151 Officer to Executive Committee

## 6) ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

### General

Every Officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct. These interests should be registered with the Executive Director: Resources and S151 as per the Council's agreed procedures.

Public money must be spent with demonstrable probity and in accordance with the Council's policies. Local Authorities have a statutory duty to achieve best value in part through securing economy and efficiency in its procurement decisions. The Council's procedures (Contract Procedure Rules, Scheme of Delegation, Financial Procedure Rules and Procurement Policy) must be followed to ensure services obtain value for money from their procurement arrangements.

Whilst Contract Procedure Rules have a threshold for written competitive quotations, it is nevertheless an obligation on Officers to be able to show that they have received value for money at much lower levels than the formal requirement of these rules.

Where the Council has corporately negotiated contracts for goods, services or works, services shall normally use these contracts for such supplies.

### Raising orders

Senior Officers are responsible for ensuring that all suppliers are registered on the Council's financial system and that all suppliers' details are evidenced as directed by the S.151 Officer.

All orders for goods, services and works shall be made using the Council's agreed procurement system. Unless agreed by the S.151 Officer.

Senior Officers must complete the Authorised Signatories form to identify employees authorised to act in respect of raising requisitions, orders and making payments, together with the limits of each person's authority. These forms must be countersigned by the S.151 Officer. S/he is responsible for putting arrangements in place to record these and update controls within the purchasing system. The schedule must be reviewed at least once per year to ensure that it is up-to-date and reflects the information on the purchasing system controls.

Purchase Orders (PO's) must be raised at the point of agreeing to use the identified supplier. The PO is the authority for that supplier to undertake the works up to the agreed limit detail on the purchase order. By approving a Purchase Order, the approving Officer indicates that satisfactory checks have been carried out to ensure that:

- The authoriser of the order is satisfied that the goods and services ordered are appropriate and necessary.
- The order value indicates that prices, extensions, calculations, discounts, other allowances and all relevant taxes are correct.
- Payment will be processed via a proper tax invoice.
- The proposed expenditure will be properly incurred, is within budget, and has been charged to the appropriate budget.
- Entries will be made in asset registers, inventories, stores and other records as appropriate.
- The order has not been processed previously.
- The commitment is a proper liability of the Council.

The supplier's sales invoice must reference the purchase order number raised from the Purchasing system



The correct receipt of goods shall be acknowledged by a delivery note or the confirmation by an appropriate Officer who checks for quantity and quality. This will be done on the Purchasing System and details and evidence recorded in line with the retention policy.

System procedures must be followed for the treatment of part or incorrect deliveries and the system updated appropriately.

### Paying invoices

Payments shall only be made, on receipt of an invoice, in respect of goods or services properly receipted on the Purchasing System. The invoice must contain, if appropriate, the company registration and VAT numbers and valid Purchase Order number. Failure to quote an order number will not allow matching with the original purchase order. As a result the invoice may be returned to the sender for the inclusion of this data.

Invoices will be received and processed by the Creditors Team, to be matched to the relevant purchase order. Where the invoice does not match the purchase order, the invoice will be returned to the service department for them to investigate and ensure that both the purchasing system and invoice are correctly stated.

Senior Officers are responsible for ensuring that undisputed invoices are processed for payment within a maximum of 30 days from receipt of the invoice. The creditor's team need 4 working days to ensure that payment is processed into the supplier's bank account within the 30 days. An invoice that is in dispute must be notified to the creditor's team immediately so that records can be updated.

The S.151 Officer will determine the method and frequency of payment from one of the Council's main bank accounts.

### Advance Payments

Where a supplier or contractor requires payment prior to actually receiving the good or provision of services, then Officers will still raise it on the Purchasing System. Narrative should be added to the Purchasing System detailing why payment has been made in advance, to demonstrate why the GRN section has been completed. Senior Officers must obtain a pro forma invoice (or supplier's order form) detailing the goods/service to be obtained, which must be forwarded to Financial Services to be paid against the purchasing system details and retained as a record of the payment made.

### Payment Requests

Payment requests can be used to pay for services and transactions where the Council is not the direct recipient of a good or service. Examples include the payment of grants and payment of S.106 monies to third parties

Payment requests are made through the Purchasing system and when authorized are paid directly to the supplier. Senior Officers must ensure that appropriate documentation is retained by the service to prove that the expenditure was made lawfully and within the rules and procedures in place in relation to that transaction.

## 7) INCOME

Senior Officers will prepare in the autumn of each financial year, in consultation with the S.151 Officer, proposals to amend fees and charges. The fees and charges must be reviewed at least once per annum to assess whether the charges are still appropriate. Each Senior Officer will authorize a listing of all fees and charges, falling within their delegated authority, for the forthcoming year. All changes to fees and charges will be made in consultation with the S.151 Officer. Once authorised each senior officer is responsible for sending a copy to the S.151 Officer.

The methods of collecting, recording and banking of all income due to the Council are to be approved by the S.151 Officer.

The S.151 Officer must be notified, in accordance with practices agreed with the relevant Senior Officer, of all income due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.

Senior Officers must ensure that to the maximum extent possible income is collected by electronic means.

### Collection and Banking of Cash and Cheques Income

Cash (excluding the Tourist Information Centre's and car parks) can only be deposited in an official envelope in the Gloucester Road Offices reception. These envelopes are not a receipt of receiving the cash. Cash cannot be taken by any other means and Officers must not accept cash directly from customers. This is to protect them from risk or opportunities for fraudulent transactions to occur.

Cheques may be taken by Officers and returned to the cashiering function for processing.

Income that is received through the post will be passed onto the cashiering function for processing

All money received must be recorded on the Income Management System. The S.151 Officer will direct how this income will be recorded, stored securely and then transferred to be paid in to the Council's bank account. No deductions are to be made from such monies unless specifically authorised by the S.151 Officer. Personal cheques must not be cashed out of monies held on behalf of the Council. Refunds must be made through the payments system to the original card holders. Where this is not possible then to do this a Payment Request must be used and appropriately authorised. Where refunds are being made using Payment Requests consideration should be made of whether the transactions could be considered to be Money laundering. Any queries about this should be referred to the S.151 Officer.

The S.151 Officer is responsible for ensuring adequate arrangements are in place to record, secure, collect and deposit cash and cheques into the Council's bank account.

### Discrepancies in accounting records

The Finance department will record all discrepancies in records including cash surpluses and deficiencies in a manner approved by the S.151 Officer, and these must be recorded in the Council's accounts. The S.151 Officer is responsible for arrangements to investigate any apparent patterns of discrepancies.

## Debtors

Wherever possible, payment should be obtained in advance or at the time of provision of a service, goods, letting or works.

Senior Officers are responsible for arranging for staff to raise debtor accounts using the financial ledger immediately a debt falls due.

Each Senior Officer, in conjunction with the S.151 Officer must maintain adequate records to ensure that all credit income due to the Council is promptly recovered. Where services are proposed through the year's accounts, they should be raised on a regular basis to the body in receipt of the service.

Each Senior Officer is responsible for ensuring that arrangements are suitable in respect of income collection and recovery of outstanding debt.

## Sundry Debt Bad Debts

Senior Officers must regularly consider debts due and ensure adequate year end provisions for bad and doubtful debts. Authorisation of write off of individual bad debts is as follows:-

- Individual debts less than or equal to £500 – Senior Officer
- Individual debts less than or equal to £20,000 – S.151 Officer
- Individual debts in excess of £20,000 – Executive Committee.

## Debts from Revenues and Benefits

The Senior Officer responsible for administering housing benefits and collecting Council Tax/NNDR shall regularly review the level of debts due and ensure in conjunction with the S.151 Officer the adequate provisions required for bad and doubtful debts. Authorisation of write off for individual debts is as follows at this stage.

- Individual debts up to £1,000 – Revenue and Benefits Service Manager.
- Individual debts up to £20,000 – S.151 Officer.
- Individual debts over £20,000 – Executive Committee

An annual report on the detail of all debts written off in this area under delegated authority will be made to Lead Member for consideration.

As part of the closure of the final accounts the S.151 Officer shall undertake a detailed review of the outstanding debts owed to the Council and write off amounts deemed irrecoverable prior to the draft annual accounts being submitted to the Audit Committee for approval.

The 'writing off' of a debt does not absolve a Senior Officer of the responsibility to collect such debts, and the position in relation to such debtors is to be monitored by the Senior Officer

On an annual basis, Senior Officers will review the level of debtor's accounts in their particular area which remain unpaid. This will be discussed with the S.151 Officer and/or their representative and provision made for any amounts which require a provision to be made for bad debts at the end of the financial year.

## 8) TAXATION

The S.151 Officer is responsible for advising the Members and Chief Officer Group on all taxation issues that affect the Council.

Each Senior Manager must ensure taxation is treated correctly and consult with the S.151 Officer in the event of any uncertainty as to any taxation treatment.

### VAT

Senior Officers will ensure that all transactions are supported by Valid VAT invoices (refer to the Financial Services Handbook for further guidance). Pro-forma invoices can be used if necessary to secure a financial transaction which meets the requirements set out in the financial procedure rules for ordering goods and services. However a full VAT invoice must be obtained after the good or service is received to ensure full compliance with VAT accounting rules.

### Construction Industry Scheme

Senior Officers will ensure that any works undertaken which fall within the Construction Industry Scheme are treated in accordance with HMRC's rules and internal procedures. In the event of any uncertainty the senior Officer must consult with the S.151 Officer.

### Off-payroll working

Before appointment of an agency worker or other contractor not paid through our payroll off-payroll working checks must be carried out in line with the appropriate policy. Confirmation of appointment should only be carried out after the status of the worker has been clarified by the Finance department, in line with the policy.

### Management of Taxation

The S.151 Officer will maintain the Council's tax records, make all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate, as well as lead and co-ordinate discussion or negotiations with the HM Revenue and Customs about any taxation matter. They will make arrangements for securing professional advice on taxation issues to protect the Council from any errors in accounting for VAT correctly in the course of making any transactions with third parties.

Should an error in taxation occur due to the failure of a Senior Officer to follow an appropriate procedure then there shall be a charge against that Services budget.

## 9) PAYMENT CARDS

The S.151 Officer is responsible for arrangements regarding payment and procurement cards.

Senior Officers must complete the relevant forms to identify employees authorised to use Procurement cards, together with the limits of each person's authority. These forms must be countersigned by the S.151 Officer, and they must also put arrangements in place to record these and update controls within the purchasing system

Each cardholder will ensure safe custody of the card and not exceed their monthly limit.

Cards may be used only in accordance with the approved scheme and for legitimate expenses incurred by the cardholder in the course of official Council business.

They must not be used:-

- to circumvent the procedures for the ordering of and payment for, goods and services under these regulations; or
- to purchase items for the private or personal use of cardholders.

Each cardholder must ensure that all expenditure incurred is supported by adequate records and in respect of payment cards, and that a VAT receipt is obtained to support all expenditure.

Procurement card statements are sent to card holders dated the 14<sup>th</sup> of each month. Statements must be returned to finance with all VAT invoices by the end of that month. Statements must detail the coding for all cost incurred, and be authorized, in a format prescribed by the S.151 Officer

Failure to obtain suitable receipts for purchases and to be returned in the timeline stated will result in the card being cancelled.

Cards must be returned to the S.151 Officer 30 days prior to the Officer leaving the Council.

## 10) BANKING ARRANGEMENTS, CHEQUE SIGNING AND IMPREST ACCOUNTS

### Banking Arrangements

All of the Council's banking arrangements are to be approved by the S.151 Officer, who is authorised to operate such bank accounts as they considers appropriate.

Bank accounts must not be opened without the approval of the S.151 Officer. Where a bank account is opened, the account name must describe the purpose of the account.

### Payments

Payments to suppliers and employees will all be made by electronic means unless there is specific agreement with the S.151 Officer to use another method.

Banking arrangements made for authorisation of payments to be made or received under electronic transfer are to be in a form approved by the S.151 Officer.

Cheques are held as a payment method of last resort. A stock of cheques are to be held securely as directed by the S.151 Officer and only ordered in small quantities. Cheques drawn on the Council's main bank accounts must either bear the manuscript signature of the S.151 Officer or other authorised Officers. A register is to be maintained of all cheques issued, including cheque numbers and amounts.

### Imprest Accounts (cash floats)

Senior Officers will determine what amount is appropriate for an individual imprest subject to any limit set by the S.151 Officer. S/he and keep a record of every imprest issued, including the name of the imprest holder, amount and location.

Any imprest holder must keep adequate records of all transactions on the account, in a form approved by the S.151 Office, supported by valid (VAT) receipts. They must also be able to, if requested by the S.151 Officer, to account for the total imprest. They. On ceasing to be responsible for an imprest account the Officer must account promptly to the Senior Officer for the amount advanced.

Payments from imprest accounts are to be limited to minor items of expenditure and to any other items approved by the S.151 Officer.

## 11) TREASURY MANAGEMENT

### Policies and Strategies

The Council has adopted the key recommendations of the Code of Practice for Treasury Management in the Public Services, published by CIPFA.

The Executive Committee is responsible for considering and recommending to Council:

- adopting a treasury management policy, setting out the policies and objectives of its treasury management activities, and treasury management practices. Setting out how those policies and objectives will be achieved and how treasury management will be managed and controlled.
- adopting an Annual Investment Strategy, determining the type and level of investments to be entered into over the coming year.
- adopting a Capital Strategy
- the implementation and monitoring of the treasury management policies and practices.

The format that these strategies and policies will be presentation is at the discretion of the S.151 Officer to reflect the application of the CIPFA recommendations to the activities of the Council.

The S.151 Officer is responsible for the execution and administration of treasury management decisions in accordance with the policy statement and agreed practices.

### Administration

All money under the management of the Council is to be aggregated for the purposes of treasury management. It will be controlled by S.151 Officer, following the approved treasury management strategy having regard of limits on decisions based on value of transactions, portfolio held and risk profile.

All Investments and borrowings are to be in the name of the Council.

The S.151 Officer must maintain a register and a record of all borrowings and investments made during the year.

### Trust Funds

All trust funds are to be, wherever possible, in the name of the Council. Officers acting as trustees by virtue of their official position must deposit all documents of title relating to the trust with the Executive Director: Resources and S151 (unless the Trust Deed otherwise directs) who must maintain a register of all such documents deposited.

## 12) INSURANCE

The S.151 Officer, in consultation with Senior Officers is responsible for assessing insurable risks and for arranging all insurance cover, including the management and control of the insurance fund. They will control all claims and maintain records of them.

Senior Officers must promptly notify the S.151 Officer of all new risks or assets to be insured and of any alterations affecting existing insurances.

All insurances premiums are renewed on an annual basis. The S.151 Officer will nominate an Officer in the finance team to lead on this and to provide a timetable to meet the renewal requirements. Senior Officers must ensure that they can provide details of all insurance risks to meet the requirements for completing the annual renewal.

In the event of any insurance claim or occurrence Senior Officers must:-

- not admit liability where this may prejudice the outcome of any settlement;
- promptly notify the S.151 Officer, of any loss, liability, damage or any event likely to lead to a claim; and
- inform the Police in the case of loss or malicious damage to Council property.

Senior Officers must consult the S.151 Officer and the Monitoring Officer as to the terms of any indemnity the Council is required to give.

The S.151 Officer will determine the extent of insurance cover which must be provided for in any external contract for the supply of goods, works or services. The S.151 Officer, in consultation with the Executive Directors, Directors and Associate Directors, may reduce the cover requirements in respect of specific contracts.



### 13) FRUAD AND MONEY LAUNDERING

The S.151 Officer has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure the proper arrangements for the Council's financial affairs to include the development of financial codes of practice and accounting instructions. Through delegation of duties, the S.151 Officer ensures appropriate controls are in place.

The Monitoring Officer has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council's actions do not give rise to illegality or maladministration. It is therefore essential for employees to follow the Council's policies and procedures to demonstrate that the Council is acting in an open and transparent manner.

All staff should have regard to the Council's Counter Fraud & Anti-Corruption Policy. Whenever a matter arises which involves, or is thought to involve irregularities concerning cash, stores or property of the Council, or any suspected irregularity in the exercise of the functions of the Council, a Senior Officer has a duty to immediately notify the Section 151 Officer and the Monitoring Officer. They shall take steps as deemed necessary in line by way of investigation and reporting.

## 14) WORKFORCE

The Council is responsible for determining the structure of the organisation for Officers to support Members and the Chief Officer Group in delivering services.

The Head of Paid Service is responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

The Chief Officer Group is responsible for controlling total numbers in the workforce and its cost by:

- advising on the budget necessary in any given year to cover the workforce levels required to deliver the desired services.
- adjusting the workforce to levels that can be funded within approved budget provision, varying the numbers provided (though not the remuneration or levels of remuneration for the specific categories of the workforce) as necessary, within that constraint, in order to fulfil operational needs.
- the proper use of appointment procedures.

The Senior Officer with responsibility for Human Resources will maintain an establishment list which includes job titles, grades, scale points and salary and other emoluments of all employees. This will form the base data for calculating the employee costs to the Council.

Any proposals for changes to the establishment list during the financial year needs to be costed and be made within the overall budget set. The Finance Team will provide support to Senior Officers to understand the cost of any changes.

## 15) SALARIES, WAGES AND PENSIONS

All payments of salaries, wages, pensions, compensations, gratuities, allowances and other emoluments to current or former employees and Members are to be made by the Payroll Team in accordance with information supplied by Human Resources. Senior Officers are responsible for ensuring that the information provided to HR is correct. All payroll transactions must be processed through the Council's payroll system. Payment is made on the 21<sup>st</sup> of each month (or prior working day if a weekend/bank holiday) for the period of the calendar month that it is made. Included in payroll run are all Members and Officers expenses which are paid in arrears.

Senior Officers must ensure that appointments of all employees are in accordance with the appropriate Conditions of Service of the Council, and within the approved budgets, grades and rates of pay. Any variations of terms and conditions must be approved by Chief Officer Group, using 'Request to Fill' form

Payroll require all notifications of amendments to a person's details, grades etc. by the 10<sup>th</sup> of each month for the details to be reflected in that periods payroll run.

### Records

Senior Officers must maintain adequate records to notify Human Resources of all appointments, resignations, dismissals, and retirements. They must also inform HR of changes in pay rates, bonuses due, overtime worked and other matters affecting remuneration. This will also cover adjustments that are made in respect of absences, pensions, income tax, national insurance, sickness and maternity pay and any other additions, to or deductions from pay. Senior Officers must discuss with payroll team of any employee benefit in kinds that are proposed to enable reporting for taxation purposes.

Time sheets and other pay documents must be maintained in a manner approved by Human Resources and the Payroll team, and be certified by the relevant Senior Officer or other authorised Officers. Timesheets must be submitted to the payroll team by the date on the bottom of the previous month's pay slip to be included in the payroll run for that period.

The authorized signatories form must be completed for delegated individuals, signed by the relevant Senior Officer and returned to S.151 Officer. The Payroll team will check these forms to ensure that appropriate authorisation has been given.

### Overpayments

The S.151 Officer is authorised to write-off any net overpayment of salary/wage where death-in-service of an employee occurs, except where the Council holds a statutory obligation to recover such overpayments. All other overpayments of pay must be treated for the purposes of recovery and write off in accordance with Financial Procedure Rules

## 16) TRAVEL, SUBSISTENCE AND OTHER ALLOWANCES

Payment of all claims is to be made via payroll or under other arrangements approved by the S.151 Officer, and must be in accordance with Schemes of Conditions of Service adopted in respect of the employee to which the payment relates.

All claims for the reimbursement of subsistence allowances, travelling and incidental expenses are required to be made on a form as directed by the S.151 Officer and will be processed through the payroll system. The form must be authorised by a Senior Officer or authorised Officer under the schemes of delegation. The names and specimen signatures of Officers authorised to sign such expense claims must be supplied to the S.151 Officer

The certification of a claim by or on behalf of a Senior Officer is taken to mean that the certifying Officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council. Expense claims which relate to a period more than 3 months prior the date of submission will not be paid, except in special circumstances agreed by the S.151 Officer.

Claim forms must be

- Submitted by the first Friday of the month to be included in that period's payroll run (or earlier if advised).
- Supported with VAT receipts for subsistence claims.
- Supported with petrol receipts, which fall within the same time frame as the date of the travel (2 weeks either side and suggest £10's worth of receipts for every 100 miles travelled).

Each Senior Officer is responsible for ensuring that all Officers are adequately insured, and cars are roadworthy, as directed to by the S.151 Officer.

## 17) GIFTS AND HOSPITALITY

A separate Code of Conduct is available which sets out how Officers and Members should deal with issues such as receipt of personal gifts and offers of hospitality. All Officers and Members need to be aware of the requirements of the Code and ensure they are followed. All gifts and offers of hospitality need to be registered on the appropriate form and authorised as set out in the Code of Conduct.

## 18) CAPITAL PLAN PREPARATION AND MANAGEMENT

### Responsibilities

The Council is responsible for agreeing the overall allocation to the Council's Capital Plan. The Executive Committee is responsible for recommending to the Council a multi-year Capital Plan for the following 3 years.

Any new projects or changes to this plan, outside the budget setting process also require a report to the Executive Committee for recommendation to Council.

### Capital Plan Preparation

The Capital Strategy sets out the process by which individual capital projects will be selected for inclusion in the Capital Plan and the arrangements for monitoring the delivery of the project. This will assist the S.151 Officer to prepare a report to the Executive Committee to approve the Capital Plan.

Senior Officers are responsible for providing details of all projects, in the form of a business case, in a format prescribed by the S.151 Officer. Once a business case is approved, Senior Officers are authorised to proceed to detailed design and to commit to contracts providing: -

- Completion of all requirements with planning applications, the completion of feasibility studies and option appraisals
- that the total costs of a project including tenders or quotations, fees etc., are estimated to be less than or equal to the amount approved in the business case and the Capital Plan; or
- all necessary external approvals, if any, have been obtained;
- that any contracts shall be executed in accordance with the Contract Procedure Rules.

If the total cost is projected to exceed the amount approved, a report must be taken to the Executive Committee detailing the additional resources required.

### Plan Management

The Executive Committee is responsible for overseeing the delivery of the Capital Plan within the resources allocated. The Executive Committee can delegate its authority under Financial Procedure Rules to individual to senior offices to oversee delivery of a capital scheme, provided that:

- the spending on the whole program area being contained within the resources allocated;
- Senior Officers report retrospectively to Executive Committee on the use of this authority as part of the monthly monitoring on the Capital Plan.

Senior Officers are responsible for managing programs and projects. Day to day delivery may be delegated to Project Officers, but management of the overall project remains with the Senior Officer.

Capital projects often involve large payments being made during the life of the project. Senior Officers must be aware of the Treasury Management implications of the capital project and liaise with the S.151 Officer to set out payment milestones and dates so that resources are available through the daily management of cash flow to pay invoices due.

Senior Officers must take action to avoid overspending the amounts provided in the Capital Plan. They must prepare regular reports on the progress of projects in a format and to a timetable prescribed by the S.151 Officer and report any difficulties on meeting financial requirements to them as soon as they arise.

The S.151 Officer will report to the Executive Committee on the overall out-turn of the Capital Plan as part of the regular budget monitor reports.

#### Plan Closeout

In line with the Council's project management policies, after completion of the project a report should be taken to the Project board detailing outcomes against the original business case objectives.

## 19) ASSETS

The S.151 Officer is responsible for the Council's land, property and commercial asset portfolio, infrastructure and community assets. Vehicles and equipment are the responsibility of the relevant Senior Officer.

The Senior Officer is responsible for the care and custody of all assets of the relevant service (including stocks, stores, and inventory items). These items must only be used for the authorised purposes of the Council.

Senior Officers must ensure that contingency plans exist for the security of assets and the continuity of service in the event of any disaster, significant event, or system failure. Whilst the Council's Emergency Plan, and its Disaster Recovery Plan for Information Systems are the main devices to be used and followed, they are not exhaustive, and should be added to or improved upon by them when necessary.

### Disposal of Assets

Surplus or obsolete goods, materials and inventory items are to be disposed of by competitive sale or public auction in accordance with both Contract Procedure Rules and with approval of the 151 Officer, based on a report from Senior Officer with responsibility for that asset.

Assets with a value over £10,000 require the approval of the Executive Committee to be disposed of.

Assets with a value of under £10,000 can be disposed of by a Senior Officer with written approval of the S.151 Officer.

Assets with a value of under £500 can be disposed of by a Senior Officer.

Any asset disposed of must be done in a method which has been approved by the S.151 Officer, with regard to achieving best value for money. All disposals are required to be updated on the appropriate inventories list and finance team updated to ensure that the disposal is reflected on the asset register.

Leased items should only be disposed of in accordance with the instructions of the lessor.

### Fixed Assets Register

The S.151 Officer must ensure that a Register of Fixed Assets in accordance with agreed auditing standards is maintained.

Each Senior Officer must immediately notify the S.151 Officer of the acquisition of any asset having a value of £10,000 or more. Where Items are below £10,000 but are part of a network of assets, these should also be notified. For items which are not capitalized but are an asset that will be used over more than one year should be added to an inventory list to ensure security of asset per the financial procedure rules

Each Senior Officer must immediately notify the S.151 Officer of the disposal (or transfer to another Service) of any asset (or part of any asset) which is included on the Register of Fixed Assets.

In respect of any item acquired by lease the inventory must be marked with the name of the leasing company and the date of expiry of the lease agreement. When requested by the leasing company the item must be suitably marked as the property of that company.

The Monitoring Officer is responsible for the security and custody of all title deeds and must maintain a suitable register.



## Inventories

The S.151 Officer is responsible for ensuring that a detailed inventory is maintained of furniture and fittings which are part of the Council's asset portfolio.

Senior Officers are responsible for ensuring that detailed inventories of all equipment, vehicles, plant and machinery are compiled and kept up-to-date. New inventory items must be entered promptly and redundant items deleted and disposed of in accordance with Financial Procedure Rules. The form of inventory and the type of assets recorded thereon will be determined by the S.151 Officer after consultation with the appropriate Senior Officer.

The inventory should include:-

- the nature, type, model , serial number, location, quantity, value, date of acquisition;
- all items of, or collection of similar items valued at, more than £500;
- items of a lesser value which are portable and attractive; and
- evidence to indicate an annual inspection has been carried out.

Council assets should not normally be loaned to employees outside of their role responsibilities, to other Council services or other organisations. Each Senior Officer may make such loans in consultation with the S.151 Officer. The must record the reason for the loan, date/periods and name of the receiver.

Inventory items must be security marked, stamped or engraved with the Council's name.

Each Senior Officer is responsible for ensuring that an annual check is made of all items on the inventory and must notify the S.151 Officer of any discrepancies revealed by these checks.

## Stores

Senior Officers must keep records of all stock held, and certify the value for accounting purpose at 31 March of each year. The S.151 Officer will determine which items will be subject to stock accounting, the methods of recording and valuation.

Senior Officers must arrange periodical or continuous checks of stock. This should be by persons independent of the management of the stock. These arrangements must ensure that all items of stock are checked at least once per year. The S.151 Officer will be notified of any discrepancies revealed by periodic checks, and is authorised to amend records accordingly.

Stock holdings should be kept at minimum levels consistent with normal working practices

## 20) SECURITY

### Security of Assets

Senior Officers are responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash and any other assets for which they are responsible. The S.151 Officer must be consulted to establish adequate security arrangements. Senior Officers must ensure assets are only used for the intended purpose in accordance with undertaking Council business.

All keys to safes and other places containing money, goods or other valuables are to be the responsibility of specified officers who must ensure that they are held securely at all times. A register of keys and their holders must be maintained by each Senior Officer. The loss of any key must be reported immediately to the relevant Senior Officer who must record details of the circumstances of the loss, and take such action as is necessary to protect the property of the Council.

Maximum limits for cash holdings in each separate establishment are to be agreed with the S.151 Officer, and must not be exceeded without permission.

### Security of Information

Senior Officers must maintain proper security, privacy and use of information held in computers and all other recording systems under their control, in line with the Council's GDPR policies and retention schedules that are in place.

### Security of Property Relating to Clients and Customers

The Council should not in the normal course of business hold or take custody of property relating to clients or customers.

Where such a circumstance arises that this because necessary, the Senior Officers, in consultation with the S.151 Officer, must provide to the customer/client a detailed written instruction on how the Council will collect, take custody, invest, ensure safekeeping and disposal of that customer/clients' property (including instructions on the disposal of property of deceased clients). All staff whose duty is to administer, in any way, the property of clients will then take due care in the management of a customer or clients' assets in line with the instructions written.

The Council is responsible for taking reasonable care of all items of property found by staff or members of the public on Council premises until the items are reclaimed or disposed of. Each Senior Officer must nominate Officers who are responsible for the custody of lost property and keep a register of such property received, detailing the item, date, time, name and address of finder and how and to whom the property is returned or disposed of.

Senior Officers may seek Executive Committee authority on how lost property will be dealt with. Otherwise, if the lost property is not claimed within three months it vests in the Council. The Senior Officer will then determine if the item is of value for use by the Council, and arrange for its use for this purpose. All other items are to be disposed of by sale in accordance with Contract Procedure Rules.

### Security Passes

All staff who are located in offices where a security system is in place are responsible for accessing the building in accordance with management instruction. This will include keeping their staff security badges secure and reporting any loss promptly.

## 21) UNOFFICIAL AND VOLUNTARY FUNDS

These regulations relate to funds administered by Officers of the Council, the accounts of which are not included in the Authority's accounts.

Any proposed unofficial funds require the prior approval of the relevant Senior Officer concerned who must maintain a record of all such funds and ensure that Officers are appointed to administer each fund.

Arrangements need to be put in place, in consultation with the S.151 Officer, to record details of transactions through each fund and that fund monies can be separately identified from Council monies.

Senior Officers must ensure that they receive a copy of the accounts of each fund and a certificate in the prescribed form from the auditors or independent examiners of each fund that has to be audited or independently examined. Such accounts are to be prepared annually, and at the completion of the purpose for which the fund was set up.

The S.151 Officer is to have access to any records relating to such funds, and be immediately informed of any irregularities which arise in connection with them.

## 22) FINANCIAL CONTROL OF PARTNERSHIPS, JOINT VENTURES ASSOCIATED ORGANISATIONS AND SIMILAR ARRANGEMENTS

### Working in Partnership with Associated Organisations

The S.151 Officer is responsible for promoting and maintaining the same high standards of financial administration in partnerships that apply throughout the Council, or advising the Executive Committee where they are aware that arrangements within a partnership are in conflict or are uncertain compared with the practices adopted by the Council.

The S.151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory, and must:-

- consider the overall corporate governance arrangements and legal issues when arranging contracts with the partner/joint venture or associated organisation.
- ensure that the risks have been fully appraised before agreements are entered into with the partner/joint venture or associated organisation.

Senior Officers must ensure that in all grant agreements, contribution to partnerships and where appropriate in agreed contracts for the supply of works, goods and services the S.151 Officer has access to the accounts, records and all other documentation. The S.151 Officer is entitled to seek explanations from Officers of the funded organisation regarding the deployment of the Council's funding payment.

### Working for Other Organisations

Senior Officers are responsible for ensuring that approval is obtained from the S.151 Officer and Monitoring Officer before any negotiations commence in relation to the provision of works or services to other organisations expected to exceed £10,000.

The Executive Committee is responsible for approving the contractual arrangements for any work for other organisations expected to exceed £100,000. The S.151 Officer may agree contractual arrangements below this level.

Senior Officers must ensure that any proposed arrangement to work for other organisations does not impact adversely upon the services provided to or by the Council. All agreements, contracts or arrangements must be properly documented. Consideration and assurance needs to be obtained that adequate insurance and taxation (including VAT) arrangements are in place with the partner organization. Appropriate information must be provided to the S.151 Officer to enable a note to be entered into the Council Statement of Accounts concerning material items.

### Grants and Loans to Other Organisations

Where a Senior Officer proposes to offer a loan to any organisation, they may do so only following:-

- A full financial appraisal of the organisation to which the loan is to be granted, by the S.151 Officer;
- A full financial appraisal of the project to which the loan relates, by the S.151 Officer; and
- The execution of a legal agreement approved by the Solicitor to the Council.
- It is in accordance with the agreed Council policy.
- Complies with accounting regulations and does not constitute state aid.

Where a Senior Officer proposes to offer any grant in excess of £10,000 they may do so only;

- Where this accords wholly within the approved grants policies of the Council; or
- Following a full financial appraisal by the S.151 Officer of the accounts of the organisation and an analysis of the necessity or otherwise of the funding proposal to be made and on the execution of a legal agreement approved by the Solicitor to the Council.
- It is in accordance with agreed Council policy.

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## **SECTION 6**

### **CONTRACT PROCEDURE RULES**

(Revised February 2019)

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## **CONTRACT RULES**

### **SECTION 1: GENERAL COMPLIANCE AND SCOPE**

#### **1. COMPLIANCE**

- 1.1 Every contract entered into by the Authority shall be entered into pursuant to or in connection with the Authority's functions and shall comply with:
- 1.1.1 All relevant legislation, statutory guidance and codes e.g. Local Government Transparency Code;
  - 1.1.2 The relevant European procurement rules when applicable and whilst they have a direct effect on the UK (i.e. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);
  - 1.1.3 The Authority's Constitution including these Contract Rules, the Authority's Financial Rules and Scheme of Delegation;
  - 1.1.4 The Authority's strategic objectives, Procurement Strategy, Procurement Code (which includes template documentation) and relevant policies.
- 1.2. The policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, supplies and services:
- 1.2.1 Are obtained with probity and propriety to ensure the proper expenditure of public funds;
  - 1.2.2 Are appropriate for the purpose for which they are obtained;
  - 1.2.3 Ensure Best Value for Money.

#### **2. SCOPE**

- 2.1 These Contract Rules apply to any arrangement made by, or on behalf of, the Authority for the carrying out of works or services for the provision of services.
- 2.2. These Contract Rules do not apply to
- 2.2.1 contracts of employment which make an individual a direct employee of the Authority;
  - 2.2.2 the acquisition, disposal, or transfer of land (which must be carried out by the Executive Director: Resources and S151 except where services or works are required by the Authority as part of the land transaction. E.g. development agreements;



- 2.2.3 contracts relating to the placement of deposits or raising of loans under the treasury management strategy;
- 2.2.4 purchases made at public auction; and
- 2.2.5 the giving of grants.

## **SECTION 2: COMMON REQUIREMENTS**

### **3. CALCULATION OF CONTRACT VALUES**

- 3.1 Unless otherwise stated, the calculation of the estimated value of a procurement shall be based on the total amount payable in pounds sterling, net of VAT, as estimated by the Authority over the entire contract period, including any proposed extension to the initial contract period.
- 3.2 The estimated value is to be calculated as at the date the contract is first advertised or the Candidates are contacted, whichever occurs first.
- 3.3 Contracts should be for a fixed term, but where this is not possible (e.g. hire agreements) the contract value should be calculated by multiplying the monthly value by 48.
- 3.4 Contracts must not be artificially under or over-estimated or divided into two or more separate contracts where the effect is to avoid the application of these Contract Rules or the Regulations.

### **4. AUTHORISED OFFICERS AND THEIR RESPONSIBILITIES**

- 4.1 Authorised Officers are persons responsible for carrying out the procurement in question and who have received corporate training on these Contract Rules, the Regulations and the Procurement Code.
- 4.2 The Authorised Officer must proceed with the procurement in a manner commensurate with its complexity and value, by:
  - 4.2.1 appraising the need for the expenditure and its priority;
  - 4.2.2 defining the objectives of the procurement;
  - 4.2.3 assessing the risks associated with the procurement and how to manage them;
  - 4.2.4 considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium and frameworks;
  - 4.2.5 consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;

- 4.2.6 Checking to see if a corporate contract already exists e.g. stationery contract;
- 4.2.7 Where the procurement involves a potential change to services provided by the Authority the Authorised Officer ensuring compliance with
- the Authority's duty to consult under Section 3 Local Government Act 1999
  - the Authority's duties under the Equality Act 2010.
  - The Public Social Value Act 2012 for contracts for services over the EU threshold to ensure how the procurement might improve the economic, social and environmental well-being of the geographical area the Authority serves.
- 4.2.8 Ensuring the Budget Holder has sufficient budget to sustain the contract for the life of the contract.
- 4.2.9 for Quotes with a value of £10,000.00 or below attaching the relevant standard terms and conditions to the purchase order or otherwise draw the attention of the Supplier to these standard terms and conditions;
- 4.2.10 for Quotes and Tenders above £10,000.00, instructing the Council's Solicitor in writing to draft or approve the formal written contract terms and conditions that are to apply to the proposed contract;
- 4.2.11 ensuring that a purchase order is raised for the contract.
- 4.3 Where any procurement may result in any employee either of the Authority or of a service provider being affected by any transfer arrangements, Authorised Officers must ensure that the application of the Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) is considered and obtain legal advice before proceeding with inviting Tenders or Quotes.

- 4.4 Any procurement that is:
- over EU threshold and TUPE applies or
  - is over budget

shall be referred to the relevant committee or council for decision, unless otherwise stated elsewhere in the Authority's Constitution.

5. **CONTRACT VALUES**

- 5.1 Where the total value for a purchase is within the values in the first column below, the award procedure in the second column must be followed:

| <b>Estimated Total Contract Value</b> | <b>Contract Letting Requirements &amp; Forms of Contract</b>  |
|---------------------------------------|---|
| £10,000 and below                     | <p>The Budget Holder can purchase from the source that offers the Best Value for Money to the Authority.</p> <p>This could be demonstrated by the obtaining of 2 written Quotes, where this is possible.</p> <p>Contracts shall be by purchase order with standard terms and conditions attached.</p>   |
| Above £10,000 to £50,000              | <p>Shall be advertised on the website of the Authority (and/or other public advertisement as determined by the Authorised Officer) unless, in consultation with the S151 officer, and the Council's Solicitor, it is agreed to approach suppliers on an ad hoc basis (in which case 3 written quotes shall be sought).</p> <p>Any procurement opportunity of £25,000.00 or above that is advertised shall also be advertised on Contract Finder within 24 hours of any other adverts appearing together with unrestricted and full direct internet access to relevant contract documents.</p> <p>Procurement opportunities advertised on Contract Finder shall be procured using the open procedure.</p> <p>A formal written contract prepared/ approved by the Council's Solicitor must be utilised.</p> |

|                                      |  |
|--------------------------------------|--|
| <p>Above £50,000 to EU Threshold</p> | <p>Shall be advertised on the website of the Authority and on Contract Finder (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to relevant contract documents</p> <p>An open procedure shall be followed for supplies and services.</p> <p>Pre-Qualification Questionnaires (PQQ's) can be used in procurements above the lower EU threshold for supplies and services for tender opportunities for <b>works</b> contracts.<br/>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>  |
| <p>EU Threshold and Above</p>        | <p>Whilst required by the Regulations, shall be advertised in the Official Journal of the European Journal (OJEU), on the website of the Authority and on Contract Finder (within 3 days of the receipt of OJEU notice at publications office or within 24 hours of the OJEU notice being published) (and/or other public advertisement as determined by the Authorised Officer)</p> <p>Pre-Qualification Questionnaires (PQQ's) can be used in procurements above the lower EU threshold for supplies and services for tender opportunities for supplies, services <b>and works</b>.</p> <p>The Procurement Adviser in consultation with the Council's Solicitor shall advise on the most appropriate EU procurement procedure to be used for the relevant supplies, services and/or works to be procured. The two most common procedures are:</p> <ul style="list-style-type: none"> <li>• Open Procedure – anyone can submit a tender</li> <li>• Restricted Procedure – following receipt of expressions of interest a pre-qualification questionnaire (PQQ) is used to shortlist Candidates who are then invited to submit a tender.</li> </ul> <p>The following procedures can only be used in certain circumstances following advice from the Council's Solicitor.</p> |

|  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>• <b>Innovation Partnership;</b><br/>This may be used when the Authority is seeking innovative ideas where solutions are not already available on the market and there is also an intention to include<br/>both the development of the outcome and its subsequent purchase (subject to meeting agreed performance levels and maximum costs) in the procurement.<br/><br/>A structured partnership will be established for the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the agreed performance levels and costs.</li> <li>• <b>Competitive dialogue</b><br/>This can be used where either of the following apply: <ul style="list-style-type: none"> <li>(i) the need of the Authority cannot be met without adaptation of readily available solutions;</li> <li>(ii) they include design or innovative solutions;</li> <li>(iii) specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them;</li> <li>(iv) the technical specifications cannot be established with sufficient precision with reference to a standard, European Technical Assessment, common technical specification or technical reference;</li> </ul> </li> </ul> |
|  | <ul style="list-style-type: none"> <li>(v) where, in response to an open or a restricted procedure, only irregular or unacceptable tenders were submitted, provided that the Authority includes in the procedure all of, and only, the Candidates that meet certain criteria and submitted tenders in accordance with the formal requirements of the failed procedure</li> </ul>   |
|  | <ul style="list-style-type: none"> <li>• <b>Competitive Procedure with</b></li> </ul>  |

|                    |   |
|--------------------|---|
|                    | <p><b>negotiation.</b></p> <p>This procedure can be used for the same reasons as competitive dialogue. With this procedure the Authority can negotiate with Candidates who have submitted tenders to seek improved offers.</p> <p>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>  |
| Light Touch Regime | <p>Contracts involving the following supplies and services are subject to a 'light touch' regime if the value of the contract is below the prescribed EU threshold;</p> <ul style="list-style-type: none"> <li>• Health, social and related services</li> <li>• Administrative social, educational, healthcare and cultural services</li> <li>• Compulsory social security services</li> <li>• Benefit services</li> <li>• Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services</li> <li>• Legal services</li> <li>• Other administrative services and government services</li> <li>• Provision of services to the community</li> <li>• Prison related services, public security and rescue services</li> <li>• Investigation and security services</li> <li>• International services</li> <li>• Postal services</li> <li>• Miscellaneous services listed in schedule 3 of the Regulations</li> </ul> |
|                    | <p>Advice must be sought from the Procurement Adviser before undertaking a light touch regime procurement.</p> <p>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>  |
| Concessions        | <p>A Concession contract is an agreement where Suppliers are given the right to exploit works or</p>  |

|                                      |   |
|--------------------------------------|---|
|                                      | <p>services provided for their own gain. Suppliers can either receive payment for their services solely through third party sources or partly through consideration from the contracting authority along with income received from third parties e.g. a services Concession is where a supplier has a contract to manage an Authority's catering services for its staff. The Authority doesn't pay the Supplier to run the services and its income is solely through the staff using the facilities. The risk in the Concession making a profit is with the Supplier and not the Authority.</p> |
| Disposal of assets (other than land) | <p>Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender depending upon the items being disposed of. Any disposal must be in accordance with the Authority's Finance Rules.</p>  |
| Disposal of Land                     | <p>These Contract Rules and the Regulations apply where the Authority is disposing of or acquiring land and there is an element of services or works required by the Authority as part of the transfer (E.g. development agreements)</p>  |

## 6. WAIVERS

- 6.1 Subject to the written approvals referred to in Contract Rule 6.2 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances:
- 6.1.1 Where the supplies, works or services are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one or two sources of supply appropriate, including:
- an upgrade or
  - where the contract concerns, wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be carried out practicably by alternative Suppliers;
- or
- 6.1.2 The supplies to be purchased are proprietary articles or are sold only at fixed prices; or
- 6.1.3 The price of services, supplies to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or
- 6.1.4 Where in the opinion of the Authorised Officer in consultation with the s151 Officer and the Council's Solicitor considers that the services to be provided or the work to be executed or the supplies to be purchased are urgent (subject to the action being reported to the next Executive Committee Meeting) or
- 6.1.5 Specialist consultants, solicitor, barrister, agents, artist or professional advisers are required and:
- There is no satisfactory alternative; or
  - Evidence indicates that there is likely to be no genuine competition; or
  - It is, in the opinion of the Authorised Officer, in the Authority's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser;
- or
- 6.1.6 Where the Authority is purchasing a property, or is taking a service back in-house, which has associated contracts and in the opinion of the Authorised Officer it is in the Authority's best interests to take on those contracts; or
- 6.1.7 The works to be executed or the supplies to be provided are required by, or can only be carried out or supplied, by a statutory body.



- 6.2 These Contract Rules cannot be waived for the procurements above the relevant EU Threshold.  
Where it is possible to waive these Contract Rules, any such waiver must be agreed by:
- 6.2.1 Executive Committee for contracts above £100,000.00 or, if the matter requires an urgent decision and a meeting of the Executive Committee cannot be called, the Head of Paid Service in consultation with the Leader of the Authority. The action taken in this way shall be reported to the next ordinary meeting of the Executive Committee; or
- 6.2.2 The Budget Holder, in consultation with the Section 151 Officer and the Council's Solicitor if the contract is £100,000.00 or less.
- 6.3 A record of the decision and the reasons for it shall be kept and the waiver itself shall be kept by the Council's Solicitor.

### **SECTION 3: TENDERING AND QUOTATION PROCESS**

#### **7 ADVERTISING (above £10,000.00)**

- 7.1 Adverts shall include as a minimum:
- Date and time response to be received by the Authority;
  - How and to whom the Supplier must respond; and
  - Any requirements for participating in the procurement.
- 7.2 Where adverts are placed on Contract Finder unrestricted and full direct internet access to relevant contract documents shall be available on the Authority's website and (when purchased) the Authority's e-procurement system free of charge when the advert is placed.
- 7.3 Opportunities with a value over the relevant EU Threshold must also be advertised in the Official Journal of the European Union (OJEU) by submitting a Contract Notice.

#### **8. SUITABILITY ASSESSMENT (under EU threshold) AND PRE-QUALIFICATION (above EU threshold only)**

- 8.1 Authorised Officers are responsible for ensuring that all Candidates for a contract are suitably assessed.

## **Under EU Threshold**

8.2 As part of the tender or quotation process Authorised Officer shall establish that the potential Candidates meet minimum requirements or minimum standards of:

- Suitability;
- Capability;
- Legal status; and
- Financial standing.

8.3 The assessment questions must be

- relevant to the subject matter of the procurement; and
- proportionate.

8.4 For works contracts above the lower EU threshold (Supplies and Services level) a Pre-Qualification Questionnaire (PQQ) stage is permitted. Officers must use form PAS91. Form PAS91 must also be used for supplies and services contracts related to the works

## **Above EU Threshold**

8.5 Procurements above the supplies and services EU threshold can use a Pre-Qualification Questionnaire (PQQ) stage. Officers must use the PQQ form issued by the Government and, for works contracts, (including the procurement of supplies and services needed in relation to the works) form PAS91. As any deviations from the standard form must be reported to the Cabinet Office changes to the form are not permitted without the consent of the Procurement Adviser in consultation with the S151 Officer and the Council's Solicitor.

8.6 Any Candidate eliminated from a procurement where a PQQ has been undertaken must be notified following the evaluation of that stage in the process.

8.7 Financial and due diligence checks must be undertaken for all contracts where the value of the contract is above £10,000.00.

8.8 Any procurement subject to the Regulations shall comply with the appropriate Regulations.

## **9. ELECTRONIC TENDERING**

9.1 On 18 October 2018 electronic procurement and electronic communications became compulsory for above EU Threshold procurements. Except in the limited circumstances contained in the Regulations, all communication and information exchange, including electronic submission of tenders, shall be performed using electronic means of communication in accordance with the requirements of the Regulations.

- 9.2 For above EU Threshold procurements the decision not to use electronic tendering can only be made by the Awarding Officer following consultation with the Procurement Adviser and the Council's Solicitor. The reason for using other methods of communication must be set out in the Regulation 84 Report.
- 9.3 For below EU Threshold Procurements, the Authorised Officer may carry out an electronic procurement through the Authority's e-procurement system (once purchased) or otherwise.
- 9.4 The Authorised Officer may, following consultation with the Procurement Adviser and the Council's Solicitor carry out an electronic auction where satisfied that it is in the interests of the Authority to do so

## 10 **DIVIDING TENDERS INTO LOTS**

- 10.1 Authorised Officers may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots.
- 10.2 For an above EU threshold procurement, if the contract is not split into lots the main reasons for this decision shall be included in the procurement documents and the Authority's report under Regulation 84 of the Regulations.
- 10.3 Authorised Officers shall include in the notice and or tender documents:
- 10.3.1 if tenders can be submitted for one, for several or for all of the lots
  - 10.3.2 if there is a limit on the numbers of lots that can be tendered for.
- 10.4 Where more than one lot may be awarded to the same Candidate, Awarding Officers may award contracts combining several or all lots where they have specified in the contract notice or in the invitation to tender that they reserve the possibility of doing so and indicate the lots or groups of lots that may be combined.

## 11. **INVITATION TO TENDER**

- 11.1 The Invitation To Tender shall state that no Tender will be considered unless it is received by the date and time stipulated in the Invitation To Tender. Subject to Contract Procedure Rule 11.3 below, no Tender delivered in contravention of this Contract Procedure Rule shall be considered.
- 11.2 All Invitations To Tender shall be in accordance with these Contract Rules, and any codes and policies.

11.3 No Tenders received after the specified date and time for receipt of Tenders shall be accepted or considered by the Authority unless the Authorised Officer, after consulting the Procurement Adviser, s151 Officer and the Council's Solicitor, is satisfied that there is sufficient evidence for the Tender having been despatched in sufficient time for it to have arrived before the closing date and time.

## 12. **SUBMISSION AND OPENING OF TENDERS AND QUOTES**

12.1 Tenders and Quotes shall be submitted in accordance with requirements set out in the Invitation to Tender or Quote as appropriate. Procurement documentation should state that the Authority reserves the right to reject a Quote or Tender if the requirements are not complied with.

### 12.2 **Tenders (over £50,000.00)**

All Tenders received shall be addressed to the Council's Solicitor c/o Democratic Services in a plain sealed envelope endorsed with the words "Tender – Do Not Open" followed by the subject matter to which it relates (but no other name or mark indicating the sender).

12.3 Hard copy tenders shall be opened by at least one officer nominated by the Budget Holder and a Democratic Services Officer or their nominated officer. An immediate record shall be made of the Tenders received including names, amount of tender and the date and time of opening.

12.4 Where Tenders are submitted electronically, the Authorised Officers shall ensure that they are kept secure and not opened until the specified time and date for their opening.

### **Quotes (over £10,000.00 and up to £50,000.00)**

12.5 All Quotes received shall be addressed to the Authorised Officer in a plain sealed envelope endorsed with the words "Quote – Do Not Open" followed by the subject matter to which it relates (but no other name or mark indicating the sender). Quotes shall be kept in a safe place by the Authorised Officer and remain unopened until the time and date specified for their opening.

12.6 Quotes shall be opened by the Authorised Officer who shall keep a note on file of the names, amount of tender and the date and time of opening.

12.7 If the submission of Quotes is electronically, the Authorised Officer shall ensure that the Quotes are kept secure and not opened until the time and date specified for their opening.

12.8 No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting the s151 Officer and the Council's Solicitor, is satisfied that there is sufficient evidence for the Tender or Quote having been despatched in sufficient time for it to have arrived before the closing date and time.

13. **ARITHMETICAL ERRORS, POST TENDER CLARIFICATION AND ABNORMALLY LOW TENDERS**

13.1 Candidates can only alter their Tenders or Quotes after the date specified for their receipt but before the formal acceptance of the Tender or Quote, where examination by officers of the Tender or Quote reveals arithmetical errors or discrepancies which affect the Tender or Quote figure. The Candidate shall be given details in writing of such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing their offer in writing.

13.2 In an EU Procurement the Authority must require Candidates to explain the price of costs proposed in the tender where the tender appears to be abnormally low in relation to the works, supplies or services.

13.3 All other post-tender clarifications shall:

13.2.1 only be undertaken following consultation with the Procurement Adviser and the Council's Solicitor; and

13.2.2 not disclose commercially sensitive information supplied by other Candidates for the contract

13.4 The Authority does not accept qualified or conditional quotes/tenders. Where a Candidate has submitted a qualified or conditional quotation/tender Authorised Officers, in consultation with the Procurement Adviser, must give Candidates the opportunity to withdraw the qualification or condition without amendment to the bid submitted.

14 **TENDER EVALUATION**

14.1 Tenders shall be evaluated in accordance with the relevant regulations and the award criteria set out in the Invitation to Tender.

14.2 All contracts shall be awarded on the basis of the offer which represents the most economically advantageous, taking into account price and/or quality, to the Authority.

14.3 The award criteria shall be predetermined and listed in the Invitation to Tender documentation. In addition, the criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

14.4 For all Contracts regardless of value, no person with a personal or financial

interest in any of the Candidates submitting a proposal should be involved in any way in influencing the decision as to which Supplier is to be awarded the Contract. A declaration of interest form must be completed by each officer involved in the evaluation process and held on file by the Authorised Officer.

14.5 Where Authorised Officers intend to carry out site visits, presentations or interviews as part of the evaluation process, this must be made clear in the invitation to tender and include whether this will be scored separately to the tender submission or used to moderate scores. If scored separately, Candidates must be informed of the evaluation criteria and weighting in the Tender documents.

## 15. **AWARDING CONTRACTS**

15.1 The Authority shall only accept a tender and award a contract to the Candidate submitting the Most Economically Advantageous Tender/Quote

15.2 Depending on what is being procured and whether or not it is an EU procurement, the Most Economically Advantageous Tender/Quote can be assessed as follows;

- Price (i.e. the lowest bid)
  
- Cost (where the assessment is based on cost-effectiveness basis such as an asset life-cycle assessment (cost of the asset, maintenance costs, end of life costs))
  
- Best Price/Quality Ratio. (the award criteria can include quality, including technical merit, aesthetic and functional characteristics, delivery date, delivery process, after-sales service and technical assistance as well as environmental and/or social matters and any other matters relevant to what is being procured.

The award criteria and the scoring methods must be disclosed in the Invitation to Tender/Quote.

15.3 A contract may only be awarded by an Awarding Officer with the requisite delegated authority to award contracts. Prior to award, the Authorised Officer should ensure that the Budget Holder responsible for the contract has sufficient funds in place to sustain the contract.

15.4 For contracts of a value of £25,000 or above, regardless of whether the contract award opportunity was advertised, a contract award notice containing the name of the Supplier, the date the contract was entered into and the value of the contract must be published on Contract Finder no later than 90 days after contract award. If below EU Threshold include whether or not the Supplier is a Small and Medium-sized Enterprise (SME) or voluntary, community and social enterprise (VCSE).

15.5 A Contract Award Notice must be published in OJEU where there has been an above EU Threshold Procurement and the relevant standstill period observed. The contract shall not be completed or Purchase Order issued unless the standstill period passes with no challenges. Authorised Officer shall notify the Procurement Adviser and the Council's Solicitor immediately following receipt of a challenge.

15.6 For contracts over £10,000.00 the Purchase Order shall not be issued until the formal written contract has been completed.

## 16. **DEBRIEFING**

16.1 The Authorised Officer shall provide a written debriefing to unsuccessful Candidates as required by the law.

## **SECTION 4: CONTRACT FORMALITIES**

### 17 **EXECUTION OF CONTRACTS**

17.1 All contracts not exceeding £10,000.00 shall be signed by the relevant Budget Holder, unless the Council's Solicitor requires that the contract be sealed.

17.2 All contracts exceeding £10,000.00 but not exceeding £50,000.00 shall be signed by the Council's Solicitor or other authorised officer as set out in the Authority's constitution unless the Council's Solicitor requires that the contract be sealed.

17.3 Unless the Council's Solicitor considers it more expedient to sign the contract, all contracts exceeding £50,000.00 shall be executed as a deed by the Council's Solicitor or other authorised officer as set out in the Authority's constitution and the common seal affixed to the contract.

### 18. **RECORDS OF TENDERS AND CONTRACTS**

18.1 The Procurement Adviser shall maintain a list of all Tenders received.

18.2 Authorised Officers must ensure that contracts awarded over £5,000 are entered onto the Contracts Register kept by the Authority and maintained by the Procurement Adviser.

18.3 All contracts over £10,000.00 shall be kept by the Council's Solicitor.

### 19. **BONDS AND PARENT COMPANY GUARANTEES**

19.1 Bonds or Parent Company Guarantee will be required on all works contracts above £1,000,000.00 unless considered inappropriate by the Section 151 Officer following consultation with the Council's Solicitor.

19.2 Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by Section 151 Officer following consultation with the Council's Solicitor.

19.3 Bonds shall be a minimum of 10% of the contract value.

## 20. **EMBEDDED LEASES AND EMBEDDED DERIVATIVES**

20.1 Prior to the award of a contract the Authorised Officer must notify the S151 officer where under the contract:

20.1.1 the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or

20.1.2. contains a clause that caps the price the Authority has to pay for supplies or services or there is floor price on the price the Authority has to pay for supplies or services; or

20.1.3 the prices the Authority has to pay under the contract, increase by more than 2 times RPI; or

20.1.4 the prices the Authority has to pay, increase by some other form of Indices or commodity price.

## **SECTION 5: SPECIFIC TYPES OF TENDERING**

### 21 **FRAMEWORK AGREEMENTS**

#### **FRAMEWORK AGREEMENTS SET UP BY OTHER CONTRACTING AUTHORITIES**

21.1 External Framework Agreements, where the Authority is named or identified as part of a class of permitted users, can be used where the Authority wishes to contract for the sourcing of supplies, services or works without conducting a full procurement exercise.

21.2 The Framework Agreement may include within its terms a requirement for an abbreviated competitive exercise ("mini competition") between some or all of those Suppliers who are parties to the Framework Agreements and can provide the supplies/services/works being tendered. Other Framework Agreements may allow for a direct award or the choice of either direct award or mini completion. Any purchase from a Framework Agreement shall be made in accordance with the procedure set out in the Framework Agreement.

21.3 The approval of the Procurement Adviser or Council's Solicitor shall be sought before signing up to a new Framework Agreement.



- 21.4 A Call-Off contract as set out in the Framework Agreement will need to be entered into. If no pre agreed contract is provided for in the Framework Agreement a contract drafted or approved by the Council's Solicitor, shall be entered into.

#### **FRAMEWORK AGREEMENTS SET UP BY THE AUTHORITY**

- 21.5 The Authority may carry out procurement exercises to set up Framework Agreements to allow it to choose suppliers who meet its pre-qualification requirements. The Authority can then Call-Off Suppliers from the Framework Agreement in accordance with the rules of the Framework Agreement. This could be useful where the Authority has need to call on Contracts urgently or often. The Authority could also set up a Framework Agreement for itself and other local authorities to use in order to make efficiency savings.
- 21.6 Once a Framework Agreement is established, Quotes and Tenders for contracts may be invited from Suppliers included on the Framework Agreement. The total value of such contracts must not exceed the financial limit stated in the Framework.
- 21.7 The Authority will need to carry out a procurement exercise to set up the Framework Agreement and to select the Suppliers to include on the it. This procurement will need to be advertised in accordance with these Contract Rules and the Regulations. The total contract value limit referred to in paragraph 21.7 above shall be determined by the anticipated level of spend per Framework Agreement.

#### **PUBLISHING THE AWARD OF CALL-OFF CONTRACTS UNDER ALL FRAMEWORK AGREEMENTS**

- 21.8 The call off of a contract under a Framework Agreement with a value of £25,000.00 or over shall be published on Contract Finder.

#### **22. DRAW DOWN AGREEMENTS**

- 22.1 Authorised Officers may award Draw Down Agreements to individual suppliers where services, supplies or works are required on an ad hoc basis. E.g. JCT Measured Terms agreements. More than one Draw Down Agreement may be awarded to different Suppliers for the same services supplies or works.
- 22.2 Authorised Officer shall carry a procurement process for the award of the Draw Down Agreement in accordance with these Contract Rules and the Regulations.

23. **COLLABORATIONS AND JOINT PROCUREMENT**

23.1 The Authorised Officer may participate in any collaborative or joint procurement arrangements with other Local Authorities or public bodies including membership or use of a Purchasing Consortia subject to the prior approval of the relevant Director and the Procurement Adviser.

24. **PROCUREMENT BY CONSULTANTS**

24.1 Any consultants used by the Authority shall be appointed in accordance with these Contract Rules and the Regulations. The Authorised Officer shall ensure that the consultant's performance is monitored.

24.2 Where the Authority uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultant carries out any procurement in accordance with these Contract Rules and the Regulations.

24.3 Consultants may advise the Authorised Officer as to the most suitable candidate. The Authorised Officer can use the advice given by the Consultant to make their recommendation to the Awarding Officer.

24.4 No Consultant shall make any decision on whether to award a contract or who a contract should be awarded to. This decisions rests with the Awarding Officer who shall sign the Tender Acceptance Form or waiver.

25 **NOMINATED AND NAMED SUB-CONTRACTORS**

25.1 Tenders for sub-contracts to be performed or supplies to be provided by nominated suppliers shall be dealt with in accordance with the provisions of these Contract Rules.

**SECTION 6**

**AMENDMENTS TO CONTRACTS DURING THEIR TERM AND CONTRACT MANAGEMENT**

26 **AMENDMENTS TO CONTRACTS**

**Above EU Threshold Contracts**

26.1 An above EU Threshold Contract or Framework Agreement can only be changed if permitted by the Regulations. Regulation 72 sets out the circumstances when changes can be made without a new procurement being required. Advice must be sought from the Council's Solicitor before making any changes to an above EU Threshold Contract or Framework Agreement.

## Below EU Threshold Contracts

- 26.2 In limited circumstances, having had regard to the Regulations and following consultation with the Council's Solicitor, the Awarding Officer may authorise changes to be made to below EU threshold contracts.

## 27 CONTRACT MANAGEMENT

- 27.1 Authorised Officers need to actively monitor and manage a Supplier's performance throughout the contract life to ensure milestones, KPI's, deliverables and outcomes are achieved. Risk and, where appropriate, business continuity shall be managed as detailed in the tender and Contract documentation. Management data needs to be published in accordance with the Government's Transparency Code.
- 27.2 Plans should be made well in advance to re-procure the contract (if applicable) and an exit strategy included in the tender and procurement documentation and the contract.

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### DEFINITIONS

|                             |   |
|-----------------------------|---|
| <b>Authorised Officer</b>   | Authorised Officers are persons responsible for carrying out the procurement in question and who have received corporate training on these Contract Rules, the Regulations and the Procurement Code   |
| <b>Awarding Officer</b>     | The officer with the delegated authority to award the contract  |
| <b>Best Value for Money</b> | The best solution for the Authority taking into account price, quality and deliverability.  |
| <b>Bond</b>                 | An insurance policy: if the Supplier does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum, of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Authority against a level of cost arising from the Supplier's failure. |
| <b>Budget holder</b>        | The officer responsible for the budget for the relevant procurement   |
| <b>Candidate</b>            | Any person who asks or is invited to submit a Quote or Tender.  |
| <b>Call-Off Contract</b>    | A contract awarded to a supplier under a Framework Agreement  |
| <b>Concession contract</b>  | An agreement where Suppliers are given the right to exploit works or services provided for their own gain.  |

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|  |  |
|--|--|
| <b>Consultant</b>                            | Someone appointed (but not under a contract of employment) for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.  |
| <b>Contracting Authorities</b>               | Bodies which are subject to the Regulations.   |
| <b>Council's Solicitor</b>                   | The senior legal Adviser for the Authority   |
| <b>Director</b>                              | The chief officers for the Authority, director or the Council's Solicitor  |
| <b>Draw down contract</b>                    | A contract with a single supplier where supplies, services or works are requested on an ad hoc basis   |
| <b>EU Threshold</b>                          | The values set by the European Commission (or such other Governmental or Regulatory body) which determine whether a procurement has to be carried out in accordance with the Regulations.  |
| <b>Framework Agreement</b>                   | An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.          |
| <b>Head of Paid Service</b>                  | The officer designated as Head of Paid Service for the Authority under section 4 of the Local Government and Housing Act 1989  |
| <b>Invitation to Tender (ITT)</b>            | Invitation to tender documents in the form required by these Contract Rules.   |
| <b>Most Economically Advantageous Tender</b> | The most economically advantageous tender will be evaluated on the basis of either <ul style="list-style-type: none"> <li>• Price (i.e. the lowest price)</li> <li>• Cost (on the basis of a cost-effectiveness approach e.g. life-cycle costing)</li> <li>• Best price/quality ratio</li> </ul> |
| <b>OJEU</b>                                  | Official Journal of the European Union – where notices for all above EU Threshold procurements opportunities and contract awards must be placed.   |
| <b>PAS 91</b>                                | Means the Publicly Available Specification 91 prequalification questionnaire published by the British Standard Institute for contracts for works and associated services and supplies (or such other document mandated for use by the Government).   |
| <b>Parent Company</b>                        | A contract which binds the parent of a subsidiary company  |

|                             |   |
|-----------------------------|---|
| <b>Guarantee</b>            | as follows: if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the company to do so instead.   |
| <b>Procurement Adviser</b>  | The procurement officer for the Authority   |
| <b>Quote</b>                | A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).   |
| <b>Regulations</b>          | Means the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Utilities Contracts Regulations 2016 or any other UK legislation regulating procurements by Local Authorities (as may be amended, modified or replaced from time to time) |
| <b>Regulation 84 Report</b> | The report about the procurement required to be compiled under Regulation 84 of the Regulations   |
| <b>Section 151 Officer</b>  | The officer designated responsibility for the proper administration of the Authority's financial affairs under section 151 of the Local Government Act 1972   |
| <b>Supplier</b>             | A person or body of persons providing, or seeking to provide, supplies, services or works to the Authority.   |
| <b>Tender</b>               | A Candidate's proposal submitted in response to an Invitation to Tender.  |

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## **SECTION 7 OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. RECRUITMENT AND APPOINTMENT**

#### **1.1 Declarations**

- (i) Any applicant for appointment as an officer is required to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin of an existing Councillor or Officer of the Council; or of the partner of such persons.
- (ii) No applicant so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

#### **1.2 Seeking support for appointment.**

- (i) Subject to paragraph (iii) below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii) below, no Councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for an applicant for submission with an application for appointment.

#### **1.3 Appointments on merit**

Every appointment of a person as an Officer shall be made on merit subject to the statutory provisions set out in the Local Government and Housing Act 1989 Section 7(2).

#### **1.4 Disclosure of relationship**

Every Councillor and every Chief Officer must disclose to the Council any relationship known to exist between him/herself and a candidate for appointment to a post within the authority. Disclosure will be made to the Executive Director: Resources and S151 who will record and report the matter to the Committee or persons dealing with the appointment.

## **2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

Where the Council proposes to appoint a Head of Paid Service, or a Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) Draw up a statement specifying:
  - (i) the duties of the Officer concerned; and
  - (i) any qualifications or qualities to be sought in the person to be appointed;
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) Make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

## **3. APPOINTMENT OF HEAD OF PAID SERVICE**

The Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Employee Appointments/Disciplinary Committee.

## **4. APPOINTMENT OF CHIEF OFFICERS/STATUTORY OFFICERS**

The Council will approve the appointment of Chief Officers following the recommendation of such an appointment by the Employee Appointments/Disciplinary Committee.

These are mandatory requirements in respect of The Head of Paid Service, Chief Finance Officer and Monitoring Officer (Local Authorities (Standing Orders) (England) Regulations 2001.)

## **5. APPOINTMENT OF OFFICERS BELOW CHIEF OFFICER:**

Appointments below Chief Officer (other than assistants to political groups and Statutory Officers) are the responsibility of the Head of Paid Service or his/her nominee and shall not involve Councillors.

## **6. DISCIPLINARY ACTION AGAINST HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCE OFFICER**

### **6.1 Suspension**

The Head of Paid Service, Chief Finance Officer (S151 Officer) and Monitoring Officer may be suspended by the Employee Appointments/Disciplinary Committee whilst an investigation takes place into any alleged misconduct. That suspension will be on full pay and should be reviewed after it has been in place for two months.



## **6.2 Disciplinary Action**

The process for taking disciplinary action against any of the officers referred to in Officer Employment Rule 6 is set out in the Employee Appointments / Disciplinary Committee.

## **7. DISCIPLINARY ACTION AGAINST CHIEF OFFICERS (OTHER THAN HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCE OFFICER)**

### **7.1 Suspension**

Other Chief Officers may be suspended by the Employee Appointments/Disciplinary Committee whilst an investigation takes place into any alleged misconduct. That suspension will be on full pay and should be reviewed after it has been in place for two months.

### **7.2 Independent Investigator**

No disciplinary action (other than suspension as referred to in 7.1 above) may be taken in respect of any of the Officers referred to in Officer Employment Procedure Rule 7 except in accordance with the process set out in the Terms of Reference of the Employee Appointments/Disciplinary Committee.

## **8. DISCIPLINARY ACTION AGAINST EXECUTIVE DIRECTORS, DIRECTORS AND ASSOCIATE DIRECTORS**

Any disciplinary action taken against or dismissal of an Executive Director, Director or Associate Director will be effected by the Employee Appointments/Disciplinary Committee.

## **9. DISCIPLINARY ACTION AGAINST, AND DISMISSAL OF, OFFICERS BELOW EXECUTIVE DIRECTORS, DIRECTORS AND ASSOCIATE DIRECTORS**

Councillors will not be involved in the disciplinary action against, or dismissal of, any Officer below Executive Director, Director or Associate Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of disciplinary action. That involvement will be via the Council's Employee Appeals Committee.

## **10. APPOINTMENT OF ASSISTANTS TO POLITICAL GROUPS**

No appointments may be made to any post allocated to a Political Group until the Council has allocated such a post to each of the political groups within the Council which qualify for one.

[NOTE Section 9 of the Local Government and Housing Act 1989 provides the legal provisions for the entitlement of a Political Group to one Assistant.]

The appointment of any Assistant to a Political Group shall be in accordance with the wishes of the relevant Political Group.

## **11. ASSISTANTS TO POLITICAL GROUPS - GENERAL PROVISIONS**

### **11.1 Access to Information and Advice**

Political Assistants will have the same rights of access to information as the Councillors for whom they work. Ordinarily, the Political Assistants will be working for the Leaders of a political group and will seek information on that basis.

Political Assistants should contact the relevant Executive Director, Director or Associate Director, although once working relationships have been established then the contact may become less formal and through departmental contacts.

A Political Assistant may seek advice or a confidential briefing in the same way as a Member of Council.

### **11.2 Attendance at Council and Committees**

Political Assistants, as Officers of the Council, will be subject to the same Rules of Confidentiality that apply generally and be able to attend meetings including those held in exempt (or private) session.

### **11.3 Day to Day Working Arrangements**

Although the Political Assistants are employed within the Chief Executive's Unit, the Leader of the relevant political group will be responsible for their day-to-day working. Travelling and other expenses will be met from the Members' expenses budget following the necessary authorisation from the Political Group Leader. (Expenses claims will be countersigned by the Executive Director: Resources and S151 or another authorised officer in his/her Department).

# **PART 5**

## **CODES AND PROTOCOLS**

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## **PART 5**

### **TEWKESBURY BOROUGH COUNCIL**

#### **CODES AND PROTOCOLS**

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# **TEWKESBURY BOROUGH COUNCIL**

## **CODE OF MEMBERS' CONDUCT**

**Adopted on 24 January 2023 taking effect on  
1 February 2023**

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## **I. Introduction**

1. This Code of Conduct (Code) is adopted pursuant to the Council's duty to promote and maintain high standards of conduct by Members of the Council.

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

## **II. Scope of the Code of Conduct**

2. The Code applies to Members whenever acting in their official capacity as a Member of Tewkesbury Borough Council, including;
  - (a) when engaged in the business of Tewkesbury Borough Council including Ward business or representing the Council externally;
  - (b) when behaving so as to give a reasonable person the impression of acting as a representative of Tewkesbury Borough Council.

This Code of Conduct does not seek to regulate what Members do in their purely private and personal lives.

3. The obligations set out in this Code are in addition to those which apply to all Members by virtue of the procedural and other rules of the Council and any Protocols and Policies which may be adopted from time to time by the Council.
4. Failure to comply with the requirements within this Code of Conduct which relate to disclosable pecuniary interests and which are set out in sections V and VI and Appendix A is a criminal offence.<sup>1</sup>

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<sup>1</sup> Section 34 Localism Act 2011

### III. General Principles of Members' Conduct

5. In carrying out their duties in exercising the functions of their Authority or otherwise acting as a Councillor, Members will be expected to observe the general principles of conduct set out below. These principles will be taken into consideration when any allegation is received of a breach of the provisions of the Code.

- *Selflessness*
- *Integrity*
- *Objectivity*
- *Accountability*
- *Openness*
- *Honesty*
- *Leadership*

### IV. Rules of Conduct

6. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

7. Members shall observe the following rules:-

#### General Requirements

- (1) **Do** treat everyone with respect.
- (2) **Do not** bully any person.
- (3) **Do not** harass any person
- (4) **Do** promote equalities and **do not** discriminate unlawfully against any person.

- (5) **Do not** use your position improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, or seek to improperly influence a decision about any matter from which you are excluded from participating or voting as a result of the requirements of Part VI of this Code.
- (6) **Do not** do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.
- (7) **Do not** 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, unless–
- (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 legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is –
    - (a) reasonable and in the public interest; and
    - (b) made in good faith and in compliance with the reasonable requirements of the Council.
- Before making any disclosure under (iv) above, the written advice of the Monitoring Officer must be sought and considered.
- (8) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- (9) **Do** promote and support high standards of conduct when serving in your public post by leadership and example.
- (10) **Do not** behave in a manner which brings your role or the Council into disrepute.
- (11) **Do not** use knowledge gained solely as a result of your role as a Member for the advancement of your own interests.

When using the resources of the Council, or authorising the use of those resources by others:

- (12) **Do** act in accordance with the Council's requirements including the requirements of the Council's ICT Policy.
- (13) **Do** ensure that such resources are not used for political purposes (including party political purposes) unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or to the office to which you have been elected or appointed.
- (14) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

When making decisions on behalf of, or as part of, the Council:

- (15) **Do** ensure that decisions are made on merit, particularly when making public appointments, awarding contracts, or recommending individuals for rewards or benefits.
- (16) **Do** have regard to advice provided to you by the Council's Officers, particularly that provided by the Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties.
- (17) **Do** be as open as possible about your own decisions and actions and those of the Council and be prepared to give reasons for those decisions and actions.
- (18) **Do** ensure that you are accountable for your decisions and co-operate fully with whatever scrutiny is appropriate to your office.

## V. Registration of Interests

8. Members shall observe the following rules when registering their interests.
  - (1) **Do**, within 28 days of taking office as a Member (or Co-opted Member), notify the Monitoring Officer of any disclosable pecuniary interest as defined in Appendix A and any other registrable interest as defined in Appendix B.
  - (2) **Do**, within 28 days of the date of a disclosure referred to in Paragraph 9(2) of this Code, notify the Monitoring Officer of the interest.
  - (3) **Do** notify the Monitoring Officer of any new interest (disclosable pecuniary or other registrable interest) or change to any registered interest within 28 days of the date of that change.
  - (4) **Do** approach the Monitoring Officer if you feel that your interest should be treated as sensitive because its disclosure could lead to you, or a person connected with you, being subject to violence or intimidation.

## VI. Declaration of Interests and Restrictions on Participation

Members must observe the following rules:-

### 9. Disclosable Pecuniary Interests

Where a matter, in which you have an interest as specified in Appendix A (disclosable pecuniary interests), arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (1) **Do** disclose the interest to the meeting. If the Monitoring Officer considers it a sensitive interest, you must declare that you have an interest but do not need to disclose the nature of the interest.
- (2) **Do** ensure that, if your interest is not entered in the Council's Register, you disclose the interest to the meeting as required in 9(1) above and that you notify the Monitoring Officer of the interest within 28 days in accordance with Paragraph 8(2) of this Code.
- (3) **Do** withdraw from the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting unless a dispensation has been granted.

10. Other Interests (Other Registrable Interests Appendix B and Non - registrable Interests)

Where a matter, in which

- (1) either you have an interest as specified in Appendix B (other registrable interests),
- (2) or where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of other Council taxpayers, ratepayers or inhabitants of the Ward affected by the decision, your well-being or financial position or the well-being or financial position of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate,

arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (3) **Do** ensure that you disclose the interest to the meeting. If the Monitoring Officer considers it a sensitive interest, you must declare that you have an interest but do not need to disclose the nature of the interest.
- (4) **Do** leave the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted or it is an excepted function), if,
  - (a) it affects the financial position of an interest specified in Appendix B (other registrable interests).

(b) it affects your financial position or well-being or that of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate

or

(c) it relates to the determination of any approval, consent, licence, permission or registration in relation to you or any person or body described in (a) and (b) above

and a reasonable member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest.

The rules set out in Paragraph 10(4) above do not have the effect of precluding a Member from attending a meeting only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member must, after making their submission, withdraw immediately from the meeting.

## **VII. Duties in respect of the Standards Committee**

11. Members shall observe the following:-

(1) **Do** undertake training on the Code of Conduct as required by the Council.

(2) **Do** co-operate, at all stages, with any investigation into your conduct which may be carried out in accordance with the arrangements for the investigation and determination of complaints which have been put in place by the Council.



- (3) **Do not** seek to intimidate, or attempt to intimidate, any person who is, or is likely to be, a complainant, a witness or involved in the administration of any investigation or proceedings in relation to an allegation that a Member has failed to comply with their Authority's Code of Conduct.
- (4) **Do** comply with any sanction imposed on you following a finding that you have failed to comply with the Code of Conduct.

### **VIII. Dispensations**

12. Where a Member has a disclosable pecuniary interest as described in this Code, and set out in Appendix A, or has an interest which would preclude the Member's participation in the item of business as described in Paragraph 10 of this Code, the Member may apply to the Monitoring Officer for a dispensation.
13. The Council may grant a Member a dispensation to participate in a discussion and vote on a matter at a meeting even if the Member has a disclosable pecuniary interest as described in this Code, and set out in Appendix A, or has an other registrable interest (Appendix B) or non-registrable interest which would preclude the Member's participation in the item of business as described in Paragraph 10 of this Code.

## **IX. Gifts and Hospitality**

14. When offered gifts or hospitality in your capacity as a Member of the Council, the following rules must be observed.

- (1) **Do not** accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
- (2) **Do** register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50, within 28 days of its receipt.  
(Appendix B).
- (3) **Do** register with the Monitoring Officer any significant gift or hospitality that you have been offered but have refused to accept.

## **X. Definitions**

The following are definitions which apply for the purposes of this Code of Conduct.

1. Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient.
2. "Close associate" means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It may be a friend, a colleague, a business associate or someone you know through general social contacts. It is someone a reasonable member of the public would think you might be prepared to favour/disadvantage ("close association" shall be construed accordingly).

3. "Harassment" is conduct, on at least two occasions, that causes alarm or distress or puts people in fear of violence.
4. "Meeting" is a meeting of the Council, or any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the Council.
5. "Member" is an elected Member or a Co-opted Member of the Authority.  
"Co-opted Member" is a person who is not a Member of the Council but who is either a Member of any Committee or Sub-Committee of the Council, or a Member of, and represents the Council on, any Joint Committee or Joint Sub-Committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-Committee.
6. "Member of your family" means:
  - Partner (spouse/civil partner/someone you live with as if a spouse or civil partner);
  - A parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner; or the partners of any of these persons;
  - A brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece; or the partners of any of these persons.
7. "Monitoring Officer" is the Monitoring Officer to Tewkesbury Borough Council.
8. "Pending notification" is an interest which has been notified to the Monitoring Officer but which has not been entered in the Council's Register in consequence of that notification.
9. "Respect" means politeness and courtesy in behaviour, speech, and in the written word.
10. "Standards Committee" is the Standards Committee of Tewkesbury Borough Council.

11. "The Act" is the Localism Act 2011.
12. "The Council" is Tewkesbury Borough Council.
13. "Unlawful discrimination" is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
14. "Well-being" means general sense of contentment and quality of life.
15. "Excepted functions" are functions of the Council in respect of
  - (i) housing, where the Member is a tenant of the Council provided that those functions do not relate particularly to the Member's tenancy or lease;
  - (ii) an allowance, payment or indemnity given to Members;
  - (iii) any ceremonial honour given to Members; and
  - (iv) setting Council tax or a precept under the Local Government Finance Act 1992.

**Disclosable Pecuniary Interests**

The interests set out below are “Disclosable Pecuniary Interests” in accordance with the Localism Act 2011 and Members must notify the Monitoring Officer in accordance with Paragraphs 8(1)-(3) of this Code of Conduct of any interest which is an interest of **the Member (M) or of any of the following**:

- the Member’s spouse or civil partner, or;
- a person with whom the Member is living as if they were a married couple or civil partners;

and the Member is aware that that other person has the interest.

| Subject   | Disclosable Pecuniary Interest  |
|---|---|
| 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.<br>This includes any payment or financial benefit from a Trade Union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a). |
| 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 –<br>(a) under which goods or services are to be provided or works are to be executed; and<br>(b) which has not been fully discharged.   |
| Land  | Any beneficial interest in land which is within the area of the relevant authority.   |
| Licences  | Any licence (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.

- (a) "the Act" means the Localism Act 2011.
- (b) "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.
- (c) "director" includes a member of the committee of management of an industrial and provident society.
- (d) "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.
- (e) "M" means a member of a relevant authority.
- (f) "member" includes a co-opted member.
- (g) "relevant authority" means the authority of which M is a member.
- (h) "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.

- (i) "relevant person" means M or any other person referred to in section 30(3)(b) of the Act.
- (j) "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(b) and other securities of any description, other than money deposited with a building society.

### Other Registrable Interests

The interests set out below are “other registrable interests” which must be notified to the Monitoring Officer in accordance with Paragraphs 8(1), 8(2) and 8(3) of this Code of Conduct.

A Member must notify the Monitoring Officer of any interest held by **the Member** in any of the categories set out below:-

| Subject                                     | Other Interest   |
|---|--|
| Management or Control                       | Any body of which the Member is in a position of general control or management (including where you have been appointed or nominated by the Council).  |
| Public/Charitable and Other External Bodies | Any body –<br>(a) exercising functions of a public nature;<br>(b) directed to charitable purposes; or<br>(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or Trade Union).<br><br>of which the Member of the Council is a member or in a position of general control or management. |
| Employer                                    | Any person or body who employs, or has appointed, the Member.  |
| Gifts and Hospitality                       | The name of any person, organisation, company or other body from whom the Member has received, by virtue of their Office, gifts or hospitality worth an estimated value of £50 or more.  |



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# Code of conduct

## Tewkesbury Borough Council

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# Code of Conduct

## Introduction

This Code of Conduct is designed to provide guidance about what is expected by Tewkesbury Borough Council (the council) from you in your daily work and in your dealings with elected members, colleagues and the public. It sets out the rules relating to conduct which, whilst not exhaustive, are expected to be observed

The code applies to all employees and anyone acting as an employee of Tewkesbury Borough Council, to clarify, the use of the word 'employee' within this code includes permanent and temporary employees, casual workers and agency staff. Inevitably some of the issues covered will affect some employees more than others.

Although the code does not directly apply to contractors, consultants or volunteers, the council's continued association with these individuals and/or their organisation requires them to observe and comply with the code. However, in some instances, compliance may be a condition of the contract between a third party and the council, in which case their compliance with the code would be binding.

## 1.0 Roles and responsibilities

- 1.1 If you have management responsibilities, you need to ensure that employees reporting to you have access to the code and are given opportunities for training where appropriate.
- 1.2 Breaches of the code and standards set by the council may result in disciplinary action which could result in dismissal. If you are unsure about any aspect of the code, please raise it with your manager or supervisor at the earliest opportunity.

## 2.0 Workplace behaviour and personal conduct

- 2.1 You should treat colleagues, elected members and members of the public with dignity and respect. You should:
  - 2.1.1 Ensure that your conduct is not inappropriately discriminatory or harassing to others.
  - 2.1.2 Ensure your behaviour and performance meets work place standards at any time that you are representing the council or are likely to be identified or associated with your role as a public official (whether or not you are 'on duty' at the time).
  - 2.1.3 Make sure you are familiar with and follow the council's policies on equality and the prevention of discrimination and harassment.
  - 2.1.4 Make reasonable efforts to develop and maintain appropriate skills in valuing diversity.

### **3.0 Health, safety and well-being**

3.1 All employees have a personal and legal responsibility under the Health and Safety at Work Act 1974 for themselves, colleagues and visitors to the council's buildings and premises.

3.2 You must:

- Look after the health and safety of yourself and others who may be affected by your actions or failure to carry out certain actions at work.
- Co-operate with your manager, attend training sessions, and carry out reasonable instructions.

### **4.0 Other employment**

4.1 The council will not normally preclude employees from undertaking additional employment, but any such employment must not, in the view of the council conflict with or react detrimentally to the council interests. You must not, therefore, engage in any other business or take up any other additional appointment without the express consent of your Head of Service.

4.2 Employees who are grade H, SCP 39 and above are required to devote their whole-time service to the work of the council and must not engage in any other business or take up any other additional appointment, business, consultancies, advisory roles, whether paid or unpaid, without the written consent of the director: one legal.

4.3 In the first instance, applications for consent should be made through the Human Resources team using the consent form available on the intranet. The decision will be confirmed in writing and a copy will be kept on the employee's personal file.

4.4 You may not set up a business or accept a job with a business which is in direct competition with the council.

4.5 If you work for another organisation you may not act as a messenger between that organisation and the council. Formal channels of communication must be maintained.

4.6 Any secondary employment must not be carried out during your contracted council working hours, nor whilst on standby or official call out purposes, unless such employment can be undertaken from your home.

4.7 It is your responsibility to monitor the number of hours you work to ensure that you are rested and refreshed and able to carry out your role. On average you should not work more than 48 hours in total each week unless you have opted out of the working time regulations.

Please contact the Human Resources team if you require any further information about the working time regulations including details of consecutive rest periods.

## **5.0 Use of authority**

5.1 You should not use your official position, status, powers or authority to seek to improperly influence a decision or action.

You are expected to provide honest, impartial and comprehensive advice, regardless of your personal views on a matter. If your personal views conflict with the performance of your official duties or if you believe that you cannot act impartially, you should contact your line manager and attempt to resolve the conflict.

5.2 When requested, you are expected to provide members, the chief executive, line managers and co-workers with advice which is frank, independent, based on an accurate representation of the facts and as comprehensive as possible. When exercising a discretionary power, you should ensure that the power is being used properly, impartially, equitably and is consistent with relevant legislation, delegations, procedures or guidelines.

5.3 In exercising any power associated with your employment, you must ensure that you are either statutorily authorised to do so or that you have been delegated the power by a person with the necessary authority to issue the delegation.

## **6.0 Political neutrality**

6.1 As an employee of the council you must serve the council as a whole. You must serve and give information to all councillors and not just those of any political group. You must ensure that the individual rights of all councillors are respected.

6.2 Your job description and contract of employment will state whether your post is politically restricted and such a restriction becomes a condition of employment. Employees who hold Politically Restricted posts are required to abide by the political restrictions placed on them by the Local Government and Housing Act 1989 and ensuing regulations. These regulations mean that such employees cannot stand for election or engage in other political activities. This includes prohibiting the practice of twin tracking – where a local government employee is also an elected member of another local authority. This disqualification is also extended to the European Parliament.

6.3 When engaged in council business you must not wear or display items (badges, banners etc) which indicate your support or opposition to any political party.

## **7.0 Conduct outside working time**

7.1 Generally, what you do outside work is your own concern, but you should avoid doing anything that might adversely affect the reputation of the council or bring the council into disrepute. In your official capacity (as a council employee) or personal capacity, you must not allow your personal interests to conflict with the council's requirements or use your position to improperly confer an advantage or disadvantage on any person. If you are not sure whether or how this may affect you in your council role, speak to your manager. If you act contrary to a caution provided by your manager, you may find yourself subject to disciplinary action.

7.2 The public is entitled to demand of a Local Government employee conduct of the highest standard and public confidence in his/her integrity would be shaken were the least suspicion, however ill founded, to arise that he/she could in any way be influenced by improper motives

## **8.0 Criminal charges and convictions**

8.1 The council requires all applicants for jobs to disclose all contraventions of, or failures to comply with, any provisions of law, whether committed in the UK or elsewhere, unless the Rehabilitation of Offenders Act applies and the rehabilitation period has expired. In some circumstances, DBS checks are conducted on successful applicants for certain positions in the council.

8.2 You shall not commit an act outside work, (including criminal acts), which are liable to adversely affect the performance of the contract of employment and/or the relationship between the employer and the employee. If you act to the contrary you may find yourself subject to disciplinary action.

8.3 Once you are an employee, you must notify the council in writing if you are charged with any offence or if you are convicted of any offence. If you are charged with an offence, the notice must be given immediately after you are charged (i.e. next working day). If you are convicted of any offence, the notification must be given immediately after you are convicted (i.e. next working day).

8.4 Accepting a caution is an admission of guilt and so you are required to disclose this to the council immediately after the caution is given (i.e. next working day)

8.5 It should be noted that the term 'conviction' includes a finding of guilt, regardless of whether or not a conviction is recorded. Failure to notify the council in either case will constitute grounds for disciplinary action.

## **9.0 Use of council property, facilities and equipment**

- 9.1 Council facilities are to be used for the council's business and for no other purpose unless you have your Head of Service manager (or their nominees) permission beforehand.
- 9.2 Reasonable personal use of telephones, photocopiers, computers and faxes is allowed provided you have been authorised to do so by your manager. However, no private work may be carried out in during working time, or on the council's premises or with the use of the council's equipment. The council allows reasonable, non-official use of internet and email, as long as individual or service performance is not compromised or adversely affected as a result.
- 9.3 Computers and software may only be used in line with the council's ICT Policy. Your line manager can provide you with clarification as to what constitutes reasonable, non-official use. However, as a general rule, such use should be restricted to outside of working hours, during lunch breaks etc.

## **10.0 Dealing with the council's money**

- 10.1 All employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the council.

Should you have responsibility for budgets and/or purchasing, you must ensure that you understand and comply with the council's financial regulations. When committing council money, you must ensure that there is an approved budget for such expenditure and that the expenditure is within the limits that you are personally authorised to incur. Employees involved in the tendering process and dealing with contractors must be clear on the separation of client and contractor roles within the council. You must declare any financial interest to your Head of Service, whether direct or indirect, that you or your partner may have in any contract or proposed contract with the council.

- 10.2 You should also consider declaring non-financial interests, for example, where you do voluntary work for an organisation in receipt of a grant from the council. If you are in any doubt then you should make a declaration.

## **11.0 Non financial interests**

- 11.1 You are required to declare financial and any other interests that they consider could bring about conflict with the council's interests e.g. acting as a school governor, involvement with an organisation receiving grant aid, or involvement with an organisation or pressure group which may have a view on council policies.

- 11.2 You should, in writing to your Head of Service, register membership of any organisation not open to the public without formal membership and commitment of allegiance, and/or which has secrecy about rules, membership and conduct.

## **12.0 Conflict of Interest**

- 12.1 An employee must not in his or her personal capacity allow his or her personal interest to conflict with the council's business and/or use his or her position improperly to confer an advantage or disadvantage on themselves or any person.

Conflicts of interest may occur if a decision of the council could affect you, or close friends and relatives, either positively or negatively. An employee must not be involved in any matter where they have a personal interest (or where their partner, spouse or close relative has a personal interest) which is so significant that it may influence their judgement or give the appearance that their judgement is likely to be influenced.

If a conflict occurs between your private interests and public duties you must resolve the conflict in favour of your public duties. You must advise your manager in writing of any personal or immediate family private interests that may give rise to a conflict of interest with your official duties, particularly if you are involved in making decisions affecting contracting, tendering or regulatory functions.

If you are in any doubt you should refer to your Head of Service who will seek advice from the director: one legal. You should comply with any reasonable request from the director: one legal to provide information relating to your personal interests or the interests of a dependent or spouse.

- 12.2 Examples of conflicts (or perceived conflicts) between personal interests and public duties that should be declared and in some cases avoided include:
- 12.2.1 Employees in positions that could influence or be perceived to influence, funding allocations, accepting appointments to executive or management positions in organisations that receive or seek to receive funding from the council.
  - 12.2.2 Staff who have access to computer databases of customers updating their own personal records or those of the partner, relative or personal friend
  - 12.2.3 Liaising with a supplier who employs your partner or relative or personal friend
  - 12.2.4 Employees being contracted to provide services to the council outside of their paid employment.
  - 12.2.5 Generating work which involves travel to provide an opportunity to visit friends.
  - 12.2.6 A supervisor who is in a position to approve higher duties or provide other benefits to a subordinate where a close personal relationship exists
  - 12.2.7 Involvement with an interview panel when a relationship exists with one of the applicants.

### **13.0 Appointments**

13.1 Employees must be appointed on the basis of merit. Merit is determined on the basis of matching the chosen candidate with the job requirements and ignoring all other extraneous considerations e.g. close personal relationship with members or other employees. Employees should not be involved in the appointment, pay adjustment, promotion or discipline of partners, relatives or close friends.

### **14.0 Gifts and hospitality**

14.1 Employees should only accept offers of hospitality, including invitations to functions, meals and site visits, if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the council should be seen to be represented. It should be properly authorised by your Head of Service (in the case of the Head of Service, the consent of the chief executive is required) and recorded on your personal file. When hospitality offered by contractors has to be declined they should be courteously but firmly informed of the procedures and standards operating in this council.

14.2 You may accept small items (e.g. inexpensive pens, diaries) but all gifts and hospitality must be registered in writing on the 'Intention to receive hospitality and/or gifts' form available on the intranet and properly authorised by your Head of Service.

14.3 Gifts, benefits and hospitality offered to members of your family as a consequence of your employment must be declared in writing to your Head of Service whether accepted or not.

### **15.0 Sponsorship**

15.1 Where an outside organisation wishes to sponsor or is sought to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. While such sponsorship may be proper, actively seeking it is unwise. Sponsorship should be publicly reported.

15.2 Where the council wishes to sponsor an event or service neither you as a council employee nor any partner or relative must benefit from such sponsorship in a direct way without there being full disclosure of any such interest. Similarly, where the council through sponsorship, grant aid, land or other financial means, gives support in the community, you should ensure that impartial advice is given and that there is no conflict of interest involved.



15.3 Acceptance by you of commercial sponsorship for attendance at relevant conferences and courses is acceptable, but only where the council gives consent in advance and where the council is satisfied that purchasing decisions are not compromised. Where visits to inspect equipment etc., are required, the authority will meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. Normal refreshments on such visits may be accepted.

## **16.0 Information disclosure and confidentiality**

16.1 As a council employee, you may obtain information that has not been made public and is still confidential. You must never disclose information given in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it or unless you are required to by law.

16.2 You must not prevent another person from gaining access to information to which that person is entitled by law. You must not disclose confidential information for your own personal use or for use by anyone else known to you, or to the disadvantage or the discredit of the council or anyone else. You must always observe the provisions of the Data Protection Act 1998, the Freedom of Information Act 2000 and the council's procedures for the release of personal information held about other employees or members of the public. When you leave your employment with the council, you must still respect the confidentiality of official information that may have been available to you in the course of your duties and not use this information for private, commercial or political gain.

## **17.0 Intellectual property**

17.1 Intellectual property is a legal term that refers to the rights and obligations received and granted, including copyright. Ownership of intellectual property is determined by considering the circumstances in which it was conceived and developed. The council owns the copyright in material made by, or under its direction. Whether you are an employee or a contractor, copyright in material you produce in the course of your work belongs to the council, unless otherwise explicitly provided for in your contract of employment.

17.2 If you want to publish any material which you have written in connection with your duties or in which you describe yourself as holding a position within the council you must first gain the consent of your Head of Service.

## **18.0 Security**

18.0 You must visibly display your identification badge at all times while you are on any council premises. All employees are required to challenge anyone in an employee and/or secure area of the council's premises without either an Employee ID or visitor's badge. You must not allow any

individual not displaying an ID badge to follow ('tailgate') you into any secure area of the council's premises. If you come to work without your badge, you must report this to the Asset Management team. If you lose your ID badge, you must report it immediately to your manager and the Asset Management team. If you have a visitor coming to see you at the council's premises, you must ensure that they abide by the visitor security arrangements.

## **19.0 Public comment on council policy and administration**

- 19.1 'Public comment' in this section includes public speaking engagements, comments on radio and television, letters to newspapers, and expressing views in books, journals, on-line or notices if it is expected that the comments will spread to the community at large.
- 19.2 All media requests for information and enquiries that relate to policy and procedures or operational activities must be referred to the council's communications officer. The council procedure must be followed in these instances.
- 19.3 When making authorised public comment in an official capacity, you must:
- 19.3.1 Ensure it is part of your official role.
  - 19.3.2 Not misrepresent the facts concerning government or council policy or administration.
  - 19.3.3 Comply with the confidential information provisions of the Data Protection Act.
  - 19.3.4 Respect the confidentiality of information that has not been approved for release through official council channels.
- 19.4 In your capacity as a private citizen, you have the same rights as any other member of the public to openly discuss or comment on community and social issues. However, there are some circumstances where you may still need to take care in making such comments. For example, a situation could arise when public comment, although made in a private capacity, may appear to be an official comment on behalf of the council. In such circumstances you should indicate clearly that your comment is made in a private capacity and does not represent the official view of the council. It is your responsibility to take all reasonable steps to ensure that any comment will be understood as representing your personal views as a private citizen.
- If you are a workplace representative of a trade union or professional association, you should ensure that when you make public comment, it is clear that comment is made on behalf of the union or association you represent and not the council. If you are in any doubt, contact the communications officer.

## **20.0 Internal audit and risk management**

20.1 An effective internal audit function and risk management framework are important mechanisms for the council to ensure effective internal control, good financial systems and management of risk. All employees have a responsibility to contribute to this work and, where an agreed action plan makes you personally responsible for progressing a particular action, it is your responsibility to ensure that it is undertaken within the agreed timescale.

### **21.0 Working with councillors**

21.1 Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and elected members can damage the relationship and cause embarrassment to other employees. Such familiarity should be avoided. Councillors have their own Code of Conduct that they are also required to comply with.

### **22.0 Communication with senior officers and members**

22.1 When required, you are expected to provide members, the chief executive or officers with advice that is frank, independent, based on accurate and comprehensive representation of the facts. This includes setting out the advantages, disadvantages, costs and consequences of the available options and where appropriate, recommending a course of action. When communicating directly with members on issues affecting you as a private citizen, you should ensure your actions comply with the obligations relating to public comment.

### **23.0 Working with local community and service users**

23.1 Employees should always remember their responsibilities to the community they serve and should provide courteous, efficient and impartial service delivery to all groups and individuals within the community.

### **24.0 Working with contractors**

24.1 All relationships of a business or private nature with external contractors, or potential contractors, should be made known in writing to the director: one legal. Orders and contracts must be awarded in accordance with the council's procurement process. No special favour in the tendering process must be shown to businesses run by, for example, friends, partners, or relatives. No part of the local community must be discriminated against.

### **25.0 Working safely**

25.1 Any activity that presents a significant risk to the health, safety or well-being of an employee or other person must have been subject to a written risk assessment. This is a tool, which managers must use to determine the safest and best way of carrying out the work, including appropriate training, personal protective equipment etc. Appropriate safety controls should all be summarised on the risk assessment or safe system of work procedure and provided to the relevant employees.

## **26.0 Standard of appearance, uniform and PPE**

- 26.1 There is a general expectation that standard of appearance will be appropriate to the standards set by the managers of the individual service areas.
- 26.2 Your dress style must reflect appropriate workplace health, safety and security considerations applicable to your job and environment.
- 26.3 Uniforms are provided for some employees and these should be worn unless otherwise agreed by the Head of Service.
- 26.4 Suitable personal protective equipment will be issued and must be worn where a risk assessment indicates it is appropriate.

### **Associated policies and procedures**

For further information please refer to the following policies and procedures:

Disciplinary Procedure

Grievance Procedure

Anti Bullying and Harassment Policy

Whistleblowing Policy

Corporate Health Safety and Welfare Policy

ICT Policy

Equality Schemes and Policies

## Frequently asked questions

### **Q1 What should I do if I know that someone is breaching this code of conduct?**

Often it is those closest to an organisation who realise that there is something wrong. Sometimes people are reluctant to act upon their concerns because they think that they are being disloyal, or because they are afraid that they might be victimised if they speak up.

The council has in place a whistle blowing policy to enable employees to raise concerns in an appropriate manner and to ensure that they do not suffer any detriment as a result of doing so.

### **Q2 Can my partner's business tender for a contract?**

The code of conduct does not preclude anyone from having the opportunity to tender for business. However the process must be, and be seen to be, fair open and transparent. To this end you would need to make your manager aware of your interest, take no part in the tendering process and ensure that you do not pass on any information which would give that business any advantage in the process.

### **Q3 Can my relative apply for a job in the council?**

Yes. They can apply and would be considered on the basis of their suitability for the role. They should declare their relationship to you on the appropriate section of the application form.

If you are involved in recruiting for the role you should not be involved in any stage of the appointment and should disclose the relationship as soon as you are aware they are applying for the role so that someone else can be assigned to the appointments process.

### **Q4 Can I take an evening job?**

The council will not normally preclude employees from undertaking additional employment, but any such employment must not, in the view of the council conflict with or react detrimentally to the council interests. You must not, therefore, engage in any other business or take up any other additional appointment without the express consent of your Head of Service.

In all circumstances employees must remember:

- They should not do work which is in direct competition with the council.
- The work they are doing should not bring the council into disrepute.
- They may not act as a 'go-between' between the council and the other business.
- They must not undertake other work when they are on duty for the council, including during standby or call out duties unless the work can be undertaken from home.
- That they are responsible for ensuring they get enough rest and do not exceed working time regulations.

### **Q5 One of my clients bought me a box of chocolates – should I accept them?**

Generally gifts which are of low value e.g. pens or calendars can be accepted. Regardless of whether the gift is accepted or not it must be properly registered in writing on the 'Intention to receive hospitality and/or gifts' form available on the intranet. Your Head of Service must authorise whether or not you can accept the gift and/or hospitality. The completed form must be returned to the Human Resources team who maintain a central record of gifts and/or hospitality. The form will be kept on your personal file.

You should be guided by the procedures within your own team, the council's policy on the acceptance of hospitality and/or gifts and by common sense.

**Q6 Can I accept discounts because I work for the council?**

Discounts which have been formally agreed and accepted by the council on behalf of their employees can be found on the social noticeboard pages of the intranet.

Any other discount offered should be treated in the same way as gifts and hospitality and generally should not be accepted.

**Q7 Can I campaign for a political party outside of work?**

If you hold a politically restricted post you may not:

- Be a candidate for membership of the European Parliament, the House of Commons, or a county or district council.
- Hold office in a political party.
- Canvass at elections.
- Speak or write in public on party political matters.

You may be a member of a political party but not actively campaign.

If your post is not politically restricted you may campaign on behalf of a political party however when engaged on council business you must remain politically neutral and not allow your personal or political views to interfere with your duties.

**Q8 What types of interests should be declared?**

An interest is anything which could cause a reasonable member of the public, knowing all facts, to think the officer might be influenced when making a decision in the course of their work.

Interests could include:

- Land or property ownership.
- Relationships with people involved.
- Acting as a school governor.
- Involvement with an organisation or pressure group which may oppose a council policy.

Individuals are free to take part in activities organised and authorised by the Trade Unions without declaring an interest.

**Q9 Can I use the photocopier at work to make personal copies?**

You should get authorisation from your manager before using any work facilities for personal use.

**Q10 The code of conduct doesn't cover my specific situation, what should I do?**

In the first instance seek advice from your manager. They may refer you to other policies and procedures or refer your query to a Head of Service or the Human Resources team.

# **TEWKESBURY BOROUGH COUNCIL**

## **PROTOCOL FOR MEMBER / OFFICER RELATIONS**

**ADOPTED BY COUNCIL 19 APRIL 2016**

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## **1. PURPOSE AND STATUS**

- 1.1 It is vital to the reputation of the Council as a whole that the Codes of Conduct for Councillors and for Officers are not only followed but are seen to be followed. The partnership between Members and Officers is demonstrably based on mutual respect and all should aspire to the highest standards of ethical behaviour. Compliance with the Council's Protocol for Member/Officer Relations is critical to meeting this aspiration.
- 1.2 The Protocol for Member/Officer Relations, whilst not legally prescriptive, will be relevant in judging compliance with the Codes of Conduct. Compliance with the Protocol will ensure that all Members are able to receive objective and impartial advice from politically independent staff who are not subjected to any undue influences.
- 1.3 This Protocol does not seek to be either prescriptive or comprehensive but offers guidance on some of the situations which most commonly arise. It is expected that the approach that it adopts to these issues can be adapted to any situation.

## **2. THE MEMBER/OFFICER RELATIONSHIP**

### **GENERAL PRINCIPLES**

- 2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and they serve only as long as their term of office lasts. Officers are responsible to the Council. Their role is to give advice to the Councillors and the Council and to carry out the Council's work under the direction and control of the Council and its Committees/Working Groups.
- 2.2 The duties and responsibilities of Members and Officers are different, albeit complementary; however, both are bound by the same framework of statutory powers and duties. Furthermore, it is fundamental to the efficient and effective operation of the Council that each understands the limits of their respective roles and that neither asks the other to step beyond those limits.
- 2.3 All Members and Officers have certain basic responsibilities and obligations. There are, however, some Members and Officers who, either because of statute, tradition or decisions of the Council, have extended roles and additional responsibilities. Some Members hold positions of responsibility such as the Leader and Deputy Leader of the Council, the Mayor (Chair of Council), Chairs and Vice-Chairs of Committees/Working Groups, Lead Members and Political Group Leaders. The Statutory Officers are the Head of Paid Service, the Chief Finance Officer (Section 151 Officer) and the Monitoring Officer whose roles are defined by statute and within the Council's Constitution.

- 2.4 Members and Officers will:
- a. deal with one another without discrimination;
  - b. observe normal standards of courtesy in their dealings with one another;
  - c. not take unfair advantage of their position;
  - d. promote a culture of mutual respect;
  - e. communicate clearly and openly, avoiding ambiguity and opportunities for misunderstandings;
  - f. work together to convert core values and priorities into practical policies for implementation for the benefit of the community;
  - g. observe the 'Advice for Council Members and Officers During the Pre-Election Period'; and
  - h. refer any observed instances of inappropriate behaviour as necessary (2.23 and 2.24).

2.5 Members must not be personally abusive to, or derogatory of, Officers in any correspondence, or during any meeting or discussion, in particular when this takes place in public, whether or not that individual is in attendance. Members should not raise matters relating to alleged misconduct or incapability of an Officer at meetings of the Council, Committee or any other public forum. If a Member feels that he/she has not been treated properly by, or has a concern or complaint about, the conduct or capability of any Officer he/she should raise those concerns in accordance with the provision in Paragraph 2.25 below.

2.6 Whilst normal, friendly working relationships between Members and Officers are to be encouraged, close personal familiarity or personal contact of an inappropriate nature between individual Councillors and Officers can harm this relationship, can prove embarrassing to other Councillors and Officers and can damage the public perception of the integrity and objectivity of the organisation, and should be avoided.

### **MUTUAL RESPECT**

2.7 Mutual respect and trust between Members and Officers of the Council is essential to good local government and will generate an efficient and unified working organisation. It is important that there are close working relationships between senior Officers and senior Councillors. However, such relationships should never be allowed to become so close, or appear to be close, so that the ability of an Officer to deal impartially with other Members or Political Groups is questioned.

### **ROLE OF MEMBERS**

2.8 Members have a complex role, requiring them to act simultaneously in the following capacities:

- 2.8.1 As Council/Committee Members – in this capacity Members will provide leadership and will take personal, individual and collective responsibility for the authority's decisions and activities. Members have responsibility for the performance, development, continuity and overall wellbeing of the organisation.
- 2.8.2 As Representatives – in this capacity Members interpret and express the wishes of the electorate and are accountable to the electorate for service priorities, allocation of resources and ultimate performance.
- 2.8.3 As Politicians – in this capacity Members may belong to a Political Group represented on the Council and, if so, may express political values and support the policies of the Group to which they belong.

2.9 Officers can expect Members to:

- Provide leadership.
- Take corporate responsibility for policies and other decisions made by the Council.
- Prepare for formal meetings by considering all written material provided in advance of the meeting.
- Leave day to day managerial and operational issues to Officers.
- Adopt a reasonable approach to awaiting Officers' timely responses to calls/correspondence (2.12.6) and not to undertake a proliferation of calls/correspondence designed to elicit an urgent response to a matter which is not of an urgent nature. Members are not entitled to demand urgent responses to correspondence/calls unless the subject matter is deemed by the Officer to be urgent. Any dispute as to urgency should be referred to the Officer's Manager.

2.10 It is permissible and sensible for Members to seek straightforward factual information from Officers, and to enquire as to technical or professional matters of appropriately qualified Officers whose duties include advising Members. However, anything contentious, or any matter requiring a complex opinion, a value, or a judgement, should be directed to the relevant Executive Director, Director or Associate Director. Member Services are happy to signpost Members to the correct area as necessary to ensure that queries are resolved.

2.11 Members must, when serving on the Council's Planning and Licensing Committees, observe the Protocol for Councillors and Officers involved in the Planning Process and The Licensing System, Protocol and Procedures respectively.

### **ROLE OF OFFICERS**

2.12 Officers of the Council have, in broad terms, the following main roles:

2.12.1 To manage the services for which the Council has given them responsibility. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibilities.

2.12.2 To be professional advisors to the Council, its political structures and Members in respect of their service and, as such, their professionalism should be respected.

2.12.3 To initiate policy proposals as well as implementing the agreed policies of the Council.

2.12.4 To ensure that the Council always acts in a lawful manner.

2.12.5 To advise Members on issues and business of the Council.

2.12.6 Members can expect Officers to:

- maintain due confidentiality;
- perform their duties to the best of their ability;
- behave in a professional manner;
- be helpful and respectful to Members; and

- respond in a timely manner to telephone calls, email correspondence etc.
- 2.13 Officers are accountable to their Executive Director, Director or Associate Director and whilst Officers should always seek to assist any Member, they should not go beyond the limit of the authority given to them by their Manager.
- 2.14 In their dealings with the public, Officers should be courteous at all times and act with efficiency and timeliness.
- 2.15 In advising Members of the Council, Officers should be able to give honest and impartial advice without fear or favour from Members. It follows that they must serve all Members, not just those of any majority Political Group, and must ensure that the individual rights of all Members are respected. The support provided by Officers can take many forms, ranging from briefing an individual Member on a particular issue to, on occasions, a presentation to the Council.
- 2.16 An Officer should respect a Member's request for confidentiality when dealing with any legitimately delicate matter. Any written reply to a Member where confidentiality is requested in such circumstances should not be copied to any other Member without the original Member's permission, or in order to comply with an unavoidable legal or professional obligation.

#### **Officers' Attendance at Political Group Meetings**

- 2.17 In order to ensure that their political neutrality is not compromised Officers must not, in their capacity as Council employees, attend meetings of Political Groups unless the occasion has been specifically authorised by the Chief Executive. Any request for Officer support should therefore be made to the Chief Executive in advance of any meeting. Such support should be available to all Political Groups. 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 Political Group business. Officers must not be invited to be present at meetings, or parts of meetings, when matters of Political Group business are to be discussed. Where a Political Group shares alternative proposals for advice, e.g. the budget, the Officer should treat this as confidential.
- 2.18 Where Officers provide information and advice to a Political 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 relevant Committee/Working Group or the Council when the matter in question is considered.

#### **OFFICER RELATIONSHIPS WITH CHAIRS/VICE CHAIRS, POLITICAL GROUP LEADERS AND LEAD AND SUPPORT MEMBERS**

- 2.19 Chairs of the Council/Committees/Working Groups (and Vice-Chairs in their absence) must:
- 2.19.1 chair meetings impartially;
  - 2.19.2 give all Members of the Council/Committee/Working Group equal right to speak;
  - 2.19.3 manage Council/Committee/Working Group meetings to ensure that the business of the Council/Committee/Working Group is transacted efficiently but fairly; and

- 2.19.4 ensure that Officers are given every opportunity to provide their professional judgement/advice to the Council/Committee/Working Group.
- 2.20 A Committee/Working Group Chair should routinely be consulted during the process of preparing an Agenda for a forthcoming meeting. Chairs must recognise that, in some situations, an Officer is under a duty to submit a report on a particular matter and no influence should be exerted on any Officer to exclude an item from an Agenda.
- 2.21 Prior to Committee meetings (except Planning and Licensing Committees where their own Protocols apply), the appropriate Officers will meet informally with the Chair and Vice-Chair (Chair's Briefing) to discuss matters on the Agenda, to deal with matters which will ensure the smooth running of the meeting and to enable specific issues to be highlighted for which Officers and Members may need to prepare prior to the meeting.
- 2.22 Political Group Leaders (Deputy Political Group Leaders) should promote a positive atmosphere of trust, respect and understanding between Members and Officers. Political Group Leaders (Deputy Political Group Leaders) must be prepared to tackle, deal with and resolve any reported incidents of breaches of this Protocol by their Political Group Members. In the event of a complaint being made to them under Paragraph 2.26 of this Protocol, a Political Group Leader (Deputy Political Group Leader) will seek to actively pursue the complaint and achieve a satisfactory outcome. The outcome must be reported to the Officer who notified them of the complaint.
- 2.23 Officers must exercise care when dealing with Chairs, Vice-Chairs and Political Group Leaders to ensure that they are not provided with information that the Officer is not prepared to make freely available to other Members of the Council or Committee/Working Group.
- 2.24 Officers shall provide Lead Members, and Support Members, with the information necessary to enable them to effectively undertake their role as a Council spokesperson and ambassador for their portfolio. The overriding position is that, whilst Members and Officers work closely together, this relationship should never become, or appear to become, so close that the ability of an Officer to deal impartially with other Members is questioned.

#### **MEMBER/OFFICER COMPLAINTS**

- 2.25 If a Member wishes to complain about the actions or failings of any employee of the Council, the Member should lodge his or her complaint, preferably in writing, with the Chief Officer concerned. If a complaint is against the Chief Officer, the complaint must be lodged in writing with the Chief Executive. If the complaint is against the Chief Executive personally, it must be lodged in writing with the Council's Monitoring Officer. The Officer to whom the complaint is made will take appropriate action to resolve it and will notify the Member of the Council who made the complaint of the action which has been, or is intended to be, taken to resolve it.

- 2.26 Should an Officer have cause to complain about the actions or failings of any Member of the Council, the Officer should draw his/her concern to the attention of a Senior Officer in his/her Directorate who will consider the matter and, acting through the appropriate Executive Director, Director or Associate Director, will seek to resolve the issue with the Member concerned or, if this is not possible, the Member's Political Group Leader. If the complaint is against a Political Group Leader then it should be drawn to the attention of the Deputy Group Leader or to the Group generally. The Member (or group of Members) to whom the complaint has been made, will deal with it and will notify the Officer making the complaint of the action which has been, or is intended to be, taken to resolve the complaint.

### **BEHAVIOUR**

- 2.27 Words or actions which are intended unfairly to influence an individual Officer will be regarded as a form of bullying, intimidation or harassment.
- 2.28 Members of the Council must not pressurise Officers to make a particular recommendation to the Council. Members must at all times respect the obligation placed on Officers to exercise professional or technical judgment.
- 2.29 Members are not prevented from discussing issues with Officers or promoting a particular point of view. Whilst Officers will consider the views being put they are not, in any way, compelled to provide advice which coincides with the Member's view. Any pressure by a Member upon an Officer to change their professional recommendation constitutes unacceptable undue pressure and is not permissible.
- 2.30 Members must not give directions, nor make direct criticism, to the Council's employees. Any criticism of an individual employee should be taken up with the Chief Officer, the Chief Executive or the Monitoring Officer as appropriate in the manner set out in 2.25 above. This standard of conduct is not intended to prevent Members from disagreeing openly, courteously and publicly with an Officer's recommendation.

### **HONESTY AND INTEGRITY**

- 2.31 Members and Officers should not place themselves in situations where their honesty or integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### **PUBLIC CONFIDENCE**

- 2.32 Members and Officers of the Council should always act in a way that preserves public confidence.

### **MEMBERS ACTING AGAINST THE COUNCIL**

- 2.33 If a Member is about to act in a professional or private capacity against the Council, he/she must notify the Monitoring Officer in writing. This applies to any action by a spouse/partner, associate, employer or by a company in which the Member has an interest. This provision also applies to co-opted Members for matters which are within the responsibility of the Committee on which they serve.
- 2.34 Details given will be recorded in a Register which will be open to public inspection.

### **3. ACCESS TO INFORMATION**

#### **Rights of Members to Information/Documents**

- 3.1 Members may approach the Chief Executive, any Executive Director, Director or Associate Director to provide them with such information, explanation and advice (about their functions and responsibilities) 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 the Council's activities to a request for specific information on behalf of a constituent.
- 3.2 Members have, as a starting point, the same rights to any information held by the Council that ordinary members of the public enjoy under the Freedom of Information Act 2000.
- 3.3 In addition, a Member has the right to see any document within the possession or control of the Council that contains material relating to an item to be discussed at a meeting of the Council or a Committee or Sub-Committee/Working Group. However, a Member does not have the right to be provided with "exempt" or "confidential" information (i.e. that which is not available to the public) unless he or she can demonstrate "a need to know" that information to enable them to carry out their duties as a Councillor.

#### **Refusal of Access**

- 3.4 Access may, even in respect of Committee/Working Group Members, be refused if the reasons for inspecting any documents are improper, indirect or ulterior, or are inconsistent with the Council's interests. Examples of such circumstances are where a Member:
- (a) has a private professional or business interest in the information;
  - (b) has a disclosable pecuniary interest in the matter to which the document relates; or
  - (c) has taken up, or is considering taking up, support of a person or body which is hostile to the Council in Court proceedings or at Inquiries.

3.5 Furthermore, where a request will require the devotion of a significant amount of staff resources to identify and collate information which is considered to be of marginal benefit, the request for information may be refused.

3.6 Disputes as to the validity of a Member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek advice from the Monitoring Officer if in any doubt about the reasonableness of a Member's request.

#### **Use of Confidential Information**

3.7 Any confidential or "exempt" information provided to a Member must only be used by the Member 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. A Member must never disclose confidential or "exempt" information to anyone who is not themselves entitled to that information.

## **4. CORRESPONDENCE**

### **No “Blind” Copies**

- 4.1 If an Officer copies correspondence addressed to one Member to another Member, then this should be made clear to the original Member. A system of "blind copies" must not be employed.

### **Official Correspondence**

- 4.2 Official correspondence on behalf of the Council should normally be sent out under the name of the appropriate Officer rather than under the name of a Member. It may be appropriate in certain circumstances, for example representations to a government Minister or where a letter is specifically addressed to the Mayor or a Committee Chair, for the letter to appear under the name of that particular Member, but this should be the exception rather than the norm. Letters which, for example, convene formal meetings, create obligations or give instructions on behalf of the Council should never be sent out under the name of a Member.

## **5. LOCAL MEMBERS AND OFFICERS**

- 5.1 To enable them to carry out their Ward role effectively, Members need to be fully informed about matters affecting their Ward. Senior Officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

- 5.2 This requirement is particularly important:

- during the formative stages of policy development, where practicable;
- in relation to significant or sensitive operational matters;
- whenever any form of public consultation exercise is undertaken; and
- during an overview and scrutiny investigation.

- 5.3 Issues may affect a single Ward. Where they have a wider impact, a number of local Members will need to be kept informed.

### **Member Requests**

- 5.4 Whilst Officers should provide general advice/assistance to Members on matters of Council business, Officers should not be subjected to pressure to undertake work at the direction of a local Member for Ward business which is not in the Officer's work programme/normal daily responsibilities.

### **Public Meetings**

- 5.5 Whenever a public meeting is organised by, or on behalf of, the Council to consider a local issue, all the Members representing the 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 local Members should be notified at the outset of the exercise.



## **Meetings Called by Members**

- 5.6 Any meeting at which members of the public are in attendance which has been called by an individual Member or group of Members, rather than by a Council Officer, shall not be regarded as a meeting called by the Council. An Officer shall not attend such a meeting (in his/her capacity as an Officer) unless specifically authorised by the Executive Director, Director or Associate Director/Chief Executive.

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## **PROTOCOL FOR SUPPORT/TRAINING FOR LEAD AND SUPPORT MEMBERS**

1. Democratic Services to arrange for each Lead Member and Support Member to receive an induction from the relevant Executive Director, Director or Associate Director.
2. Executive Directors, Directors and Associate Directors to ensure Lead Members and Support Members receive prior briefing on any issues either being put to Committee/Council or attracting press attention.
3. Press releases to show author as contact and Lead Member where appropriate, e.g. technical and operational issues where the level of detail required will be more appropriately dealt with by an Officer need only contain the author as contact. Where the Lead Member is shown as a contact the author must ensure that the Member is fully briefed.
4. Lead and Support Members to meet with Executive Director, Director or Associate Director on a regular basis.
5. Executive Directors, Directors or Associate Directors to provide Lead and Support Members with performance management information and regular updates on key achievements, current issues, budget updates etc.
6. Lead and Support Members to be consulted on content of Service Delivery Plans.

NB: Requests for additional reports/information must be balanced against other priorities/work programmes and the impact thereon will need to be agreed with the appropriate Executive Director, Director or Associate Director.

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## **A PROTOCOL FOR THE ATTENDANCE OF OFFICERS AND MEMBERS OF ONE PUBLIC AUTHORITY AT MEETINGS OF ANOTHER PUBLIC AUTHORITY**

It is intended that this protocol will be agreed and adopted by all the local authorities in Gloucestershire.

1. An authority may request Officers and/or Members of another authority to attend at a meeting or meetings of the authority or any of its Committees, Sub-Committees, Boards, Panels or other gatherings being held at its Offices. The purpose of such attendance is limited to assisting that authority in the conduct of its business including reviewing the effects of, but not scrutinising, decisions of another authority.
2. All such requests shall be made in writing to the Head of Paid Service of the authority, normally at least 10 working days before the date of requested attendance (although time limits in an authority's Constitution may affect this period of notice) and shall include the following information:
  - The date, time, location and anticipated duration of the attendance requested.
  - The name of the person(s) whose attendance is requested.
  - If a particular person's presence is requested, the reason for selecting that person.
  - A summary of the matter in respect of which attendance is requested.
  - All questions which reasonably can be anticipated will be put to any person(s) attending (it is accepted that answers to questions may lead to further questions).
  - The names of the person(s) who will be putting questions.
  - A list of the names of all other persons expected to attend.
  - The name and telephone number of the responsible Officer as a point of contact for the person attending.
3. A Head of Paid Service receiving such a request shall respond to the request within five working days stating:
  - Whether anyone will attend.
  - Whether attendance will be as requested or that alternative arrangements will be necessary.
  - Whether the particular person(s) whose presence is requested will attend and/or whether in their place, or in addition, some other person will attend and who that person will be.
  - Whether the questions specified in the request will be answered either at all or to some limited extent (in which case reasons will be given) or fully.
  - In the event that there will be no attendance, whether and if so how and when, the questions notified will be responded to.

4. All questions shall relate to facts and not opinion although the person(s) attending may express opinions.
5. The person(s) attending may only decline to answer any question on the grounds of competence or knowledge.
6. All reasonable expenses relating to the attendance(s) will be met by the authority responding to the request.
7. All persons attending in response to a request shall, at all times, be treated with the highest standards of courtesy and respect and shall not under any circumstances be bullied, harassed or abused.

# TEWKESBURY BOROUGH COUNCIL

## **PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS**

**(Approved and adopted by Council on 6 December 2016)**

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## **1. PURPOSE AND STATUS**

- 1.1 This Protocol has been prepared as a public guide to the conduct of **all** Councillors and staff who come into contact with the planning process. It does not just apply to Members of the Planning Committee and professional Planning Officers. Its aim is to ensure and to demonstrate that the Council takes its planning decisions openly, impartially and for sound, justifiable planning reasons. The Protocol, which was first adopted by the Council as a Guide to Good Practice in 2002, has been reviewed and updated. The Human Rights Act 1998 has implications for the planning system and has created enhanced requirements for procedural fairness, transparency and accountability in determining planning applications.
- 1.2 Councillors must observe the Members' Code of Conduct adopted by the Council on 26 June 2012 and Officers are subject to an Officer Code of Conduct. In addition, professional Planning Officers are bound by their Institute's own Code of Conduct.
- 1.3 This Protocol provides supplementary and localised guidance on how the planning system in Tewkesbury Borough will be operated. It provides a measure against which the Council's operation of the planning system can be judged. Adherence to the Protocol should reduce cause for complaint by the public. The Planning Protocol is intended to minimise the prospect of legal or other challenge to planning decisions. However, non-compliance with the Protocol could be taken into account in any legal challenge, investigations into any complaints, allegations of maladministration or allegations of breach of the relevant Code of Conduct (Councillor or Officer).
- 1.4 The purpose of the Protocol is to set out in detail how Councillors and Officers should act, and the procedures which should be followed, to ensure that they not only act in a fair and proper manner but are also seen to do so.

## **2. INTRODUCTION**

### **General Principles**

- 2.1 The planning system is a complex one which regulates and controls development in the public interest. Planning affects land and property interests including the value of land and the quality of the environment. Decisions affect people's daily lives and the private interests of individuals, landowners and developers. The role of the planning system is to regulate the use and development of land in the public interest. Accordingly, planning decisions must be seen to be impartial and properly justified. The planning system can only operate effectively if there is trust among the various stakeholders, the public, applicants, developers, Councillors and Officers.
- 2.2 The planning system is based on the legal framework provided by planning legislation (including the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004) and government policy and guidance contained in the National Planning Policy Framework, planning practice guidance, government circulars, good practice guides, Ministerial statements and case law. Importantly the planning system (and the Borough Council) encourages the involvement of third parties in the process. Parish Councils, local residents, interest groups and local communities are consulted on planning proposals and are invited to comment. The Development Plan is subject to consultation through the Local Development Framework which provides for objections to be considered by Examination by an Inspector.

- 2.3 Planning decision-making is not an exact science but it relies on informed judgement within a firm policy context. It is also highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actually invites public opinion before taking decisions) and the legal nature of Development Plans and decision notices. It is important, therefore, that the process is characterised by open and transparent decision-making.
- 2.4 The Council recognises that planning decisions are made in a plan-led system and that in dealing with applications it must have regard to, so far as they are material to the application, the provisions of the Development Plan (which includes Neighbourhood Development Plans which have been made), any local finance considerations (see Paragraph 2.7 below) and any other material considerations; with it being that, where regard is to be had to the Development Plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.5 Further, that planning legislation requires that, where planning permission is granted subject to conditions, or refused, the decision notice shall include a statement explaining how, in dealing with the application, the Council has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application.
- 2.6 Councillors and Officers aim to ensure that the decision-making processes are open and fair, so that all the relevant issues are weighed in the balance and applications are dealt with in a consistent manner, through an appraisal of Development Plan policies and analysis of relevant material considerations. Officers prepare reports for Councillors which cover development plan policy and other material considerations, including the implications of the Human Rights Act 1998, public representations and responses from statutory consultees concluding with a recommendation. Councillors should weigh all the issues in the balance during their considerations at Committee and vote on the planning merits of the case.
- 2.7 Planning legislation provides that regard is to be had to material local finance considerations and defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided, to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will, or could, receive, in payment of the Community Infrastructure Levy. Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority or other government body.
- 2.8 Planning decisions are based on interpretation of policies and guidance and it is essential that decisions are made impartially, having regard only to proper planning considerations, and in a way that does not give rise to public suspicion or mistrust.
- 2.9 This Protocol provides for periodic monitoring of planning decisions taken. Quality of outcomes and consistency of decision-making should be regularly reviewed by the Planning Committee.

## **The General Role and Conduct of Councillors and Officers**

- 2.10 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are accountable to the electorate and Officers are accountable to the Council as a whole. It is the duty of Councillors to represent their constituents as a whole, including those who did not vote for them. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to Officers through a decision of the Council or its Committees. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust which underpins it, must never be abused or compromised. The Council has within its Constitution adopted a Member/Officer Protocol. In the event that Members wish to discuss a particular planning matter (application, potential application or planning policy) with an Officer an appointment should, whenever practicable, be made in advance.
- 2.11 The Council's Code of Conduct sets out the requirements for Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests (see next section), but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the planning process. Of particular relevance to Councillors serving on Planning Committees, or who become involved in making a planning decision, is the requirement that a Member must:
- “not use your position improperly to confer on or secure for yourself or any other person, an advantage or disadvantage or seek to improperly influence a decision about a matter from which you are excluded from participating or voting”  
(Paragraph 7(4) of the Council's Code of Conduct).
- 2.12 Although Councillors may take into account views of others they should not discriminate in favour of any particular group or individual, or put themselves in a position where they appear to do so should they wish to participate in respect of the determination of a proposal (see further at Paragraph 3.3 below on Voting and Impartiality).
- 2.13 All Officers must follow the Council's Code of Conduct for Employees or any statutory code which may come into force or be adopted by the Council. Officers who are chartered town planners must act in accordance with the Royal Town Planning Institute's (RTPI) Guidance of Professional Conduct and breaches of that guidance may be subject of separate disciplinary action by the Institute.
- 2.14 Professional Officers may have a change of opinion on receipt of further information or a change of circumstances but this must be on the basis of professional judgment; they must not be allowed to be influenced by Councillors or other Officers to change an opinion where this does not genuinely represent their professional view. The Council endorses the RTPI's statement that its members “shall not make or subscribe to any statements or reports which are contrary to their own professional opinions”.

- 2.15 Employees must always act impartially. In order to ensure that senior Officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as Membership of political parties and serving on another Council. Such impartiality (particularly crucial in highly contentious matters) is reinforced by requirements on Members in the Council's Code of Conduct. Members are placed under a requirement by Paragraphs 7(1) and 7(5) of the Council's Code of Conduct to:
- (a) treat others with respect; and
  - (b) not to do anything which compromises, or is likely to compromise the impartiality of those who work for, or on behalf of, your authority
- 2.16 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour or show bias toward any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a Planning Committee. Councillors should also be very cautious about accepting gifts and hospitality. The Gifts and Hospitality Protocol for Councillors must be observed by all Councillors including those involved in the planning process. Similarly, during the course of carrying out their duties, Officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, Officers should ensure that it is of the minimal level and declare its receipt to the Council's Monitoring Officer as soon as possible.
- 2.17 The Council's Code of Conduct provides that Members must notify the Monitoring Officer of the name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more. Such an interest would automatically be one that would need to be disclosed at a meeting (as an "Other Interest") where a matter in which a Member has such an interest arises and one where consideration would need to be given as to whether the Member should not participate (see Paragraphs 3.1.5, 3.1.6(iv) and 3.1.9 below).
- 2.18 A summary guide of "Do's" and "Don'ts" is attached at Appendix B of this Protocol, but must be read in conjunction with, and in the context of, the Council's Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process.

### **3. THE DECISION MAKING FRAMEWORK**

#### **3.1 Registration and Declarations of Interest**

- 3.1.1 The Localism Act 2011 and the Council's Code of Conduct place requirements on Members on the registration and declaration of their interests and the consequences for the Member's participation in consideration of a matter, in the light of those interests. Guidance on the registration and declaration of interests may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.
- 3.1.2 A Register of Members' Interests is maintained by the Council's Monitoring Officer, which is available for public inspection. A Member must provide the Monitoring Officer with written details of relevant interests (disclosable pecuniary interests and other interests falling within Appendix B of the Council's Code of Conduct – see Paragraphs 3.1.3- and 3.1.6 below) within 28 days of his/her election, or appointment to Office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.
- 3.1.3 The Council's Code of Conduct uses the terms "Disclosable Pecuniary Interests" and "Other Interests".
- 3.1.4 The Council's Code of Conduct defines "Disclosable Pecuniary Interests" as an interest set out in Appendix A of the Code of Conduct. These cover interests of the Member or the Member's spouse or civil partner, or a person with whom the Member is living as if they were civil partners or living as husband and wife, in respect of criteria set out in that Appendix relating to: employment, office, trade, profession or vocation; sponsorship; contracts; land; licences; tenancies and securities.
- 3.1.5 The Code of Conduct defines an "Other Interest" in any matter as an interest as specified in Appendix B of the Code of Conduct (see Paragraph 3.1.6 below) or where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of the other Council taxpayers, ratepayers or inhabitants of the Ward affected by the decision, your wellbeing or financial position or the wellbeing or financial position of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate.
- 3.1.6 The interests set out in Appendix B of the Code of Conduct cover interests held by the Member in the following categories:
- (i) any body of which the Member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
  - (ii) any body:
    - (a) exercising functions of a public nature;
    - (b) directed to charitable purposes; or

- (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which the Member of the Council is a member or in a position of general control or management;

- (iii) any person or body who employs or has appointed the Member;
- (iv) The name of any person, organisation, company or other body from whom the Member has received, by virtue of his/her Office, gifts or hospitality worth an estimated value of £50 or more.

3.1.7 Where a Councillor considers he/she has an “Other Interest” or a Disclosable Pecuniary Interest” in any matter, he/she must declare it at the beginning of the meeting or when the interest becomes apparent. Councillors should be clear and specific in identifying the item on the Agenda in which they have an interest and (unless the Monitoring Officer considers that it is a sensitive interest because its disclosure could lead to you, or the person connected with you, being subject to violence or intimidation) the nature of the interest. This declaration must be made at meetings of the Council, Planning Committee, Committee Site Visits, Working Groups or any outside body to which they are appointed or that they attend for Council, during informal meetings and in all circumstances where attending as a Councillor. Previous declarations or those made at Working Groups or Committee Site Visits must be repeated at Committee/Council meetings.

3.1.8 Where the interest is a “Disclosable Pecuniary Interest” the Member must leave the meeting and not vote (unless a dispensation has been granted). It is a criminal offence to fail to comply with the requirements that relate to Disclosable Pecuniary Interests.

3.1.9 Where the interest is an “Other Interest”, whether one subject to registration or otherwise, the Member then needs to consider whether the “Other Interest” is one whereby the Member is excluded from participating or voting. The Council’s Code of Conduct provides that an “Other Interest” becomes such an interest if the matter being considered either:

- (a) affects your financial position or the financial position of the member of your family or person with whom you have a close association; or
- (b) relates to the determination of any approval, consent, licence, permission or registration in relation to you or any such person or body;

and the interest is one which a reasonable member of the public knowing facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest. If this is the case, unless a dispensation has been granted or the function to be exercised is an excepted function (see Paragraph 3.1.10 below), the Member should not participate in a discussion on the matter, must withdraw from the room and must not seek improperly to influence a decision in the matter.

- 3.1.10 The Council's Code of Conduct includes some exceptions in respect of "Other Interests" and the restriction upon a Member participating or voting as set out in Paragraph 10(2) and the "excepted function" definition within Part IX of the Code of Conduct. These relate to decisions in respect of housing functions and functions in respect of allowances, ceremonial honours and Council Tax or precept setting.
- 3.1.11 In addition to the provisions on interests in the Code of Conduct, if a Councillor, in advance of the decision-making meeting, has taken a firm view on the decision to be made, either in meetings of another body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account. Were they to participate in a decision in those circumstances, they might place their authority in danger of judicial review. The exemptions in the Council's Code of Conduct and any dispensations would only operate in the planning context if the Councillor had also scrupulously avoided forming a fixed view on the issue in advance. This is the general approach taken by this guidance and appropriate conduct in relation to Membership of other bodies and the effects of such Membership on participation in the planning decision-making process. It is expanded in Paragraph 4.1 on lobbying.

### **3.2 Development Proposals submitted by Councillors and Officers; and Council Development**

- 3.2.1 Proposals to their own authority by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. So indeed, can proposals for a Council's own development. Proposals can take the form of either planning applications or Development Plan proposals.
- 3.2.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 3.2.3 Councillors (whether on the Planning Committee or not) should not act as agents, or submit planning applications for other parties or voluntary bodies in respect of applications that will be determined by the Council. To do so would give rise to suspicion that the Member was not impartial or may influence other Councillors in the decision-making process.
- 3.2.4 Where Councillors need to submit planning applications on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers. The Councillor must declare an interest and take no part in the decision-making process and must not use their position to improperly influence the decision.
- 3.2.5 Similarly, where an Officer or an agent submits a planning application on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers. They must take no part as an Officer of the Council in the processing of the application or in the decision-making process.



- 3.2.6 A Councillor or Officer who either submits a planning application or Development Plan proposal on their own behalf, or on behalf of their employer as part of their job, must, whether that Councillor or Officer's involvement is apparent from the application documentation or not, notify the Technical Planning Manager and the Council's Monitoring Officer of the submission of the application or proposal. That notification must be in writing and must be sent at the same time as the submission of the application or proposal.
- 3.2.7 The Council's own proposals for development must be dealt with on exactly the same basis as applications submitted by members of the public or developers and Officers must make recommendations having regard only to proper planning matters and must not have regard to any other benefit financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal save for any material local financial consideration (see above).
- 3.2.8 Where a Council development is being considered, Councillors who have been involved in the decision to seek planning permission (e.g. Members of the Executive Committee) and who are also Members of the Planning Committee should declare this at the Planning Committee when the planning application comes up for determination. In such cases, Councillors are usually still entitled to take part in the debate and vote. The exception to this could be in the case of a Councillor that has been closely involved in negotiations with developers in working up a proposal that needs planning permission. Similarly, where an application is submitted by a Parish Council and the Councillor is also a Member of the Parish Council consideration will need to be given to the role the Member has played in respect of the application at the Parish Council level above the general considerations as to any declarations that may need to be made by way of an "Other Interest" in respect of the application due to Membership of the Parish Council.
- 3.2.9 The consideration of a proposal from a Councillor (or a member of his/her family) would result in the need for that particular Councillor to declare an interest under the Council's Code of Conduct and the Councillor would be required to withdraw from any consideration of the matter. The Code also provides that the Councillor should `not seek improperly to influence a decision about the matter`. It is important to emphasise here that `improperly` does not imply that a Councillor should have any less rights than a member of public in seeking to explain and justify their proposal to an Officer in advance of consideration by a Committee.

### **3.3 Voting and Impartiality**

- 3.3.1 Councillors must vote in the interests of the whole Borough. Their duty is to the whole community, rather than just the people living in their Ward.
- 3.3.2 Members of the Planning Committee must not declare which way they intend to vote in advance of the consideration of an application by the Planning Committee. To do so would, in effect, be pre-judging the application and expose the Council to the possibility of legal challenge or allegation of maladministration. Members must not make their minds up until they have read the relevant Committee reports and heard the evidence and arguments on both sides at the Committee meeting.

- 3.3.3 If a Member of the Planning Committee does declare his or her support or opposition for a proposal before the matter has been put before the Planning Committee, where that Member would be entitled to vote, he/she must make declaration of their view to the Planning Committee, and should withdraw from the Committee whilst that proposal is discussed so that the Member takes no part in the debate or voting on that particular item. This does not mean that the Members of the Planning Committee cannot make a comment or reflect local concerns about a proposal before it is considered by the Planning Committee, but the view or comment must not pre-determine, or be seen to pre-determine, the way that Member will consider and weigh in the balance all the issues or their vote.
- 3.3.4 Some Councillors will be Members of Parish/Town Councils as well as Borough Councillors. This situation can present problems where a Parish Council is to express a view as to whether it wishes to support, object or comment on a proposal, for example where the Parish/Town Council are consulted on planning applications. Whilst the comments of Parish Councils should concentrate on local issues this is often the stage when Borough Councillors can come under pressure to indicate their support or objection to a particular proposal. Of particular concern is the potential for a conflict of interest arising when a Member of both Councils votes on an application at a Parish/Town meeting prior to the Borough Council's Planning Committee meeting. It is quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information is made available in the Officer's report to the Borough Council. In order to avoid this potential conflict, and creating the impression that they have already made up their minds prior to the Borough Council's Planning Committee meeting, it would be preferable for Borough Councillors not to take part in the consideration of proposals at the Parish Council level (other than to listen to any debate) and not serve on Parish/Town Council Planning Committees/Sub-Committees. If a Planning Committee Member is also a Parish/Town Council Member and does decide to declare support or opposition or make comments at the Parish/Town Council then Paragraph 3.3.3 above shall apply.
- 3.3.5 The provisions of Paragraphs 3.3.4 above apply similarly in relation to Membership of another local authority. For example, if a planning application to be determined by the County Council comes before the Borough Council's Planning Committee for a consultation response, it may be preferable for any Borough Councillor who is also a Member of the County Council not to take part in the considerations of the application at the Borough Council level should they wish to take part in the determination of the application at the County Council level.
- 3.3.6 Where a Borough Council Member is also a Member of a Parish/Town Council or County Council and a proposal in respect of land within the Parish or the area for which the Borough Councillor is also a County Councillor is to be considered at Planning Committee or Council, the Borough Councillor should declare this at the meeting with reference to the relevant Agenda item(s) and also their position as to whether or not they have been, or will be, involved in any previous or subsequent consideration of the proposal at the Parish/Town or County Council level.

- 3.3.7 Councillors should not organise support for or against a planning proposal should they wish to take part in the debate or voting on the proposal since this would also signal that they had made up their mind before hearing the evidence. Nor should they lobby other Councillors (see Paragraph 4.1 below). Each Councillor should make up his or her own mind on the evidence and facts presented to the relevant Committee or to the Council.
- 3.3.8 Councillors must not favour or show bias for or against any particular person, company or group, or any particular site or locality. They should not put themselves in a position where they may appear to do so.
- 3.3.9 Given that the point at which a decision is made cannot occur before the Committee meeting, when all information is to hand and has been duly considered, it is inappropriate for any pre-Planning Committee political group meeting to be held. The use of the party whip is incompatible with the role of the Planning Committee. Less formal arrangements or understandings could also amount to maladministration. Group meetings which involve discussion of planning applications or Development Plan proposals should always commence by reference to the non-political nature of planning decision-making and with a reminder of the need for Councillors to make their decision at the Committee meeting and not previously.

#### **3.4 Pre-Application Discussions/Informal Site Meetings**

- 3.4.1 Most pre-application discussions take place between Officers and potential applicants. Officers of the Council will make it clear at the outset and at the end of such discussions that the advice given is personal and provisional and will not bind the Council to making a particular decision.
- 3.4.2 The advice offered should be consistent and based upon the Development Plan and other material considerations. Senior Officers will ensure that there is no significant difference of interpretation of planning policies between Planning Officers. Officers taking part in such discussions will make it clear whether or not they are the decision maker. A written record will be made of all meetings.
- 3.4.3 Councillors should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should ask prospective applicants to contact the appropriate Officer to advise on both merits and procedures. If Councillors do give an indication of their initial reaction to a proposal (e.g. this appears to accord with planning policy) they should make it clear that they will only be in a position to take a final view after considering the Officer's reports and representations and hearing any debate at the Committee meeting.
- 3.4.4 Formal meetings (i.e. those meetings which are more than merely the receiving and absorbing of information) of Councillors with applicants, developers and their agents should be undertaken in the presence of at least one Officer and a written record should be made of that meeting.

- 3.4.5 Informal site meetings with applicants/agents may be misinterpreted by the public, an applicant, or agent and a Councillor discussing issues on site and perceived to be more than merely the receiving and absorbing of information. Clearly, Councillors need to be able to respond to their constituents and on occasion a visit to a site for a proposed extension (for example) to hear concerns from constituents may be justified. A note should be taken and care exercised to ensure the applicant, objector and supporters are treated equally.
- 3.4.6 The fact that Councillors have discussed any such proposal with the applicant or supporters/objectors must be made clear when the application is before the Committee for determination. Copies of notes (or emails) should be forwarded to the Case Officer to be placed on file.

### **3.5 Chair and Vice-Chair's Management Briefing**

The Chair and Vice-Chair of the Planning Committee will, once the Agenda for the meeting has been produced, receive a pre-Committee briefing on matters pertaining to the management of the business of the Committee. The sole purpose for the Chair and Vice-Chair's Briefing is to enable the efficient management of the business of the Committee.

### **3.6 The Committee's Decisions**

- 3.6.1 In accordance with the law, where the Development Plan is relevant, decisions must be taken in accordance with it unless material considerations indicate otherwise.
- 3.6.2 It is inevitable from time to time that decisions will be made which are contrary to the Officer recommendation. However, it is important that on these occasions the Planning Committee makes clear the reasons for making such a decision at the time. Where a Member is minded to move a resolution which is contrary to Officer recommendation (whether for approval or refusal), clear and convincing reasons based on land use grounds should be given, and in the case of an approval, an indication of the acceptable conditions. The personal circumstances of an applicant will rarely provide convincing grounds to justify development which is contrary to the Development Plan. Officers should be given the opportunity to explain the implications of any proposed resolution that is contrary to Officer recommendation.
- 3.6.3 If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal) the Minutes of the meeting shall contain details of the Planning Committee's reasons and any Officer explanation of the implications.

### **3.7 Regular Review of Decisions**

A review of decision-making will take place each year through consideration of an annual report to the Planning Committee. This report will include a statistical analysis of all decisions taken (specifying the Officer recommendation) during the previous year and will report the outcome of any related appeal decisions. The analysis will also identify the number of cases where Officer's recommendations were not accepted. The annual report will be considered by the Planning Committee along with any recommendations to improve quality, consistency or performance.

### **3.8 Access to Information**

- 3.8.1 Section 2 of Part 4 (Rules of Procedure) of the Council's Constitution sets out the Rules for Access to Information considered by the Council or by any of its Committees. The Freedom of Information Act 2000 entitles any person to request in writing information held by the Council although there are some exemptions which mean that the information will not be disclosed. The Council has a procedure for dealing with requests under the Freedom of Information Act.
- 3.8.2 Section 3 of Part 5 (Codes and Protocols) of the Council's Constitution is a Protocol for Member/Officer Relations which makes clear the restrictions which apply to the supply of information to Members of the Council. Councillors do not have a "roving commission" to access all information held by the Council and would not be permitted to inspect information which is not available to members of the public unless there is a genuine need for that Member to have that particular information, for example, if it is a matter being considered by a Committee on which that Member serves.
- 3.8.3 Confidential/exempt information held on the files relating to complaints of, or investigations into, breaches of planning control (enforcement) would only be disclosed to a Member in the event that the Member has a need to know that confidential information. Similarly, it would only be disclosed to a member of the public if it did not qualify as an exemption under the Freedom of Information Act 2000.

### **3.9 Decision-Making**

Part 3 of the Council's Constitution sets out the responsibility for functions. The Council has delegated a substantial amount of its decision-making to Committees. The Council and/or its Committees have also delegated responsibility for certain decisions and functions to Officers. The Council has not delegated policy making to any Committee or Officer. The Development Plan, for example, will be a matter which requires approval by the Council. In respect of Development Management, there is a Scheme of Delegation to Officers (Part 3 of the Constitution) which enables Planning Officers to determine planning and other applications for consents or permissions and also enables Officers to make decisions on when to take enforcement action in respect of breaches of planning control.

## **4. THIRD PARTY RELATIONSHIPS**

### **4.1 Lobbying of Councillors and Circulation of Unofficial Information**

- 4.1.1 Lobbying is an attempt to influence a Councillor's view in order to achieve a particular decision. It is a normal part of the political process but where Councillors are making statutory decisions, such as planning decisions, it can result in decisions being made improperly, or being perceived to be made improperly with undue influence from applicants' agents or those making representations resulting in inconsistent or erratic decision-making.

- 4.1.2 Planning decisions must be made strictly on the basis of the facts, policies and material circumstances relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular, Members must not prejudge proposals before they have read the Officer's reports and considered all the evidence at the Committee meeting.
- 4.1.3 Lobbying can take many forms, including the most common:
- (a) Lobbying of Councillors by applicants, agents, objectors or supporters.
  - (b) Lobbying by other Councillors.
- 4.1.4 Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. On occasions applications/agents/owners may wish to meet Councillors at the site.
- 4.1.5 Where a Councillor is asked for support by an applicant or agent, supporter or objector in respect of a planning application or related matter then the Member must state that he/she will not indicate support or otherwise until they are in possession of all the facts have had heard the Committee debate. Such contact (lobbying) must be declared at the Committee meeting.
- 4.1.6 Councillors on the Planning Committee who receive correspondence from people seeking to persuade them to vote in a particular way should, where that correspondence is not referred to in either the Officers' report to Committee, or on the Additional Representations Sheet circulated at Committee, copy it to the Technical Planning Manager and the Case Officer for the application.
- 4.1.7 Councillors who receive correspondence from people seeking to persuade them to vote in a particular way in respect of a Development Plan matter should, where that correspondence is not referred to in the Officers' report to Council, copy it to the Planning Policy Manager.
- 4.1.8 Developers often arrange presentations in respect of their development proposals and, provided these are within a public forum (for example at a Parish Council meeting), Members of the Planning Committee may attend and listen to such presentations and ask questions for the purposes of clarifying their understanding of the proposals. However, it is important to be aware that a presentation is a form of lobbying and bear in mind the need to avoid pre-determination. Any attendance at developer presentations must be declared at the Planning Committee meeting.

## **4.2 Gifts and Hospitality; Impartiality and Respect**

- 4.2.1 The Council has adopted a Protocol for Councillors on Gifts and Hospitality, which specifies the circumstances in which Gifts and Hospitality may be received and the procedures to be followed. That Protocol should be read in conjunction with this document.

- 4.2.2 Officers must always act impartially and declare any outside interests or affiliation they may have in the questionnaire provided each year for this purpose.
- 4.2.3 If Officers have a personal interest (which would include, as well as matters relating to their own financial interests, any matters which might reasonably be regarded as affecting the wellbeing or financial interest of themselves, a relative or a friend) or a suspicion that they may be perceived to have a personal interest, which may affect or be perceived to affect their objective, impartial professional advice, they should declare an interest and have no dealings with the application. If the matter is considered at Planning Committee the Officer's declaration shall be made at the Committee meeting.
- 4.2.4 Members and Officers should treat each other with respect at all times and not do anything which is likely to compromise the impartiality of those involved in the process or to create a perception that decisions are not well-founded.
- 4.2.5 Members of the Planning Committee need to avoid members of the public, applicants and other Councillors seeking to communicate with them individually (whether orally or in writing) during the Planning Committee's proceedings. This could be seen as seeking to influence a Councillor improperly and will create a perception of bias that may be difficult to overcome.

## **5. DEVELOPMENT PLANS AND PLANNING OBLIGATIONS**

### **5.1 Development Plans**

- 5.1.1 The preparation of Development Plans (including Neighbourhood Plans) through the prescribed process provides for statutory consultation and ultimately for representations to be considered on Examination by an independent Inspector.
- 5.1.2 In respect of Neighbourhood Plans, the bodies that lead and initiate proposals are Parish/Town Councils or (where there is not Parish/Town Council) neighbourhood forums. However, as well as being a statutory consultee in the neighbourhood planning process, the Council also has a direct role to play in providing advice and assistance, undertaking certain procedural steps and taking decisions on the plan throughout the process. This includes: the designation of neighbourhood areas, assessing whether legal requirements have been met, organising Referendum(s) and bringing the Neighbourhood Plan into legal effect.
- 5.1.3 It is vital that the same guidelines on probity are observed throughout the Development Plan process. Interests must be declared in accordance with the Council's Code of Conduct and Members must not seek to influence colleague Councillors on matters in which they are excluded from participating or voting under the Code of Conduct or due to issues of pre-determination. The Council must ensure that the land use allocation process is based on open analysis and appraisal of sites on planning grounds and that full consultation in accord with the statutory requirements is carried out.

- 5.1.4 The plan-making process is similar to the Development Management decision-making process in that it should be non-political. The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, particularly in the Local Development Framework process of allocation of housing and employment sites, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.

## **5.2 Planning Obligations**

- 5.2.1 Under government policy set out in the National Planning Policy Framework and planning legislation, a planning obligation should only be sought and may only constitute a reason for granting planning permission if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.
- 5.2.2 The Planning Obligations Officer Working Group will meet to consider the appropriate obligations to impose on all major planning applications for residential development (i.e. those applications for 10 or more dwellings). The Terms of Reference of the Planning Obligations Officer Working Group are attached at Appendix A.
- 5.2.3 In every case the heads of terms of a legal agreement are identified in the Officers' report to Planning Committee. Copies of completed agreements are made available for inspection in the Public Register at the Council Offices.
- 5.2.4 At all times Councillors should convey their observations/comments on legal agreement issues to the responsible Officers and not negotiate local requirements directly with developers unless accompanied by an Officer or in a formal meeting convened by the Borough Council. This does not mean that Councillors cannot comment on or reflect/communicate the needs of a community, which should be taken into account, and Councillors can become involved as set out in Paragraph 5.2.5 below. If Councillors do become involved in discussion with developers or individuals through their Local Member or Parish/Town Council role, a declaration to that effect should be made at any Committee meeting and a written statement submitted to the Technical Planning Manager and the Case Officer for the application, summarising the exchange of views/information. A copy of the statement will be placed on the application file relating to that proposal.



- 5.2.5 Though Councillors should not normally become drawn into negotiations themselves, with instead negotiations undertaken by Officers, Officers should keep relevant Ward Councillors up to date and Councillors should relay matters of local concern in respect of any planning obligation provisions to Officers. Involving Councillors can help identify issues early on, helps Councillors lead on community issues and helps make sure that issues do not come to light for the first time at Planning Committee.

## **6. PLANNING COMMITTEE SITE VISITS**

### **6.1 Purpose of Planning Committee Site Visits**

- 6.1.1 Given the size and geography of the Borough it is not possible to carry out site visits for all applications considered by the Planning Committee.
- 6.1.2 To ensure that Committee applications are dealt with as effectively and quickly as possible, site visits will be held prior to Committee for all outline and full applications for large scale major residential development (i.e. those of 200 dwellings or more). This does not include reserved matters applications.
- 6.1.3 Councillors will also be able to request Planning Committee site visits during the application process, whilst the Planning Committee may also choose to defer applications for a site visit (see Paragraph 6.2.3).
- 6.1.4 The purpose of a Planning Committee site visit is solely to enable Councillors to assess a proposal and its effect on site. The visit, along with the Officer report, will allow Councillors to formulate a view, having regard to all relevant planning matters and representations which have been received.
- 6.1.5 There are a number of reasons why Councillors may request a Committee site visit, including:
- (a) To judge whether the visual impact of the proposed development is acceptable.
  - (b) To consider impact on residential amenity.
  - (c) To consider design considerations including impact on the street scene or public space.
  - (d) To assess highway safety/traffic impact.
  - (e) To assess the impact on areas of landscape designation including the Cotswolds Area of Outstanding Natural Beauty.
  - (f) To assess the impact on the openness of the Green Belt.

## **6.2 Requests for Planning Committee Site Visits**

- 6.2.1 Planning Committee site visits will normally take place on the Friday before the Planning Committee meeting. Any Councillor may request a site visit by the Planning Committee in the same way that requests for Committee determination are made. All requests must be justified with sound planning reasons.
- 6.2.2 Requests must be made as soon as possible following validation of an application. Requests must be made in writing to the Technical Planning Manager who will determine whether or not a site visit is appropriate in each individual case. If it is determined that a site visit is not necessary, the Technical Planning Manager will provide a written response to the Councillor who made the request to explain the reasons why this is the case.
- 6.2.3 The itinerary for site visits will be circulated as soon as possible following finalisation of the Agenda for the next Planning Committee. There will be occasions where a site visit has not been agreed in advance of the Committee meeting yet the Committee decide that a site visit is necessary. In such circumstances, the Committee is able to defer an application for a site visit which will be added to the itinerary for site visits taking place in advance of the next Planning Committee meeting. There must be sound planning reasons to defer an application for a site visit. Such reasons must be clearly set out by the proposer and recorded in the Minutes.

## **6.3 Procedure for Planning Committee Site Visits**

- 6.3.1 In order to ensure that all Planning Committee Site Visits relating to planning matters are dealt with consistently and fairly, site visits will be carried out in accordance with the procedure set out at **Appendix C** of this Protocol.

### Attendance

- 6.3.2 All Members of the Planning Committee will be invited to attend Committee Site Visits along with Ward Members (and, where appropriate, adjacent Ward Members). All site visits will be attended by a Planning Officer and, where appropriate, representatives of specialist consultees (for example, the County Highways Authority or Environment Agency) where they have been expressly invited by the Planning Committee or the Technical Planning Manager.

## **7. MEMBER TRAINING**

### **7.1 Induction Training**

No Councillor shall serve on the Planning Committee unless he/she has attended initial induction training sessions.

## **7.2 Updates and Continuous Member Development Programme**

- 7.2.1 Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices verbally at meetings, or in briefing notes (for example, the Member Update Sheet) and be required to participate in the continuous Member Development Programme agreed by the Planning Committee and requiring that each Member of the Planning Committee must attend as an absolute minimum 50% of the training events held in any year.
- 7.2.2 Group Leaders will be asked to encourage Planning Committee Members to participate in the continuous Member Development Programme and will review their nomination for the Planning Committee at the Annual Council meeting if an acceptable level of attendance is not achieved.
- 7.2.3 The continuous Member Development Programme training will be offered to all Members of the Council and all are strongly recommended to attend, whether or not at the time of the training they are a Member of the Planning Committee.

## PLANNING OBLIGATIONS OFFICER WORKING GROUP

### Introduction

Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) provides for the making of legal obligations in connection with the grant of planning permission, the purpose of which is to address specific issues arising out of development proposals. Legal obligations signed in accordance with Section 106 require certain actions to be undertaken, or payments to be made, to enable development proposals to be deemed acceptable and properly assimilated into their surroundings. All planning obligations must meet the test of the Community Infrastructure Levy (CIL) regulations.

To ensure that policy in respect of planning obligations is being correctly applied, and to support the identification of Section 106 requirements arising from developments, the Council has formed a Planning Obligations Officer Working Group.

### Terms of Reference

1. To provide a mechanism for the formulation of Section 106 obligations from inception to completion and to monitor the implementation of Section 106 obligations.
2. To enable a corporate approach to the assessment of the infrastructure and housing needs arising from new developments.
3. To provide a structured process and an evidence based approach, involving community engagement where required, to identify Section 106 funding and requirements that reflect the needs and aspirations of the community.
4. To provide a recommendation to the Chief Officer Group on the draft heads of terms for major applications of strategic importance.
5. To support Planning Case Officers in their management of the negotiating process.
6. To provide a single point of access to data on all Section 106 activities including detailed information on financial contributions made by developers and the receipt of such by the Council.
7. To provide a means for monitoring the application of Section 106 policy across the Council.
8. To monitor and produce regular monitoring reports to the Chief Officer Group the progress on implementation of legal obligations.

### Meetings

Meetings will be held on a monthly basis with meetings set at least three months in advance.

Extraordinary meetings may be necessary to deal with large-scale major applications.

## **Membership**

The Working Group comprises:

Representatives from Development Management, Planning Policy, Housing Strategy, Community (public open space and community facilities), Finance, Waste, and One Legal.

Where appropriate, colleagues from the County Council (highways and education/libraries), Environment Agency and the Primary Care Trust (or successor organisation) will also be invited.

## **The Role of the Chief Officer Group (COG)**

A report shall be prepared every six months advising of major cases which are likely to be reported to COG over the next six months.

COG will identify which cases they would like to review and comment on whether the proposed obligations in each case are considered appropriate in line with corporate objectives.

### SUMMARY GUIDE OF DO'S AND DON'TS

This must be read in conjunction with, and in the context of, the Council's Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process

#### DO

Do always ensure that any discussions with developers are structured and involve Officers.

Do inform Officers about any approaches made to you and seek advice.

Do familiarise yourself with the Council's Code of Conduct and follow it when you are representing the Council.

Do keep your Register of Interests up to date.

Do follow the Council's Protocol for Councillors and Officers involved in the Planning Process.

Do be aware of what predisposition, predetermination and bias mean in your role – ask your Monitoring Officer if unsure.

Do be prepared to hold discussions with an applicant and your Officers before a planning application is made, not just after it has been submitted to your authority.

Do preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding.

Do be aware of what disclosable pecuniary interests and other interests under the Council's Code of Conduct are – refer to your Monitoring Officer if you are unsure.

#### DON'T

Do not use your position improperly for personal gain or to advantage your friends or close associates.

Do not meet developers alone or put yourself in a position where you appear to favour a person, company or group –even a “friendly” private discussion with a developer could cause others to mistrust your impartiality.

Do not attend meetings or be involved in decision-making where you have a disclosable pecuniary interest or another interest which is one whereby you are excluded from participating or voting under the Council's Code of Conduct – except where you have been granted a dispensation or speaking when the general public are also allowed to do so.

Do not accept gifts or hospitality.

Do not prejudge or be seen to prejudge an issue if you want to be a decision-maker on a proposal.

Do not seek to influence Officers or put pressure on them to support a particular course of action in relation to a planning application.

Do not compromise the impartiality of people who work for the Council.

Do recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role.

Do stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning.

Do encourage positive outcomes.

Do ask for training from your Council in probity matters.

Do recognise that you can lobby and campaign but that this may remove you from the decision-making process.

Do feed in both your own and your local community's concerns and issues.

Do be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making.

## PROCEDURE FOR PLANNING COMMITTEE SITE VISITS

### 1.0 Introduction

- 1.1 This procedure relates to the carrying out of site visits by the Tewkesbury Borough Council Planning Committee in connection with the determination of planning and related applications.
- 1.2 The purpose of site visits is solely to enable Councillors to assess a proposal and its effect on site. There will be no debate about the merits of the application during the site visit.
- 1.3 Site visits subject to this protocol will be agreed in accordance with the procedure set out in Paragraph 6.2 of the Council's 'Protocol for Councillors and Officers Involved in the Planning Process'.

### 2.0 Who may attend a site visit?

- 2.1 All Members of the Planning Committee will be invited to the site visits which will normally take place on the Friday before Planning Committee meetings. Ward Members and, where appropriate, Members of adjoining Wards will also be invited.
- 2.2 Relevant external consultees (for example, representatives of the County Highway Authority or Environment Agency) will also be invited where the Technical Planning Manager considers it would be useful for the Committee, or where their attendance has been expressly requested by the Planning Committee/Chair.
- 2.3 The applicant and/or their agent, Parish/Town Council representative, supporters of or objectors to the proposal, or general onlookers will not be allowed to participate in the site visit.

### 3.0 How will a site visit be carried out?

- 3.1 Planning Committee site visits shall be chaired by the Chair of Planning Committee, or in his absence by the Vice-Chair. In the event that neither the Chair nor Vice-Chair is available, a Chair will be elected on the day from the Planning Committee Members in attendance.
- 3.2 Site visits will be conducted in accordance with the following:
  - (a) Site visits shall be conducted in a formal manner.
  - (b) The Chair will open proceedings and ask for any declarations of interest. The Chair will explain the purpose of the visit and how the visit will proceed.
  - (c) The Planning Officer will introduce the application, explaining the proposal and advising those present of any issues relevant to the site visit.
  - (d) The Chair will seek any points of clarification.
  - (e) Local Ward Members (see 2.1) will be asked to highlight any local issues relevant to the site visit.



- (f) Following the site visit, the Chair will invite any further points of clarification arising from the site visit. Councillors will be able to highlight any information which they feel is necessary for the Planning Committee meeting.
- (g) The Chair will close the visit.

#### **4.0 General matters**

- 4.1 No formal notes of the site visit will be made. Members will debate any findings arising from the site visit at the Committee meeting.
- 4.2 No hospitality will be accepted.

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# **TEWKESBURY BOROUGH COUNCIL**

## **The Licensing System, Protocol and Procedures**

**Adopted by Council on 28 January 2014**

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## **I INTRODUCTION**

### **i. The Licensing System**

Tewkesbury Borough Council's Licensing Committee operates in a quasi-judicial way in determining licensing applications. Those applications which are not subject to objection are determined under powers delegated to the appropriate officer in accordance with the Council's Scheme of Delegation.

### **ii. The Licensing Committee**

The Licensing Committee shall consist of at least 10 Members but no more than 15 Members. Sub-Committees shall each consist of three Members and be formed by the Members of the Licensing Committee.

The Committee (through either the Committee or Sub-Committees) deals with most of the Council's statutory licensing and registration responsibilities including: licensable activities under the Licensing Act 2003 (alcohol, regulated entertainment and late night refreshment); hackney carriages and private hire, street trading, body piercing, animals and boarding establishments, food premises, residential caravan sites, riding establishments, cinemas and theatres, hairdressers, pleasure boats, radio-active materials, scrap metal dealers and all other matters requiring a licence, consent, authorisation, permit or registration which are not either specified above or delegated to an officer or another Committee of the Council.

The decisions that the Committee/Sub-Committee makes can be significant. The Committee/Sub-Committee operates for the most part, under its extensive delegated powers and it, rather than any other Committees or Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near and on the lives of applicants.

Some licensing legislation specifies procedures to be followed but, in all cases, human rights and natural justice considerations dictate that the Committee/Sub-Committee adheres to the following principles in that decisions must:

1. Be made on the individual merits of a case.
2. Have regard to all relevant national and local guidance.
3. Be made impartially and in good faith.
4. Be made by the body that receives all the relevant information and evidence.
5. Relate to the issue or question placed before the Committee/Sub-Committee.
6. Be based only on consideration of relevant and material matters.
7. Be rational and reasoned.
8. Be made in a way that does not give rise to public suspicion or mistrust.

The purpose of this local Code of Practice is to set out in detail how Members should act and the procedures which should be followed to ensure that Members not only act in a fair and proper manner but are also seen to do so.

This Code has been prepared with a particular emphasis on Members who serve on the Council's Licensing Committee/Sub-Committee, but its content is also relevant to all other Councillors and also to officers in all other services.

The Borough Council, along with all other local authorities, adopted a Code of Conduct which specifies the obligations imposed on Members and defines personal and prejudicial interests and how these will affect the way a Member behaves. This Code of Conduct, which every Member has signed up to, is the statutory base to which this Code of Practice is added. In some areas this Code of Practice will extend or go further than the Code of Conduct.

### **iii. The Role of Officers**

The Licensing Officer's role is to outline the application and any relevant representations that are received in respect of an application. The Licensing Officer may also provide advice and assistance on any policy and statutory guidance.

The Legal Advisor's role is to provide advice to the Licensing Committee/Sub-Committee on questions of law, practice and procedure, policy and statutory guidance and any other issues relevant to the matter before the Licensing Committee/Sub-Committee.

The Legal Advisor may also assist the Licensing Committee/Sub-Committee, where appropriate, as to the formulating of reasons and the recording of those reasons. The Legal Advisor will not play any part in the findings of fact or the making of a decision.

The Member Services Officer role is to provide help and assistance with facilitating the meeting and to take the minutes of the meeting and to summarise and record decisions.

## **II LICENSING PROTOCOL AND PROCEDURE**

### **A. THE DECISION-MAKING FRAMEWORK**

#### **A1. Registration and Declarations of Interest**

A1.1. The Local Government Act 2000 and the Council's Code of Conduct place requirements on Members on the registration and declaration of their interests and the consequences for the Member's participation in consideration of an issue, in the light of those interests. Guidance on the registration and declaration of interests may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.

A1.2. A register of Members' interests is maintained by the Council's Monitoring Officer, which is available for public inspection. A Member must provide the Monitoring Officer with written details of relevant interests within 28 days of his/her election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.

#### Disclosable Pecuniary Interests

A1.3 A Licensing Committee Member who has a disclosable pecuniary interest (as defined in Appendix A), that arises at a meeting at which they are present, or where they become aware that they have such an interest in any matter to be considered or being considered at the meeting they should leave the meeting and do not vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted).

A1.4 A Licensing Committee Member who has a disclosable pecuniary interest in a matter shall not agree to be called to sit on a Sub-Committee that is called to hear a matter.

## Other Interests

- A.1.5 A Licensing Committee Member who has either an ‘other’ interest as specified in Appendix B or is involved (or the knowledge of the interest arises at a meeting at which the Member is present, or where the Member becomes aware they have such an interest in any matter to be considered or being considered at the meeting) in a matter where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of other Council taxpayers, ratepayers or inhabitants of the Ward affected by the decision, the Member’s wellbeing or financial position or the wellbeing or financial position of a member of their family, or any person with whom they have a close association, or who has a contractual relationship (including employment) with the Member, member of their family or close associate, the Member should:
- (i) disclose the interest to the meeting.
  - (ii) leave the meeting and not vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted or it is an excepted function), if:
    - (a) it affects the Member’s financial position, or the financial position of an interest specified in Appendix B (other interests) or the member of the Member’s family or person with whom the Member has a close association described above or who has a contractual relationship as described above; or
    - (b) it relates to the determination of any approval, consent, licence, permission or registration in relation to you or any person or body described above

and a reasonable member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest.

- A1.6 A Licensing Committee Member who has an ‘other’ interest (as defined in Appendix B) in a matter shall not agree to sit on a Sub-Committee that is called to hear a matter.

## **A2. Confidentiality**

- A2.1 It will be unusual for licensing applications or other matters to be treated as confidential items discussed and determined after the exclusion of the press and public, but it may occur. The grounds why this may occur are set down in the Local Government Act 1972 and the Council’s Constitution and are most likely to be in relation to the conduct of legal proceedings, or disclosure of personal details. Members are expected to treat the information as confidential and are referred to the Code of Conduct which indicates that a breach of this confidentiality may be a breach of the Code of Conduct.

## **A3. Licensing Proposals submitted by Councillors and Officers; and Council**

- A3.1 Proposals to their own authority by serving and former Councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. So, indeed, can proposals for Council-owned premises.
- A3.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- A3.3 Councillors of the Licensing Committee/Sub-Committee should not act as agents or submit licensing applications for other parties. To do so would give rise to suspicion that the Member was not impartial or may influence other Councillors in the decision-making process.

- A3.4 A Councillor or officer who either submits a licensing application or development proposal on their own behalf or acts as an agent for a person/body who submits a licensing application must, whether that Councillor or officer's involvement is apparent from the application documentation or not, notify the Director: Communities and the Council's Monitoring Officer of the submission of the application or proposal. That notification must be in writing and must be sent at the same time as the submission of the application or proposal.
- A3.5 Applications made in respect of Council-owned premises must be dealt with on exactly the same basis as applications submitted by members of the public.

#### **A4. Members Making Representations on Applications**

- A4.1 Members who sit on a Licensing Committee/Sub-Committee must consider and determine an application in the interests of the Borough as a whole with regard to the relevant legislation, statutory guidance and any policy statements.
- A4.2 Councillors can however make representations in respect of applications. Councillors are "interested parties" under the Licensing Act 2003 and can make representations in their own right in response to a premises licence and club premises certificate applications in the area of the authority for which they are also Members. Councillors can also make representations under the Gambling Act 2005 if they live sufficiently close to the premises to be likely to be affected by the authorised activities. As an interested party a Councillor is also entitled to request a review of a premises licence.
- A4.3 Councillors can also represent another interested party (or parties) who has made a representation. In this case a Councillor does not need to have made a representation in their own right but they do need to ensure they can demonstrate that they have been asked to represent the interested party or parties in question.
- A4.4 Where a Councillor wishes to make a representation, they must do so in accordance with the guidance that applies to all interested parties i.e. the representation must be submitted within the statutory time frame and be a relevant representation.
- A4.5 If a Councillor submits a representation in their own right or is asked to act as a representative for other interested parties, and they are a Member of the Licensing Committee/Sub-Committee, the Councillor must not sit on the Committee; partake in any debate regarding the application or any decision regarding the application.

#### **A5. Voting and Impartiality**

- A5.1 Licensing Committee/Sub-Committee Members must vote in the interests of the Borough as a whole and must not vote on the basis of local Ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the Members and wider policies and guidance. The overriding duty of a Committee/Sub-Committee Member is to the whole community, rather than just the people living in their Ward.
- A5.2 Members of the Licensing Committee/Sub-Committee must not declare which way they intend to vote in advance of the consideration of an application by the Licensing Committee/Sub-Committee. To do so would, in effect, be pre-judging the application and expose the Council to the possibility of legal challenge or allegation of maladministration. Members must not make their minds up until they have read the relevant Committee/Sub-Committee reports and heard the evidence and arguments on both sides at the Committee/Sub-Committee meeting.



- A5.3 If a Member of the Licensing Committee/Sub-Committee does declare his/her support or opposition for a proposal before the matter has been put before the Committee/Sub-Committee, where that Member would be entitled to vote, he/she must make a declaration of their view to the Licensing Committee/Sub-Committee, and should withdraw from the Committee/Sub-Committee whilst that proposal is discussed so that the Member takes no part in the debate or voting on that particular item. This does not mean that the Members of the Licensing Committee/Sub-Committee cannot make a comment or reflect local concerns about a proposal before it is considered by the Licensing Committee/Sub-Committee, but the view or comment must not pre-determine or be seen to pre-determine the way that Member will consider and weigh in the balance all the issues or will exercise their vote.
- A5.4 Licensing Committee/Sub-Committee Members who are also Members of another relevant or public authority or a body to which they have been appointed or nominated by the Council as its representative must exercise particular care in reconciling their two roles in cases where that authority or body makes a representation either in support of or in opposition to a licensing application.
- A5.5 Members are under a legal obligation to approach decision-making with an open mind, prepared to listen to all sides of the argument. Dual-hatted Members who choose to vote in both capacities must make it very clear that their vote at the other authority or body represents a preliminary view and that they will reconsider the matter afresh at principal level. Where the application is one which is made under the Licensing Act 2003 and considered by a Sub-Committee, Members who have participated in a decision by another authority or body as described above, shall not agree to be called to sit on a Sub-Committee convened to discuss the application in which they have previously participated.
- A5.6 Councillors should not organise support for or against a licensing proposal and should not lobby other Councillors since this would also signal that they had made up their mind before hearing the evidence. Each Councillor should make up his or her own mind on the evidence and facts presented to the Committee/Sub-Committee.
- A5.7 Councillors must not favour or show bias for or against any particular person, company or group, or any particular site or locality. They should not put themselves in a position where they may appear to do so.
- A5.8 Given that the point at which a decision is made cannot occur before the Committee/Sub-Committee meeting, when all information is to hand and has been duly considered, any political group meeting beforehand must not be used to decide how Councillors should vote. The use of the party whip is incompatible with the role of the Licensing Committee/Sub-Committee and shall not be used. Less formal arrangements or understandings could also amount to maladministration. Group meetings which involve discussion of licensing applications should always commence by reference to the non-political nature of licensing decision-making and with a reminder of the need for Councillors to make their decision at the Committee/Sub-Committee meeting and not previously.

## **A6. Pre-Application Discussions/Informal Site Meetings**

- A6.1 Councillors should not seek to advise applicants or agents about the likely acceptability of licensing proposals. They should advise prospective applicants to contact the appropriate Officer to advise on both merits and procedures. If Councillors do give an indication of their initial reaction to a proposal (e.g. this appears to accord with licensing policy) they should make it clear that they will only be in a position to take a final view after having considered the officer's reports, representations and heard any debate at the Licensing Committee/Sub-Committee meeting.

- A6.2 Formal meetings of Councillors with any parties involved with a licensing application should be undertaken in the presence of at least one officer and a written note should be made of that meeting.
- A6.3 Informal meetings with any of the parties may be misinterpreted by the public or any other party. A Councillor discussing issues on site or otherwise may be perceived to be more than merely receiving and absorbing information. Clearly, Councillors need to be able to respond to their constituents and on occasions visit a site/meet with a party in respect of a licensing application to hear concerns from constituents. A note should be taken by the Councillor and care should be exercised to ensure that all parties are treated equally.
- A6.4 The fact that Councillors have discussed any licensing proposal with any party must be made clear when the application is before the Committee/Sub-Committee for determination. Copies of notes (or emails) should be forwarded to the appropriate Officer to be placed on file.

#### **A7. Pre-Committee/Sub-Committee Briefing of Members**

- A7.1 The Chair and Vice-Chair of the Licensing Committee will, once the Agenda for the meeting has been produced, receive a pre-Committee briefing on matters pertaining to the management of the business of the Committee. The pre-briefing will be given by the Licensing Officer. The Legal Advisor to the Committee will also attend. Each Political Group is entitled to be represented at the Chair's briefing meeting, by a nominated "Group Spokesperson", to observe the briefing meeting and to enable items of information which are imparted at the briefing to be passed on to his/her Political Group. The sole purpose for the Chair's briefing meeting is to enable the efficient management of the business of the Committee. The merits and/or de-merits of any licensing application must not be debated at the briefings and Councillors must not express a view at that briefing as to how they intend to vote on any application.
- A7.2 For meetings of a Licensing Sub-Committee, Members of the Sub-Committee only will receive a briefing. The pre-briefing will be given by the Licensing Officer. The Legal Advisor to the Committee will also attend. The sole purpose for the briefing meeting is to enable the efficient management of the business of the Sub-Committee. The merits and/or de-merits of any licensing application must not be debated at the briefings and Councillors must not express a view at that briefing as to how they intend to vote on any application.

### **B. THIRD PARTY RELATIONSHIPS**

#### **B1 Lobbying of Councillors and Circulation of Unofficial Information**

- B1.1 Lobbying is an attempt to influence a Councillor's view in order to achieve a particular decision. It is a normal part of the political process but where Councillors are making statutory decisions, such as licensing decisions, it can result in decisions being made improperly, or being perceived to be made improperly with undue influence from any parties resulting in inconsistent or erratic decision-making.

B1.2 Members should treat lobbying with care and should ensure that “unofficial” views, promises or documents do not unduly influence them. Members should advise lobbyists to present their views in writing to the licensing Case Officer in order that they can be formally considered in a balanced way at the Licensing Committee/Sub-Committee meeting. Alternatively, Members may choose to pass on the views and or submissions of lobbyists to the Officer but should make clear that they are not giving their own views as this is a matter for formal consideration by the Licensing Committee/Sub-Committee. Licensing decisions must be rational and be made strictly on the basis of the relevant facts, guidance and policies relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular, Members must not prejudge proposals before they have read the Officer’s reports and considered all the evidence.

Lobbying can take two forms:

- Lobbying of Councillors by any party.
- Lobbying by other Councillors.

Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors.

Lobbying can be particularly problematical if Councillors are given information or assurances by applicants that do not form part of their formal application and are, therefore, unenforceable. Problems can also arise if Councillors are given information by objectors which may be misleading, untrue or irrelevant. Officers face particular difficulties if they are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Licensing Committee/Sub-Committee about them. This would cause particular problems if the Committee based a refusal on matters which neither Officers, applicant(s) nor objectors had had an opportunity to consider and comment upon.

Circulation of unofficial papers (this does not include late papers submitted by applicants, consultees or Officers) at a Committee meeting also constitutes a form of lobbying.

## **B2. Member Training**

B2.1 Councillors will be required to attend initial training sessions when first serving on the Licensing Committee (within three months of appointment, and, in any event, prior to serving on any Sub-Committee). Councillors who do not participate in training will be advised that such training is necessary, and Group Leaders will be asked to encourage them to participate and review their nomination for the Committee at the annual Council meeting if an acceptable level of attendance is not achieved.

B2.2 Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices verbally at meetings, or in briefing notes (for example in the Members’ Update Sheet) and be required to participate in the continuing Member Development Programme.

## **B3. Gifts and Hospitality**

B3.1 The Licensing Committee operates in a quasi-judicial way when determining applications. Councillors and Officers involved in the licensing process should avoid receiving gifts and hospitality from any of the parties.

#### **B4. Impartiality and Respect**

- B4.1 Officers must always act impartially and declare any outside interests or affiliation they may have in the questionnaire provided each year for this purpose.
- B4.2 If Officers have a personal interest (which would include matters relating to their own financial interests, and matters which might reasonably be regarded as affecting the wellbeing or financial interest of themselves, a relative or a friend) or a suspicion that they may be perceived to have a personal interest, which may affect or be perceived to affect their objective, impartial, professional advice, they should declare an interest and have no dealings with the application. The interest should be recorded in writing on all files held by the Council relating to the application and a copy should be sent to the Monitoring Officer. If the matter is considered at Licensing Committee/Sub-Committee the Officer's declaration shall be made at the Licensing Committee/Sub-Committee meeting.
- B4.3 Members and Officers should treat each other with respect at all times and not do anything which is likely to compromise the impartiality of those involved in the process or to create a perception that decisions are not well-founded.

#### **C. HEARING PROCEDURES**

##### **C1. Licensing Act 2003/Gambling Act 2005**

- C1.1 The hearing procedure for dealing with applications under the Licensing Act 2003 will be as set out in Appendix C and the Gambling Act 2005 will be as set out in Appendix D.

##### **C2. Other Licensing Applications**

- C2.1 The hearing procedure for dealing with all other licensing applications will be as set out in Appendix E.

## Disclosable Pecuniary Interests

The interests set out below are “Disclosable Pecuniary Interests” in accordance with the Localism Act 2011 and Members must notify the Monitoring Officer in accordance with Paragraphs 8(1)-(3) of the Code of Conduct of any interest which is an interest of **the Member or of any of the following**:

- the Member’s spouse or civil partner;
- a person with whom the Member is living as husband and wife; or
- a person with whom the Member is living as if they were civil partners;

and the Member is aware that that other person has the interest.

| Subject  | Disclosable Pecuniary Interest  |
|--|---|
| 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.<br>This includes any payment or financial benefit from a Trade Union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a). |
| 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 –<br>(a) under which goods or services are to be provided or works are to be executed; and<br>(b) which has not been fully discharged.   |
| Land.  | Any beneficial interest in land which is within the area of the relevant authority.   |
| Licences.  | Any licence (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) –<br>(a) the landlord is the relevant authority; and<br>(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.

(a) "the Act" means the Localism Act 2011;

(b) "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;

(c) "director" includes a member of the Committee of management of an industrial and provident society;

(d) "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;

(e) "M" means a Member of a relevant authority;

(f) "member" includes a co-opted member;

(g) "relevant authority" means the authority of which M is a member;

(h) "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;

(i) "relevant person" means M or any other person referred to in section 30(3)(b) of the Act; and

(j) "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(b) and other securities of any description, other than money deposited with a building society.

## Other Interests

The interests set out below are “other interests” which must be notified to the Monitoring Officer in accordance with Paragraphs 8(1), 8(2) and 8(4) of the Code of Conduct.

A Member must notify the Monitoring Officer of any interest held by **the Member** in any of the categories set out below:

| Subject                                      | Other Interest   |
|--|--|
| Management or Control.                       | Any body of which the Member is in a position of general control or management and to which he/she is appointed or nominated by the Council.   |
| Public/Charitable and Other External Bodies. | Any body –<br>(a) exercising functions of a public nature;<br>(b) directed to charitable purposes; or<br>(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or Trade Union).<br><br>of which the Member of the Council is a member or in a position of general control or management. |
| Employer.                                    | Any person or body who employs, or has appointed, the Member.  |
| Gifts and Hospitality.                       | The name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more.  |

**TEWKESBURY BOROUGH COUNCIL  
LICENSING ACT 2003  
HEARINGS PROCEDURE**

**HEARING TO DETERMINE OBJECTIONS/REPRESENTATIONS**

**PROCEDURE FOR DEALING WITH APPLICATIONS UNDER THE LICENSING ACT 2003**

**1. RIGHT TO DISPENSE WITH HEARING UNDER THE ACT**

- 1.1 The Act specifies various situations when a licensing authority (the Council) must hold a hearing to consider either relevant representations from interested parties or representations from responsible authorities to an application. The Regulations authorise the Council to dispense with holding a hearing if all relevant persons have notified the authority that they consider a hearing unnecessary. If the Council agrees that no hearing is necessary, it must forthwith give notice to all parties that the hearing has been dispensed with.

**2. TIMING OF HEARING UNDER THE ACT**

- 2.1 In relation to applications received under the Act, the Council must arrange for hearings to be held within the periods of time specified in the schedule attached to this procedure (column C).

**3. NOTICE OF HEARING**

- 3.1 The Council shall give due notice (schedule, column D) of any hearing held under the Act to those persons specified in the schedule attached to this procedure (schedule, column E (the party)) together with any documents required (schedule columns F and G).
- 3.2 In all cases the notice of hearing sent to the party will include the following information:
- (a) the date, time and place of the hearing;
  - (b) the right of the party to be represented at the hearing by another person, whether that person is legally qualified or not;
  - (c) the right of the party at the hearing to give further information and call any witness in support of their application, representations or notice (as applicable); to question any other party or witness; and to address the hearing, subject to any maximum time-limit imposed by the Sub-Committee;
  - (d) the consequences if the party fails to attend or is not represented at the hearing;
  - (e) the procedure to be followed at the hearing;
  - (f) any particular points on which the Council considers that it will want clarification from a party at the hearing; and



- (g) any information the Council has received in support of, or opposition to, the application (or a summary thereof, if appropriate).

3.3 In the notice of hearing the party will be asked if he/she has any special needs or requirements at the hearing and will be requested to notify the Council accordingly.

#### **4. RESPONSE TO NOTICE OF HEARING**

4.1 Following receipt of the notice of hearing the party must give to the Council, within the period of time specified in the schedule (column H), a notice stating:

- (a) whether he/she intends to attend or be represented at the hearing;
- (b) whether he/she intends calling any witness at the hearing and, if so, the name of any witness; or
- (c) whether he/she considers a hearing to be unnecessary.

4.2 The party must include with his/her notice a written summary of the representations, which he/she wishes to make to the Sub-Committee together with any documentary or other evidence in support of his/her case. If the hearing proceeds in the party's absence, the Sub-Committee will consider these written representations.

#### **5. POWER TO EXTEND TIME**

5.1 The Council may extend time-limits specified in the Regulations for a specified period where it considers this necessary in the public interest. Notice of any extension must be given to the parties forthwith stating the reasons.

5.2 The Council may adjourn a hearing to a specified date or arrange for it to be held on specified additional dates, where it considers this necessary for its consideration of any representations or notice made by a party. Notice of the date, time and place to which the hearing has been adjourned or specified additional date on which and time and place at which the hearing is to be held, must be given to the parties forthwith.

5.3 In any other case the Sub-Committee may adjourn a hearing where it considers this necessary in the public interest and must do so if it considers this necessary to prevent any breach of natural justice.

#### **6. PUBLIC ACCESS TO HEARINGS**

6.1 The Sub-Committee will hear all matters in public except:

- (a) where it considers the public interest in excluding the public outweighs the public interest in the hearing (or part of it) taking place in public, and/or
- (b) to the extent that the public may be excluded under Section 100A of the Local Government Act 1972, and/or
- (c) that it may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing and may:
  - (i) refuse to permit that person to return; or
  - (ii) permit them to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Council in writing any information which he/she would have been entitled to give orally had they not been required to leave.

## **7. PROCEDURE AT HEARING**

- 7.1 The three Members of the Licensing Sub-Committee will be drawn by the Corporate Director from the 15 Members of the Licensing Committee. The first item of business will be the election of a Chair for the hearing. Upon election, the Chair will remind Members of the Sub-Committee of their obligation to declare any disclosable pecuniary interests or other interests (see Appendix A and B).
- 7.2 The Chair will identify the Licensing Officer, Legal Adviser and the Member Services Officer for the benefit of those attending the hearing. The Chair will explain that the Member Services Officer's role is to record the Minutes of the hearing and the Legal Adviser's role is to provide legal advice to the Sub-Committee.
- 7.3 The Chair will explain the procedure to be followed at the hearing and ensure that all parties understand the proceedings.
- 7.4 Each matter to be dealt with by the Sub-Committee will be called in turn, usually in the order listed on the Sub-Committee Agenda. However, the Chair may change the order at his/her discretion.
- 7.5 As each matter is called, the Chair will ask the parties in the case to identify themselves and consider any requests made by them to be assisted or represented by any person whether or not that person is legally qualified and such permission shall not be unreasonably withheld.
- 7.6 If a party has informed the Council that he/she will not be attending or be represented at the hearing, it may proceed in his/her absence. If a party who has not informed the Council that he/she will not be attending or represented fails to attend or be represented, the Sub-Committee will decide if, in the interests of justice, the hearing of the matter should be adjourned until a specified date. If the Sub-Committee proceeds without that party present, the Sub-Committee must give full reasons for proceeding in his/her absence. These reasons will be recorded by the Member Services Officer and the applicant will be informed of the decision.
- 7.7 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application together with any representations made or notice given by that party.
- 7.8 The Chair will ask the Council Officer who is presenting the case (the Officer) to identify him/herself. If the case is being held in private, the Chair will direct all members of the public and all other Officers, apart from the presenting Officer, Member Services Officer and Legal Adviser, to leave the room.
- 7.9 The case will be opened with an outline of the relevant facts by the appropriate Officer. The Sub-Committee may impose a maximum time-limit on the Officer's representations.
- 7.10 The Members of the Sub-Committee and the parties may ask questions of the Officer and any witnesses called by the Officer.
- 7.11 Any witness called by any party will provide appropriate identification to the Sub-Committee i.e. name, capacity etc.

- 7.12 The Chair will invite responsible authorities who are present and have given proper notice to the Council of their intention to make representations at the hearing, to present their case, in the order determined by the Chair, including any evidence and/or the calling of witnesses in support of their case. The Sub-Committee may impose a maximum time limit on the responsible authorities' representations.
- 7.13 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.14 and 7.16, may ask questions of clarification of the responsible authorities and any witnesses called by them.
- 7.14 The Chair will invite any interested parties who are present and have given proper notice to the Council of their intention to make representations at the hearing, to present their case, in the order determined by the Chair, including any evidence and/or the calling of witnesses in support of their case. The Sub-Committee may impose a maximum time limit on the interested parties' representations.
- 7.15 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.12 and 7.16, may ask questions of clarification of the parties referred to in Paragraph 7.14 and any witnesses called by them.
- 7.16 The Chair will ask the applicant to present his/her case, including any evidence and/or the calling of witnesses in support of the application. The Sub-Committee may impose a maximum time-limit on the applicant's representations.
- 7.17 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.12 and 7.14, may ask questions of clarification of the applicant and any witnesses called by him/her.
- 7.18 The hearing shall take the form of a discussion led by the licensing authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the cases put by the parties.
- 7.19 Where an interested party has made written representations to the Sub-Committee, it will consider these.
- 7.20 Where the Sub-Committee sets a maximum time-limit for each party to present their case, this time-limit must be equal for all parties.
- 7.21 The content of any representations and/or evidence should have been disclosed to all parties prior to the hearing within the periods of time specified in the schedule (column H) to this procedure. Additional representations and/or evidence, of which proper notice has not been given, may only be made or submitted at the hearing with the consent of all the other parties.
- 7.22 The Sub-Committee shall disregard any information given or evidence produced by a party or a witness which is not relevant to their application, representations or notice (as applicable).
- 7.23 The Chair will invite any final comments to be made by the Officer and any of the parties referred to in Paragraphs 7.12 and 7.14 above.
- 7.24 The Chair will invite the applicant (or his/her representative) to exercise a final right of reply.

## **8. EVIDENCE**

8.1 The strict legal rules of evidence will not apply, and evidence will not be taken on oath.

## **9. LEGAL ADVICE**

9.1 The role of the Sub-Committee's Legal Adviser is to provide the Members with advice on:

- (i) questions of law;
- (ii) matters of practice and procedure;
- (iii) the options available to the Sub-Committee in making its decision;
- (iv) any relevant decisions of "superior courts" or other guidelines (e.g. - Government Guidance on the 2003 Act and the Council's Licensing Policy);
- (v) other issues relevant to the matter before the Sub-Committee (e.g. any consultation currently in progress through Council etc.); and
- (vi) where appropriate, to assist in formulating the reasons for its decision.

9.2 The Legal Adviser may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.

9.3 The Legal Adviser has a duty to ensure that every case is conducted fairly.

## **10. DETERMINATION OF APPLICATIONS**

10.1 When all the representations have been heard and considered, the Sub-Committee will debate the application and make its decision. In certain cases, the Committee may withdraw to consider its decision. In these circumstances, the Legal Adviser will only withdraw with the Sub-Committee if requested to give legal or procedural advice but not otherwise and will then return to the Sub-Committee room while the Members make their decision. The Legal Adviser will explain to applicants/parties the reason for him/her being called to where the Members were deliberating (i.e. to advise on a point of law etc.).

10.2 In the event that the Sub-Committee has withdrawn to consider its decision and needs to ask any further questions of either the applicant or any other party, all parties will be asked to return before the Sub-Committee.

10.3 In the case of hearings held under the following sections of the Act, the Sub-Committee must make its determination at the conclusion of the hearing:

- (i) Hearing to consider police objection to temporary event notice [s.105(2)(a)].
- (ii) Hearing to consider review of premises licence following closure order [s.167(5)(a)].
- (iii) Hearing to determine application for conversion of existing licence to a new "premises" licence [Schedule 8, para 4(3)(a)].
- (iv) Hearing to determine application to vary a premises licence or premises supervisor made at the same time as application to convert [s.34 or 37].
- (v) Hearing to determine application for conversion of existing club certificate to a new "club premises" certificate [Schedule 8, para 16(3)(a)].

- (vi) Hearing to determine application to vary a club premises made at the same time as application to convert [s.85].
- (vii) Hearing to determine application for grant of personal licence [Schedule 8, para 26(3)(a)].

In any other case the Council must make its determination within the period of five working days beginning with the day (or the last day) on which the hearing was held.

- 10.4 The determination will be confirmed in writing giving reason(s) for the determination and details of any appeal rights. The determination notice/letter will be sent as soon as practicable after the meeting and in accordance with any statutory deadlines.
- 10.5 Where a hearing has been dispensed with [under Paragraph 1.2 above], the Council must make its decision within the period of 10 working days beginning with the day on which it gives notice to the parties.

## **11. QUORUM**

- 11.1 The quorum for any hearing of a Licensing Sub-Committee shall be three Members.

## **12. RECORD OF PROCEEDINGS**

- 12.1 The Council shall provide for a record to be taken of the hearing in a permanent and intelligible form and kept for six years from the date of the decision or, where an appeal is brought against the decision of the Council, the disposal of that appeal. This shall be the responsibility of the Member Services Officer.

## **13. IRREGULARITIES**

- 13.1 Any irregularity resulting from any failure to comply with any provision of the Regulations before the Council has made a decision shall not of itself render the proceedings void.
- 13.2 In the case of any such irregularity, where it considers that any person may have been prejudiced as a result, the Council shall take such steps as it thinks fit to remedy the irregularity before reaching its decision.
- 13.3 The Council may correct clerical mistakes in any document recording a decision of the authority or errors arising in such a document from an accidental slip or omission.

## **14. FORM OF NOTICES**

14.1 Any notices required to be given under this procedure must be given in writing.

14.2 The requirement that any notice must be given in writing is satisfied where:

- (a) the text of the notice
  - (i) is transmitted by electronic means;
  - (ii) is received in legible form; and
  - (ii) is capable of being reproduced in written form and used for subsequent reference;
- (b) the person to whom the notice is to be given has agreed that such a notice may be given to them by those electronic means; and
- (c) forthwith on sending the text of the notice by electronic means the notice is given to the recipient in writing.

14.3 Where the text of the notice is transmitted by electronic means, the giving of the notice shall take effect at the time the text of the notice is received by the recipient in accordance with Paragraph 14.2(a).

**PROCEDURE FOR DEALING WITH APPLICATIONS UNDER THE LICENSING ACT 2003  
THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**SCHEDULE**

**Statutory Instrument 2005 No. 44**

| A  | B  | C   | D   | E   | F  | G  | H  |
|----|--|---|---|---|--|--|--|
|    |  | Schedule 1  |   | Schedule 2  | Schedule 3   |  |  |
|    | Provision under which hearing is held  | Period of Time within which hearing must be commenced   | Time by which notice of hearing must be given | Persons who must be given notice of hearing   | Person to whom notice of hearing is given                    | Documents to accompany notice of hearing                                       | Time within which applicant must give notice to the authority under R.8                          |
| 1. | Section 18(3)(a) (determination of application for premises licence).        | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c).                         | No later than 10 working days before hearing. | (1) the person who has made the application under section 17(1);<br>(2) persons who have made relevant representations as defined in section 18(6). | The person who has made the application under section 17(1). | The relevant representations as defined in section 18(6) which have been made. | No later than 5 working days before the day or the first day on which the hearing is to be held. |
| 2. | Section 31(3)(a) (determination of application for a provisional statement). | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 30. | No later than 10 working days before hearing. | (1) the person who has made the application under section 29(2);<br>(2) persons who have made relevant representations as defined in section 31(5). | The person who has made the application under section 29(2). | The relevant representations as defined in section 31(5) which have been made. | No later than 5 working days before the day or the first day on which the hearing is to be held. |

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| 3. | Section 35(3)(a) (determination of application to vary premises licence).  | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 34(5). | No later than 10 working days before hearing. | (1) The holder of the premises licence who has made the application under section 34(1);<br><br>(2) Persons who have made relevant representations as defined in section 35(5).  | The holder of the premises licence who has made the application under section 34(1).   | The relevant representations as defined in section 35(5) which have been made. | No later than 5 working days before the day or the first day on which the hearing is to be held.    |
| 4. | Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor). | 20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 37(5).                               | No later than 10 working days before hearing. | (1) The holder of the premises licence who has made the application under section 37(1);<br><br>(2) Each chief officer of police who has given notice under section 37(5);<br><br>(3) The proposed individual as referred to in section 37(1). | (1) the holder of the premises licence who has made the application under section 37(1).<br><br>(2) the proposed individual as referred to in section 37(1). | The notices which have been given under section 37(6).                         | No later than 5 working days before the day or on the first day on which the hearing is to be held. |



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| 5. | Section 44(5)(a) (determination of application for transfer of premises licence).        | 20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 42(6). | No later than 10 working days before hearing. | <p>(1) The person who has made the application under section 42(1);</p> <p>(2) Each chief officer of police who has given notice under section 42(6);</p> <p>(3) The holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made.</p> | <p>(1) The person who has made the application under section 42(1).</p> <p>(2) The holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made.</p> | The notices which have been given under section 42(6). | No later than 5 working days before the day or on the first day on which the hearing is to be held. |
| 6. | Section 48(3)(a) (cancellation of interim authority notice following police objections). | 5 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 48(2).  | No later than 2 working days before hearing.  | <p>(1) The person who has given notice under section 47(2).</p> <p>(2) Each chief officer of police who has given notice under section 48(2).</p>   | The person who has given notice under section 47(2).  | The notices which have been given under section 48(2). | No later than 1 working day before the day or the first day on which the hearing is to be held.     |

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| 7. | Section 52(2) (determination of application for review of premises licence).   | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c). | No later than 10 working days before hearing. | <p>(1) The holder of the premises licence in respect of which the application has been made;</p> <p>(2) Persons who have made relevant representations as defined in section 52(7);</p> <p>(3) the person who has made the application under section 51(1).</p> | The holder of the premises licence in respect of which the application has been made. | The relevant representations as defined in section 52(7) which have been made. | No later than 5 working days before the day or on the first day on which the hearing is to be held. |
| 8. | Section 72(3)(a) (determination of application for club premises certificate). | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c). | No later than 10 working days before hearing. | <p>(1) The club which has made the application under section 71(1).</p> <p>(2) Persons who have made relevant representations as defined in section 72(7).</p>  | The club which has made the application under section 71(1).                          | The relevant representations as defined in section 72(7) which have been made. | No later than 5 working days before the day or on the first day on which the hearing is to be held. |

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| 9.  | Section 85(3)<br>(determination of application to vary club premises certificate).       | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c) by virtue of section 84(4). | No later than 10 working days before hearing. | (1) The club which has made the application under section 84(1).<br><br>(2) Persons who have made relevant representations as defined in section 85(5).  | The club which has made the application under section 84(1)   | The relevant representations as defined in section 85(5) which have been made  | No later than 5 working days before the day or the first day on which the hearing is to be held  |
| 10. | Section 88(2)<br>(determination of application for review of club premises certificate). | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 87(3)(c).                            | No later than 10 working days before hearing. | (1) The club which holds the club premises certificate in respect of which the application has been made;<br><br>(2) Persons who have made relevant representations as defined in section 88(7);<br><br>(3) The person who has made the application under section 87(1). | The club which holds the club premises certificate in respect of which the application has been made. | The relevant representations as defined in section 88(7) which have been made. | No later than 5 working days before the day or the first day on which the hearing is to be held. |

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| 11. | Section 105(2)(a) (counter notice following police objection to temporary event notice). | 7 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 104(2).  | No later than 2 working days before hearing.  | (1) The premises user;<br><br>(2) Each chief officer of police who has given notice under section 104(2).   |   |   | No later than 1 working day before the day or on the first day on which the hearing is to be held.  |
| 12. | Section 120(7)(a) (determination of application for grant of personal licence).          | 20 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 120(5). | No later than 10 working days before hearing. | (1) The person who has made the application under section 117(1).<br><br>(2) The chief officer of police who has given notice under section 120(5). | The person who has made the application under section 117(1). | The notice which has been given under section 120(5). | No later than 5 working days before the day or on the first day on which the hearing is to be held. |
| 13. | Section 121(6)(a) (determination of application for the renewal of personal licence).    | 20 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 121(3). | No later than 10 working days before hearing. | (1) The person who has made the application under section 117(1).<br><br>(2) The chief officer of police who has given notice under section 121(3). | The person who has made the application under section 117(1). | The notice which has been given under section 121(3). | No later than 5 working days before the day or on the first day on which the hearing is to be held. |

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| 14. | Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).        | 20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 124(3).                    | No later than 10 working days before hearing. | (1) The holder of the licence in respect of which the notice has been given.<br><br>(2) The chief officer of police who has given notice under section 124(3).                          | The holder of the licence in respect of which a notice has been given.           | The notice which has been given under section 124(3).                           | No later than 5 working days before the day or the first day on which the hearing is to be held.    |
| 15. | Section 167(5)(a) (review of premises licence following closure order).                            | 10 working days beginning with the day after the day the relevant licensing authority receives the notice given under section 165(4).                                  | No later than 5 working days before hearing.  | (1) The holder of the premises licence in respect of which the review has been made.<br><br>(2) Persons who have made relevant representations as defined in section 167(9).            | The holder of the premises licence in respect of which the review has been made. | The relevant representations as defined in section 167(9) which have been made. | No later than 2 working days before the day or the first day on which the hearing is to be held.    |
| 16. | Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence). | 10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 3(2) or (3) of Schedule 8. | No later than 5 working days before hearing.  | (1) the person who has made the application under paragraph 2(2) of Schedule 8.<br><br>(2) each chief officer of police who has given notice under paragraph 3(2) or (3) of Schedule 8. |  |   | No later than 2 working days before the day or on the first day on which the hearing is to be held. |

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| 17. | Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).                    | 10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 15(2) or (3) of Schedule 8. | No later than 5 working days before hearing | (1) The club which has made the application under paragraph 14(2) of Schedule 8.<br><br>(2) Each chief officer of police who has given notice under paragraph 15(2) or (3) of Schedule 8.                      |  |  | No later than 2 working days before the day or the first day on which the hearing is to be held. |
| 18. | Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence). | 10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 25(2) of Schedule 8.        | No later than 5 working days before hearing | (1) The person who has made the application under section 117 to which paragraph 23(1) of Schedule 8 applies.<br><br>(2) The chief officer of police who has given notice under paragraph 25(2) of Schedule 8. |  |  | No later than 2 working days before the day or the first day on which the hearing is to be held. |

**TEWKESBURY BOROUGH COUNCIL  
GAMBLING ACT 2005  
HEARINGS PROCEDURE**

**HEARING TO DETERMINE OBJECTIONS/REPRESENTATIONS**

**PROCEDURE FOR DEALING WITH APPLICATIONS UNDER THE GAMBLING ACT  
2005**

**1. RIGHT TO DISPENSE WITH HEARING UNDER THE ACT**

- 1.1 The Act specifies various situations when a licensing authority (the Council) must hold a hearing to consider either relevant representations from interested parties or representations from responsible authorities. The Regulations authorise the Council to dispense with holding a hearing if all relevant persons have notified the authority that they consider a hearing unnecessary. If the Council agrees that no hearing is necessary, it must forthwith give notice to all parties that the hearing has been dispensed with.

**2. TIMING OF HEARING UNDER THE ACT**

- 2.1 In relation to applications received under the Act, the Council must arrange for hearings to be held as soon as is reasonably practicable after the expiry of any period for representations made by interested parties or responsible authorities. Where a hearing is to be held on more than one day, it must be arranged for consecutive working days.

**3. NOTICE OF HEARING**

- 3.1 The Council shall give due notice of any hearing held under the Act to those persons specified in the schedule attached to this procedure (schedule column 2 (the party)) together with any documents required (schedule column 3).
- 3.2 In all cases, the notice of hearing sent to the party will include the following information:
- (i) the date, time and place of the hearing;
  - (ii) the right of the party to be represented at the hearing by another person, whether that person is legally qualified or not;
  - (iii) the right of the party at the hearing to give further information and call any witness in support of their application, representations or notice (as applicable); to question any other party or witness; and to address the hearing, subject to any maximum time-limit imposed by the Sub-Committee;
  - (iv) the consequences if the party fails to attend or is not represented at the hearing;

- (v) the procedure to be followed at the hearing;
  - (vi) any particular points on which the Council considers that it will want clarification from a party at the hearing; and
  - (vii) any information the Council has received in support of, or opposition to, the application (or a summary thereof, if appropriate).
- 3.3 In the notice of hearing the party will be asked if he/she has any special needs or requirements at the hearing and will be requested to notify the Council accordingly.

#### **4. RESPONSE TO NOTICE OF HEARING**

- 4.1 Following receipt of the notice of hearing the party must give to the Council, within the period of time specified in the schedule (column H), a notice stating:
- (i) whether he/she intends to attend or be represented at the hearing;
  - (ii) whether he/she intends calling any witness at the hearing and, if so, the name of any witness; or
  - (iii) whether he/she considers a hearing to be unnecessary.
- 4.2 The party must include with his/her notice a written summary of the representations, which he/she wishes to make to the Sub-Committee together with any documentary or other evidence in support of his/her case. If the hearing proceeds in the party's absence, the Sub-Committee will consider these written representations.

#### **5. POWER TO POSTPONE**

- 5.1 The Council or Committee may postpone the hearing to a specified date, or arrange for an additional date for the hearing, acting either before or at the hearing. The grounds for postponement are that it needs to consider information or documents provided by a party in response to a hearing or at the hearing itself or there is difficulty in getting a party to the hearing.

#### **6. PUBLIC ACCESS TO HEARINGS**

- 6.1 The Sub-Committee will hear all matters in public except:
- (i) where it considers the public interest in excluding the public outweighs the public interest in the hearing (or part of it) taking place in public, and/or
  - (ii) to the extent that the public may be excluded under Section 100A of the Local Government Act 1972, and/or
  - (iii) any unfairness to a party that is likely to result from hearing in public and the need to protect as far as possible, the commercial or other legitimate interests of a party, and/or



- (iv) that it may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing and may:
  - (a) refuse to permit that person to return; or
  - (b) permit them to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Council in writing any information which he/she would have been entitled to give orally had they not been required to leave.

## **7. PROCEDURE AT HEARING**

- 7.1 The three Members of the Licensing Sub-Committee will be drawn by the Corporate Director from the 15 Members of the Licensing Committee. The first item of business will be the election of a Chair for the hearing. Upon election, the Chair will remind Members of the Sub-Committee of their obligation to declare any disclosable pecuniary interests or other interests (see Appendix A and B).
- 7.2 The Chair will identify the Licensing Officer, Legal Adviser and the Member Services Officer for the benefit of those attending the hearing. The Chair will explain that the Member Services Officer's role is to record the Minutes of the hearing and the Legal Adviser's role is to provide legal advice to the Sub-Committee.
- 7.3 The Chair will explain the procedure to be followed at the hearing and ensure that all parties understand the proceedings.
- 7.4 Each matter to be dealt with by the Sub-Committee will be called in turn, usually in the order listed on the Sub-Committee Agenda. However, the Chair may change the order at his/her discretion.
- 7.5 As each matter is called, the Chair will ask the parties in the case to identify themselves and consider any requests made by them to be assisted or represented by any person whether or not that person is legally qualified and such permission shall not be unreasonably withheld.
- 7.6 If a party has informed the Council that he/she will not be attending or be represented at the hearing, it may proceed in his absence. If a party who has not informed the Council that he/she will not be attending or represented fails to attend or be represented, the Sub-Committee will decide if, in the interests of justice, the hearing of the matter should be adjourned until a specified date. If the Sub-Committee proceeds without that party present, the Sub-Committee must give full reasons for proceeding in his/her absence. These reasons will be recorded by the Member Services Officer and the applicant will be informed of the decision.
- 7.7 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application together with any representations made or notice given by that party.

- 7.8 The Chair will ask the Council Officer who is presenting the case (the Officer) to identify him/herself. If the case is being held in private, the Chair will direct all members of the public and all other Officers, apart from the presenting Officer, Member Services Officer and Legal Adviser, to leave the room.
- 7.9 The case will be opened with an outline of the relevant facts by the appropriate Officer. The Sub-Committee may impose a maximum time-limit on the Officer's representations.
- 7.10 The Members of the Sub-Committee and the parties may ask questions of the Officer and any witnesses called by the Officer.
- 7.11 Any witness called by any party will provide appropriate identification to the Sub-Committee i.e. name, capacity etc.
- 7.12 The Chair will invite responsible authorities which are present and have given proper notice to the Council of their intention to make representations at the hearing, to present their case, in the order determined by the Chair, including any evidence and/or the calling of witnesses in support of their case. The Sub-Committee may impose a maximum time limit on the responsible authorities' representations.
- 7.13 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.14 and 7.16, may ask questions of clarification of the responsible authorities and any witnesses called by them.
- 7.14 The Chair will invite any interested parties who are present and have given proper notice to the Council of their intention to make representations at the hearing, to present their case, in the order determined by the Chair, including any evidence and/or the calling of witnesses in support of their case. The Sub-Committee may impose a maximum time limit on the interested parties' representations.
- 7.15 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.12 and 7.16, may ask questions of clarification of the parties referred to in Paragraph 7.14 and any witnesses called by them.
- 7.16 The Chair will ask the applicant to present his/her case, including any evidence and/or the calling of witnesses in support of the application. The Sub-Committee may impose a maximum time-limit on the applicant's representations.
- 7.17 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.12 and 7.14, may ask questions of clarification of the applicant and any witnesses called by him/her.
- 7.18 The hearing shall take the form of a discussion led by the licensing authority and cross-examination shall not be permitted unless the Chair of the Sub-Committee considers that cross-examination is required for it to consider the cases put by the parties.
- 7.19 Where an interested party has made written representations to the Sub-Committee, it will consider these.

- 7.20 Where the Sub-Committee sets a maximum time-limit for each party to present their case, this time-limit must be equal for all parties.
- 7.21 The content of any representations and/or evidence should have been disclosed to all parties prior to the hearing. The Sub-Committee may consider documentary or other information in support of the application which is produced at the hearing with the consent of all other parties.
- 7.22 The Sub-Committee shall disregard any information given or evidence produced by a party or a witness which is not relevant to their application, representations or notice (as applicable).
- 7.23 The Chair will invite any final comments to be made by the Officer and any of the parties referred to in Paragraphs 7.12 and 7.14 above.
- 7.24 The Chair will invite the applicant (or his/her representative) to exercise a final right of reply.

## **8. EVIDENCE**

- 8.1 The strict legal rules of evidence will not apply, and evidence will not be taken on oath.

## **9. LEGAL ADVICE**

- 9.1 The role of the Sub-Committee's Legal Adviser is to provide the Members with advice on:
- (i) questions of law;
  - (ii) matters of practice and procedure;
  - (iii) the options available to the Sub-Committee in making its decision;
  - (iv) any relevant decisions of superior courts or other guidelines (e.g. - Government Guidance on the 2005 Act and the Council's Statement Licensing Policy under the Gambling Act 2005);
  - (v) other issues relevant to the matter before the Sub-Committee (e.g. any consultation currently in progress through Council etc.); and
  - (vi) where appropriate to assist in formulating the reasons for its decision.
- 9.2 The Legal Adviser may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.
- 9.3 The Legal Adviser has a duty to ensure that every case is conducted fairly.

## **10. DETERMINATION OF APPLICATIONS**

- 10.1 When all the representations have been heard and considered, the Sub-Committee will debate the application and make its decision. In certain cases, the Sub-Committee may withdraw to consider its decision. In these circumstances, the Legal Adviser will only withdraw with the Sub-Committee if requested to give legal or procedural advice but not otherwise and will then return to the Sub-Committee room while the Members make their decision. The Legal Adviser will explain to applicants/parties the reason for him/her being called to where the Members were deliberating (i.e. to advise on a point of law etc.).
- 10.2 In the event that the Sub-Committee has withdrawn to consider its decision and needs to ask any further questions of either the applicant or any other party, all parties will be asked to return before the Sub-Committee.
- 10.3 The Council must make its determination within the period of five working days beginning with the day (or the last day) on which the hearing was held.
- 10.4 The determination will be confirmed in writing giving reason(s) for the determination and details of any appeal rights. The determination notice/letter will be sent as soon as practicable after the meeting and in accordance with any statutory deadlines.
- 10.5 Where a hearing has been dispensed with [under Paragraph 1.1 above] the relevant Sub-Committee must, as soon as reasonably practicable, (a) notify all the parties that the hearing has been dispensed with and (b) determine the application or review.

## **11. QUORUM**

- 11.1 The quorum for any hearing of a Licensing Sub-Committee shall be three Members.

## **12. RECORD OF PROCEEDINGS**

- 12.1 The Council shall provide for a record to be taken of the hearing in a permanent and intelligible form and kept for six years from the date of the decision or, where an appeal is brought against the decision of the Council, the disposal of that appeal. This shall be the responsibility of the Member Services Officer.

## **13. IRREGULARITIES**

- 13.1 Any irregularity resulting from any failure to comply with any provision of the Regulations before the Council has made a decision shall not of itself render the proceedings void.
- 13.2 In the case of any such irregularity, where it considers that any person may have been prejudiced as a result, the Council shall take such steps as it thinks fit to remedy the irregularity before reaching its decision.

13.3 The Council may correct clerical mistakes in any document recording a decision of the authority or errors arising in such a document from an accidental slip or omission.

#### **14. FORM OF NOTICES**

14.1 Any notices required to be given under this Procedure must be given in writing.

14.2 The requirement that any notice must be given in writing is satisfied where:

- (a) the text of the notice
  - (i) is transmitted by electronic means;
  - (ii) is received in legible form; and
  - (iii) is capable of being reproduced in written form and used for subsequent reference;
- (b) the person to whom the notice is to be given has agreed that such a notice may be given to them by those electronic means; and
- (c) forthwith on sending the text of the notice by electronic means the notice is given to the recipient in writing.

14.3 Where the text of the notice is transmitted by electronic means, the giving of the notice shall take effect at the time the text of the notice is received by the recipient in accordance with Paragraph 14.2(a).

**PROCEDURE FOR DEALING WITH APPLICATIONS UNDER THE GAMBLING ACT  
2005**

**THE GAMBLING ACT 2005 (HEARINGS) REGULATIONS 2005**

**SCHEDULE**

| <b>Column 1</b>  | <b>Column 2</b>   | <b>Column 3</b>   |
|--|---|---|
| <b>Procedure in relation to which a hearing is required to be held</b>           | <b>Persons to whom notice must be given</b>   | <b>Copies of documents to accompany the notice of hearing</b>   |
| Application for a premises licence under Section 159.                            | (1) The applicant.<br><br>(2) Any person who has made (and not withdrawn) representations about the application.                          | Representations made in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application). |
| Application to vary a premises licence under Section 187.                        | (1) The applicant.<br><br>(2) Any person who has made (and not withdrawn) representations about the application.                          | Representations made in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application). |
| Application for a premises licence to be transferred under Sections 188 and 189. | (1) The applicant.<br><br>(2) Any person who has made (and not withdrawn) representations about the application.<br><br>(3) The licensee. | Representations made in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application). |
| Application for a licence to be reinstated under Sections 195 and 196.           | (1) The applicant.<br><br>(2) Any person who has made (and not withdrawn) representations about the application.                          | Representations made in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application). |
| Application for a provisional statement under Section 204.                       | (1) The applicant.<br><br>(2) Any person who has made (and not withdrawn) representations about the application.                          | Representations in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application).      |

|  |   |  |
|--|---|--|
| Review of a premises licence under Section 201 | (1) The applicant<br>(2) Any person who has made (and not withdrawn) representations about the review<br>(3) The licensee | Representations made in relation to the review (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the review) |
|--|---|--|

## TEWKESBURY BOROUGH COUNCIL

### Licensing Applications

#### Hearing procedure

1. The Chair will briefly explain the procedure to members of the public.
2. The Licensing Officer will open the hearing with an outline of the relevant details of the application.
3. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Committee.
4. The Committee may then invite representations from Officers and from the representatives of bodies who have submitted a representation in respect of an application. The Committee may then invite representations from other objectors who have submitted a representation in respect of an application. Again, opportunities to ask questions will be afforded to all of those present.
5. The applicant will then be allowed to make a final statement in response to any representations that have been raised.
6. At the conclusion of the hearing, the Committee will deliberate upon the application. Where the Committee determine it necessary and appropriate the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information, or clarification, all parties at the hearing must be invited to return. The Committee may request that the Legal Advisor and Member Services Officer remain.
7. When the Committee has reached its conclusions the parties, if they have been asked to withdraw, will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence.



**TEWKESBURY BOROUGH  
COUNCIL**

**GIFTS AND HOSPITALITY  
PROTOCOL FOR COUNCILLORS**

**Adopted by Council on 4 December 2018**

## 1. GENERAL INTRODUCTION

Tewkesbury Borough Council's Code of Conduct, adopted on 26 June 2012, requires Members to notify the Monitoring Officer in writing of any gift or hospitality received in their official capacity of an estimated value of at least £50. This written notification is registered within the authority's Register of Members' Interests. The Code also requires that Members must not use, or attempt to use, their position as a Member improperly to confer on or secure, for themselves or any other person, an advantage or disadvantage, or seek to improperly influence a decision about any matter from which the Member is excluded from participating or voting as a result of the requirements of Part VI of the Code.

In accordance with the adopted Code of Conduct, in carrying out their duties in exercising the functions of their authority, or otherwise acting as a Councillor, Members will be expected to observe the general principles of conduct of:

- (i) selflessness;
- (ii) integrity;
- (iii) objectivity;
- (iv) accountability;
- (v) openness;
- (vi) honesty; and
- (vii) leadership.

This Protocol aims to assist Members in complying with the Council's Code of Conduct but it also goes beyond these basic provisions and seeks to provide wider guidance so Members can avoid any situation where their integrity may be brought into question as a result of the receipt of gifts and hospitality.

The acceptance of gifts and hospitality reflects directly upon the public perception of Councillors and the authority. It is imperative, therefore, that Members only act in the public interest and not for personal advantage. Members should always consider whether the acceptance of any gifts or hospitality could be seen as being inappropriately linked to their official role. The Code of Conduct does not apply to gifts and hospitality that are not related to a Councillors role, for example presents from friends and family.

### **Legal Position**

The legal position on acceptance of gifts and hospitality is set out in the provisions of the Council's Code of Conduct and in the Bribery Act 2010.

The Bribery Act 2010 provides that it is a criminal offence for a Member (either personally or through a third party, whether for the Member's benefit or the benefit of another) to request, receive, agree to receive, promise, offer or give any gift or loan, fee or reward or advantage for doing or not doing anything or showing favour or disfavour to any person in that official capacity. It is for the Member to demonstrate that any such advantage has not been corruptly obtained. This Protocol should be read in conjunction with the Council's Anti-Fraud and Corruption Policy (which also covers bribery).

The penalty for corrupt acceptance of a gift or hospitality is a fine (unlimited), imprisonment (maximum ten years), or both.

## **Remit of Protocol for Gifts and Hospitality**

This Protocol sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it; and
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority.

## **2. GENERAL PRINCIPLES**

2.1 In deciding whether it is proper to accept any gift or hospitality, the following principles should be applied. Even if the gift or hospitality comes within one of the general consents set out in Section 3 of this Protocol, it should not be accepted if to do so would be in breach of one or more of these principles:

### **1. Gifts or hospitality shall never be accepted as an inducement or reward for anything done as a Councillor.**

Councillors must act in the public interest and must not be swayed in the discharge of their duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

The Tewkesbury Borough Council Code of Conduct for Members provides that Councillors must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community. It is a breach of the Code for a Member to use or attempt their position to improperly to confer on or secure for himself or any other person an advantage or disadvantage, or seek to improperly influence a decision about any matter from which the Member is excluded from participating or voting as a result of the requirements of Part VI of the Code.

Any contravention of this principle is likely to contravene the Public Bodies (Corrupt Offences) Act 1889 of which further detail is given in Section 1 above.

### **2. Gifts or hospitality should only be accepted if there is a commensurate benefit to the authority.**

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality (e.g. an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting). The acceptance of a gift is much less likely to confer such an advantage.

Unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption would be that the gift or hospitality is purely for the Councillor's personal benefit, which would be contrary to the provisions of the Council's Code of Conduct as set out in Section 1.

### **3. Gifts or hospitality shall not be accepted if acceptance might be open to misinterpretation**

The appearance of impropriety can be just as damaging to Councillors and the authority as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest.

Councillors must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that either the Councillor or the authority favours any particular person, company or section of the community or places the Councillor or the authority under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted the gift or hospitality should be refused.

This principle is of critical importance where decisions and/or actions of the Council could be discredited or even legally challenged, examples of which include:

- (i) undertaking a competitive procurement/tendering process;
- (ii) regulatory decisions, such as determinations of licensing or planning applications, or setting planning policy; and
- (iii) determination of grants or other requests for funding.

Members should also consider whether the individual or organisation offering a gift or hospitality may have dealings within the Council of which the individual Councillor being offered the gift/hospitality is unaware.

### **(b) Gifts and hospitality must never be accepted which place a Councillor under an improper obligation**

Members will recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of gaining influence.

Equally, if others note that a Councillor has been prepared to accept a gift or hospitality, they may feel that they will no longer be able to secure impartial consideration from the authority.

### **(c) Gifts and hospitality should never be solicited**

Councillors should never solicit or invite an offer of a gift or hospitality in connection with their position as a Councillor. Care should also be taken to avoid giving any indication that a Councillor might be open to such an improper offer.

## **3. CONSENT REGIME**

There may be occasions where it may not be appropriate for a Member to refuse a gift or hospitality in the course of their duties as it would appear unusual, impolite, or be likely to cause offence. In such situations the following provisions shall apply:

### **General Consent Provisions**

3.1 Subject to the General Principles set out in Section 2 of this Protocol, Members may accept gifts and hospitality in the following circumstances:

3.1.1 civic hospitality offered by another public authority.

3.1.2 reasonable refreshment in connection with any meeting or visit in the ordinary course of a Councillor's duties, such as tea, coffee, soft drinks and biscuits.

- 3.1.3 tickets for sporting, cultural and entertainment events which are sponsored by the Council.
  - 3.1.4 small gifts of low intrinsic value, below £50, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries.
  - 3.1.5 a modest working lunch provided to enable the parties to discuss business.
  - 3.1.6 modest souvenir gifts with a value below £50 from another public authority given on the occasion of a visit by, or to, the authority.
  - 3.1.7 reasonable hospitality provided at external visits, meetings or conferences provided that this is in line with that available to other delegates at the event.
- 3.2 Other unsolicited gifts may be accepted where it is impracticable to return them to the person or organisation making the gift. However, as soon as is practicable after receipt, the gift should be passed to Democratic Services together with a written statement containing the information set out in Paragraph 3.4.1 below. Democratic Services will write to the person or organisation making the gift thanking them on the Councillor's behalf for the gift informing them that the gift will be donated to the Mayor's charity fund on whose behalf it will be raffled or otherwise disposed of in due course.
- 3.3 Where branded gifts are accepted in accordance with Paragraph 3.1.4 above care should be taken not to display such items in a manner which might be taken as an indication of favour to a particular supplier or contractor.
- 3.4 **Special Consent Provisions**
- 3.4.1 Members who wish to accept any gift or hospitality which is in accordance with the General Principles set out in Section 2, but is not within any of the general consents set out in Section 3.1, must apply for specific consent, in writing to the Monitoring Officer, giving the following information:
- (i) the nature and your estimate of the market value of the gift or hospitality.
  - (ii) by whom, or on whose behalf, the offer or invitation has been made.
  - (iii) the connection which the Councillor has with the person or organisation making the offer or invitation.
  - (iv) any work, permission, concession or facility of which the Councillor is aware and which is being sought, or likely to be sought, from the Council by the person or organisation making the offer or invitation.
  - (v) any circumstances which lead the Councillor to believe that acceptance of the gift or hospitality would not be improper.
- 3.4.2 Any Councillor making an application in accordance with the provisions of Section 3.4.1 must not accept the gift or hospitality until consent has been received (in writing/by email) from the Monitoring Officer.
- 3.4.3 The Monitoring Officer will enter details of any consent given in a register which will be available for public inspection. This consent procedure does not remove the obligation of the Member to register the receipt of any gift or hospitality in accordance with Section 4 of this Protocol.

#### **4. REGISTRATION OF GIFTS AND HOSPITALITY**

- 4.1 Any Councillor who accepts any gift or hospitality with an estimated market value or cost of provision of at least £50, must, as soon as possible after receipt of the gift or hospitality (but in any event within 28 days of its receipt), make a declaration in writing to the Monitoring Officer setting out the information shown in Paragraphs 3.4.1 above. A form for this purpose is available from the Monitoring Officer, but the information can be sent by any other written means as is convenient to the Councillor.
- 4.2 The requirement to register the gift or hospitality in Paragraph 4.1 above applies, regardless as to whether the gift/hospitality has been accepted in accordance with the General Consent Provisions or has been authorised by the Monitoring Officer in accordance with the Special Consent Provision. Any gift/hospitality offered but not accepted does not need to be declared.
- 4.3 The Monitoring Officer will retain a copy of any such declaration in the Council's Register of Members' Interests which is available for public inspection.
- 4.4 Councillors may voluntarily register the receipt of gifts and hospitality under £50 in value (or the offer of a gift or hospitality of any value which has been declined) if they are concerned that its acceptance (or offer) might be misinterpreted, particularly if it comes from, or on behalf of, a contractor, tenderer, or applicant/agent for a planning or licensing application.

#### **5. GIFTS TO THE AUTHORITY**

- 5.1 Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority.
- 5.2 Councillors should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured.
- 5.3 Any Member receiving such an offer on behalf of the authority, must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, or whether there is a real benefit to the authority which would outweigh any dis-benefits).
- 5.4 If the Councillor considers that the offer is of real benefit to the authority the Councillor should report the offer directly to the Monitoring Officer who will then arrange for the appropriate Officer of the Council to write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority.
- 5.5 If Members have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, they should consult the Monitoring Officer.

#### **6. DEFINITION OF GIFT AND HOSPITALITY**

- 6.1 Gifts and hospitality include any:
- (i) free gift of goods or services.

- (ii) money (or loan), gift voucher, lottery ticket, raffle ticket or anything else offering the chance of winning a prize.
- (iii) opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public.
- (iv) opportunity to obtain any goods or services which are not available to the general public.
- (v) offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

6.2 References to the “value” or “cost” of any gift or hospitality are references to the higher of:

- (a) the Councillor’s estimate of the cost to the person or organisation of providing the gift or hospitality.
- (b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which the Councillor would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

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# **LOCAL CODE OF CORPORATE GOVERNANCE**

**Adopted 24 June 2008**

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Annual Assurance Assessment

## 1. INTRODUCTION

1.1 The seven principles of public life defined by the Nolan Committee in 1996 and the detailed guidance published in the CIPFA/SOLACE framework 'Delivering Good Government in Local Government' form the cornerstone of the Council's Code of Corporate Governance. The need to ensure that the Council's systems, processes and management continue to reflect and demonstrate these principles has been embedded within the Council's Constitution, and the overall concept of corporate governance together with this Code, should ensure that public confidence in the Council is maintained and enhanced.

1.2 Each year the Chief Executive and Leader of the Council will be required to sign an Annual Governance Statement to the effect that:

- (i) a Code of Corporate Governance has been adopted;
- (ii) a corporate governance framework is in place;
- (iii) the framework has been reviewed and is operating effectively; and
- (iv) action is being taken to address any weaknesses identified from the review of the corporate governance framework.

All of this work, and the systems that support it, are the subject of continuous review by the Council's internal auditors and an annual audit by the external auditors.

1.3 The preparation of this Code does not, however, discharge the Council's responsibilities, as the concepts and processes which lie behind the statements given must be understood and acted upon within the entire organisation, including senior management and Councillors. This may require further development and training to ensure that the culture of the Council complies with the spirit of the Code. The Code itself should provide a basis for further improvement.

## 2. PRINCIPLES

2.1 The Nolan Committee defined the following principles of Corporate Governance:

**Selflessness:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

- Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and actions and restrict information only when the wider public interest clearly demands.
- Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- Leadership:** Holders of public office should promote and support these principles by leadership and example.

2.2 'Delivering Good Governance in Local Government' identifies six core principles which should guide the organisation in its operations:

**Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area** is demonstrated by:

- (i) exercising strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcomes for citizens and service users.
- (ii) ensuring that users receive a high quality of service whether directly or in partnership, or by commissioning.
- (iii) ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money.

**Members and Officers working together to achieve a common purpose with clearly defined functions and roles** is achieved by:

- (i) ensuring effective leadership throughout the authority and being clear about executive and non-executive functions and the roles and responsibilities of the scrutiny function.
- (ii) ensuring that a constructive working relationship exists between the authority Members and Officers and that the responsibilities of authority Members and Officers are carried out to a high standard.
- (iii) ensuring relationships between the authority and the public are clear so that each knows what to expect of the other.

**Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour** is demonstrated by:

- (i) ensuring authority Members and Officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance.
- (ii) ensuring that organisational values are put into practice and are effective.

**Taking informed and transparent decisions which are subject to effective scrutiny and managing risk** is ensured by:

- (i) being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny.
- (ii) having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.
- (iii) ensuring that an effective risk management system is in place.
- (iv) using legal powers to the full benefit of the citizens and communities of the area.

**Developing the capacity and capability of Members and Officers to be effective** is achieved by:

- (i) making sure that Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles.
- (ii) developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group.
- (iii) encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal.

**Engaging with local people and other stakeholders to ensure robust public accountability** is ensured by:

- (i) exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships.
- (ii) taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning.

- (iii) making the best use of human resources by taking an active and planned approach to meet responsibility to staff.

These Core Principles are dealt with in sections 4 to 9.

### **3. SUMMARY OF COMMITMENT**

3.1 By adopting this Code of Corporate Governance, Tewkesbury Borough Council is responding to the CIPFA/SOLACE guidance 'Delivering Good Governance in Local Government'.

3.2 In so doing:

- (i) The principles set out in sections 2 and 4 - 9 are accepted as the basis for the Council's Corporate Governance arrangements.
- (ii) An Annual Governance Statement will be included in the Annual Report and Statement of Accounts.

### **4. CORE PRINCIPLE 1 – COMMUNITY FOCUS**

4.1 By carrying out its general and specific duties and responsibilities, and through its ability to exert wider influence, Tewkesbury Borough Council will:

- (a) work for and with the local community;
- (b) provide strong and effective community leadership; and
- (c) undertake an ambassadorial role to promote the wellbeing of the area.

4.2 This will be achieved by:

- (a) ensuring that a vision for local communities and their strategic plans, priorities and targets is developed and kept under review through robust mechanisms and in consultation with the community and clearly articulated and disseminated;
- (b) ensuring that Members meet on a formal basis regularly to set the strategic direction of the Council and to monitor service delivery;
- (c) fostering effective relationships and partnerships with other public-sector agencies and the private and voluntary sectors, and considering outsourcing where it is efficient and effective to do so, to deliver services which meet the needs of the local community, and putting in place processes to ensure that they operate effectively in practice;
- (d) putting in place proper arrangements to allocate resources according to priorities;

- (e) setting standards and targets for performance in the delivery of services on a sustainable basis and with reference to equality policies;
- (f) putting in place sound systems for providing management information for performance measurement purposes; and
- (g) monitoring and reporting performance against agreed standards and targets and developing comprehensive and understandable performance plans.

## **5. CORE PRINCIPLE 2 – FUNCTIONS AND ROLES**

5.1 The Council will establish effective political and managerial structures and processes to govern decision-making and the exercise of authority within the Council.

5.2 This will be achieved by:

- (a) putting in place clearly documented protocols governing relationships between Members and Officers;
- (b) ensuring that the relative roles and responsibilities of Members and senior Officers are clearly defined;
- (c) developing and maintaining a scheme of delegated or reserved powers, which will include a formal schedule of those matters specifically reserved for the collective decision of the Council;
- (d) ensuring that the role of Members acting in a decision-making capacity is formally defined in writing, to include responsibility for providing effective strategic leadership to the Council and for ensuring that the Council successfully discharges its overall responsibilities for the activities of the authority as a whole;
- (e) ensuring that the roles and responsibilities of all Members and Officers of the Council, together with the terms of their remuneration and its review, are defined clearly in writing; and
- (f) ensuring that the Chief Executive is made responsible to the Council for all aspects of operational management.

## **6. CORE PRINCIPLE 3 – STANDARDS OF CONDUCT AND BEHAVIOUR**

6.1 The openness, integrity and accountability of individuals within a local authority forms the cornerstone of effective corporate governance. The reputation of the Council depends upon the standards of behaviour of everyone within it, whether Councillors, employees or agents contracted to it. Therefore, Councillors and Senior Officers of this Council will:

- (a) exercise leadership by conducting themselves as role models for others within the Council to follow; and

- (b) define the standards of personal behaviour that are expected from Councillors and employees and all those involved in service delivery.

6.2 This will be achieved by:

- (a) adopting clear Protocols and Codes of Conduct to ensure that the implications for supporting community political leadership for the whole Council are acknowledged and resolved;
- (b) developing and adopting formal Codes of Conduct defining the standards of personal behaviour to which individual Members, Officers and agents of the Council are required to subscribe and putting in place appropriate systems and processes to ensure that they are complied with;
- (c) putting in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards and to monitor their continuing compliance in practice;
- (d) putting in place arrangements for whistleblowing to which employees and all those contracting with the Council have access;
- (e) putting in place arrangements to ensure that Members and employees of the Council are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and putting in place appropriate processes to ensure these arrangements continue to operate in practice;
- (f) putting in place clearly documented and understood management processes for policy development, implementation and review, for decision-making, monitoring and control and reporting and formal procedural and financial regulations to govern the conduct of the Council's business;
- (g) ensuring that a senior Officer is made responsible to the Council for ensuring that appropriate advice is given to it on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control; and
- (h) ensuring that a senior Officer is made responsible to the Council for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.

## **7. CORE PRINCIPLE 4 – SCRUTINY AND RISK MANAGEMENT**

7.1 The Council will establish and maintain a systematic strategy, framework and process for undertaking effective scrutiny and managing risk.



7.2 This will be achieved by:

- (a) putting in place proper arrangements for the independent review of financial and operational reporting processes;
- (b) putting in place effective risk management systems, including systems of internal control and an internal audit function. These arrangements will ensure compliance with all applicable statutes, regulations and relevant statements of best practice and that public funds are properly safeguarded and are used economically, efficiently and effectively, and in accordance with the statutory and other authorities that govern their use;
- (c) making an explicit commitment to openness in all dealings, subject only to preserve confidentiality in those specific circumstances proper and appropriate to do so, and by actions and communications delivering against that commitment;
- (d) putting in place effective arrangements for an objective review of risk management and internal control, including internal audit;
- (e) publishing on a timely basis, an objective, balanced and understandable statement and assessment of the authority's risk management and internal control mechanisms and their effectiveness in practice;
- (f) maintaining an objective and professional relationship with the external auditors and statutory inspectors;
- (g) responding positively to the findings and recommendations of external auditors and statutory inspectors and putting in place arrangements for the effective implementation of agreed actions; and
- (h) developing and maintaining robust systems for identifying and evaluating all significant risks which involve the proactive participation of all those associated with planning and delivery services.

## **8. CORE PRINCIPLE 5 – CAPABILITY AND CAPACITY**

8.1 The Council will ensure that it is able to recruit and retain people with the right skills to manage its services effectively and encourage as wide a range of people as possible to stand for election or apply for appointed positions.

8.2 This will be achieved by:

- (a) ensuring that services are delivered by trained and experienced people; and

- (b) putting in place arrangements to ensure that Members are properly trained for their roles and have access to all relevant information, advice and resources as necessary to enable them to carry out their roles effectively.

## **9. CORE PRINCIPLE 6 – PUBLIC ACCOUNTABILITY**

9.1 The Council will ensure that it provides clear leadership, promotes local accountability and responds positively to external scrutiny.

9.2 This will be achieved by:

- (a) publishing on a timely basis an annual report presenting an objective and understandable account of activities and achievements, the financial position and performance of the Council and an objective, balanced and understandable assessment of current performance in service delivery and plans to maintain and improve service delivery;
- (b) establishing clear channels of communication with all sections of the community and putting in place proper monitoring arrangements to ensure that they work effectively; and
- (c) putting in place proper arrangements to encourage individuals and groups from all sections of the community to engage with, contribute to and participate in work of the Council and put in place monitoring processes to ensure that these arrangements continue to work in practice.

## **10. MONITORING**

10.1 In addition to the corporate governance annual review and assessment processes described in Sections 11 and 12, ongoing review and monitoring will be undertaken during the course of the year. This will be the responsibility of the Chief Executive.

10.2 The Chief Executive will:

- (a) monitor the corporate governance arrangements and recommend improvements as necessary;
- (b) ensure that internal audit review corporate governance arrangements and activities through the risk-based audit plans;
- (c) review performance management processes on a regular basis;
- (d) ensure the delivery of agreed objectives whilst managing effectively the associated opportunities and risks;
- (e) review periodically the risk management arrangements;
- (f) implement any ad hoc reviews necessitated by future circumstances; and

- (g) report on the external auditors' review of corporate governance arrangements and other auditable activities.
- 10.3 The Audit and Governance Committee has, within its Terms of Reference, the responsibility to monitor the effective development and operation of risk management and corporate governance in the Council.

## **11. THE REVIEW PROCESS**

- 11.1 The contents of this Code will be reviewed by the Section 151 Officer and Monitoring Officer in conjunction with the Council's Corporate Governance Working Group and the Lead Member for Corporate Governance on an annual basis utilising the CIPFA/SOLACE Corporate Governance Framework and will be kept up to date in the light of changing circumstances.
- 11.2 The external auditors will also inspect the Council's corporate governance arrangements on an annual basis.

## **12. ANNUAL ASSURANCE ASSESSMENT**

- 12.1 Although the review of the corporate governance arrangements will be an ongoing process, each year the Chief Executive and Leader of the Council will be required to sign an Annual Governance Statement assessing the effectiveness of the Council's corporate governance arrangements, which will be included in the Annual Report and Statement of Accounts.
- 12.2 The Annual Governance Statement will be informed by and based upon the work undertaken by the Section 151 Officer and Monitoring Officer, the Chief Executive, and internal audit in overseeing the implementation and monitoring of the operation of the Code. Other Executive Directors, Directors and Associate Directors are responsible for keeping the Annual Governance Statement up to date advising promptly any changes.

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## **PROTOCOL FOR MAKING MEMBER APPOINTMENTS TO OUTSIDE BODIES**

1. This Protocol is intended to be followed by the Council or its Committees when making appointments to Outside Bodies.
2. The Council's representation on each Outside Body, to which it has decided to make an appointment, will fall into one of three categories as set out below:
  - (i) Those Outside Bodies where the Council should be represented by a Lead Member\* in order to demonstrate to the body concerned, as well as to the public, the significance which the Council attaches to being able to influence that body in accordance with the Council Plan. (Where it is not possible for the Lead Member\* to attend personally, for example where it would result in a disproportionate workload, the work would be shared between the Portfolio Lead and Support Members). The Lead Member\*, when reporting to Council, would include detail of the work of the relevant Outside Body. In all cases, there would be dedicated Officer support to ensure that the Council's objectives are achieved.
  - (ii) Those Outside Bodies where the Council should appoint a Member who has to attend mainly to share knowledge and information and to foster good relationships between the Council and those Outside Bodies. The reporting mechanism for these Members will be through the Member Update Sheet.
  - (iii) Those Outside Bodies which are primarily of interest to a specific area of the Borough and where attendance is most appropriately carried out by Members elected to the local area concerned. The reporting mechanism for these would be the Member Update Sheet.
3. When considering any request for the authority to be represented on an Outside Body, the Council, or relevant Committee, where agreeing to make such representation, shall indicate the appropriate category with regard to 2. above and the name of the Member who will serve on that Body.
4. A composite list of all Outside Bodies to which the Council or a Committee has agreed to appoint representatives, together with the name of current appointee(s), will be held by Democratic Services.
5. The appointments to Outside Bodies will be reviewed annually unless otherwise specified.

\* The term 'Lead Member' includes both the Leader of the Council and other Lead Members.

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# PROTOCOL FOR RECORDINGS AT MEETINGS

## 1. INTRODUCTION

- 1.1 This Protocol provides guidance to members of the public or press who wish to record proceedings at any of the Council's public meetings in accordance with the Openness of Local Government Bodies Regulations 2014.
- 1.2 Tewkesbury Borough Council supports the principles of openness and transparency and allows recording at its meetings that are open to the public, subject to the provisions of this Protocol.
- 1.3 The Council already makes facilities available for reporting on its meetings and these include:
- Publication of Agenda, Reports and Minutes on the Council's website; and
  - Provision of a 'public gallery' from which the proceedings of meetings can be observed – including a designated area for the press.
- 1.4 For the purposes of this Protocol, 'recording' includes sound recording, photography and filming.

## 2. BEFORE THE MEETING

- 2.1 There is generally no requirement for those wishing to record proceedings at a meeting to notify the Council in advance. However, as a matter of courtesy, anyone wishing to record proceedings at a meeting is requested to make the Mayor/Chair aware that they wish to do so before the meeting starts.
- 2.2 Those intending to bring large items of equipment, or who may have special requirements, are requested to contact Democratic Services in advance of the meeting to seek advice and guidance.
- 2.3 The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

## 3. AT THE MEETING

- 3.1 Notices will be displayed in the meeting room advising those present that the proceedings may be recorded, and meeting Agenda will also carry this message.
- 3.2 Recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed.
- 3.3 Where any meeting goes into exempt session, all recording equipment must be switched off and removed from the meeting room.
- 3.4 Those undertaking the activities referred to in this Protocol must not act in a disruptive manner which could result in exclusion from the meeting.

#### **4. AFTER THE MEETING**

- 4.1** Any recordings made of Council proceedings should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by Councillors, Officers or others speaking at the meeting or in a way that infringes the core values of the Council. This includes refraining from editing the views being expressed in a way that may ridicule or show a lack of respect towards those being recorded.
- 4.2** The Council takes no responsibility for any recording made by a third party or its subsequent use.



## **PART 6**

### **MEMBERS ALLOWANCES SCHEME**

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## **PART 6 MEMBERS' ALLOWANCES SCHEME**

Tewkesbury Borough Council, in exercise of the powers conferred by the Local Authorities (Members Allowances) Regulations (England) 2003 hereby makes the following Scheme:

### **Citation**

1. This Scheme may be cited as the Tewkesbury Borough Council Members' Allowances Scheme and shall have effect commencing on 1 April 2024, for one year ending on 31 March 2025.

### **Interpretation**

2. In this Scheme

"Councillor" means a Member of the Tewkesbury Borough Council who is a Councillor.

"Year" means the 12-month period commencing on 1 April.

### **Basic Allowance**

3. Subject to Paragraph 8, a Basic Allowance of £7,650 shall be paid to each Councillor for the duration of the Scheme.

### **Special Responsibility Allowances**

4. (i) For each year a Special Responsibility Allowance shall be paid to those Councillors who have the special responsibilities in relation to the Authority that are specified in Schedule 1 to this Scheme.  
(ii) Subject to Paragraph 8, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.  
(iii) A Councillor who carries out more than one role which would attract a Special Responsibility Allowance is entitled to claim each allowance to reflect the responsibility of each role undertaken.  
(iv) In an election year, payment of all Special Responsibility Allowances will cease (with the exception of the Mayor and Deputy Mayor) when the Councillor goes out of Office (four days after the election). Payment of Special Responsibility Allowances will resume upon appointments being made, to the positions subject to an allowance, at the annual meeting of the Council.

### **Attendance at Meetings**

5. If a Councillor does not attend at least two-thirds of the total number of scheduled meetings of the Council, or of the Executive, or of Committees of which he/she is a Member, the Councillor concerned should be invited to pay back an appropriate percentage of his/her Basic Allowance up to a maximum of 25% of the Basic Allowance.

If a Member is absent from Council business for more than one continuous month (other than on illness grounds) the Member concerned should be invited to pay back a sum equivalent to the amount of Basic and Special Responsibility Allowances paid for any single period of absence which exceeds one month.

For periods of long-term absences due to illness the Council should review its position on a case by case basis.

### **Attendance Allowances**

6. No Attendance Allowances whatsoever shall be payable in respect of attendance at any meeting or conference or seminar etc., whether organised by, or on behalf of, the Council or by any other body.

### **Renunciation**

7. A Councillor may, by notice in writing given to the Executive Director: Resources and S151, elect to forego any part of his/her entitlement to an allowance under this Scheme.

### **Part Year Entitlements**

8. If the Term of Office or duties undertaken by a Member begin or end part way through a financial year, or amendment of the Scheme during a financial year changes the amount to which a Member is entitled, then calculation of the allowance payable shall be on a pro-rata basis having regard to the proportion that the Term of Office, period of duty or relevant periods of the Scheme bear to the month in the financial year in which they occur based on the number of days in that month.

### **Claims and Payments**

9. A claim for Travelling and Subsistence Allowance under this Scheme shall be made in writing on the form provided within two months of the date on which the duty in respect of which the entitlement to the allowance arises.
10. (i) Payments shall normally be made by bank transfer
  - (a) in respect of Basic and Special Responsibility Allowances, subject to Sub Paragraph 10(ii) below, in instalments of 1/12th of the amounts specified in this Scheme on the 21st day of each month and for which Councillors will not be required to submit a claim; and
  - (b) in respect of Travelling and Subsistence Allowances, on the 21st day of each month where the claim is received by Democratic Services by not later than the 7th day of that month.
- (ii) Where a payment of 1/12th of the amount specified in this Scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the Councillor receiving more or less than the amount to which, by virtue of Paragraph 8, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more or less is paid than the amount to which he or she is entitled.
- (iii) There shall be no provision for advance payment of Basic or Special Responsibility Allowance in the case of financial hardship.

## Travelling and Subsistence Expenses

11. (i) Any duty undertaken for the purpose of, or in connection with, the discharge of the functions of the Council, or any of its Committees, is an "approved duty" for the purposes of entitlement to Travelling and Subsistence Allowance. "Approved Duties" are defined at Schedule 2.
- (ii) Travelling and other expenses reasonably incurred by Councillors making official and courtesy visits will be paid.
- (iii) The amount of these expenses will be paid at the Inland Revenue approved rates and will increase in accordance with these rates for the period of the Scheme.
- (iv) Subsistence payments will be paid in accordance with the rates paid to staff and will rise in line with any increases agreed in the staff rates. All claims for subsistence must be supported by receipts. The allowances are as follows:
- |              |  |
|--------------|--|
| Breakfast    | £6.22                                      |
| Lunch        | £8.57                                      |
| Tea          | £3.37 (payable for absence beyond 6.30pm)  |
| Evening Meal | £10.61 (payable for absence beyond 8.30pm) |
- NB: The above rates can be varied upon approval in advance by the Executive Director: Resources and S151 where an increased amount is appropriate and reasonable, such as visits to London, subject to the production of receipts.
- (v) Councillors should make every effort to use public transport, particularly when they need to travel some distance to meetings, for example, journeys to London should usually be made by train and only in exceptional circumstances should a private vehicle be used.
- (vi) The onus is on the Councillor to achieve value for money and efforts should be made to take advantage of "early booking" discounts available for rail travel.
- (vii) Taxi and Private Hire Vehicles should only be used in exceptional circumstances where a Councillor is unable to use their own private vehicle, cannot share transport and no public transport is readily available.
- (viii) An overnight allowance is not included within the Scheme. If a Councillor is required to stay overnight in attending an event, they should contact Democratic Services who will make the necessary accommodation arrangements. In exceptional circumstances, when an overnight stay could not be foreseen, reasonable costs will be reimbursed upon production of receipts.

## **SCHEDULE 1 SPECIAL RESPONSIBILITY ALLOWANCE**

The following are specified as the special responsibilities in respect of which Special Responsibility Allowances are payable, and the amounts of those allowances:

|   | <b>£pa</b> |
|---|------------|
| Leader (inclusive of Lead Member role)        | 9,150      |
| Deputy Leader (inclusive of Lead Member role) | 6,860      |
| Lead Members (7)                              | 4,575      |
| Committee Chairs (5)                          | 2,290      |
| Mayor   | 2,290      |
| Deputy Mayor                                  | 1,400      |
| Support Members (9)                           | 180        |

### **Note:**

1. A Councillor who carries out more than one role which would attract a Special Responsibility Allowance is entitled to claim each allowance to reflect the responsibility of each role undertaken.
2. Telephone costs form part of the Members' Basic Allowance.
3. The Council has approved separate arrangements in respect of the provision of IT equipment which are not part of this Scheme.

## **SCHEDULE 2**

### **APPROVED DUTIES**

The following are deemed to be approved duties for the purposes of claiming Travelling Allowances:

- a) Formal meetings of the Council including Committees, Sub-Committees, Working Groups and Advisory Panels.
- b) Meetings of other bodies to which the Council makes appointments.
- c) Authorised training events and conferences which relate to the duties of the Council.
- d) Attendance at meetings and events relating to the duties of the Council at the request of a Borough Council Officer.
- e) Any other duty undertaken for the purpose of, or in connection with, the discharge of the functions of the Council, or any of its Committees, subject to the prior approval of the Executive Director: Resources and S151.
- f) Any meetings arranged by an Officer with a Lead/Support Member at the Council Offices to discuss items within their Portfolio.
- g) Any meeting which a Lead Officer has asked the Lead/Support Member to attend (whether at the Council Offices or elsewhere).
- h) Invitations to Lead/Support Members to attend events, seminars, presentations etc. within a Members' Portfolio, subject to prior approval by the Executive Director: Resources and S151, in consultation with the Lead Officer.

## DEPENDANTS' CARE SCHEME

### 1. Persons Eligible to Claim and Duties for Which They May Claim

- 1.1 Borough Councillors may claim reimbursement of care expenses in respect of any meeting (including conferences, seminars, etc.), which the Member is specifically invited to attend (approved duty).
- 1.2 When travelling away from home to an approved duty which may involve an overnight stay, care expenses may be claimed in respect of the total duration of the duty, less any period during which a dependant is cared for at no cost to the Councillor.

### 2. Rate Per Hour Payable and How Long Payable

- 2.1 The maximum rate payable by way of reimbursement has been fixed at £10.42 per hour (in line with the National Living Wage) with no overall daily maximum.
- 2.2 The time claimed for should normally equate to the duration of the meeting/duty plus up to one hour in total travelling time to and from the meeting/duty.

### 3. Definition of 'Dependant' and 'Carer'

- 3.1 The Care Allowance is payable in respect of:

- (a) children aged 14 or under;
- (b) elderly relatives requiring full-time care; and
- (c) relatives with disabilities or nursing requirements who require either temporary or permanent full-time care.

In each case the dependant must normally live with the claimant as part of the family and be unable to be left unsupervised. For any new claims evidence of eligibility of the dependant **MUST** be provided i.e. birth certificate/doctors certificate.

- 3.2 A carer can be any responsible mature person who does not normally live with the claimant as part of the family but should not be a parent.

### 4. Method of Claim

- 4.1 A receipt in standard format **MUST** be obtained from the carer for each amount paid (copy attached). A proper business paid invoice or official receipt would be acceptable in place of the standard format if this is provided. **Only original receipts will be accepted (no copy/faxed receipts).**
- 4.2 A claim for care expenses should be attached to the Travelling and Subsistence Claim and forwarded to Democratic Services at the end of each month. Reimbursement will be included in the next payment of the Councillor's allowances.
- 4.3 A copy of the claim form/standard receipt is attached.

### 5. Annual Declaration

- 5.1 An annual declaration (in May of each year) will be sent to carers (see attached) to confirm that they have undertaken, and received payment for, the duties which have been claimed. The declaration will be sent by Democratic Services direct to the carer either by post or email and, if sent by post, will enclose a stamped addressed envelope to be returned to Democratic Services.



**DECLARATION OF DUTIES UNDERTAKEN FOR COUNCILLOR (insert name of Cllr as applicable)**

**DETAILS OF CARER**

Name: ..... Telephone No: .....

Address: .....

..... Postcode: .....

**DETAILS OF DUTIES UNDERTAKEN**

(insert amount of payment - £) has been paid to the person named below in connection with the care of (insert name/s of those cared for) for the period (insert period of claim).

I, (insert name of carer), hereby confirm that I have received payment of the above amount for duties undertaken as the carer for (insert name/s of those cared for).

Signed .....

Date .....

