



Council Offices, Kiln Road,
Thundersley, Benfleet,
Essex SS7 1TF.
Tel. No: 01268 882200



A SPECIAL MEETING OF THE COUNCIL of the Borough of Castle Point will be held in the **Council Chamber, Council Offices, Kiln Road, Thundersley**, on **WEDNESDAY, 31st JANUARY 2024 at 7.p.m** and all Members of the Council, listed below, are hereby summoned to attend to transact the undermentioned business.

Councillors, Ms L. McCarthy-Calvert (The Worshipful the Mayor), B. Campagna ,(Deputy Mayor), A. Acott, Ms S.A Ainsley, J. Anderson, Ms H.L Barton-Brown, Ms N. Benson, B. Bizzell, D. Blackwell, Mrs. J.A Blissett, K. Bowker, M. Dearson, A. Edwards, Mrs. B. Egan, M. J Fuller, T.Gibson, W. Gibson, P.C. Greig, S. Hart, N. Harvey, G.Howlett, G.I. Isaacs, Ms D. Jones, J. Knott, R. Lillis, P. May, S Mountford, Mrs. S. Mumford, B.A. Palmer, Mrs. J Payne, Mrs. C.J Sach, R. Savage, T.F. Skipp, A. Taylor, D.J. Thomas, A. Thornton, Mrs. J Thornton, Walter, Mrs G Watson and G.St.J. Withers

Angela Hutchings
Chief Executive

AGENDA

PART I

(Business to be taken in public)

1. Apologies for absence

2. Members' Interests

3. Change to the Borough Council's Electoral Cycle

This Special Council meeting has been convened to consider whether to change the Council's Electoral Cycle from the current electoral cycle and move to whole-council elections every four years. A report is attached.

4. Review of Polling Districts ,Polling Places, and Polling Stations

Following the Boundary Commissions Review of the Council's Electoral Arrangements, the Acting Returning office has undertaken a review of Polling Arrangements on which a report is presented to this Special Council meeting.

5. Review of the Draft New Constitution

This meeting has been convened to consider a proposed new draft Constitution to be adopted by the New Council following the Council Elections in May 2024.

6. Castle Point Plan - Local Development Scheme

As reported at Cabinet on 17 January, the Secretary of State has written formally to the Council regarding progress on the Local Plan, officers have undertaken an initial review of the LDS and shortened the timetable, and this has been discussed and agreed by the Castle Point Plan Delivery Board. The next step will be to present a revised LDS to the Council for approval and submission, as required, to the Secretary of State. This Special Council is the first opportunity to present the revised Scheme to Council for approval. A report is attached.

SPECIAL COUNCIL

31st January 2024

Subject: Change to the Borough Council's Electoral Cycle

Report of: Chief Executive – Angela Hutchings

1. Purpose of Report

To consider the results of the consultation on the proposal to change the Council's current electoral cycle and move to whole-council elections every four years, together with the recommendation from the Scrutiny Committee and to determine proposals for any change in its Electoral governance arrangements.

2. Links to Council's Priorities and Objectives

The Council's democratic arrangements support all of the Council's priorities and objectives.

3. Recommendations

(1) That the Council considers outcome of the consultation on the proposal to change the Council's current electoral cycle.

(2) That Council determines whether to make a change in the Council's electoral arrangements and move to whole Council Elections every four years with effect from May 2024.

4. Background

4.1 The Council has held elections by thirds since 2004. Elections are held in three years out of every four with a third of borough councillors elected at each election, with Essex County Council (ECC) elections held in the fourth year.

4.2 The Local Government Boundary Commission for England (LGBCE) has recently undertaken a review of the Council's electoral arrangements and the Castle Point (Electoral Changes) Order 2023 came into force in July 2023. The effect of the changes is that Castle Point is now represented by 39 councillors, three councillors for each of its 13 wards. To implement the

changes, the Council is required to hold whole-council elections on 2 May 2024 and then will return to elections by thirds from 2026 onwards (the next ECC elections will be held in 2025).

- 4.3 Therefore, it is an opportune time to review the effectiveness of the Council's current electoral cycle and decide whether to return to elections by thirds from 2026 onwards or change to whole-council elections every four years.
- 4.4 The Local Government and Public Involvement in Health Act 2007 enables the Council to resolve to change its electoral cycle and move to whole-council elections every four years.
- 4.5. At the Council meeting on 11 October 2023 (Minute 42 refers) Council agreed to consult on the proposal to change the Council's current electoral cycle and move to whole-council elections every four years and that Scrutiny committee should consider the results and make recommendations to be considered at this Special Council meeting convened to consider the proposal.

5. Report

- 5.1 The main body of this report sets out the arguments for moving to whole-Council elections every four years contrasted with arguments about retaining election by thirds.

Considerations in support of changing to whole-council elections

Political stability and more time to effect change.

- 5.2 Administratively, a four-year term gives greater stability for implementation of policy and effecting change. The annual election cycle reduces the working time available for Members, not just because of the 6-week pre-election period, but also in the weeks leading up to the pre-election period as campaign plans emerge. The delay between close of polls and Annual Council also means that most of the month of May is also ruled out for business. Therefore, in practice, the municipal year comprises only 8 months during which substantive work can be undertaken. The increasingly strategic nature of local government means many of the outcomes a council seeks to deliver or influence span more than one municipal year and so it becomes difficult to demonstrate progress and impact in such a tight window.

Increased democratic understanding and engagement.

- 5.3 There is often a suggestion four-year terms are contrary to the principles of democracy as elections in three years out of every four provide more frequent opportunity for electors to vote and influence the political make-up of the Council. This is not a universally held sentiment as low electoral turnout numbers testify; expectations of voters are rooted in delivery, not elections. There would be a clearer opportunity for the electorate to change the political composition of the council once every four years. However, it should be noted that unlike Parliament, there is no provision for the Council to go to the polls earlier than the four-year period.

- 5.4 The Electoral Commission undertook a review of electoral cycles in 2003 in a report entitled *The Cycle of Local Government Elections in England*. The Electoral Commission, having considered the evidence and arguments presented during the consultation process concluded that a pattern of whole-council elections for all local authorities in England would provide a clear, equitable and easy to understand electoral process that would best serve the interests of local government electors. The Electoral Commission, therefore, recommended that each local authority should hold whole-council elections, with all councillors elected simultaneously, once every four years. However, this is still currently a matter for local choice, as demonstrated by the mixed pattern of electoral cycles across England.

Reduced cost of democracy

- 5.5 Holding whole-Council elections once every four years rather than smaller elections every three years out of four would cost less. The average cost of elections in the last 5 years has been c£133,000 per annum, net of income from others for whom we have held elections. The May 2023 elections cost the Council in the region of £122,000 and this is a good benchmark for current costings.
- 5.6 Under elections by thirds, it is reasonable to assume, therefore, that in a four period the Council would incur total costs of approximately £360,000 plus the costs of any by-elections held. However, there is a greater risk of by-elections in a four-year term than in a cycle by thirds. That said, in the last four years the Council has had three by-elections. Two were combined with the 2021 Borough elections and so the cost was subsumed. One was standalone (St Peter's Ward in 2022) and cost approximately £10,500.
- 5.7 Operating a four-year term does slightly increase the cost of running an election in that fourth year. This is because the count is likely to take longer and therefore costs for count staff will increase, as may some of the costs around printing ballot papers. However, the majority of the costs would be no different. It is estimated that (using May 2023 costings as a benchmark) the cost of an all-out election would increase by just £4,000 to £126,000.
- 5.8 Therefore, the estimated saving by moving to a four-year term is £240,000 every four years, or £60,000 per annum. Even if there was an additional by-election in each year, the savings remain significant.
- 5.9 In addition, by aligning with the Police, Fire and Crime Commissioner (PFCC) elections, additional savings would be achieved through cost sharing. If a change was to take effect from this year, May 2024, it would coincide with the PFCC elections which also run on a four-yearly cycle. This would mean that we would share costs (currently 50/50) with the PFCC in 2024, 2028 and so on. One point to note, however, is that if the role of PFCC were to be incorporated into any County Combined Authority (CCA) devolution deal, the CCA itself will be subject to elections and it remains to be seen what electoral cycle that might be adopted and from when. If the change were to take effect from 2026, we would bear the full cost of our own elections from 2028 and in subsequent cycles

- 5.10 It is also important to note that currently, the Borough elections coincide with the Town Council and, if the change was made, that would no longer be possible. A standalone election would cost the Town Council between £20,000 and £25,000.

Less disruption to public buildings

- 5.11 Holding whole-council elections once every four years would be less disruptive for public buildings used as polling stations, for example schools. Although it should be noted that no other elections would be affected by these changes. Parliamentary (five years maximum), Police, Fire and Crime Commissioner (4 years), Essex County Council (4 years) and Canvey Island Town Council (four years) elections would continue on their normal electoral cycle. Under the current timetable for all elections this would mean that only from 2026 and every subsequent fourth year there would be no elections in Castle Point.

Considerations in support of maintaining election by thirds

Current system is well-established and understood

- 5.12 Voting for one councillor at a time under elections by thirds is a cycle which is well understood by voters in Castle Point. Voting for three councillors at the same time under whole-council elections could, therefore, potentially cause confusion for voters. Communications would need to be put in place to educate and inform the public about the changes and what that means when filling out their ballot papers.

Political accountability and risk of democratic disengagement

- 5.13 The withdrawal of the opportunity to vote more frequently may disengage some of the Borough's electors if they can only vote once every four years, as opposed to elections by thirds. Elections in three years out of every four provide more frequent opportunity for electors to vote and to influence the political make-up of the Council. This may, therefore, provide more immediate political accountability and provide a more up-to-date reflection of the views of local people.

Political stability

- 5.14 Electing by thirds means there is more continuity of councillors without any chance of all councillors being replaced in a single election. This can also lead to greater political stability as change from one administration to another is likely to be more gradual under this system.

More dynamic political environment

- 5.15 Election by thirds can provide more frequent turnover of councillors; a regular influx of newly elected councillors can potentially bring new ideas and fresh approaches to the Council.

6. Public Consultation

- 6.1 If an authority wishes to move from thirds to whole-council elections, it must consult. Councils undertaking such consultation must:
- a) Take reasonable steps to consult such persons that it believes appropriate on the proposed change;
 - b) Have regard to the outcome of the consultation before making its decision;
 - c) Convene a special meeting of the Council to make a resolution;
 - d) Pass a resolution to change by a two-thirds majority of those voting;
 - e) As soon as practicable after passing such a resolution, produce and make available to the public (at its own cost) an explanatory document setting out details of the new scheme.
 - f) Give notice to the Local Government Boundary Commission for England.
- 6.2 The Council agreed on 11 October 2023 to undertake a consultation exercise to provide an opportunity for the public and other stakeholders to express their views on the options available.
- 6.3 This consultation was primarily undertaken by way of an on-line questionnaire approved by Council supplemented by hard copies of the questionnaire in appropriate venues including: Council Offices at Kiln Road; Canvey Island Town Council; leisure centres; and libraries. The questionnaire included:
- a) Information on the current electoral arrangements
 - b) Information on the proposed changes together with an impact of the change
 - c) Reasons to change to whole-council elections and reasons to keep elections by thirds.
 - d) The choice of 'tick boxes' for the respondent to indicate their preferred option.
 - e) A box for reasons or any comments on the proposal (optional to complete)
 - f) A question to indicate if they are completing the questionnaire as a local resident or as a representative of a group or organisation.
 - g) Basic demographic information such as gender, ethnicity and age.

7. Scrutiny Committee 11 January 2024 - Review of the Consultation Response

- 7.1 On 11 January 2024, the Scrutiny Committee reviewed the response provided to the public consultation exercise. To assist the Committee the following was provided:
- a) Report and appendix to Council 11.10.2023
 - b) Consultation form
 - c) Results of Consultation (Appendix C)

- d) Report on online consultation (Appendix D)
- e) Report on online comments (Appendix E)
- f) Report of hard copy consultation (Appendix F)

Response to Consultation

- 7.2 Public consultation took place between Monday 16 October 2023 and Monday 18 December 2023. The period was extended following consultation with the Leader of the Council for a further two weeks from Monday 27 November to give additional opportunity to obtain a response. Members were informed. Social media was used to encourage residents to respond.
- 7.3 Political parties were also contacted with details of the consultation.
- 7.4 The consultation response data is set out in Appendix C (attached to this report) including the consultation between online and hard copy responses. In summary a total of 257 responses were received of those 154 (60%) favoured a change to whole council elections with 103 (40%) indicating a wish to stay the same.
- 7.5 Examination of the comments submitted reflected the points supporting the reasons for change or no change contained in the supporting information for the consultation.(Appendix E).
- 7.6 The Scrutiny Committee reviewed the consultation responses and was satisfied with the process and results of the consultation and formally commended the matter to Special Council for decision.

8. Decision for Council

- 8.1 Council is invited to consider the arguments set out in this report for moving to whole Council elections every four years contrasted with arguments about retaining election by thirds.

9. Corporate Implications

(a) Financial Implications

The majority of the financial implications are within the main body of the report at paragraphs 5.5 through to 5.10.

Should the Council ultimately move to elections once every four years, the financial impact of this will be smoothed to ensure that an election year does not result in a spike in the budget requirement. The smoothing would be achieved by creating a quadrennial election earmarked reserve and contributing to it every year.

(b) Legal Implications

The legal implications are dealt with in the report which describes the process to be followed as set out in Sections 32 - 36 Local Government and Public Involvement in Health Act 2007. See Paragraph 6.1 above.

(c) Human Resources and Equality Implications

There are none to be addressed in the report. The Equality impact is neutral.

(d) IT and Asset Management Implications

There are none to be addressed in the report.

10. Timescale for implementation and Risk Factors

If agreed the decision will be implemented from the whole-council elections on 2 May 2024.

If the Council passes the resolution to make the change, it cannot reverse its decision for at least 5 years. If, in the future, the Council sought to revert to elections by thirds after the expiration of 5 years, the Local Government Boundary Commission for England must decide whether to conduct another review of boundaries and warding arrangements.

11. Background Papers

Part 2 (specifically s.32 – 36) Local Government and Public Involvement in Health Act 2007

Report Author:

Angela Hutchings Chief Executive
Ann Horgan Monitoring Officer

Appendix C

ELECTION CYCLE RESULTS

16th October – 27th November

	Online	Hard Copy	Total
Change to Whole Council Elections	34	7	41
Keep it as it is, elections by thirds	34	20	54
Total No. Responses	68	27	95

28th November – 18th December

	Online	Hard Copy	Total
Change to Whole Council Elections	112	1	113
Keep it as it is, elections by thirds	39	0	39
Total No. Responses	151	1	152

Overall Results

	Online	Hard Copy	Total
Change to Whole Council Elections	146	8	154
Keep it as it is, elections by thirds	83	20	103
Total No. Responses	229	28	257

SPECIAL COUNCIL

31st January 2024

Subject: Review of Polling Districts, Polling Places and Polling Stations

Report of the Chief Executive – Angela Hutchings

1. Purpose of Report

To provide the Council with a report on the outcome of a review of the polling districts, polling places and polling stations in the Borough. The review is necessary following changes made to the electoral arrangements of Castle Point Borough Council by the Local Government Boundary Commission for England (LGBCE). It also incorporates the statutory 5 yearly review required for boundaries within the Castle Point UK Parliamentary Constituency.

2. Links to Council's Priorities and Objectives

The Council's democratic arrangements support all of the Council's priorities and objectives.

3. Recommendations

- 1) That the proposals for changes to Polling Districts, Polling Places and Polling Stations as set out in Appendix 2 to this report, are approved for commencement with effect from the Borough Elections and Police, Fire and Crime Commissioner (PFCC) Elections on 2 May 2024 and the next UK Parliamentary election.**
- 2) That the Electoral Registration Officer be authorised to take the necessary measures to give effect to any new or amended polling districts on completion of the polling district review, ensuring that the electoral register reflects existing and new boundaries where appropriate, until the boundaries are fully in force.**

4. Background

- 4.1 Under the Representation of the People Act 1983 (the "1983 Act") the Council has a duty to divide the Borough into polling districts and designate a polling place for each polling district. The Council must keep these arrangements under review.**

The following definitions may be helpful when reading the report and appendices.

- “Polling districts” are geographical electoral areas into which wards and constituencies may be sub-divided.
- “Polling places” are the buildings or areas designated by the council where electors in a polling district go to vote in person.
- “Polling stations” are the number of issuing desks in the building or area that is the designated polling place.

- 4.2 In May 2022 the Local Government Boundary Commission for England (“LGBCE”) began a review of the Council’s electoral arrangements. Following conclusion of the review the Castle Point (Electoral Changes) Order 2023 was made on 13 July 2023. It reduces the number of elected Councillors to 39, the number of wards in the borough from 14 to 13 and changes the boundaries of the remaining wards. The Council was, therefore, required to review its current arrangements for polling districts, polling places and polling stations to reflect the new ward structure. The changes will take effect from the Borough elections on 2 May 2024.
- 4.3 Furthermore, the Electoral Administration Act 2006, amends the 1983 Act and introduces a duty on all local authorities in Great Britain to review their polling districts and polling places for UK Parliamentary elections at least once every five years. Under section 18C of the Representation of the People Act 1983, the next compulsory review must be undertaken within a 16-month window between 1 October 2023 and 31 January 2025.
- 4.4 In addition, the Boundary Commission for England has undertaken a review of parliamentary constituency boundaries. The Commission has now published its final recommendations, and Orders for the new parliamentary constituency boundaries were made in November 2023. The Castle Point Constituency includes the entire borough of Castle Point and one polling district, DQ in Pitsea South East Ward, Basildon. Basildon Borough Council is responsible for reviewing the polling arrangements for this polling district. The new boundaries will be used for the next general election. If a parliamentary by-election in Castle Point is called in the meantime, it would be run on existing boundaries.
- 4.5 These issues mean it is important that the polling district and places review is carried out as early as possible, so that Castle Point Borough Council has agreed polling districts and places to be used for the next parliamentary election as well as the scheduled local elections and Police and Crime Commissioner elections in May 2024.
- 4.6 In designating polling districts and polling places the Council must seek to ensure that all electors have reasonable facilities for voting, as are practicable in the circumstances. This includes a particular requirement that accessibility of disabled people is considered.
- 4.7 The review has been undertaken using Electoral Commission guidance.

- 4.8 Public notice of the review was given on 19 December 2023 and comments were invited by 19 January 2024. The review process was publicised through public notices, notice boards, social media and on the Council's website to encourage either expressions of support for the proposals or representations for alternatives to be considered. In addition key stakeholders involved in the process were sent copies of the proposed arrangements and invited to submit comments. A briefing was also given to elected members and potential candidates and election agents on 8 January 2024.
- 4.9 Four responses were received to the consultation. The comments are attached at Appendix 1.
- 4.10 The (Acting) Returning Officer also commented on each of the proposals and these were publicised on 5 January 2024.

5. Proposals

- 5.1 A summary of the full list of the proposals for the Council's polling arrangements is attached at Appendix 2.
- 5.2 Following comments from the (A)RO stating that wherever possible electors should continue to vote at their existing polling station so that disruption and any confusion about where to vote can be kept to a minimum the following changes have been made to the initial proposals:
- **Canvey Island Central Ward - Districts AS2, AT2 AND AT3** – confirmed that the electorate remain voting at Canvey Junior School and do not move to St Nicholas Church Hall.
 - **Canvey Island South Ward – District AP1** – electorate to continue to vote at Lubbins Park School for elections this year and be re-assessed at the next review.
 - **St Michael's Ward – BO1** – electorate to remain voting at Daws Heath Social Club and be re-assessed at the next review.
- 5.3 The following new venues are proposed to accommodate the increase in electorate in those Wards:
- **Canvey Island East Ward – AL2, AP3** – St Anne's Church Hall
 - **Canvey Island Winter Gardens Ward – Districts AU2/AV1** – Jubilee Hall (behind Waterside Farm Sports Centre)
 - **Canvey Island North Ward – District AN** – Clubhouse, Canvey Island Rugby Club

- **Thundersley South Ward – Districts AX2, AY1, BN2 – Runnymede Main Hall**

5.4 The following venue is proposed as an alternative to Thomas Moore Church Hall:

- **Hadleigh St James – BC1, BD – Hadleigh Old Fire Station**

6. Implementing Polling Districts Changes

- 6.1 The polling district and places review will result in new polling districts being created or existing polling district boundaries being amended.
- 6.2 If the Council makes any alterations to the polling districts in its area, the Electoral Registration Officer (ERO) must amend the register of electors accordingly (Section 18A (5) Representation of the People Act 1983).
- 6.3 The changes to the register take effect on the date the ERO publishes a notice stating that the adaptations have been made. It is intended that alterations to polling districts will be made on 1 February 2024.
- 6.4 Where polling districts have been created to support the implementation of boundary changes, the electoral register will need to be constructed in a way that is capable of reflecting the existing and new boundaries. This is to ensure that any parliamentary by-elections can be run on the existing boundaries, until the new boundaries come into force.
- 6.5 This can be achieved by making any parts of existing electoral areas that will be split when the new boundaries come into effect into separate polling districts. Publishing the electoral register to reflect existing and new boundaries will also help to enable current Councillors and MPs to receive the parts of the register that they are entitled to, while allowing individuals to be supplied with the relevant parts of the register once they become a candidate for an election.
- 6.6 This may mean that, for administrative purposes, there are two versions of the polling scheme. Once the boundaries are fully in force, any polling districts which have been split simply to allow elections to be run on either set of boundaries, can be re-merged.

7. Corporate Implications

(a) Financial Implications

Four additional polling stations are proposed and one change of venue which would result in additional hire charges. Hiring fees for each venue are yet to be confirmed for May 2024 but the overall cost is expected to increase by between £1,500 - £2,000 overall.

The costs of administering elections are met as appropriate through the Consolidated Fund, the Essex County Council, the Canvey Island Town Council or the Borough Council depending upon election type. The cost of the elections on 2 May 2024 will be met by the Borough Council and the Consolidated Fund for the PFCC in a 50:50 split.

(b) Legal Implications

The review is a legal requirement as described in the background section of this report.

(c) Human Resources and Equality Implications

Human Resources

The proposals present an opportunity to review the staffing requirements for Elections.

Equality Implications

This report reflects the (Acting) Returning Officer's proposals in response to a legislative change which has been the subject of an Impact Assessment at national level. The content of that Impact Assessment has been taken into account in the proposals and recommendations outlined.

(d) IT and Asset Management Implications

There are no asset management or IT implications arising from the proposals in this report.

7. Timescale for implementation and Risk Factors

The proposals will be implemented to be effective for the elections in May 2024.

The risks are minimal as the review is a legislative requirement carried out in accordance with detailed guidance issued by the Electoral Commission.

8. Background Papers

- Guidance on the review of polling districts and polling places (Electoral Commission)
- Checklist: Review of polling districts and polling places (Electoral Commission)
- Acting Returning Officer's Comments – January 2024

Report Author: Chief Executive, Angela Hutchings

REVIEW OF POLLING DISTRICTS, POLLING PLACES & POLLING STATIONS
RESPONSES TO PUBLIC CONSULTATION

Response 1

'Please consider not using schools as polling stations.

Children have missed enough school days over recent years and I think it is irresponsible to shut schools for this purpose.

The impact this has on additional child care costs should also be appreciated.

For example on Canvey there are a number of alternatives that can be used, Waterside Farm, the paddocks, various community halls including football clubs. Thank you'

Response 2

Please do not use schools as polling stations, children need to be in school. Use local halls, church hall any public facility.

Response 3

I am writing to ask that you reconsider the use of Thundersley Primary School as a polling station.

Each year, our school, and particularly our Year 6 children, is disrupted due to a classroom being used all day for the elections. We have strangers on site all day which means that we need to have extra supervision in our playground as this is near the polling station. This is logistically challenging.

In addition to this, because it is the Year 6 classroom which is used, as it is the nearest room to the entrance and therefore the least disruptive, our Year children who have their SATs tests in the following weeks are the ones disrupted the most. This does to help them in their preparation for these tests.

The process requires us to set aside parking for the members of the public with a disability and this means that we do not have enough parking spaces for all of our staff on that day.

If you would take our case into consideration and re-evaluate the use of our school, I would be most grateful.

Response 4

This email is to convey Castle Point CLP's comments re the draft proposals for the above review.

APPENDIX 1

Firstly, we would like to thank the electoral services team for all the hard work they have undertaken in carrying out this review. Given the significant changes to the ward boundaries and the various criteria that need to be followed as per the Electoral Commission's guidance, we recognise this has been no mean feat.

We heartily welcome the increase in the number of polling stations, particularly on Canvey Island. Voters on the island have historically been disadvantaged in comparison to their counterparts on the mainland, with large wards like North and East having only one polling station each. Given the woefully low turnout in local elections, any move to increase voter engagement is clearly to be commended.

In a perfect world we would have one on every street corner, although we realise the impracticality of this!

We are pleased to see that disruption to schools has been avoided where possible and that changes to voters' usual polling station has been kept to a minimum.

To summarise, we think this is an excellent review and we support the officers' draft proposals.

Appendix 2

WARD	POLLING DISTRICTS	POLLING STATION & POLLING PLACE
Appleton	AA2, AB2, AD1, BF3	Main Hall, Kents Hill School, Kents Hill Road Junior School, Kents Hill Road, Benfleet, SS7 5PS
	AF2, AF5, BJ	St Mary's Church Hall, 376 High Road, Benfleet, SS7 5HN
Canvey Island Central	AJ	Methodist Church Hall, Methodist Church, Waarden Road, Canvey Island, SS8 9AB
	AK1	St Nicholas Church Hall, St Nicholas Church, Long Road, Canvey Island, SS8 0JR
	AS2, AT2, AT3	Main Hall, Canvey Junior School, Long Road, Canvey Island, SS8 0JG
Canvey Island East	AL1, AM, AO2	Clubhouse, Canvey Football Club, Park Lane, Canvey Island, SS8 7PX
	AL2, AP3	St Anne's Church Hall, St Annes's Church, St Annes' Road, Canvey Island, SS8 7NR
Canvey Island North	AN	Clubhouse, Canvey Island Rugby Club, 100 Dovervelt Road, Canvey Island, SS8 8EJ
	AO1, AP2	War Memorial Hall, High Street, Canvey Island, SS8 7RB
Canvey Island South	AP1	Main Hall, Lubbins Park Primary School, May Avenue, Canvey Island, SS8 7HF
	AQ	Hall at CISCA House, Long Road, Canvey Island, SS8 0JA
	AT1	Canvey Junior School, Long Road, Canvey Island, SS8 0JG

WARD	POLLING DISTRICTS	POLLING STATION & POLLING PLACE
Canvey Island Winter Gardens	AK2, AS1, AU1	School Hall, Northwick Park Primary & Nursery School, Third Avenue, Canvey Island, SS8 9SU
	AU2, AV2	Jubilee Hall (behind Waterside Farm Sports Centre), Somnes Avenue, Canvey Island,
	AV1, AV3	Winter Gardens Baptist Church Hall, Hilton Road, Canvey Island, SS8 9QA
Hadleigh St. James	BC1, BD	St Barnabus Church, Woodfield Road, Hadleigh, SS7 2EJ
	BE	Hadleigh Old Fire Station (HOFS), 20 High Street, Hadleigh, Benfleet, SS7 2PB
St George's	AZ, BK3	Committee / Team Room Woodside Pavilion, Woodside Park, Benfleet, SS7 4PA
	BA, BB	St George's Church Hall, Rushbottom Lane, Benfleet, SS7 4DN
St Mary's	AF1	Richmond Small Hall Richmond Avenue, Benfleet, SS7 5HE
	AG1	Benfleet Methodist Church, High Road, Benfleet, SS7 5LH
	BF2, BG	Richmond Hall, Richmond Avenue, Benfleet, SS7 5HE
St Michaels	BC2, BC3, BN1	Lounge, Westwood Court, Beresford Close, Hadleigh, SS7 2SU
	BO, BP	Daws Heath Social Club, Daws Heath Road, Benfleet, SS7 2UA

WARD	POLLING DISTRICTS	POLLING STATION & POLLING PLACE
Tarpots	AA1, AB1, AD2, AF4, BF1, BF4	Holy Family Church, 661 High Road, Benfleet, SS7 5SF
	BK2, BL2	Thundersley Methodist Church Hall, Kennington Avenue, Benfleet, SS7 4BS
Thundersley North	AF3, BK1, BL1	Small Hall St. Peter's Church, Church Road, Benfleet, SS7 3HG
	AW, AX1	External classroom, Thundersley Primary School, Hart Road, Benfleet, SS7 3PT
	AY2	Foyer, Runnymede Hall, Kiln Road, Benfleet, SS7 1TF
Thundersley South	AF6, AG2, AH	Reception Meeting Room, The King John School, Shipwrights Drive, Benfleet, SS7 1RQ
	AX2, AY1, BN2	Runnymede Hall, Kiln Road, Benfleet, SS7 1TF

SPECIAL COUNCIL

31st January 2024

Subject: Review of the Draft New Constitution

1. Purpose of Report

To present to Council a refreshed version of the Council's Constitution to recommend for adoption by the new Council following the Borough Elections in May 2024 .

2. Links to Council's Priorities and Objectives

This links to all and particularly as Enablers.

3. Recommendations

To approve the draft Constitution for adoption by the new Council at the Annual Meeting to take place in May 2024.

4. Background

- 4.1 It is a requirement of the Local Government Act 2000 as amended that the Council publishes and maintains a formal document setting out the constitutional and governance arrangements for the Council.
- 4.2 This report is presented to the Council by the Chief Executive having responsibility as set out under Article 13 of the Constitution to report to Council on changes to the Constitution.
- 4.3 At the meeting of the Council on 26th July 2023 Council approved arrangements to review the Constitution.
- 4.4 A refresh has been undertaken to bring our arrangements up to date .The new draft looks and feels different. Detailed below is a comparison of the existing and proposed Constitution.

November 2022 Constitution	Proposed New Constitution
Part 1 Summary & Explanation	Chapter 1 The Articles of the Constitution
Part 2 Articles of the Constitution	Chapter 2 The Procedural Rules

November 2022 Constitution	Proposed New Constitution
Part 3 Delegations (Officer)	Chapter 3 Codes & Schemes
Part 4 Rules & Procedures	Chapter 4 Functions & Responsibilities
Part 5 Protocol	

4.5 The Scrutiny Committee was commissioned to undertake a review of the Constitution and proposals made by the Cabinet. The Committee held a mixture of informal workshops and public meetings on 9 October, 25 October, 7 November, 8 November 9 November and 30 November to discuss. Visiting members also attended and contributed at various times. Cross party involvement was achieved throughout. The Committee was in favour of an overhaul of the Constitution and was, in general, supportive of the work which had been done and the proposals put forward by the Cabinet.

4.6 The Scrutiny Committee had sight of Chapters 1 and 2 only which is where the major proposed changes are being made. Chapters 3 and 4 are Codes and Schemes and delegations – this is functional, technical drafting which is intended to be improved for clarity and understanding.

A. Chapter 3 Codes and Schemes covers the following:

- The Member Code of Conduct - is unchanged.
- Members Allowances is to be reviewed for the new administration in May 2024.
- Improved guidance for gifts and hospitality.
- Improved clarity of Member/ Officer Protocol.
- The new Financial Regulations are to follow.

B. Chapter 4 Functions and Responsibilities contains Scheme of Delegations for Cabinet and the Office scheme of delegation which is under revision to reflect the new organisation .

4.7 The Scrutiny Committee made 8 recommendations which were formally reported to the Cabinet on 22 December 2023. The Cabinet approved all the recommendations and those have subsequently been incorporated into the drafting of the New Constitution appended to this report. Chapters 1, 2 & 3 of the Constitution have been issued in advance of publication. The new Financial Regulations are to follow along with the accompanying draft of Chapter 4 The new Financial Regulations are more detailed and give clarity on the delegations that exist and provide clearly defined thresholds.

4.8 A briefing was provided on 16 January 2024 to all Councillors on the proposed changes to the Constitution. A recording of the session and the presentation has also been shared. A copy of the presentation is attached at Appendix A which summarises the Key features described in the report.

4.9 The review of the Constitution centred on the following proposals:

- a) Adoption of the “Strong Leader” model.
- b) The role of overview and scrutiny in good corporate governance.
- c) Changes to other committees.
- d) Council Procedure Rules; and
- e) Cabinet Procedure Rules.

The review also focussed on bringing the Constitution up to date and to give effect to changes in legislation.

5. Key Features

Adoption of the “Strong Leader” model

- 5.1 The elements of the drafting to give effect to the Strong Leader model of governance were necessary to bring the Constitution into line with the provisions of the Local Government Act 2000 (as amended by the Localism Act 2011) and the way that other authorities with executive arrangements operate.
- 5.2 Accordingly, the provisions in Chapters 1 and 2 of the draft Constitution include specific reference to the following:
 - a) Financial and administrative delegations to be made to Cabinet members to exercise under a new governance process which enables Cabinet members to exercise delegated powers outside of formal Cabinet meetings. The detailed drafting will still need to be reviewed for clarity and understanding at the meeting of Full Council on 31 January 2024.
 - b) That the Leader is appointed for a 4-year term from the majority group or where there is no majority is appointed by Council. The drafting sets out their role and responsibilities and grounds for early termination are also set out.
 - c) That the Deputy Leader is appointed by the Leader with additional clarity around role and responsibilities laid out; and
 - d) Duties and responsibilities of the Cabinet members are also set out with explanation as to how changes can be made in-year.

Role of scrutiny

- 5.3 It has been recognised that the role of scrutiny required improvement in order to perform the checks and balances required for a Strong Leader model.
- 5.4 Therefore proposals are set out in Article 9 of the Constitution, namely that there should be one Overview & Scrutiny Committee (“OSC”) that it should comprise 15 members instead of the suggested 11 members. The OSC will be politically balanced.
- 5.5 Initially there were concerns that replacing the existing Policy and Scrutiny Committees (“PSCs”) with Task and Finish groups (“TFGs”) would reduce inclusion of members in the scrutiny function. The Scrutiny Committee considered whether the existing PSCs should be retained but formalised as sub-committees of OSC. Following detailed debate, the Committee agreed with the provisions of paragraph 17 of Chapter 2 of the draft Constitution which set out the procedure rules for OSC and was satisfied that the flexibility of the TFGs would fit better with a co-ordinating function of OSC, to

deliver against the work programme agreed between the Chair of the Committee and the Leader of the Council. The ability of OSC to determine the terms of reference and composition of TFGs gave the Committee comfort that participation in TFGs would enable members with particular expertise or interest to contribute to those areas of scrutiny which are within their field of experience, thereby increasing the effectiveness of the overall scrutiny function.

- 5.6 The Scrutiny Committee agreed that there should be a standing sub-committee of OSC dedicated to Climate Action to reflect the importance of this subject.
- 5.7 The Committee also agreed with the provisions of Article 17 – OSC Procedure Rules and the proposal for a new informal procedure to enable resolution of the issue without formal call-in. This reflects best practice.

Changes to other committees

- 5.8 The proposal to create a standing sub-committee of the Licensing Committee to purely deal with driver matters has been agreed. This will be called the “Drivers’ Panel”. This does not prevent the standing up of an ad hoc Licensing Sub-Committee e.g. for a police review of a premises licence.
- 5.9 Additional drafting required by law has been added to reflect how the Staff Appointments and Review Panel will act as an investigation and disciplinary committee.
- 5.10 The Audit Committee is to be re-named “Audit and Governance Committee” and its terms of reference extended to place more emphasis on risk management and the robustness of the corporate governance framework.
- 5.11 The Review Committee is to be re-named “Standards Committee” dealing with conduct matters as currently but also terms of reference extended to cover oversight and review of member induction training and the members’ training programme. It will be a standing committee.

Council Procedure Rules

- 5.12 Changes have been made to the Council Procedure Rules in Chapter 2 of the draft Constitution.
- 5.13 Meetings have been limited to a maximum of 2 hours and the drafting makes clear that this rule could be suspended by a majority vote of members present if the meeting needed to continue beyond the 2 hours.
- 5.14 There is a new opportunity for Chairs of committees to speak to full Council on key issues about the work of their committees which need to be brought to the attention of Council provided that this was on notice to the Chief Executive and with the agreement of the Mayor (to enable agenda management).

- 5.15 The Mayor's powers to change the order of the agenda have been made explicit.
- 5.16 There is a change to the number of questions which may be asked by a member of the public at meetings of full Council. This is a reduction from two questions to one. The question may be multi-faceted but must be directly related in subject matter to qualify as a single question. The decision of the Chief Executive as to whether a question or part of a question is admissible is, in consultation with the Mayor, final.
- 5.17 The time limit in which questions previously asked by members of the public can be asked again, has been reduced from 2 years to 6 months, to bring it in line with the statutory decision-making moratorium for full Council.
- 5.18 Following detailed debate, it was agreed that there be a maximum of 5 Motions on Notice for the purposes of agenda management subject to the following:
- a) Motions should be admitted to the agenda on a first come first served basis as determined by the Chief Executive.
 - b) Where there are more than 5 valid Motions submitted, then if in the discretion of the Chief Executive (in consultation with the Mayor) there is sufficient agenda time to take more than 5 Motions, then additional Motions should be added to the agenda.
 - c) Where there are more than 5 valid Motions submitted, and there is not sufficient agenda time, then those additional Motions will be deferred to the next meeting of Council if they are not withdrawn.
- 5.19 In line with the recommendations of the Scrutiny Committee, and because the Constitution is a "living" document, this provision will be kept under review and will be reviewed again by the Scrutiny Committee no later than the end of January 2025.

Cabinet Procedure Rules

- 5.20 The changes made to this drafting are largely to aid understanding and provide clarity however the following has been specifically added:
- a) Amendment to the current requirement to meet monthly to change to a minimum of 6 times per municipal calendar to give flexibility, in line with other councils;
 - b) To provide that the Budget and Policy Framework will go to OSC for pre-scrutiny before coming to Cabinet and thereafter to Council. This is best practice but will require some practical changes to ensure sufficient time in the municipal calendar; and
 - c) To replace current provisions for visiting members to ask questions on Cabinet agenda items with a new process which would mean one question (not a statement), per visiting member, per agenda item, in writing on notice with one oral supplementary question as an extension of or arising from the original written question.

6. Corporate Implications

(a) Financial Implications

Financial Procedures are under review by the Section 151 Officer and will be circulated

(b) Legal Implications

It is a requirement of the Local Government Act 2000 as amended that the Council publishes and maintains a formal document setting out the constitutional and governance arrangements for the Council.

(c) Human Resources and Equality Implications

There are none to be addressed by this report.

(d) IT and Asset Management Implications

It is intended that once approved and adopted in May the Constitution will be hosted on the Council's website and be available for public inspection, as required by law. To improve accessibility, there will be a review to ensure it is made available in the most user-friendly format reasonably possible.

7. Timescale for Implementation and Risk Factors

7.1 It is intended that the review will be completed and the new Constitution in place for adoption by the new Council administration in May 2024.

7.2 The timetable for this piece of work is as follows:

- a) Presentation of final version of the Constitution to full Council on 31 January 2024 with a recommendation that the Constitution be adopted by the new council at the Annual Meeting in May 2024; and
- b) Preparatory work for member training and implementation of the new Constitution to take effect from the beginning of the new municipal year/Annual Council 2024/25.

Background Papers

Constitution November 2022.

Draft Chapter 1,2 ,3 & 4.

Report Author:

Angela Hutchings Chief Executive

Ann Horgan Head of Governance Monitoring Officer

Draft New Constitution All Member Briefing 16 January 2024 Appendix A

Proposed New Constitution

- ▶ A key commitment of the administration as part of its mission to modernise the council, was to review the Constitution.
- ▶ A refresh has been undertaken to bring our arrangements bang up to date. The new draft looks and feels different.

November 2022 Constitution	Proposed New Constitution
Part 1 Summary & Explanation	Chapter 1 The Articles of the Constitution
Part 2 Articles of the Constitution	Chapter 2 The Procedural Rules
Part 3 Delegations (Officer)	Chapter 3 Codes & Schemes
Part 4 Rules & Procedures	Chapter 4 Functions & Responsibilities
Part 5 Protocol	

Review by the Scrutiny Committee



- The Committee held a mixture of informal workshops and public meetings on 9 October, 25 October, 7 November, 8 November, 9 and 30 November to discuss. Visiting members also attended and contributed at various times. Cross party involvement was achieved throughout.
- The Committee had sight of Chapters 1 and 2 only which is where the major proposed changes are being made. Chapters 3 and 4 are Codes and Schemes and delegations – this is functional, technical drafting which is intended to be improved for clarity and understanding. All Chapters will be available for full Council on 31 January 2024.

Conclusions of the Scrutiny Committee



- The Committee was in favour of an overhaul of the Constitution and was, in general, supportive of the work which had been done and the proposals put forward by the Cabinet.
- The detailed drafting will still need to be reviewed for clarity and understanding at the meeting of Full Council on 31 January 2024.
- The Committee was reassured that the Constitution is a “living” document and that it will continue to be reviewed by members periodically in the future and that the most appropriate forum for that review would be the Overview and Scrutiny Committee.

Recommendations from Scrutiny Committee

Recommendation 1	That the composition of the Overview & Scrutiny Committee should be 15 members instead of the suggested 11 members; politically balanced.
Recommendation 2	That any time limit for public meetings should be 2 hours rather than the 3 hours proposed, provided that the drafting makes clear that this rule could be suspended by a majority vote of members present if the meeting needed to continue.
Recommendation 3	That there should be no change to the total number of public questions to be taken at a meeting of full council.
Recommendation 4	That the drafting for the number of public questions to be asked by a member of the public at full council makes clear that a question may be reasonably multi-faceted but must be directly related in subject matter to qualify as a single question. It is also proposed that the decision of the Chief Executive as to whether a question or part of a question is admissible be final.

Recommendations

Recommendation 5

That the drafting for Motions on Notice makes clear that:

- Motions on Notice be admitted to the agenda on a first come first served basis as determined by the Chief Executive;
- Where there are more than 5 valid Motions on Notice submitted, then if in the discretion of the Chief Executive (in consultation with the Mayor) there is sufficient agenda time to take more than 5 Motions on Notice, then additional Motions on Notice should be added to the agenda;
- Where there are more than 5 valid Motions on Notice submitted, and there is not sufficient agenda time, then those additional Motions on Notice will be deferred to the next meeting of Council if they are not withdrawn; and
- That the operation of these provisions should be kept under review and come back to the Overview and Scrutiny Committee for formal consideration no later than the end of January 2025.

Recommendations

Recommendation 6	That there should be no change to the number of members required to support a Motion on Notice.
Recommendation 7	That, outside of the Constitution, the Cabinet consider implementation of a service standard to enable circulation of minutes of public meetings to members within a timely period following that meeting.
Recommendation 8	That the Cabinet commissions a review of the constitutional arrangements for the operation of Development Management Committee.

Review by the Cabinet



- ▶ Report from Scrutiny Committee was presented to Cabinet on 20 December 2023.
- ▶ All recommendations were approved by Cabinet.
- ▶ All recommendations have now been incorporated into the drafting of the New Constitution.

RED, AMBER AND GREEN

- ▶ To aid comprehension a RAG status has been applied to the changes made:
- ▶ **RED** = “MUST DO” = where the current constitution is deficient and amendment is required for legal reasons
- ▶ **AMBER** = “SHOULD DO” = where the proposed amendment represents best practice and/or is suggested to improve clarity, understanding and practice.
- ▶ **GREEN** = “CAN DO” = where the proposed amendment is a local decision and is entirely within the discretion of the Council.

Headlined changes - the big points

- ▶ Adoption of a strong leader model – financial and administrative delegations to Cabinet members to exercise under a new governance process which means not all decisions will now need to come to Cabinet. RED
- ▶ Leader is appointed for a 4 year term from the majority group or where there is no majority is appointed by Council - clear role and responsibilities set out and grounds for early termination also set out RED
- ▶ Deputy Leader is appointed by the Leader – but again clarity around role and responsibilities laid out. RED
- ▶ The changes proposed will bring the administration into line with the law and the way that other authorities with executive arrangements operate.
- ▶ Because this reflects the provisions of the Local Government Act 2000 (as amended by the Localism Act 2011) these changes are long overdue.

Headlined changes – the big points



Article 6 – the role and functions of the Cabinet

- ▶ New drafting makes it more explicit especially in relation to duties and responsibilities of the Cabinet members and how changes can be made in-year
- ▶ This is important because it is linked to the new delegations. **RED**

Headlined changes - the big points

- ▶ **Article 8 sets out the Council's committees.**
- ▶ These remain broadly the same as currently save for the following:
- ▶ Creation of a standing sub-committee of the Licensing Committee to purely deal with driver matters. This will be called the "Drivers' Panel and does what it says on the tin. This does not prevent the standing up of an ad hoc Licensing Sub-Committee e.g. for a police review of a premises licence
GREEN
- ▶ Staff Appointments and Review Panel – as required by law, the detail behind how the SARP will act as an investigation and disciplinary committee needs to be expressly included. **RED**

Headlined changes - the big points

- ▶ Article 9 sets out proposed new scrutiny arrangements **NEED FOR CHANGE IS RED BUT PROPOSED SOLUTION IS AMBER**
- ▶ One Overview & Scrutiny Committee – 15 members – politically balanced
- ▶ Existing PSCs will cease to exist and their work will be undertaken by the OSC through commissioned task and finish groups. However there will be a new sub-committee of OSC dedicated to Climate Action.
- ▶ The OSC commissions the task and finish groups and a member of the committee will chair each group. The group may comprise members who are not part of OSC. Of course, any member of the council may attend an OSC meeting as a visiting member or a task and finish group with the permission of the chair of that group.
- ▶ Cabinet members are not permitted to be on OSC but they can be members of any task and finish group (although they cannot chair)
- ▶ Best practice is that the Chair of OSE is not a member of the administration but we have not specified this in the draft Constitution to preserve the flexibility and make it a choice of the administration to be made at Annual Council

Headlined changes - the big points



- ▶ Audit Committee is to be re-styled “Audit and Governance” and extend its terms of reference to place more emphasis on risk management and the robustness of the corporate governance framework. This is in response to issues identified by Internal Audit and also lessons learned from neighbouring authorities. **AMBER**
- ▶ Review Committee is to be re-styled “Standards Committee” dealing with conduct matters as currently but also terms of reference extended to cover oversight and review of member induction training and the member training programme. It will be a standing committee. **AMBER**
- ▶ Beefing up these committees improves transparency and accountability.

Headlined changes - the big points

► Chapter 2 – Council Procedure Rules

- Guillotine – meetings limited to 2 hours unless member pass a motion on the night (simple show of hands majority vote) to suspend this standing order and continue the meeting on. This is a standard rule which is missing from our current constitution. AMBER
- New Cabinet delegations mean that the Leaders' update to Council becomes more formal and reports on decisions taken by members individually and as part of Cabinet. RED
- Limit on questions from councillors (currently 2 without notice) remains unchanged – no supplementaries GREEN
- Proposed new right for Chairs of Committees to speak on key issues about the work of their committee which need to be brought to the attention of Council – on notice to the Chief Executive and with the agreement of the Mayor AMBER
- Mayor's powers to change the order of the agenda to be made explicit AMBER

Headlined changes - the big points

- ▶ The number of public questions asked at full council has changed from two to one per member of the public (currently is two). A question may be reasonably multi-faceted but must be directly related in subject matter. The decision of the Chief Executive as to whether a question or part of a question is admissible is final. **GREEN**
- ▶ The time limit in which questions previously asked can be asked again, is reduced from 2 years to 6 months, to bring it in line with the statutory decision making moratorium. **AMBER**

Headlined changes - the big points

- ▶ A maximum of 5 Motions on Notice will be placed on the agenda of a full council meeting. This limitation is for the purposes of agenda management
GREEN
- ▶ Members made the following observations which have been incorporated:
 - ▶ i. Motions should be admitted to the agenda on a first come first served basis as determined by the Chief Executive.
 - ▶ ii. Where there are more than 5 valid Motions submitted, then if in the discretion of the Chief Executive (in consultation with the Mayor) there is sufficient agenda time to take more than 5 Motions, then additional Motions should be added.
 - ▶ iii. Where there are more than 5 valid Motions submitted, and there is not sufficient agenda time, then those additional Motions will be deferred to the next meeting of Council, if they were not withdrawn.

Headlined changes - the big points

- ▶ **Article 13 – Cabinet Procedure Rules**
- ▶ Change requirement to meet monthly to a minimum of 6 times pa – gives flexibility and in line with other councils **AMBER**
- ▶ Improved drafting to aid understanding and provide clarity **AMBER**
- ▶ Budget and Policy Framework will go to OSC for pre-scrutiny before coming to Cabinet and thereafter to Council. This is best practice but will require some practical changes to ensure sufficient time in the municipal calendar **AMBER**
- ▶ Current provision for visiting members to ask questions on Cabinet agenda items is removed and replaced with one question on notice with one supplementary **GREEN**

Headlined changes - the big points



- ▶ **Article 17 – Overview & Scrutiny Committee Procedure Rules**
- ▶ Provisions for a published work programme along with business planning meetings with the Leader/Cabinet members and the Chair of OSC. This is standard practice and a legal requirement. **RED**
- ▶ Improved drafting re call-in provisions to include a new informal procedure to enable resolution of the issue without formal call-in. This reflects best practice. **AMBER**

Headlined changes - the big points

- ▶ **Chapter 3 – Codes and Schemes**
 - ▶ Member CoC unchanged
 - ▶ Members allowances to be reviewed **RED**
 - ▶ Improved Gifts and Hospitality Guidance for clarity **AMBER**
 - ▶ Improved protocol on member/officer relations for clarity **AMBER**
- ▶ **Article 16** - Financial procedure rules will be revamped to update thresholds and delegations **RED**

Headlined changes - the big points

- ▶ **Chapter 4 – Functions and Responsibilities**
- ▶ All tidied up to improve clarity and regularise against legal requirements. **RED**
- ▶ Most significant change is Article 24 New Scheme of Delegation for Cabinet Members to reflect strong leader model. General delegations for all with specific delegations for individual cabinet members relevant to their role. To be agreed with the Leader/Deputy Leader. **RED**
- ▶ Article 25 Scheme of Delegation for officers has been updated to reflect new roles and responsibilities in the new organisational structure and the process for recording officer decisions made under delegation. **RED**
- ▶ Development Management Committee Handbook explicitly incorporated by reference **AMBER**

Financial Regulations



These Financial Regulations set out the financial policies and the framework for managing the Council's financial affairs.

The Regulations are organised around seven themes, as follows:

- (i) Financial planning
- (ii) Financial management
- (iii) Accounting records and financial systems
- (iv) Risk management and internal control
- (v) Control of resources
- (vi) Income and expenditure
- (vii) External arrangements

They seek to ensure that the Council conducts its affairs in a way that complies with specific statutory provisions, generally accepted accounting principles and professional good practice.

Why change the Financial Regulations?

- ▶ The existing Financial Regulations (FRs) are limited in their detail and scope. Whilst they touch on the areas listed on the last slide, in many cases they don't fully set out delegations. They are mostly concerned with virements (budget movements) and the capital programme.
- ▶ The existing FRs are restrictive. Many decisions are required to go to the s151 officer or Cabinet, meaning Directors, Assistant Directors and Budget Holders can't just get on with their job.
- ▶ The existing FRs provide too much authority to the s151 officer. Several decisions could be taken without scrutiny and transparency.
- ▶ Cabinet Members are not formally involved with many decisions affecting their portfolio other than as part of Cabinet

The new Financial Regulations

- ▶ The new FRs are a lot more detailed. This gives everyone clarity on the delegations that exist and creates autonomy for staff within clearly defined thresholds
- ▶ Financial thresholds will be set across a much wider number of areas, including virements, insurance claims, property transactions, stock write-off, loans and bad debt write-offs.
- ▶ Provides new responsibilities to Cabinet Members for their services. Within the delegated thresholds, Cabinet Members will be able to take decisions affecting their portfolio. At the same time, this limits to appropriate levels the s151 officer authority.
- ▶ Transparency on officer and Cabinet Member decisions achieved with decisions under delegations to be published.
- ▶ Policy lines will be introduced. Formed from individual or closely aligned services, Portfolios will contain whole policy lines and budget will be set at policy line level.

Example of the changes - Virements

Previous FRs	New FRs	Notes
Up to £10k - budget holders	Up to £10k - Assistant Directors in consultation with Budget Holders	Remains much the same, and low value changes can be made quickly and easily
£10-£20k - Heads of Service	£10-25k - Director, in consultation with s151 officer and service Cabinet Member	Service Cabinet Member now consulted on material changes to their policy line budgets.
£20-£50k - Heads of Service in consultation with s151 and either Leader or Cabinet Member for Resources	£25-50k - Cabinet Member with responsibility for Finance (following consultation with Director, Section 151 Officer and Service Cabinet Member(s))	Moves approval from officer to Cabinet Member, with service Cabinet Members consulted. Ensures Cabinet Members have agree with changes being made to their policy line budgets. Decisions to be published giving increased transparency.
£50k+ - Cabinet	£50k+ - Cabinet	No change - decision taken at public meeting

Any Questions?



SPECIAL COUNCIL

31st January 2024

Subject: Castle Point Plan – Local Development Scheme

Report of: The Chief Executive - Angela Hutchings

1. Purpose of Report

To approve the revised Local Development Scheme in response to the progress made on the preparation of the Castle Point Plan and to meet the requirements of the Secretary of State as set out in his letter to the Leader of the Council dated 19 December 2023.

2. Links to Council's Priorities and Objectives

This report impacts on the Corporate Plan objectives - Economy and Growth, Place and Environment.

3. Recommendations

(1) That the revised Local Development Scheme is approved.

4. Background

4.1 At its meeting on 17 January 2024, the Cabinet noted the response to a letter sent by the Secretary of State at the Department of Levelling Up Homes and Communities (DLUHC), Rt Hon Michael Gove MP, dated 19 December 2023. Cabinet also agreed that a report be made to Council on a revised Local Development Scheme which was one of the requirements set out in the Secretary of State's letter.

4.2 In his letter, the Secretary of State put the Council on notice that as the Council did not have an up-to-date local plan in place, that he may use his powers under Section 15 of the Planning and Compulsory Purchase Act 2004 and intervene to prepare a local plan.

4.3 The Council was one of seven councils in England that received similar letters. The letter was publicly published by DHLUC on the day that it was issued. It sought that within 12 weeks (12 March 2024) the Council revise its Local Development Scheme (LDS) to show that the new plan is on track to be submitted by the end of June 2025 and, if the Council believes that there are

exceptional circumstances why he should not intervene, to write to him on or by 12 January 2024.

- 4.4 The Council did provide a response to the Secretary of State on 12 January 2024 and that response was noted by the Cabinet and has subsequently been published on the Council's website.
- 4.5 The Council's letter reiterates the Council's commitment to the new Castle Point Plan, the cross-party working and underpinning governance, and the good progress to date. It strongly expresses the view that there is not any justification for the Secretary of State to intervene.

5. Proposals

- 5.1 Officers have undertaken a review of the Local Development Scheme (LDS) which was approved by Council on 30 November 2022. At that meeting, Council approved the preparation of the Castle Point Plan. This will be a new plan, effectively starting from scratch after a number of attempts to prepare a plan previously, and the withdrawal of the Castle Point Local Plan 2018 to 2033 in June 2022.
- 5.2 As a completely new plan, the Council committed new resources for the plan, and agreed in the LDS the timetable for the plan's preparation. The new LDS can be found in **Appendix 1**.
- 5.3 The revised LDS proposes to submit the plan for examination in April 2025. This is still ahead of the June 2025 deadline for doing so which is the requirement of the Planning and Compulsory Purchase Act 2004 ("2004 Act") .
- 5.4 The changes to the timetable are summarised below:

Stage	November 2022	January 2024	Impact on timetable
	Time Period	Time Period	
Issues Identification	January 2023 – August 2023	January 2023 – August 2023	No Change
Options Development	September 2023 – June 2024	September 2023 – June 2024	No Change
Developing The Plan (Formal regulation 18)	June 2024 – February 2025	June 2024 – December 2025	One month
Publication (Formal Regulation 19)	February 2025 – April 2025	January 2025 – March 2025	One Month
Submission	June 2025	April 2025	Two Months
Examination*	June 2025 – December 2025	June 2025 – December 2025	No Change
Adoption*	March 2026	March 2026	No Change

**Note: at this stage the post submission timetable remains the same as this will depend on the timetable set by the Planning Inspectorate.*

- 5.4 The LDS has also been amended to reflect the requirements of the 2004 Act and provide greater reassurance that progress is on track and the timetable can be met. The latter includes a table in paragraph 7.6 which sets out progress on the evidence documents.
- 5.5 The Risk Assessment in Appendix Two of the revised LDS, includes the risk of Government intervention. That risk will diminish as the plan is progressed and in line with this timetable. Through the Castle Point Plan Board, monitoring of progress and key risks will be monitored. Whilst at this stage additional resources have not been identified, should they be needed to bolster progress then separate reports will be made to Cabinet for resources.
- 5.6 It cannot be overstated how critical it is that the Council prepares a local plan and does so in a manner and at a pace that avoids intervention. The letter sent by the Leader and Deputy Leader to the Secretary of State on 12 January 2024, presents the exceptional circumstances for not intervening at this point in time but the risk remains.
- 5.7 A decision not to intervene will also depend on the LDS demonstrating that progress continues at a pace and by working across political parties, engaging the local community and through established stakeholder partnerships.
- 5.8 For that reason, it is essential that councillors understand that when the Castle Point Plan reaches the Regulation 19 Stage, the Council will be asked to approve the Castle Point Plan for submission for inspection; that it will be the local plan that the Council wishes to adopt. Councillors should note that recent changes to the plan-making legislation under the Levelling Up and Regeneration Act 2023, means that local plans cannot be withdrawn after submission.
- 5.9 Although the Castle Point Plan is being prepared under the 2004 Act, the changes to the 2004 Act are clearly designed to stop local plans from being withdrawn late in their preparation, and hold councils to their intention at Regulation 19 Stage to adopt the local plan they submitted for inspection. The Secretary of State has recently intervened to stop councils who are seeking to withdraw their local plans from doing so. Therefore, as things stand, and delay or threat to withdraw the plan is highly likely to attract some form of intervention.
- 5.10 Intervention can be in a number of forms, from the Secretary of State calling the plan in for his consideration; or, directing the Council to continue with the plan; or, the worst case scenario, removing plan making powers from the Council and requiring a third party to prepare the plan.
- 5.11 To ensure that the Castle Point Plan can progress within this new timetable, the Council will be called upon to make three important decisions:
- a) Following the recommendation of the Castle Point Plan Board to approve the Issues and Options documents in summer 2024 (Reg 18); and
 - b) To approve the submission of the Castle Point Plan (Reg 19) in December 2024 and in doing so to authorise officers to:

- i. undertake the consultation, prepare the plan and associated documents for submission, and prepare a statement of community engagement, plus
 - ii. in consultation with the Leader of the Council and the Cabinet Member for Strategic Planning, to make any recommendations to the Inspector during the examination stage required in order to make the plan sound and to publish and consult on the Inspector's main modifications; and
- c) To formally adopt the plan.

6. Corporate Implications

(a) Financial Implications

In the event that the Secretary of State does intervene, a report will be made to Cabinet on the financial implications.

The Castle Point Plan budget is closely monitored, and the Castle Point Plan is being prepared within that budget. As set out in paragraph 5.5 of this report, if additional resources are required to ensure that timescales are met, the case will be made to do so.

(b) Legal Implications

In the event that the Secretary of State does intervene, a report will be made to Cabinet on the legal implications.

(c) Human Resources and Equality Implications

Human Resources

None.

Equality Implications

None.

(d) IT and Asset Management Implications

None.

7. Timescale for implementation and Risk Factors

As set out in the report.

8. Background Papers

As set out in the report.

Report Author: Ian Butt, Director of Place and Communities

Castle Point Borough Council Local Development Scheme (LDS) January 2024

1 Introduction

1.1 On 30th November 2022, the Council approved for the preparation of a new local plan for the Borough – the “Castle Point Plan”.

1.2 The Local Development Scheme (LDS) is the Council’s project plan and timetable for preparing the Castle Point Plan (a new Local Plan) and supplementary planning documents (SPD). The new plan will replace the Local Plan Saved Policies 1998.

1.3 The approval and publication of an LDS is a requirement of the Planning and Compulsory Purchase Act 2004. It is that Act under which the new Castle Point Plan will be prepared. Therefore, this LDS will fulfil the statutory requirements of that act, as set out in Section 15, namely:

- ‘(a) the local development documents which are to be development plan documents;*
- (b) the subject matter and geographical area to which each development plan document is to relate;*
- (c) [deleted]*
- (d) which development plan documents (if any) are to be prepared jointly with one or more other local planning authorities;*
- (e) any matter or area in respect of which the authority have agreed (or propose to agree) to the constitution of a joint committee under section 29;*
- (f) the timetable for the preparation and revision of the development plan documents;*
- (g) such other matters as are prescribed.’*

1.4 This version replaces the November 2022 version of the LDS.

1.5 In response to the requirements in Section 15 the proposals are:

S15 Requirement	Proposal	Progress
<i>‘the local development documents which are to be development plan documents’</i>	The Castle Point Plan	Underway with submission in April 2025 and target adoption in 2026.
	Essex Minerals Plan	Note: that this is prepared by Essex County Council in

		collaboration with partners, and will be subject to a LDS produced by Essex County Council the timetable for the preparation and revision of the development plan documents.
	Essex and Southend on Sea Waste Local Plan	Note: that this is prepared by Essex County Council in collaboration with partners, and will be subject to a LDS produced by Essex County Council the timetable for the preparation and revision of the development plan documents
the subject matter and geographical area to which each development plan document is to relate	<p>The development plan relates to the whole of Castle Point Borough</p> <p>The Castle Point Plan will set out:</p> <ul style="list-style-type: none"> • The quantum and spatial strategy to meet local housing, employment, infrastructure and community needs. • Policies to management development • Policies that identify areas where development will be restricted 	Underway with submission in April 2025 and target adoption in 2026.
which development plan documents (if any) are to be prepared jointly with one or more other local planning authorities	At the present time, none	N/A
any matter or area in respect of which the authority have agreed (or propose to agree) to the constitution of a joint committee under section 29	At the present time, none	N/A
the timetable for the preparation and revision of the development plan documents		

2 The scope of the Local Development Scheme

2.1 The Local Development Scheme has two principal purposes:

- To inform the public and stakeholders about the Castle Point Plan and Supplementary Planning Documents for Castle Point Borough Council; and
- To set out a suitable timetable to prepare or review these documents.

2.2 Appendix 1 sets out information relating to the Supplementary Planning Documents being prepared by the Council. Appendix 2 sets out a risk assessment for the preparation of the documents.

3 Duty to Cooperate and Collaboration

3.1 As the Castle Point Plan is being prepared under the 2004 Act the requirement for Duty to Cooperate remains.

3.2 The Council has been co-operating with neighbours and statutory bodies to maintain a robust evidence base to support local decision making.

3.3 South Essex authorities have been working together on evidence towards a framework for growth on the sub-region. That evidence is jointly commissioned and can be used for to support the preparation of local plans, although Council's can opt out and produce their own evidence.

3.4 By working with the South Essex Councils work, the Council has a forum for the discussion of strategic matters which affect the borough, such as transport, the impact of growth and economic development. It is also a forum for the consideration of issues that arise as new local plans are prepared.

3.5 On an Essex wide level the Essex Planning Officers Association (EPOA) has been working across Essex to develop shared evidence base work such as around parking requirements and the accommodation needs of Gypsies and Travellers. These documents will be a consideration in the preparation of the Castle Point Plan.

3.6 A key project delivered through the EPOA is the Essex Coast Recreational Avoidance and Mitigation Strategy (RAMS) to help prevent disturbance to protected species along the Essex coastline. This project has delivered a Supplementary Planning Document (SPD) (approved 2020) that is now being delivered through a shared resource. The Castle Point Plan will need to integrate this joint working approach.

3.7 Essex County Council (ECC) is a key partner and is responsible for the delivery of many elements of infrastructure and key community services in Castle Point. ECC are

aligning their work to localities, to ensure that what they are delivering responds to local needs. The opportunity will be taken to work with ECC to align the Castle Point Plan with ECC's Locality Plan for Castle Point, to ensure that deliverable outcomes arise.

- 3.8 Castle Point Borough Council has a wide range of partners in the public and third sectors who each have a role to play in delivering infrastructure and services in Castle Point.
- 3.9 These partners will have an important role to play in developing the Castle Point Plan through shaping policy and delivering its proposals. These organisations include the Environment Agency, Homes England and the RSPB, and are all Members of the Castle Point Place Partnership. The Place Partnership will have a critical role to play in the development and delivery of the Castle Point Plan.
- 3.10 The Council will also work through topic specific forums and groups, such as the Flood Resilience Forum, to ensure a joint approach to infrastructure planning.
- 3.11 the Council will engage with partners at all stages of the plan making process. If local needs cannot be met within the Borough the Council will request whether nearby Councils will be able to accommodate unmet need and seek to find a solution. In addition, the Council will respond to request to cooperate from nearby Councils.

4 Minerals and Waste Planning

- 4.1 Essex County Council is the Minerals and Waste Planning Authority for Castle Point Borough. The Essex Minerals Plan was adopted by the County Council in 2014. The Waste Local Plan was adopted in July 2017. These documents constitute part of the Development Plan for the Borough.
- 4.2 The Minerals Plan is in the process of being reviewed.
- 4.3 Further information on the Essex Minerals Plan and the Waste Local Plan can be found by visiting the Essex County Council website: <https://www.essex.gov.uk/planning-land-and-recycling/planning-and-development/minerals-and-waste-planning-policy/minerals-1>

5 Monitoring and Review

- 5.1 The Castle Point Plan making process is designed by legislation to be a continuous process of preparation, monitoring and review. Since 2004, the monitoring and review elements of the process have been undertaken through the Authority Monitoring

Report (AMR). LPAs (Local Planning Authorities) are required to report at least annually on their planning activities, including monitoring the delivery of development and the effectiveness of local policies. AMRs can trigger the need for a full or partial review of the Local Plan should delivery performance or outcomes vary from what is planned and anticipated.

6 Evidence Base

- 6.1 The Council will collect, analyse, and publish the evidence it is using to prepare the Castle Point Plan. This evidence may be prepared either individually for Castle Point or with other local planning authorities or partners. See Section 7 below.
- 6.2 A library of evidence base material will be maintained on the Council's website for local residents and other stakeholders to view:

<https://www.castlepoint.gov.uk/castlepointplan/evidence>

7 Castle Point Plan

- 7.1 The Castle Point Plan will set out the framework and policies for place-making in Castle Point, ensuring that the needs of each of the four settlements of Canvey Island, Hadleigh, South Benfleet and Thundersley are addressed whilst protecting what is special about the character of those places.
- 7.2 It will be underpinned by thematic strategies which deliver both the spatial requirements of the plan, and those non-spatial measures which will also be necessary to help the borough's communities and places to thrive.
- 7.3 The plan will set out a vision and strategy to 2050. However, it will be adaptive to deal with the inevitable changes that will occur over a 25-year period. This means that it will include a monitoring framework so that both the Council and the community and other stakeholders will know when it is time to review the plan and the proposals within it.
- 7.4 The Castle Point Plan will be developed over the period to 2025 in conjunction with the community, with local businesses, with delivery partners and with other stakeholders. Engagement forms a significant component of the programme. When the Council is not asking people their views, it is intended that the engagement will continue through the Council providing feedback on what it is doing in response to the issues that have been raised.
- 7.5 The Castle Point Plan will be a widely accessible document with an associated web resource. It is also the Council's intention to develop its evidence in a way which is accessible and capable of interrogation by people from all walks of life, so that as many

people as possible can engage in the development of the local plan and the debate around options that arise.

7.6 Progress to date is set out below:

Item	Progress	Next Steps
Review of existing evidence (including Stage One Green Belt Assessment) and data to test compliance with tests of soundness and relevance	COMPLETE	Will be used to support the plan. If required updates and Topic papers will be prepared
Stage One engagement with the local community and businesses to identify key issues	COMPLETE	Helps inform the issues and options
Engagement Through Art	UNDERWAY and will be ongoing to Regulation 19	Supports engagement and some artwork will be used to illustrate the plan to support community ownership
Local Housing Needs assessment, including interviews with local residents	COMPLETE	Evidence
Urban Capacity Assessment, including the use of AI to identify and assess an additional 375 sites in the urban area – Stage One	COMPLETE	Essential evidence to test the urban capacity in the borough and used for options
Stage Two – site capacity assessments and working with landowners on deliverability	UNDERWAY to be completed in March 2024	
Call for Sites	UNDERWAY to be completed in March 2024	Options
Playing Pitch and Sports Facilities Strategy review	COMPLETE	Evidence
Local Cycling and Walking Improvement Plan	UNDERWAY to be completed in March 2024	Evidence and action plan
Open Space Assessment	COMPLETE	Evidence
Economic Development Strategy	UNDERWAY to be completed April 2024	Evidence
Local Wildlife Site review	UNDERWAY to be completed April 2024	Evidence

Item	Progress	Next Steps
Strategic Flood Risk Assessment Part One	UNDERWAY to be completed May 2024	Evidence and baseline for the Part Two assessment based on the spatial strategy
Design Codes, including for a conservation area	UNDERWAY to be completed by Summer 2024	Part of plans policies
Gypsy and Travellers Accommodation Assessment	UNDERWAY to be completed March 2024	Evidence
Transport Assessment	UNDERWAY to be completed by June 2024	Evidence

7.7 In addition, we are working with Essex County Council (ECC) on net zero housing development and testing options for Biodiversity Net Gain. ECC has also completed a Climate Action Plan and an Economic Sector Growth Strategy which will also feed into the plan.

7.8 Working with partners across South Essex, there is a completed Strategic Housing Market Assessment, a Green and Blue Infrastructure Study and Strategy, Economic Development Needs Assessment and an Employment Land Availability Study.

7.9 The Infrastructure Delivery Plan will use the sound model and baseline of the Plan used for our CIL, which we adopted in 2023.

7.10 The viability appraisals will be commissioned when we have developed the options for the spatial strategy. These will also use the sound appraisals as a baseline used for CIL.

7.11 The integrated impact assessment will be procured by March 2024.

7.12 The Habitats Regulations Assessment can only be commissioned later when the spatial strategy emerges and that will complete the evidence for the plan.

8 Revised Timetable

8.1 The Secretary of State wrote to the Council in December 2023 requesting that the Council review its LDS and to assess whether the plan could be submitted earlier than June 2025, which is the deadline for plans to be submitted under the 2004 Act.

8.2 The new timetable for preparing the Castle Point Plan is set out below. The Council is in control of the process up until submission. Beyond that point, the timescales are estimated as the Planning Inspectorate are in control of the examination process.

Stage	Time Period	Engagement Activity	Progress
Issues Identification	January 2023 – August 2023	4 - 6 months engagement on issues with partners, the community, local businesses and other stakeholders.	COMPLETE
Options Development	September 2023 – June 2024	Feedback on how the Council is addressing the issues raised. Some informal engagement may occur.	Underway including evidence documents
Developing The Plan (Formal regulation 18)	June 2024 – December 2025	8 weeks Options Engagement with partners, the community, local businesses and other stakeholders in Summer 2024. This will be followed by a period when the submission plan will be drafted.	
Publication (Formal Regulation 19)	January 2025 – March 2025	6 weeks formal consultation with partners, the community, local businesses and other stakeholders. During this period the suite of submission documents will be assembled ready for submission and a statement of community development will be prepared	
Submission	April 2025		

Stage	Time Period	Engagement Activity	Progress
Examination	June 2025 – December 2025	Those who have made formal comments at the Publication Stage may be invited by the Inspector to participate in the Examination.	
Adoption	March 2026	Dependent on the Examination	

9 Statutory and Non-Statutory Assessments

Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA)

- 9.1 Section 19 of the Planning and Compulsory Purchase Act 2004 requires Councils to carry out a 'sustainability appraisal' of the proposals in a Local Plan during its preparation. Many of the requirements for sustainability appraisal are similar to the requirements set out in the Environmental Assessment of Plans and Programmes Regulations 2004, which require an assessment of the plan on the environment. Assessments carried out under these regulations are known as Strategic Environmental Assessment and are normally incorporated within the wider Sustainability Appraisal process and reporting.

Habitat Regulation Assessment (HRA)

- 9.2 A Habitat Regulation Assessment is required in accordance with the Habitats Regulations 2017. This requires the Local Planning Authority to undertake an assessment of the policies and proposals set out within its Local Plan on sites of International and European importance in terms of nature conservation i.e. Ramsar sites; Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).

Equality Impact Assessment

- 9.3 The Equality Act 2010 provides a statutory duty on the Council to have "due regard", as part of any decision-making process and before reaching a decision, to eliminate discrimination, harassment, victimisation and other conduct prohibited by the Act.
- 9.4 To this end, development plan documents that affect how people access services will be subject to an Equality Impact Assessment.
- 9.5 Relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion, sex and sexual orientation.

Viability Assessment

- 9.5 The NPPF expects local planning authorities to consider the viability impact of policy requirements on the delivery of development when preparing local planning policies.
- 9.5 As part of the evidence base, it is expected that a Viability Assessment will be prepared testing the impacts of various policy options such as affordable housing provision and any developer contribution requirements on the viability of development proposals. This will be used to ensure that economic viability has been considered when the Castle Point Plan.

10 Infrastructure Delivery Plan

- 10.1 The Council will produce an infrastructure delivery plan (IDP) alongside the new plan. This will set out in the infrastructure requirements for the Borough, based on the level of growth proposed and its spatial distribution, and other infrastructure requirements (identified by the collaboration with partners). It will set out the proposed costs, mechanism for delivery and timetable.

11 Statement of Community Involvement

- 11.1 Section 17 (1) (b) of the Planning and Compulsory Purchase Act 2004 stipulates that the Local Planning Authority's Statement of Community Involvement (SCI) must be specified in the Local Development Scheme. The SCI sets out how and when anyone with an interest in planning in the Borough can have their say on:
- Applications for planning permission for development
 - Planning appeals (where permission is refused by the Council, but an applicant appeals to the Secretary of State
 - Planning enforcement; and
 - Local Plans.
- 11.2 The latest Castle Point Borough Council's SCI was adopted in November 2020.

Appendix 1 – Supplementary Planning Documents (SPDs)

Detailed guidance on policy matters is normally set out in supplementary planning documents (SPDs) if there is a clear link to policies in an approved development plan document. The requirement for additional guidance on a topic determines the need for such documents to be prepared.

There are currently five SPDs adopted in Castle Point. Due to the passage of time, updates that have occurred to national policy, and because of the new policy requirements of the emerging Local Plan these will need updating. The table below details the existing SPDs:

SPD	Action	Notes
Developer Contributions Guidance (2023)	No change	Major review and update adopted in March 2023
Residential Design Guidance (2013)	Replace	The LURA introduces a requirement for a design code to be prepared. Work is underway to prepare a design code which will inform density decisions in the Castle Point Plan and sit alongside the Castle Point Plan replacing the current residential design guidance but incorporating any parts still relevant and useful.
Essex Design Guide Urban Place Supplement (2008)	Revoke	
Essex Vehicle Parking Standards (2010)	Revoke	The NPPF establishes that parking standards should be set in policy. Work is underway on a review of the Essex Parking Standards which can be incorporated into the Castle Point Plan.
Canvey Town Centre Masterplan (2012)	Update	An updated masterplan is needed to stimulate regeneration in Canvey Town Centre.
Essex Coast Recreational disturbance and Avoidance Strategy (RAMS) SPD	No change	To mitigate the impacts of housing growth on recreational disturbance at Habitat Sites, ensuring that there is no unmitigated harm arising from development in Castle Point at these sites.

In support of the Castle Point Plan it is anticipated that the following additional Supplementary Planning Documents may be required:

SPD	Reason for Requirement
Green Infrastructure Strategy and SPD	To deliver green infrastructure enhancements and biodiversity net gain across Castle Point in a coordinated way that delivers wider benefits to residents and the natural environment.
Masterplans to promote regeneration	Whilst not essential in all cases, where regeneration may be delivered over an extended period, a masterplan may benefit from adoption as an SPD to ensure consistency in decision making.

Appendix 2 – Risk Management

The key risks to the successful production of the local plan documents are:

Threat	Level of risk	Comment and proposed mitigation	Managed risk
Significant public opposition to the Castle Point Plan	High	<p>The Castle Point Plan will deal with how the four towns in Castle Point will change over the period to 2050. Not everyone is comfortable with change, especially as the Council will need to tackle contentious issues such as housing need and economic growth as the plan is developed. There is therefore the potential for significant public opposition which could cause the plan to falter.</p> <p>Logistically this could also cause a higher volume of work in the processing and analysis of representations than accounted for in the LDS timetable, which could set it back.</p> <p>To help reduce this risk, early and ongoing public engagement will form the basis of work on the Castle Point Plan and will then be ongoing through the development of the plan. Every effort will also be made to make evidence base work accessible to all stakeholders to widen engagement.</p>	Medium
Legal Challenge	High	<p>A legal challenge can be lodged to any Local Plan document within 6 weeks of its adoption. The degree to which this could occur is uncertain as it will depend to a degree on the policies and proposals in the Castle Point Plan and how they have been derived.</p> <p>To reduce the risk of legal challenge Officers will:</p> <ul style="list-style-type: none"> a) Follow legal requirements of the plan-making process. b) Ensure that a clear audit trail around decisions taken as part of the plan making process is maintained. c) Advise Members of any legal risks associated with the decisions they are seeking to take throughout the process. 	Medium
Inability of the Planning Inspectorate (PINS) to deliver	High	Past experience shows that the Planning Inspectorate are not able to deliver examinations quickly. The timetable requires a 9-month turnaround, which is consistent with what over Council's put in their	Medium/High

Threat	Level of risk	Comment and proposed mitigation	Managed risk
examinations / reports to timetable		<p>programmes. Previously the examination took 17 months. Colchester and Epping Forest have experienced examination periods extending over 2 years.</p> <p>This challenge can be mitigated through:</p> <ul style="list-style-type: none"> a) Lobbying Government around this issue; b) Advising PINs in advance of submission so that an Inspector can be lined up; c) Through good engagement reducing the number of outstanding issues at the examination stage. 	
Staff resourcing	High	<p>The preparation of the Castle Point Plan in a way which achieves high levels of engagement will require dedicated staff resources. At this time, there is insufficient staffing to deliver the Castle Point Plan in this way, which will delay the timetable and reduce the effectiveness of engagement.</p> <p>A resource plan identifying the required staff resourcing has been prepared for approval by the Council.</p>	Low
Staff turnover, staff loss, long term sickness	Medium	<p>As with any organisation, from time-to-time staffing pressures such as sickness, maternity, paternity leave and staff loss need to be effectively managed. This will be undertaken in line with Council procedures for staff retention, as well as measures such as recruiting into vacancies as quickly as possible, using temporary staff and secondments, or Service Level Agreements with other Councils, where possible, to cover maternity/paternity leave.</p>	Low
Financial resourcing	High	<p>Local Plan document preparation is expensive due to the requirements for an effective evidence base, the need for effective engagement and then due to fixed costs such as the cost of examination. A local plan cannot be prepared in the absence of financial resources. A resource plan accompanies this Local Development Scheme.</p> <p>Examination costs may inflate due to the length or complexity of an examination and the hiring of expert witnesses to defend the Council's plan. Legal challenge could also</p>	Medium

Threat	Level of risk	Comment and proposed mitigation	Managed risk
		<p>mean further unforeseen costs are incurred, such as legal fees.</p> <p>In order to manage the costs:</p> <ul style="list-style-type: none"> a) Evidence sources have and will continue to be reviewed in order to prevent the need for commissioning separate work as far as possible; b) Where work or services are commissioned, they will be commissioned having regard to the needs of the Council as a whole e.g. an assessment of playing pitch need will culminate in a strategy that the Leisure Service can use; c) In commissioning work, officers will seek to achieve best value for money through procurement activities; d) The budget will be subject to regular monitoring and profiling by Financial Services to ensure that any budget pressures are identified early. The S151 officer is notified through this process should overspend be predicted in current or future years to ensure the budget remains on target. e) Any unspent budget will be carried forward across financial years to ensure that the programme for the preparation of the Castle Point Plan remains financially supported. 	
Intervention by the Secretary of State	High	<p>In December 2023 the Secretary of State wrote to the Council placing the Council on notice that it was at risk of intervention which could lead to the plan being prepared by a third party.</p> <p>The basis of this notice was that the Council does not have an up to date local plan in place prepared under the Planning and Compulsory Purchase Act 2004.</p> <p>The Council responded to the Secretary of State setting out the exceptional circumstances to why he should not intervene. These included, a revised timetable that meets the June 2025 deadline for submission, the approach the council, progress to date and why intervention would not speed up progress.</p>	High

Threat	Level of risk	Comment and proposed mitigation	Managed risk
		<p>It is not clear what form intervention will take and whether the Secretary of State would instruct that work to date is continued or a completely new start is made.</p> <p>The risk remains high unless the Council is informed by the Secretary of State that he does not intend to intervene. However, if he does not any slippage which puts the deadline for submission at risk, runs the risk of action by the Secretary of State.</p> <p>Therefore the Council will:</p> <ul style="list-style-type: none"> • Monitor progress and risk • Invest additional resources at key stages • Work with partners to minimise the risk of delay caused by lack of information or understanding • Liaise with the Department for Levelling Up Housing and Communities, the Planning Advisory Service and Local Government Association for support in the plan making progress 	

Chapter 1

The Articles

DRAFT

Article 1 – The Constitution

1.1 The Council's Constitution

This is the Constitution of Castle Point Borough Council.

The Constitution has been produced in accordance with the Local Government Act 2000 as amended by the Localism Act 2011 and should be interpreted in the light of all other relevant legislation.

The Council has adopted this Constitution which sets out how the Council works, how decisions are made and the procedures that are followed to ensure its decision making is efficient, transparent and the Council is accountable to local people. Some of these procedures are required by law, while others are a matter of choice for the Council.

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

1.2 Purpose of the Constitution

The Constitution provides a framework which:

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

1.3 Publication

The Monitoring Officer will ensure that a current copy of the Constitution is available for inspection at the Council offices, and placed on the Council's website:

A paper copy can be purchased by members of the public and press on payment of a reasonable fee. Electronic copies are available free of charge.

The Monitoring Officer shall provide a copy of the Constitution to each newly elected Councillor.

1.4 Interpretation

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks aligns to the framework set out in paragraph 1.2 above.

Advice and guidance on the Constitution can be obtained from the Monitoring Officer or the Legal and Democratic Services Team. Such advice will have regard to the purpose of this Constitution as set out above.

1.5 Suspension

The Articles of this Constitution may not be suspended.

The Council Procedure Rules may be suspended to the extent permitted by this Constitution and by law and carried out in accordance with the procedure contained within the relevant set of rules.

The extent and duration of the suspension of the Council Procedure Rules must be proportionate to the result to be achieved and must take into account the purpose of the Constitution as set out above.

1.6 Review of the Constitution

The Monitoring Officer shall monitor and review the operation of the Constitution annually to ensure that the aim and principles of the Constitution are given full effect.

It is important that the Monitoring Officer is aware of the strengths and weaknesses of the Constitution adopted by the Council and will make recommendations for ways in which it could be amended to better achieve the purposes of this Constitution.

In undertaking this task the Monitoring Officer may:

- (a) observe meetings of different parts of the Councillor and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised by Councillors, Officers, members of the public and other relevant stakeholders; and

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

1.7 Changes to the Constitution

Any minor changes and routine updating of the Constitution shall be the responsibility of the Monitoring Officer. All other changes to the Constitution will be approved by the Council after consideration of the proposal by the Overview and Scrutiny Committee.

However, if either:

- (a) the Head of Paid Service makes changes to the organisation of the Council's Officers or the way in which the delivery of the functions is organised at officer level which impact on the specific powers of the Chief Executive, Chief Officers and other officers contained in Chapter 4 of the Constitution (Responsibility for Functions); or
- (b) the Section 151 Officer determines that changes are necessary to the Financial Procedure Rules, contained in Chapter 2 of the Constitution, for the proper administration of the Council's financial affairs; and
- (c) the Chief Officers determine that in the interest of the Council the changes should be implemented in advance of the next available meeting of the Council, then the Chief Officers may make such minimum amendments to those parts of the Constitution referred to above as necessary, provided always that:
 - (i) agreement is obtained from the Mayor or in the absence of the Mayor the Deputy Mayor of the Council, and
 - (ii) notification of such changes shall be submitted to the next available meeting of the Council for formal approval.

Where the Leader makes changes to the membership of the Cabinet or the Cabinet portfolios, any Committee of the Cabinet, Officers or joint arrangements responsible for the exercise of particular Executive Functions, those changes shall be automatically implemented into the Constitution by the Monitoring Officer without requiring any further approval by Council. Such changes shall be submitted to the next available meeting of the Council for noting.

Article 2 – The Public and the Council

2.1 Introduction

This Article sets out what members of the public can expect from the Council and what rights they have both under relevant legislative provisions and those which are provided by the Council.

The Constitution also sets out how the Council and Councillors expect to be treated by members of the public in return.

2.2 Members of the Public Rights

Members of the public have the following rights available to them:-

Access to Information

The Public have a right to:

- (a) have access to information as set out in the Access to Information Procedure Rules, contained within Chapter 2 of this Constitution;
- (b) attend meetings of the Council, Cabinet and their respective Committees, except where such attendance is excluded as set out in the Access to Information Procedure Rules, contained within Chapter 2 of this Constitution;
- (c) find out from the Forward Plan, what Key Decisions will be taken by the Cabinet and when these are due to take place;
- (d) have access to reports and background papers, and any records of decisions made by the Council and the Cabinet except where such access is excluded as set out in the Access to Information Procedure Rules, contained within Chapter 2 of this Constitution;
- (e) inspect the Council's accounts and make their views known to the external auditor;
- (f) request and receive information in possession of the Council, as provided for under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, subject to defined exceptions contained within those statutory provisions; and
- (g) contact their local Councillor about any matters of concern to them.

Participation

Members of the public have a right to participate in the public question time at meetings in accordance with the provisions set out in paragraph 12.11 and to contribute to investigations by the Overview and Scrutiny Committee or its Sub-

committee.

Voting

The public registered on the electoral roll for the Borough have the right to vote for their local Councillor(s) in local elections and to request a referendum for an elected mayor.

Petitions

Members of the public who are registered on the electoral register for the Borough are able to submit petitions to the Council in accordance with the Councils Petition Rule (See Chapter 2 Rule 12.16 later) .

Complaints

The Council takes complaints seriously. Members of the public have the right to complain to:

- (a) The Council under its Complaints Procedure.
- (b) The Local Government and Social Care Ombudsman or the Housing Ombudsman, after first raising their complaint using the Councils Corporate Complaints Procedure and giving the Council an opportunity to respond; and
- (c) The Monitoring Officer about Councillor Conduct in accordance with the Councillor Code of Conduct Complaints Procedure.

For some parts of the Councils activities there are specific statutory processes to appeal a decision, and these should be followed where necessary.

Treatment by the Council

Members of the public have the right to be treated impartially and fairly by the Council.

2.3 The Public Responsibilities

Members of the public are expected to treat Councillors and Officers with courtesy and respect.

Members of the public must not be violent, abusive or threatening towards Councillors or its Officers and must not wilfully harm anything owned by the Council, Councillors or Officers.

The Council reserves the right to suspend services or limit access where there are issues caused because of the behaviours of members of the public .

Article 3 – Officers

3.1 General

The Council may engage Officers as it considers necessary to carry out its functions. The recruitment, selection and dismissal of employees will comply with the Officer Employment and Disciplinary Procedure Rules contained in Chapter 2 of this Constitution.

Officers will comply with all HR policies in place and the Councillor/Officer Relationship Protocol contained in Chapter 3 of this Constitution.

The functions set out within this Article are in addition to those delegations to Officers set out in Chapter 4 of this Constitution.

3.2 Management Structure

The senior management structure of the Council comprises of the Chief Officers, who each have responsibilities which may include statutory responsibilities, service areas, corporate strategies and specific projects.

The Chief Officers contribute:

- (a) to the corporate management of the Council,
- (b) represent and promote the Council as a local authority securing high quality services for the people within the Borough that demonstrates best value; and
- (c) develop partnership working.

At any time when there is no Chief Executive in post, any reference in this Constitution to the Chief Executive shall be construed as a reference to the Head of Paid Service.

The following posts shall be designated as Chief Officers:

- (a) The Chief Executive
- (b) The Director Corporate & Customer
- (c) The Director Commercial & Assets
- (d) The Director Place & Communities
- (e) Assistant Director Finance & Procurement
- (f) Assistant Director Legal & Democratic Services

The post titles as shown above may be varied by the Chief Executive.

3.3 Statutory Officers

The Council has designated the required statutory posts as follows:

- (a) Chief Executive
 - Head of Paid Service (s.4 Local Government & Housing Act 1985)
- (b) Assistant Director Finance & Procurement
 - Section 151 Officer (s.151 Local Government Act 1972)
- (c) Assistant Director Legal & Democratic Services
 - Monitoring Officer (s.5 Local Government and Housing Act 1985)

3.4 The Head of Paid Service

The Council must appoint a Head of Paid Service who will be responsible for the following:

- (a) determining and publicising a description of the overall structure of the Council showing the management structure and deployment of Officers, a copy of this will be available on the Council's website; and
- (b) report to the 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.

In the absence of the Monitoring Officer or their delegated officer, the Head of Paid Service shall be the qualified person with regards to disclosure of exempt information under S.36 of the Freedom of Information Act 2000.

The Head of Paid Service shall not be the Monitoring Officer but may hold the post of Section 151 Officer if they are a qualified accountant.

3.5 The Section 151 Officer

The Council must appoint a Section 151 Officer who is responsible for the following:

- (a) After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if, they consider 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) The administration of the financial affairs of the Council and ensure maintenance of an efficient and effective internal audit function.
- (c) To contribute to the corporate management of the Council through the provision of professional financial advice.
- (d) To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework to all Councillors and will support and advise Councillors and

Officers in their respective roles.

- (e) Provide financial information to the media, Councillors of the public and the community.

The Section 151 Officer shall not be the Monitoring Officer.

3.6 The Monitoring Officer

The Council must appoint a Monitoring Officer who is responsible for the following:

- (a) Maintaining the Constitution. Subject to the provisions of Article 1, the Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available by Councillors, Officers and Councillors of the public.
- (b) Ensuring lawfulness and fairness of decision making. After consulting with the Head of Paid Service and the Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) To contribute to the promotion and maintenance of high standards of conduct through the support of the Audit and Governance Committee and the Standards Committee.
- (d) To be the Proper Officer to receive complaints for the failure to comply with the Councillor Code of Conduct.
- (e) To be the Proper Officer for access to information and ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) Advise on whether Cabinet decisions are within the Budget and Policy Framework.
- (g) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (h) To be the primary qualified person with regards to disclosure of exempt information under S.36 of the Freedom of Information Act 2000. In the Absence of the Monitoring Officer or their delegated officer, responsibility for carrying out the functions will fall to the Head of Paid Service.

The Monitoring Officer cannot not be the Section 151 Officer or the Head of Paid Service.

3.7 Duty to Provide Sufficient Resources

The Council will provide the Head of Paid Service, Section 151 Officer and the Monitoring Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their statutory duties to be performed in accordance with the law.

DRAFT

Article 4 – Members of the Council

4.1 Composition and Eligibility

The Council comprises of (39)41 Councillors, who represent the (13)14 Wards within the Castle Point Borough. Councillors will be elected by the Voters of each electoral division in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

Each Ward may have a number of Councillors who represent it. Although once elected Councillors will make decisions for the whole Borough and not just for the Ward they were elected for.

Only registered voters for the area of the Council or those living or working or owning land or premises in that area will be eligible to hold office as a Councillor.

4.2 Election and Term of Office

A third of all Councillors will be elected at the regular election to the Council which will be held usually on the first Thursday in May.

The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the regular election four years later.

4.3 The Councillors

Purpose

In the performance of the role, the Councillor is required to:

- (a) participate in the good governance of the Borough;
- (b) contribute actively to the formation and/or scrutiny of the Council's policies, budgets, strategies and service delivery;
- (c) represent effectively the interests of the wards for which each Councillor was elected and deal promptly with constituents enquiries and representations;
- (d) promote the Councils engagement with all Councillors of the public and groups and ensure that there are opportunities for all views to be heard;
- (e) champion the continuous improvement of the quality of life of the community in terms of equity, economy and environment;
- (f) ensure that the Council's resources are used to achieve the maximum benefit for the people in the Borough;
- (g) represent the Council effectively when appointed to an outside body;
- (i) act at all times with probity and propriety in the best interest of the Council and in

accordance with the Councillor Code of Conduct;

Roles and Responsibilities

Councillors shall be responsible for the following duties and responsibilities:

- (a) To fulfil the statutory and locally determined requirements of an elected Councillor, including compliance with all relevant codes of conduct, and participation in those decisions and activities reserved to the Council;
- (b) To participate effectively as a Councillor of any Committee or Panel or Board or other forum to which the Councillor is appointed, including related responsibilities for the services falling within the relevant terms of reference, and its liaison with other public bodies to promote better understanding and partnership working;
- (c) To participate in the activities of an outside body to which the Councillor is appointed, providing two-way communication between the organisations and representing the policies and practices of the Council. Also, for this purpose, to develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community needs and aspirations in respect of that body's role and functions;
- (d) To participate in the scrutiny or performance review of the services of the Council including, where the Council so decides, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the Council;
- (e) To participate, as appointed, in consultative processes with the community and with other organisations;
- (f) To provide a link between the Council and the community, through the various forums available;
- (g) To develop and maintain a working knowledge of the Council's services, management arrangements, functions/duties and constraints, and to develop good working relationships with relevant officers of the Council;
- (h) To develop and maintain a working knowledge of the other organisations and services which serve the Borough;
- (i) To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the democratic process;
- (j) To conduct the business of the Council within the Council and not through the written or broadcast media;
- (k) To find a suitable substitute and to brief them on the meeting, on occasions when personal attendance is not possible in accordance with paragraph 12.23;

- (l) To identify individual learning and development needs and participate fully in training opportunities provided;
- (m) not to make public information which 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;
- (n) Maintain the highest standards of conduct and ethics in accordance with the Councillor Code of Conduct and the Nolan Seven Principles of Public Life; and
- (o) attend at least one meeting of the Council every six months.

4.4 The Mayor

The Mayor and Deputy Mayor for the Council will be elected by the Council annually. The appointment will be for a single municipal year; however it will be permissible for the Mayor or Deputy Mayor to serve in future years.

The Mayor or Deputy Mayor may not hold office as the Leader, Deputy Leader or be a member of Cabinet during their term of office.

The duties and responsibilities set out below are in addition to their role as a Councillor, as set out in paragraph 4.3.

Purpose

The Mayor is required to:

- (a) provide effective civic and ceremonial leadership to the Council;
- (b) chair the meetings of full Council and ensure its business is carried out efficiently and in line with the Constitution; and
- (c) act as an ambassador for the Council and the Borough itself.

Duties and Responsibilities

The Mayor will hold the following duties and responsibilities:

- (a) To be politically impartial and uphold the democratic values of the Council;
- (b) To represent the Council at civic and ceremonial functions, acting on behalf of and supported by the whole Council in a non-partisan manner;
- (c) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;

- (d) To ensure that the Council meeting is a forum for debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet to account;
- (e) To uphold and promote the purposes of the Constitution and to interpret the Constitution, in consultation with the Monitoring Officer, when necessary;
- (f) To promote public involvement in the Council's activities by recognising and thanking those individuals and organisations who have brought success to the Borough;
- (g) To provide fair and visible civic leadership to the Council and promote active citizenship;
- (h) To act as a link between the Council and various groups and organisations within the Borough;
- (i) To maintain an overview of the needs and concerns of the community they serve;
- (j) To raise the profile of the Council and the Borough and to promote the aims and values of the Council within the community;
- (k) To promote and encourage nominations for National Honours & Awards to acknowledge the exceptional contribution to the community of individuals, voluntary groups or businesses within the Borough
- (l) To attend such civic and ceremonial functions of the Council as they determine appropriate; and
- (m) To provide support and advice to all Councillors.

4.5 The Deputy Mayor

The Deputy Mayor shall fulfil the duties and responsibilities set out above on behalf of the Mayor, and at all other times to assist the Mayor as required.

4.6 The Leader of the Council (the Leader)

The Leader is appointed by the Council at its first annual meeting following the ordinary election of Borough Councillors.

The Leader shall be chosen from the majority political party group within the Council membership, and the leader of that political party group will be the Leader of the Council. Where there is no majority political party group within the Council, the Leader will be a Councillor elected to that position by the Council.

The Leader will hold office for a period of 4 years or until the Leader's ordinary term of office as a Councillor expires (whichever is the shorter). The Leader shall

continue to hold office until:

- (a) they resign from the office;
- (b) they are no longer a Councillor; or
- (c) they are removed from office by a resolution of the Council.

Upon the occurrence of a vacancy in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at an Extraordinary meeting summoned for that purpose. The person appointed to fill the vacancy shall hold office for the remainder of the original term subject to earlier termination as provided for above.

In the interim period between the vacancy in the office of the Leader and the next Ordinary or Extraordinary meeting of the Council, the Deputy Leader will act as the Leader on an interim basis.

The duties and responsibilities of the Leader as set out below, are in addition to their role as a Councillor and their role as a Cabinet member.

Purpose

The Leader is required to:

- (a) provide political leadership and strategic direction for the Council;
- (b) ensure effective corporate governance;
- (c) act as an ambassador for the Council;
- (d) provide stewardship of the Council and its resources;
- (e) work closely with other Cabinet members to ensure the development of effective policies and high quality services to the people of the Borough;
- (f) guide policy and strategy proposals through the Council where the final decision rests with the Council;
- (g) maintain professional working relationships and establish mutual respect with the Chairs of the Council's regulatory committees and Overview & Scrutiny Committees and with all other Councillors and Officers;
- (h) be a promoter and upholder of equalities and high standards of ethical conduct; and
- (i) to ensure the Council delivers high quality, value for money services.

Duties and Responsibilities

The Leader will hold the following duties and responsibilities:

- (a) All Executive functions of the Council are vested by law in the Leader;
- (b) To work with relevant Cabinet members in developing revenue budget and capital programme strategies and ensuring probity and financial monitoring;
- (c) To appoint or dismiss Cabinet members and to determine the allocation of portfolios for subsequent notifications to the Council;
- (d) To chair the meetings of Cabinet;
- (e) To exercise executive functions not allocated to either the Cabinet or to Cabinet members, or to delegate such functions to another Cabinet member or Committee or Officer;
- (f) To appoint or dismiss Cabinet Committees and Sub-committees and determine their membership;
- (g) To be the key contact for outside organisations;
- (h) To be the key interface between the Councillors and Chief Officers for the strategic management of the Council;
- (i) To be the representative voice of the Council, including but not limited to its dealings with Central Government, other Local Authorities and their Associations and positively promote the Council as a whole in the media;
- (j) To act as the political spokesperson for the Council; and
- (k) To promote the long term financial, business and economic stability of the Council.

4.7 The Deputy Leader of the Council (The Deputy Leader)

The Leader shall appoint a member of Cabinet to be the Deputy Leader.

The duties and responsibilities of the Deputy Leader, as set out below, are in addition to his role as a Councillor as set out in paragraph 4.3 and their role as a Cabinet member contained in Article 5.

Any exercise of function by the Deputy Leader will be subject to any limitations, qualifications or other instructions as may be issued by the Leader in writing to the Chief Executive either generally or in relation to the exercise of a particular function.

Where a vacancy occurs in the office of Deputy Leader, the Leader shall appoint another Cabinet member in their place.

Purpose

The Deputy Leader is required to:

- (a) assist and work with the Leader to provide effective political leadership and strategic direction for the Council;
- (b) assist and work with the Leader in delivering their responsibilities to the Council within their role profile as set out above; and
- (c) where appropriate and permissible under the Council's Constitution, to act in the absence of the Leader.

Duties and Responsibilities

The Deputy Leader will hold the following duties and responsibilities:

- (a) to deputise for the Leader in their absence from Council and Cabinet meetings;
- (b) in the Leader's absence, carry out the requirements of the Leader role profile as set out above, so far as legally possible and permissible; and
- (c) to carry out such other duties and undertake portfolio responsibility as delegated by the Leader.

4.8 Rights of all Councillors

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.

4.9 Conduct of Councillors

All Councillors will abide by their obligations under the Councillor Code of Conduct and the Councillor/Officer Relationship Protocol as set out in Chapter 3 of the Constitution.

4.10 Allowances

Councillors will be entitled to receive allowances in accordance with the Councillors' Allowances Scheme set out in Chapter 3 of this Constitution.

Article 5 – The Council

5.1 Introduction

The Local Government Act 2000 (as amended by the Localism Act 2011) gives the Council responsibility for approving the Budget and Policy Framework. The Council as a whole retains responsibility for regulatory functions and has a role in holding the Cabinet to account.

5.2 Functions of Council

Only the Council will exercise the following functions:

- (a) To adopt and approve changes to the Constitution in accordance with the procedure set out in Article 1.
- (b) To adopt and approve changes to the Councillors' Allowance Scheme;
- (c) Approval of the Budget and the Policy Framework;
- (c) To take decisions in respect of any recommendation made by the Cabinet or Committees which would be contrary to the Budget and Policy Framework;
- (d) To take decisions in respect of functions which must by law be reserved to the Council, Local Choice Functions that Council has decided to reserve to itself as set out in Chapter 4 of this Constitution or other functions that are not the responsibility of Cabinet and/or have not been delegated to Committees, Sub- Committees or Officers;
- (e) Elect the Mayor of the Council and appoint the Deputy Mayor at its annual meeting;
- (f) Appoint the Leader;
- (g) Approve the terms of reference for Council Committees, deciding on their composition and making appointments to them, and any changes to them;
- (h) Approve the terms of reference for any Panel or Working Group deciding on their composition and making appointments to them, and any changes to them
- (i) Appoint representatives to outside bodies unless the appointment is an executive function or has been delegated by Council;
- (j) Appoint and dismissal of the Head of Paid Service, Monitoring Officer and the Section 151 Officer;
- (k) Consider reports of the Monitoring Officer and the Section 151 Officer issued in pursuance of their respective statutory duties;

- (l) To hold the Leader, Cabinet members and Committee Chairs to account;
- (m) Make, amend, revoke, re-enact or adopt byelaws and promote or oppose the making of local legislation or Private Bills;
- (n) Respond to appropriate bodies with regard to boundary reviews or other electoral issues including for example the designation of the acting or local returning officer for the purposes of a county, parliamentary or other form of election or referendum;
- (o) all those functions detailed in Parts C,D,E,F,G,H and I of Schedule 1 of The Local Authorities (Functions and Responsibilities)(England) Regulations 2000, (as amended); and
- (p) All other matters which, by law, must be reserved to Council.

5.3 Responsibility for Functions

The Council will maintain Chapter 4 of this Constitution which sets out the responsibilities for the Council's Functions which are not the responsibility of the Cabinet.

5.4 Council Meetings

There are three types of Council Meetings:

- (a) The Annual meeting;
- (b) Ordinary meetings; and
- (c) Special (or Extraordinary) meetings;

and they will be conducted in accordance with the Council's Procedure Rules set out in Chapter 2 of this Constitution.

5.5 The Policy Framework

The Council is responsible for the approval of the Policy Framework, which shall be regularly refreshed.

The Policy Framework is developed in line with the Budget and Policy Framework Procedure Rules set out in Chapter 2 of this Constitution.

The Policy Framework means the following plans and strategies:

Mandatory Plans and Strategies

- (a) Crime and Disorder Annual Partnership Plan
- (b) Licensing Policy Statement (Licensing Act 2003 and Gambling Act 2005)
- (c) Plans with Development Plan Document Status;

Plans and Strategies Adopted as part of the Policy Framework

- (d) Sustainable Community Strategy
- (e) Local Plan
- (f) Corporate Strategy
- (g) Medium Term Financial Strategy

5.6 The Budget

The Budget means the Council's Budget as approved by the Council.

The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax, and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits.

Article 6 – The Cabinet

6.1 The Cabinet

The Council has adopted executive arrangements as permitted by the Local Government Act 2000, as amended. The Cabinet is responsible for the day-to-day decision making process and for exercising all executive functions.

The Cabinet will lead the implementation of the Council's Policies within the Budget and Policy Framework. In doing so the Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

Executive functions can be exercised by the Cabinet, under joint arrangements or they can be delegated to individual Cabinet members, Cabinet Committees or Officers and cannot be exercised by the Council.

The Cabinet cannot take decisions on matters which they are prohibited from making by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other subsequent legislation.

6.2 Composition of Cabinet

The Cabinet will consist of the Leader together with at least two, but not more than nine, additional Councillors, known as Cabinet members.

Neither the Mayor nor the Deputy Mayor shall be member of the Cabinet.

Subject to the legal minimum and maximum, the size and composition of the Cabinet is a matter solely for the Leader to decide.

6.3 Functions of the Cabinet

The Cabinet shall exercise the following functions:

- (a) To lead the Council's community planning process and has responsibility for ensuring best value;
- (b) Lead the preparation of the Council's Policies, Statutory Plans, Strategies except where reserved to the Council, and the Budget;
- (c) Take decisions on resources and priorities to deliver and implement the Council's policies and Budget;
- (d) Make recommendations to the Council on the formulation, adoption and revision of the Budget and Policy Framework;
- (e) Review the use and allocation of assets and resources within the approved Budget;

- (f) Make Key Decisions within the agreed Budget and Policy Framework;
- (g) Performance monitoring and management;
- (h) So far as the responsibilities may arise under relevant legislation, the Cabinet may exercise the local choice functions set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and
- (i) Appoint representatives to outside bodies unless the appointment is a Council function.

All Executive decisions will be taken in accordance with the Cabinet Procedure Rules contained in Chapter 2 of this Constitution.

6.4 Excluded Functions

Cabinet shall not exercise Council Functions as set out in Article 5, or any non-executive function retained by Council or which have been delegated to a Committee, sub-committee, joint committee or to an Officer as set out in this Constitution.

No Cabinet member, Cabinet Committee or Officer shall take a Key Decision, unless as permitted within this Constitution. These are reserved for Cabinet only.

6.5 The Cabinet Members

Appointment of Cabinet Members

The Leader will appoint the Cabinet members all of whom must be Councillors.

The Leader shall give notice of their appointments or any changes to appointments to the Chief Executive immediately after they are made, and report those changes to the next available meeting of the Council. Any removal of a Cabinet member will take effect on the date specified in the notice or if no date is specified, immediately upon receipt of the notice by the Chief Executive.

Each Cabinet member shall hold office for the duration of the Leaders term of office, unless within that period:

- (a) they resign from Cabinet by giving notice in writing to the Leader, copied to the Chief Executive; or
- (b) they cease to be a Councillor ; or
- (c) they are removed from Cabinet by the Leader.

Upon the occurrence of a vacancy of a Cabinet member, the vacancy shall be filled by the Leader.

Purpose

In the performance of the role, Cabinet members are required to:

- (a) to provide collective and individual leadership as part of the Cabinet;
- (b) to undertake lead responsibility for their allocated portfolio as set out in Chapter 4 of this Constitution; and
- (c) to contribute effectively towards the strategic direction of the Council.

Duties and Responsibilities

Cabinet members shall be responsible for the following duties and responsibilities:

- (a) To work with the Leader and all other Cabinet members to ensure coherent direction and action by the Council, acting in accordance with Council decisions and ensure that the Cabinet is informed of events, activities and proposals and involved in all decisions which should be taken collectively;
- (b) Provide political leadership on the activities relating to their assigned portfolio;
- (c) Lead on policy development within their portfolio and make recommendations to the Cabinet;
- (d) Exercise Executive functions as set out in Chapter 4 of this Constitution;
- (e) Act as an ambassador for the Council, promoting its work (particularly in those areas relevant to their portfolio or where the Cabinet member has been designated by the Leader, to lead or take a special interest) and participating in consultation, listening to and taking account of the views of organisations, the public and businesses; and
- (f) Provide information required by the Council's Scrutiny Committees within the prescribed timescale and where requested to appear before such a Committee in connection with any issues associated with the portfolio that are being scrutinised, or are the subject to Call In to the Overview & Scrutiny Committee;
- (g) To positively promote their respective portfolio and where appropriate act as the spokesperson with the media for that portfolio area only.
- (h) In connection with their respective portfolios:
 - (i) Build good working relationships with appropriate senior Officers and work with them in developing policy or strategic issues prior to formal reporting. Be supportive in dealing with problems at a strategic level.
 - (ii) To keep abreast of related developments and policies at national,

regional and a local level;

(iii) To enhance the Council's reputation;

(iv) Aim for the Council to be at the forefront of service development and provision where possible; and

(v) Be aware and of key budgetary issues affecting the portfolio;

6.6 Delegation of Functions

The Leader may delegate functions to a Cabinet member, a sub-committee of Cabinet, the Chief Executive, a senior Officer under whose managerial responsibility the executive function falls or any other Officer. Any matter not specifically delegated remains the responsibility of the Leader.

Even where an executive function has been delegated to a Cabinet member, a sub-committee of Cabinet or Officer, the Leader has the right to take that decision or refer it to Cabinet where the circumstances are particularly sensitive or if the decision in question involves changes to policy or strategy.

A decision that is legally within the power of the Cabinet to make, that is not a Key Decision, can be taken by a Cabinet member, a sub-committee of Cabinet or an Officer, where they hold delegated authority as set out in Chapter 4 of this Constitution.

The Leader shall maintain Chapter 4 of this Constitution setting out which Cabinet members, Officers or Joint arrangements are responsible for the exercise of Executive functions.

The Leader may make in year changes to the Cabinet member scheme of delegation as set out in Chapter 4 of this Constitution and shall inform the Chief Executive in writing in advance of making any change. Any change to the scheme of delegation must be reported to the next meeting of Cabinet.

The Leader may at their discretion establish sub-committees, task and finish groups or working groups of Cabinet to discharge the Executive functions delegated to them.

The Monitoring Officer shall maintain a list of all sub-committees and working groups of Cabinet. The transient nature of task and finish groups means that these will not be listed.

For the avoidance of doubt the following sub-committees and working groups have been established by the Leader:

(a) Sub-Committees

(b) Working Groups

- Flood Resilience Forum

- Asset Review Group

Agendas for all Cabinet sub-committees will be published in accordance with the provisions of the Access to Information Procedure Rules.

All Cabinet sub-committees, and Working Groups will be supported by Legal & Democratic Services Team.

Meetings of the working groups will be held in private and will be supported by the Lead Officer as appointed.

DRAFT

Article 7 – Decision Making

7.1 Principles of Decision Making

In order that decision making is efficient, transparent and accountable, all decisions of the Council (whether taken by full Council, the Cabinet, Committees, Cabinet members or Officers) will be based on the following principles and in accordance with the procedure rules set out in Chapter 2 of this Constitution:-

- (a) the action taken will be proportionate to the desired outcome;
- (b) decisions will be taken following due consultation and taking into consideration professional advice from Officers;
- (c) due regard will be shown for human rights and all decisions will be based on balancing the rights of the individual against the public good;
- (d) open transparent decision making;
- (e) clarity in the aim and desired outcome of the decision;
- (f) explanations of the options considered and the giving of reasons for the choices made; and
- (g) decisions will be taken that comply with the law and this Constitution.

7.2 Responsibility for Decision Making

The Council will issue and keep up to date a record of those Officers or parts of the Council that has responsibility for particular types of decisions. This record is contained in Chapter 4 of the Constitution.

7.3 Types of Decisions

Decisions and reasons for all decisions shall be recorded.

Decisions taken by Full Council

Decisions relating to the functions listed in Article 5 will be made by full Council and shall not be delegated.

The meeting of full Council will follow the Council Procedure Rules contained within Chapter 2 of this Constitution when considering any matter.

Decisions taken by Cabinet

The Cabinet will follow the Cabinet Procedure Rules contained within Chapter 2 of this Constitution when considering any matter.

Decisions taken by Cabinet Members

A Cabinet member may take decisions in accordance with those functions delegated to them as contained in Chapter 4 of this Constitution and the provisions set out in paragraph 15.23 of the Access to Information Procedure Rules.

Decisions taken by the Overview and Scrutiny Committee

The Committees will follow the Overview and Scrutiny Procedure Rules contained within Chapter 2 of this Constitution when considering any matter.

Decisions by Committees

All Committees and sub-committees will follow those parts of Chapter 2 of this Constitution as apply to them.

Decisions by Council bodies acting as tribunals

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

Decisions taken by Individual Officers

Officers may take decisions in accordance with the functions delegated to them as contained in Chapter 4 of this Constitution and in accordance with the provisions of paragraph 15.24 of the Access to Information Procedure Rules.

7.4 Decision Planner

Details of all decisions to be taken by Cabinet shall be published in the Decision Planner which incorporates the Forward Plan. The Decision Planner may also contain details of those decisions to be taken by Council and Committees.

The Decision Planner covers a three-month period and is published on the Council's website on a monthly basis.

7.5 Key Decisions

A "Key Decision", as set out in the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, is a decision of Cabinet which is likely to either:

- (a) Result in the Council incurring expenditure or making savings which are in excess of £150,000 except as otherwise determined under financial regulations; or
- (b) to be significant in its effects on communities living or working in an area comprising two or more Wards in the Borough.

A Key Decisions will also include those decisions which will have a material effect on the Council's services, including but not limited to:

- (a) A significant number of users of the service in the Ward(s) will be affected;
- (b) An impact that will last for a number of years or be permanent;
- (c) A significant impact on communities in terms of environmental and social well-being;
- (d) An existing service or access to an existing service ceasing altogether;
- (e) A decision that involves any new policy or strategy or which forms part of the development of or a change to the Budget and Policy Framework; or
- (f) Consideration of any matter which will result in a recommendation to Council.

7.6 Non-Key Decisions

The following are examples of non-key decisions:-

- (a) Implementing approved budgets or policies and strategies where there is little or no further choice involved and the main decision has already been taken by the Council in agreeing the Budget and Policy Framework;
- (b) Implementing approved actions and targets in annual service plans;
- (c) Decisions by the S.151. Officer which are part of the ordinary financial administration of the Council, notably those relating to investments, within the agreed Treasury Management Policy;
- (d) Implementing projects for which specific conditions have been attached by external funders, such as the Government or European Union;
- (e) The award of contracts for the provision of works, goods and services, within an agreed Budget and Policy Framework and where a Key Decision has already been made; and
- (f) Changes arising from amendments to statute where there is little or no discretion.

Article 8 – Council Committees

8.1 Introduction

The Council has appointed the following Committees to discharge the Council's functions delegated to them.

Each of the Committees will conduct its business in accordance with the Council Procedure Rules and Access to Information Procedure Rules as contained in Chapter 2 of this Constitution, and will meet in public unless the nature of the business is such that the press and public must be excluded or the Committee determined that the press and public should be excluded in accordance with the provisions contained in the Access to Information Procedure Rules.

8.2 Development Management Committee

Purpose of the Committee

The purpose of the Committee is to act for the Council on matters involving the functions of a Local Planning Authority.

Composition of the Committee

It shall comprise of [10] seats allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989 together with 2 non voting members of Canvey Island Town Council.

All members of the Committee must attend mandatory training.

Each political group shall annually appoint up to 2 Substitute Members to the Development Management Committee at the Council's Annual Meeting. Each Substitute Member shall undertake all required knowledge and training before they are permitted to participate as a Member of the relevant Committee.

Cabinet members are not eligible to be the Chair or Vice chair of the Committee.

Functions of the Committee

The Committee shall perform the functions set out in the Scheme of Delegation contained in Appendix D of Chapter 4 of this Constitution and shall:

- (a) Adhere to the practice and procedures contained in the Development Control Handbook.
- (b) Do anything which is incidental, conducive or calculated to facilitate any of the Committee's functions or which are necessary for the discharge of those functions.
- (c) Exercise all powers, duties and functions of the Council contained within or

referred to in statutory provisions from time to time in force within the terms of reference of this Committee.

- (d) So far as the responsibilities may arise under the relevant legislation, exercise the functions set out in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended relating to other town and country planning and development control functions.

8.3 Licensing Committee

Purpose of the Licensing Committee

The purpose of the Committee is to act for the Council in respect of licensing, registration and environmental protection functions and Animal Welfare Legislation. The Licensing Committee's powers include the power to:-

- (a) discharge the licensing functions on behalf of the Licensing Authority, as determined under the Licensing Act 2003 and Gambling Act 2005; in practice this will normally be undertaken by a Sub-Committee known as the Licensing Sub- Committee Hearing;
- (b) determine licences for hackney carriages/private hire vehicles and their drivers and operators; in practice this will normally be undertaken by a Sub-Committee known as the Drivers' Panel;
- (c) To discharge any licensing and regulatory Functions not reserved to Cabinet; and
- (d) to determine licences for market and street trading etc.

Composition of the Licensing Committee

It shall comprise of [11] seats allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

Functions of the Licensing Committee

The Licensing Committee will perform the following functions in accordance with the Scheme of Delegation set out in Appendix A–C contained in Chapter 4 of this Constitution:-

- (a) To deal with all matters which are the responsibility of the Council in relation to:
 - (i) hackney carriage and private hire vehicles, drivers and operators licensed by the Council;
 - (ii) the Licensing Act 2003;

(iii) the Gambling Act 2005;

(iv) Animal welfare legislation; and

(v) the Dangerous Wild Animals Act 1976;

Except where matters are by statute reserved to Council, or have been delegated to an Officer as set out in Chapter 4 of the Constitution.

- (b) To deal with all matters and determined applications which are the responsibility of the Council in relation to street trading consents under Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, and Pavement Permits under the Highways Act 1980;
- (c) To deal with all matters which are the responsibility of the Council under the Local Government (Miscellaneous Provisions) Act 1982 for the licensing of Sex Establishments;
- (d) To set the charging policy, fees and tariffs in relation to functions which fall within their duties and responsibilities;
- (e) To approval operational policies in relation to functions which fall within their duties and responsibilities;
- (f) To discharge any licensing and regulatory functions not reserved to Cabinet; and
- (g) So far as the responsibilities may arise under the relevant legislation, functions set out in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended relating to other licensing, registration and environmental protection functions.

The functions of the Licensing Committee can be dealt with by a Licensing Sub – Committee :-

All members of the Licensing Committee must attend mandatory training before participating in a sub -committee or Driver Panel hearing:

- (a) To deal with licensing hearings, consisting of three members of the

Licensing Committee;

No Councillor will be appointed to determine any application for premises within their own Ward.

- (b) To deal with Drivers Panel hearings, consisting of three Councillors of the Licensing Committee;
- (c) To arrange for all matters to be determined by way of a hearing to be determined by a Sub-Committee; and
- (d) To arrange for the discharge of any functions exercisable by it by either a sub-committee or an officer.

8.4 Other Committees

The Staff Appointments and Review Panel

Purpose

The Staff Appointments and Review Panel will provide oversight and accountability over work force management and will perform the duties and responsibilities as set out in the Officer Employment Procedure Rules.(Chapter 2 Section 18)

Composition

The Staff Appointments and Review Panel will be politically balanced but shall include the Leader of the Council and the Leader of the Opposition.

Where the Staff Appointments and Review Panel is undertaking the function of an investigation and disciplinary committee the membership shall be amended by the Council to ensure that there is representation of all political groups within the membership.

Functions of the Staff Appointments and Review Panel

1. The Staff Appointments and Review Panel will have oversight of the Council's HR policies:
 - a. To review and approve as necessary the Council's overall strategic approach to work force matters including:
 - i. Organisational pay policy and strategy
 - ii. Human Resources related policies and procedures including:
 1. Recruitment and Selection
 2. Pay and Reward
 3. Performance Management
 4. Flexible working and work life balance
 5. Equality and Diversity
 6. Disciplinary and Grievance
 7. Managing Change having regard to changes in terms and conditions or variations to the establishment where these affect a number or group of officers.
 8. Human Resources and Organisation Development Strategy

- b. To review annually objectives set for Senior Officers (Chief Executive, Directors Heads of Service) and administration of performance related payments.
 - c. To make recommendations to Council regarding the appointment of a permanent Chief Executive Head of Paid Service.
 - d. To oversee the recruitment and appointment if required of a permanent Chief Executive Head of Paid Service.
 - e. To make recommendations to Council on the terms and conditions of service dismissal including redundancy, voluntary redundancy, voluntary early retirement and retirement on grounds of ill health of the Chief Executive and Chief Officers
 - f. To approve the appointment of any member of staff whose salary exceeds £100k.
2. To perform the duties and responsibilities as set out in the Officer Employment Procedure Rules.(Chapter 2 Section 18).

Article 9 –Scrutiny Arrangements

9.1 Purpose of Scrutiny

Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision-making process. The Scrutiny Committees have overall responsibility for the performance of all overview and scrutiny functions (under the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 as amended) on behalf of the Council and ensuring its effectiveness.

The Council's Scrutiny arrangements shall comprise of:

- (a) the Overview and Scrutiny Committee; and
- (b) the Climate Policy and Scrutiny Sub Committee;

9.2 The Overview and Scrutiny Committee

The Overview and Scrutiny Committee shall have [15] seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Overview and Scrutiny Committee will perform the following functions:-

- (a) shall be responsible for the Council's formal statutory call-in functions, including to consider and call in decisions relating to the discharge of Cabinet functions before those decisions are put into effect. The Overview and Scrutiny Committee can ask the Cabinet to reconsider any such decision;
- (b) To consider decisions relating to the discharge of Cabinet functions after they are put into effect;
- (c) To consider and to comment as appropriate to the decision maker on Key Decisions before they are taken by the Cabinet;
- (d) To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through the establishing of a task and finish group;
- (e) To make suggestions on the development of policies and suggest new policies where appropriate by itself or through the establishing of a task and finish group;
- (f) To work with or appoint representatives to work with other local authorities to carry out joint scrutiny;
- (g) To assist the Cabinet in the development of the Budget and Policy Framework in accordance with the Budget and Policy Framework Procedure Rules;

- (h) To receive and consider recommendations on issues requiring scrutiny under the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 as amended and where appropriate establishing Task and Finish groups for those purposes;
- (i) To exercise the power assigned to a crime and disorder scrutiny committee under the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006;
- (j) To receive reports, presentations and updates in order to scrutinise the Cabinet's priorities; and
- (k) To review and scrutinise the performance of the Cabinet, the Cabinet members and appropriate officers in relation to individual decisions.

9.3 The Climate Policy and Scrutiny Sub - Committee

The Climate Policy and Scrutiny Sub -Committee shall have [7] seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Climate Policy and Scrutiny Committee functions shall be carried out in relation to the following areas:

- (a) To develop policies and action plans to support climate action to move towards a net zero target.
- (b) To liaise with Climate Action Groups and Partner organisations to achieve the net zero target.

The Climate Policy and Scrutiny Committee will perform the following functions:

- (a) To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through the establishing of a task and finish group;
- (b) To make suggestions on the development of policies and suggest new policies where appropriate; and
- (c) To work with or appoint representatives to work with other local authorities to carry out joint scrutiny.

9.4 Audit and Governance Committee

The Audit and Governance Committee shall comprise [9] seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The purpose of the Audit and Governance Committee is to provide independent

assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non- financial performance, to the extent that it affects the Council's exposure to risk and weakens the control environment and to oversee the financial reporting process.

The Audit and Governance Committee with the Standards Committee is also responsible for promoting and maintaining high standards of Councillor conduct.

The Audit and Governance Committee will perform the following functions:-

Governance, Risk and Control

- (a) To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework, and to consider the local code of governance ensuring arrangements are adequate and operating effectively in practice;
- (b) To review the Annual Governance Statement before approval by the Cabinet, and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control;
- (c) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements;
- (d) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- (e) To monitor the effective development and operation of risk management in the Council, including the progress in addressing risk-related issues reported to the Committee.
- (f) To endorse the annual Risk Management Strategy and recommend it to the Cabinet for adoption;
- (g) To consider reports on the effectiveness of the internal control environment and monitor the implementation of agreed actions;
- (h) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption
- (i) To monitor the Counter Fraud Strategy, actions and resources;
- (k) To review the governance arrangements for significant partnerships or collaborations.

Internal Audit

- (a) To approve the Internal Audit Charter;

- (b) To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources;
- (c) To approve significant interim changes to the risk-based internal audit plan and resource requirements;
- (d) To make appropriate enquiries of management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations;
- (e) To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments;
- (f) To consider reports from the Head of Internal Audit on internal audit performance, including key findings from audit work, issues of concern, the results of the Quality Assurance and Improvement Programme (QAIP), conformance to the Public Sector Internal Audit Standards (PSIAS) and any areas to include in the Annual Governance Statement (AGS);
- (g) To consider the Head of Internal Audit's Annual Report, including the conformance with PSIAS and the results of the QAIP as indicators of the reliability of internal audit conclusions, and the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with a summary of the work supporting the opinion;
- (h) To consider summaries of internal audit findings, including those where the Head of Internal Audit has concluded that management has accepted a level of risk which may be unacceptable to the Council, or where there are concerns about the implementation of agreed actions;
- (i) To contribute to the QAIP, in particular to the external quality assessment of internal audit which takes place at least once every five years;
- (j) To consider a report on the effectiveness of Internal Audit to support the Annual Governance Statement; and
- (l) To provide free and unfettered access to the Audit and Governance Committee Chair for the Head of Internal Audit, including the opportunity for a private meeting with the Committee

External Audit

- (a) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments or the Audit and Governance Committee.

- (b) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance, and other specific reports as agreed with the external auditor;
- (c) To comment on the scope and depth of external audit work and to ensure it gives value for money;
- (d) To commission work from internal and external audit; and
- (e) To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

Financial Reporting

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

Accountability Arrangements

- (a) To report to the Council on their findings, conclusions and recommendations concerning the adequacy and effectiveness of governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions;
- (b) To report to the Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose; and
- (c) To publish an annual report on the work of the Committee.

9.5 Standards Committee

The Standards Committee shall comprise [9] seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Committee will perform the following functions

- (a) Promoting and maintaining high standards of conduct by Councillors and Co-opted Councillors of the Council;
- (b) Advising and assisting Parish/Town Council(s) and Councillors to maintain high standards of conduct and to make recommendation to Parish/Town Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with the Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Councillors' Code of Conduct;

- (d) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Councillors' Code of Conduct;
- (e) Advising, training or arranging to train Councillors and Co-Opted members on matters relating to the Councillors' Code of Conduct;
- (f) Advising the Council upon the contents of, and requirements for, codes/protocols/other procedures relating to standards of conduct throughout the Council;
- (g) Maintaining oversight of the Council's arrangements for dealing with complaints;
- (h) Informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (i) Granting exemptions to politically restricted posts;
- (j) To set the allowances and expenses of the Independent Person and Reserve Independent Person, in consultation with the Corporate Director (Support Services);
- (k) To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the Council assessment criteria;
- (l) Hearing and determining complaints about Councillors and Co-opted members referred to it by the Monitoring Officer;
- (m) To grant dispensations after consultation with the Independent Person pursuant to S33(2) (b), (c) and (e) of the Localism Act 2011;
- (n) Hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011;
- (o) To consider review and advise on arrangements for new Councillor Induction and training programmes for all Councillors

9.6 Excluded Functions

The functions and the work programme of the Scrutiny Committees will not include the following matters:-

- (a) Any matter relating to a decision on a specific planning application;
- (b) Any matter relating to a decision on a specific licensing application;
- (a) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment, including but not limited to:-

- (i) Standards decisions and items which may be brought for decision;
 - (ii) Breaches of the Constitution;
 - (iii) Matters relating to the terms and conditions of employment or conduct of individual or groups of staff or Councillors
 - (iv) Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda
- (b) Audit process and items which are likely to be considered by the audit process;
 - (c) Matters within the proper remit of the Monitoring Officer or Section 151 Officer;
 - (d) Matters relating to a particular identifiable service recipient or potential service recipient;
 - (e) Complaints or matters before the courts or Local Government and Social Care Ombudsman; and
 - (f) Contractual matters, other than performance monitoring and review, except with the agreement of the Cabinet.

Article 10 – Joint Arrangements

10.1 Arrangements to promote well being

The Council or the Cabinet, in order to promote the economic, social or environmental well-being 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.

10.2 Joint Arrangements

The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions, in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those Councillors need not reflect the political composition of the Council as a whole.

Where the joint committee has functions for only part of the Borough and that area is smaller than two-fifths by area or population, the Cabinet may appoint Councillors to sit on the joint committee from outside the membership of Cabinet. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a Councillor for a ward which is wholly or partly contained within the area. In this case the political balance requirements do not apply to such appointments.

Details of any formal joint committee arrangements will be maintained by the Monitoring Officer and contained in Chapter 4 of this Constitution.

10.3 Access to information

The Access to Information Procedure Rules in Chapter 2 of this Constitution apply. If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

10.4 Delegation to and from other Local Authorities

The Council may delegate non-Cabinet functions to another Local Authority or, in certain circumstances, the Cabinet of another Local Authority.

The Cabinet may delegate Cabinet functions to another Local Authority or the Cabinet of another Local Authority in certain circumstances.

The decision whether or not to accept a delegation from another Local Authority shall be reserved to the Council.

Where the Council has entered in Joint Committee arrangements these are listed at paragraph 23.3.

10.5 Contracting out

The Council, for functions which are not those of the Cabinet, and the Cabinet for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 11 – Finance, Contracts and Legal Matters

11.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules contained in Chapter 2 of this Constitution.

11.2 Contracts

Every contract made by the Council shall:-

- (a) be in writing;
- (b) be signed by an authorised signatory or a Corporate Director in consultation with the Assistant Director Legal & Democratic Services or an authorised signatory where a Contract needs to be executed as a Deed; and
- (c) comply with the Procurement Procedure Rules.

11.3 Legal Proceedings

The Assistant Director Legal & Democratic Services 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 Assistant Director Legal & Democratic Services considers that such action is necessary to protect the Council's interests. They may designate nominated officers to carry out this function on their behalf.

11.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it shall be signed by the Assistant Director Legal & Democratic Services or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

The Assistant Director Legal & Democratic Services or such person authorised by them shall be the authorised officer to authenticate any document as being an official Council document or an official copy.

Any contract with a value exceeding £150,000 entered into on behalf of the Council shall be made in writing. Such Contracts must be made under Common Seal of the Council attested by at least 1 authorised officer.

11.5 The Common Seal of the Council

The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer.

A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

The Common Seal shall be affixed to those documents which in the opinion of the Monitoring Officer should be sealed.

The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by them.

Deeds to be executed under hand shall be attested by the Monitoring Officer or some other person authorised by them.

DRAFT

Chapter 2

The Procedure Rules

12. Council Procedure Rules

12.1 Annual Meeting of the Council

Timing of the Annual Meeting

The Annual Meeting of the Council shall be held:

- (a) in a year in which there are ordinary elections of Councillors to the Council, on a date not more than twenty-one days after the day of the retirement of Councillors; or
- (b) in any other year, the Annual Meeting may take place in March, April or May.

Order of Business

At the Annual Meeting of the Council, business will be reserved for:-

- (a) the election of the Mayor and Deputy Mayor;
- (b) In the first Annual Meeting following an ordinary election of Councillors,
 - (i) the appointment of the Leader for a 4-year term;
 - (ii) receive notification from the Leader on the appointment of the Deputy Leader;
 - (iii) receive notification of the memberships of political groups; and
 - (iv) receive notification of the names of Group Leaders and their Deputies.
- (c) Announcements from the Mayor, the Leader and/or the Chief Executive;
- (d) Receive notification from the Leader of:
 - (i) the appointment of Cabinet members and their Portfolios;
 - (ii) the appointment of Cabinet Committees, their membership and term of reference;
 - (iii) Delegation of Executive Functions to Cabinet members and Officers;
- (e) The establishment of Council Committees and sub-committees, their membership and term of reference in accordance with the political balance rules and appointments to outside bodies subject to the provisions below;
- (f) Fix the allowances for Councillors for the municipal year, having regard to any report prepared by the Independent Remuneration Panel;
- (g) The setting of dates for the Ordinary Meetings of the Council for the

remainder of the municipal year.

Restrictions and requirements on Business

No other business shall be transacted at the Annual Meeting unless, it is the opinion of the Mayor or the Chief Executive that there is business which relates to the administrative functions of the Council, or the Council is required urgently to consider before the next available Ordinary Meeting.

The Monitoring Officer shall prepare and provide lists of appointments to be made to Council Committees and Sub-Committees to each Group Leader, taking into account the rules of proportionality where these apply. Each Group Leader will submit a list of Councillors of their political group together with nominations for all appointments (including the Mayor and Deputy Mayor of Committees) to the Monitoring Officer at least 2 working days before the Annual Meeting.

12.2 Ordinary Meeting of the Council

Timing of the Ordinary Meeting

In addition to the Annual Meeting of the Council and any meeting convened under paragraph 12.4, the Council's Ordinary Meetings shall be held each year on such dates, times and places as decided by Council at its Annual Meeting.

Order of Business

Ordinary Meetings will conduct the following business:

- (a) Elect a person to preside over the meeting if the Mayor and the Deputy Mayor are not present;
- (b) Receive any apologies for absence;
- (c) Receive any declarations of interest from Councillors;
- (d) Approve the minutes of the last meeting;
- (e) To deal with questions from members of the public in accordance with paragraph 12.11;
- (f) Receive any announcements from the Mayor and/or the Leader and/or the Chief Executive;
- (g) Deal with any business remaining from the last meeting;
- (h) Deal with any urgent items of business as agreed by the Mayor;
- (i) To receive a report on any petition required to be debated in accordance with the Council's Petition Procedure; (rule 12.16)
- (j) To consider any Motions on notice;
- (k) Deal with the Medium-Term Financial Strategy, the setting of the Council

Budget and Council Tax resolution;

- (l) To consider a report on any matters reserved to the Council;
- (m) To receive and consider any other reports, if any, as specified in the Agenda;
- (n) Consider any recommendations from the Cabinet, Council or their Committees that require a Council resolution;
- (o) Receive reports from the Leader and the Cabinet Members incorporating oral questions as permitted by these Council Procedure Rules; and
- (p) To deal with any business in private in accordance with the Access to Information Procedure Rules.

The order of business at any meeting of the Council, save for business items falling under (a), (b) and (c) above, may be varied and re-ordered by the Mayor of the Council.

12.3 Extraordinary (Special) Meetings of Council

Timing of the Extraordinary Meeting

An Extraordinary(or Special) Meeting of the Council may be held in addition to the Ordinary Meetings of the Council, where a request to call an Extraordinary Meeting has been received by the Chief Executive from;

- (i) The Mayor;
- (ii) The Council by resolution;
- (iii) The Monitoring Officer in circumstances where a report under Section 5 of the Local Government Act 1989 is to be presented; or
- (iv) Any 5 Councillors, only if having signed and presented a requisition to the Mayor, the Mayor has refused to call an Extraordinary Meeting or has failed to call an Extraordinary Meeting within 7 clear working days of receipt of the requisition.

Order of Business

Save for items set out in paragraph 12.2 (a) – (f), the only the business for which the meeting has been called will be conducted at an Extraordinary Meeting of the Council.

12.4 Time and Place of Meetings

All meetings of the Council shall normally be held at the Council's offices in Kiln Road, Thursley and the time of the meetings shall be notified in the agenda for each meeting.

Meetings of the Council shall be called by the Chief Executive at such times and places as shall be required to conduct the business of the Council.

No alterations to the dates or times of Ordinary Meetings of the Council shall take place, unless the Mayor, after consultation with the Chief Executive, determines that it is necessary to either cancel a meeting or establish an alternative date or time. In such instances all Councillors will be notified by email, and notice of the changes will be on the Council's website.

The Council will give at least 5 clear working days' notice of the meeting to all Councillors and to the public by posting details of the meeting at the Council's main office and on its website.

12.5 Duration of Meetings

No meeting shall last for more than 2 hours.

If during the meeting, it appears to the Mayor that the meeting will exceed its permitted time of 2 hours, they will invite the meeting to suspend this Procedure Rule in accordance with paragraph 12.25.

Where this Procedure Rule is suspended, the Council will deal with the remaining business in the order set out in the agenda or continue to sit for a specific period of time. In such circumstances, priority will be given to any item of business that the Council is legally obliged to consider at that meeting.

Any business not concluded during the extended period will be considered at the next meeting of Council, save for Cabinet's reports to Full Council which will be dealt with at the meeting.

12.6 Chairing the Meeting

Meetings of the Council will be chaired by the Mayor of the Council, or in their absence the Deputy Mayor. In the absence of both, the Council at the start of the meeting, will elect a Member to chair the meeting on that occasion.

The Councillor presiding over the meeting may exercise any power or duty of the Mayor and will control the order and conduct of business.

Where these Procedure Rules apply to Committees and Sub-committees, references to the Mayor will include the Chair of the Committee and Sub-Committee.

The ruling of the Mayor as to the construction or application of any of the Procedure Rules shall be final and shall not be challenged.

12.7 Quorum

The quorum of a meeting will be one third of the Councillors called for the meeting, or 3 Councillors, whichever is the greater present in the meeting.

If the Mayor considers the meeting to be inquorate the meeting shall stand deferred for 15 minutes. If there is still no quorum after 15 minutes, then the meeting will be adjourned and the consideration of business will be held over to the next meeting.

12.8 Attendance

All Councillors present during the whole or part of a meeting are required to sign their names on the attendance sheet before the conclusion of every meeting to assist with the record of attendance.

12.9 Documents

Reports

The agenda for each meeting will include written reports containing such information as is necessary to enable the Council to properly discharge its functions and responsibilities. All reports will be made available in accordance with the Access to Information Procedure Rules.

Background Papers

Each report will identify a list of background papers relating to the subject matter as defined by paragraph 15.8 of the Access to Information Procedure Rules.

Confidential Appendix

Where a report contains information that is considered Confidential Information or Exempt Information, in accordance with the paragraph 15.11 of the Access to Information Procedure Rules, that information shall be placed in a Confidential Appendix, which will accompany the report for consideration. The Confidential Appendix will be exempt from publication in accordance with paragraph 15.12 of the Access to Information Procedure Rules.

12.10 Minutes

The minutes of each meeting shall be considered at the next Ordinary Meeting of the Council.

The Mayor shall put the question that the minutes of the meeting be approved as a correct record.

No discussion shall take place upon the minutes except upon their accuracy and any question of their accuracy will be considered and voted upon.

12.11 Public Questions On Notice

At every meeting of the Ordinary Council provision shall be made to enable members of the public to ask questions.

Members of the public may ask questions on any matter in relation to which the Council has powers or duties, or which affects the Borough.

A question may only be asked if the member of the public has registered to speak by giving notice of the question to the Chief Executive/Assistant Director Legal & Democratic Services no later than 4.45pm on the date seven clear working day before the day of the meeting. Each questioner must give their name and address.

At any meeting no person, organisation or group may submit more than [one] question. (A question may be multi-faceted but it must be directly related in the subject matter to qualify as a single question.)

Questions shall normally be dealt with in the order in which notice was received. However, the Mayor may revise the order of questions if they consider it appropriate and may group together similar questions.

The Mayor may vary the order of the agenda to take Public Questions after Council business has been transacted.

A question may be rejected by the Chief Executive if it addresses matters that would be inappropriate to consider at the meeting. For this purpose, 'inappropriate' includes any question or statement falling within any of the following categories:

- (a) is not about a matter for which the Council has powers or duties;
- (b) is defamatory, frivolous, vexatious or offensive;
- (c) is substantially the same as a question put to a meeting in the previous 6 months;
- (d) will require the disclosure of Confidential or Exempt Information as defined in the Access to Information Procedure Rules; or
- (e) is already subject to separate appeal, adjudication, litigation, mediation or dispute resolution.

If a question is rejected, then a written explanation as to why it has been rejected will be provided.

Questions which have not been rejected will be circulated to all Councillors before the meeting.

The Mayor will invite the person who gave notice of the question to ask the question. The person asking the question must normally be present at the meeting. However, the Mayor may exercise their discretion to allow a question to be read out by an Officer in the absence of the person making it.

There is no further opportunity for a member of the public to make a statement or to ask a supplementary question.

The Leader, relevant Cabinet Member or Chair of the relevant Committee will respond to the question orally or where a response cannot be provided at the meeting, a written response will be provided within 3 working days of the meeting.

No other Councillor shall be permitted to speak.

12.12 Statements by the Leader

At every Ordinary or Extraordinary Council meeting there will be a statement by the Leader. The purpose of the statement is to allow the Leader to update the Council on current issues of importance that cannot be covered elsewhere as part of the usual business.

At the meeting, the Leader will be entitled to address the Council for a maximum of 10 minutes.

12.13 Councillor Questions

a. On Reports of the Cabinet

A Councillor may ask a member of the Cabinet any question without notice upon an item of the report of the Cabinet when that item is being received or under consideration by the Council.

With the approval of the Mayor, the Cabinet member may ask a Chief Officer to respond on any question where the Cabinet Member does not have the information, and it is considered the officer would be able to assist.

b. Questions on Notice at Council

Subject to Rule 12.13 c. A Councillor may ask:-

- the Mayor; or
- the Leader of the Cabinet (or the Deputy Leader in the case of absence); or
- any member of the Cabinet
- any chair of Committee

a question on any matter in relation to which the Council has powers or a duty or which directly affects the Borough.

c. Notice of Questions

A Councillor may only ask a question under Rule 12.13 .b if it has been given in writing and delivered to the Chief Executive/Assistant Director Legal & Democratic Services no later than 4.45pm on the date seven clear working day before the day of the meeting.

12.14 Replies to Questions

An answer to a question raised without notice may take the form of:-

- (a) A direct oral answer;
- (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication;
- (c) Where the reply cannot conveniently be given orally, a written answer will be issued to the Councillor asking the question, and circulated to all Councillors within 5 working days of the meeting.

12.15 Statements by Chairmen

The Chair of a Committee or Sub-committee may make a statement at an Ordinary Meeting of Council on a key issue arising from the work of their Committee, which they consider should be brought to the attention of the Council.

Details of the issue to be brought to the attention of the Council must be given to the Chief Executive/Assistant Director Legal & Democratic Services no later than 9 clear working days before the meeting.

12.16 Petitions

Petitions sent to the Council will be passed directly to the Chief Executive who will acknowledge receipt and refer to full Council or the Cabinet at the next appropriate meeting.

The Council will respond to all petitions which demonstrate sufficient local support and number of signatures that cause the Council to consider those petitions.

Petitions meeting this criteria will receive a substantive response reflecting the view of the council on the issue(s) and/or proposed actions as soon as reasonably practicable and within a Council cycle.

12.17 Motions

Scope

No motion shall be put unless it relates to a matter over which the Council has power or which affects the Council or the Borough.

Any Motion which relates to an Executive Function or which has budget implications shall be deferred by the Monitoring Officer to the next available Cabinet meeting for consideration and determination.

Submission of Motions on Notice

Notice of the Motion and the proposed wording shall be submitted to the Chief Executive and the Monitoring Officer and include the Councillors proposing and seconding the Motion.

Such notices may be submitted in person, by 5:45pm by post or electronic mail 7 clear working days before the meeting of Council.

Motions that have been received in accordance with these Procedure Rules will be included on the agenda in the order in which they are received, unless the Councillors proposing the Motion gives written notice that they intend to withdraw it or defer it to a subsequent meeting of Council.

In the event that there are 2 motions which are similar in topic, the Chief Executive and Monitoring Officer will work with Group Leaders to agree an alternative approach. The default position is that each will be taken separately in the order they are received.

A maximum of five[5] Motions may be considered at any given meeting, any additional Motions shall be deferred to the next meeting of Council unless the Motion is withdrawn.

Where more than 5 valid Motions have been submitted and time allows, then additional Motions on notice may be added to the agenda at the discretion of the Chief Executive (in consultation with the Mayor).

(Note the operation of these provisions shall be kept under review and be brought back to Overview & Scrutiny Committee for formal consideration no later than 31.1.2025.)

Motions without Notice

The following Motions may be moved without notice:-

- (a) The appointment of a Chair in the absence of the Mayor and Deputy Mayor;
- (b) In relation to the accuracy of the minutes of the meeting;
- (c) The referral of an issue to the Cabinet or a Committee of the Council if it is within their terms of reference;
- (d) The adoption of a recommendation of the Cabinet or a Committee of the Council or an Officer, presented as part of the agenda including any consequent motions or resolutions;
- (e) To withdraw a Motion or a question (by the proposer only, and no

seconded is required);

- (f) To amend a Motion or recommendation in a report (by the proposer only)
- (g) To adjourn the debate or the meeting;
- (h) To exclude the public and press from the meeting under the relevant statutory provisions and in accordance with the Access to Information Procedure Rules;
- (i) To change the order of business on the agenda, proceed to the next item of business or put to a vote the matter under debate;
- (j) To suspend a particular Council Procedure Rule in accordance with the provisions set out in paragraph 12.25; or
- (k) That a Councillor not be further heard or be required to leave the meeting due to their conduct during the meeting.

Rescinding a Preceding Resolution

No motion to rescind any resolution passed within the preceding 6 months, and no motion or amendment to the same effect as one which has been rejected within the preceding 6 months, shall be considered, unless:

- (a) In the opinion of the Mayor significant new information has come to light since the original debate; or
- (b) The Notice thereof given in accordance with paragraph 12.17 (Submission of Motions on Notice) with the names of at least 10 Members of the Council is received by the Chief Executive or the Monitoring Officer, 7 clear working days before the meeting; or
- (c) It is moved in pursuance of a recommendation in a report to the meeting.

Dealing with Motions on Notice at the Meeting

If the Proposer or the Secunder (or a Councillor nominated as such) is not present at the meeting, then the Motion will be declared by the Mayor as having failed and the Mayor will immediately move onto the next item of business on the agenda.

12.18 Rules of Debate

Debate Etiquette

A Councillor when speaking will stand and address the Mayor, unless alternative provisions have been agreed with the Mayor.

While a Councillor is speaking, all other Members shall remain seated, unless raising a Point of Order or Personal Explanation.

A Councillor shall indicate they wish to speak by raising their hand, but shall only speak when called by name by the Mayor.

Councillors will, when speaking, refrain from making comments of a personal nature about another Councillor.

Councillors will refrain from disrupting the meeting.

Whenever the Mayor speaks during a debate, any Councillors then standing shall be seated and the Council shall be silent.

Discussion of the Motion at the Meeting

Any Councillor that speaks on a Motion shall address the Mayor and shall ensure that their speech is strictly related to the Motion under discussion and necessary for the progression of the debate or to a Point of Order as set out in paragraph 12.21.

The Mayor has the right to advise Councillors that they are no longer addressing the Motion and to curtail excessive speeches.

Number of Speeches

No Member may speak more than once in a debate on a Motion unless:

- (a) The Proposer of the Motion shall have the right of reply at the close of the debate and immediately before the Motion is put to the vote. Such reply shall be confined to answering the previous speakers and shall not introduce any new matters;
- (b) The Leader (in respect of motions concerning Cabinet functions) or the relevant Committee Chair (in respect of motions concerning non-Cabinet functions) shall be entitled to a right of reply;
- (c) On a Point of Order; or
- (d) Point of Personal Explanation; or
- (e) On an Amendment to the Motion.

12.19 Speeches by Proposer and Seconder

The Proposer

At the meeting the Mayor will invite the Proposer of the Motion to present the Motion to the meeting and formally move it.

The Proposer of any Motion which is the subject of a debate shall make a speech as soon as the Motion has been seconded.

In the case of Motions arising from a recommendation or report from the Cabinet, the Leader or relevant Cabinet Member will introduce the recommendation and propose the Motion.

The Secunder

Every motion shall be formally seconded before the Mayor opens up the debate. The Secunder of a Motion may reserve their speech to a later period in the debate.

Length of Speech or Statement

Councillors will usually be expected to speak for no longer than 5 minutes. Any extension in time permitted for a speech will be at the sole discretion of the Mayor.

12.20 Amendments to Motions

An amendment may be moved if it is relevant to the Motion and propose changes to the Motion by either:

- (a) Leaving out words;
- (b) Leaving out words and inserting or adding others;
- (c) Inserting or adding words;
- (d) Change the Motion so that it refers the matter to the Cabinet, Committee or Cabinet Member for consideration.

The omission, insertion or addition of words must not be capable of negating or nullifying the effect of the Motion under consideration, or have the effect of introducing a new subject matter into the Motion.

Recommendations contained within reports due to be considered by Council shall be preserved. Accordingly, no Motion shall be brought that seeks to alter a recommendation contained within a report before the meeting, unless in accordance with paragraph 12.17(f).

The only exception shall be to the Budget report considered by the Council at its Budget meeting, for which Councillors may be able to submit amendments to the Motions on notice to the Chief Executive and Monitoring Officer at least three working days before the meeting.

The proposed amendment will be circulated to the Section 151 Officer and the Monitoring Officer for the purposes of assessing the potential budgetary or legal impact and consequences for the Council.

If the Proposer and Secunder of the Original Motion consents to the amendment it can be adopted without the need for further debate or vote. In such instance the amended Motion then becomes the Substantive Motion upon which any further amendment can be moved.

Only one amendment can be moved, seconded and discussed at a time and no further amendment shall be moved until the amendment under

discussion has been disposed of.

If an amendment is carried when put to the vote, then the Motion as amended shall take the place of the original motion and shall become the substantive motion.

If an amendment is lost when put to the vote, then the next proposed amendment will be considered, if there is no further amendment then the original motion will be put and opened for debate.

12.21 Points of Order and Personal Explanation

A Councillor may raise a Point of Order or Personal Explanation and shall be invited by the Mayor to speak on the issue forthwith.

The Point of Order may only relate to an alleged breach of the Council Procedure Rules or a statutory provision and the Member shall specify the nature of the breach.

The Mayor shall consider the Point of Order and shall give their ruling on the matter. The ruling of the Mayor will be final.

A Personal Explanation shall be confined to some material part of their former speech which may have been misunderstood or misrepresented in the present debate.

No Point of Order or Personal Explanation shall be taken after the vote on the matter has been taken.

12.22 Voting

General Provisions

Unless required otherwise by law, all matters shall be decided by a simple majority of those present at the meeting at the time the question is put.

Voting shall be by show of hands, or such other method as determined by the Mayor of the Council.

In the event of an equality of votes on either side, the Mayor will have a second or casting vote.

Where the Council is making an appointment, and there are two or more persons nominated the decision will be taken by majority ballot. Where there is not an overall majority in favour of one person a further ballot will be undertaken with the person with the least votes being struck off the list and so on until a majority of votes is cast in favour of one person.

Recording Votes

A Councillor shall have the right to have their votes for, against or abstention from the vote recorded in the minutes provided that this is requested immediately before the vote is taken.

Recorded Votes

If, immediately before the vote is taken, at least 5 Councillors stand to request a recorded vote, the Chief Executive or the Monitoring Officer in their absence shall call each Member present to state whether they vote for, against or abstain. The names for, against and abstain for the motion or amendment shall be taken down in writing and entered in the Minutes.

Budget and Council Tax Votes

The mechanism for recorded votes as set out above shall apply automatically in the case of any decision (including any amendments to the substantive motion) relating to the Budget or Council Tax at the annual budget decision meeting.

This is a statutory provision which cannot be suspended under paragraph 12.25.

12.23 Substitute Members

Each political group shall annually appoint up to 2 Substitute Members to the Development Management and Audit and Governance Committees at the Council's Annual Meeting. Each Substitute Member shall undertake all required knowledge and training before they are permitted to participate as a Member of the relevant Committee.

All named Substitute Members shall be permitted to attend the relevant Committees as an observer on those occasions where they are not acting as a notified Substitute Member.

All nominated Substitute members will be identified on all agendas for the respective Committee meetings.

For the avoidance of doubt, there is no other general provision for Substitute Members at any other committees.

12.24 General Disturbance

In the event of a general disturbance which in the opinion of the Mayor renders the due and orderly conduct of the business impossible, the Mayor may without question adjourn the meeting for such period as they consider necessary and expedient.

Disorderly Conduct of a Councillor

If at a meeting any Councillor, in the opinion of the Mayor, misconducts themselves by persistently disregarding the ruling of the Mayor, or by behaving irregularly, improperly, offensively or by wilfully obstructing the

business of the Council, any Councillor may move:

- (a) That the Councillor shall not be heard further; and the Motion if seconded shall be put and determined without discussion or debate.
- (b) If the Councillor named continues their misconduct after a Motion under paragraph (a) above has been carried, a Councillor shall:
 - (i) Either move that the Councillor leaves the meeting; in such case the motion shall be put and determined without seconding, discussion or debate; or
 - (ii) The Mayor may adjourn the meeting for such period as they consider expedient; and
 - (iii) The Mayor may also give such directions as they consider appropriate for the removal of the Councillor and the restoration of order to the meeting.

Disorderly Conduct of a Member of the Public

If any member of the public interrupts the meeting the Mayor shall, in the first instance, issue them with a verbal warning. If the interruption continues, the Mayor shall request that they leave the meeting and in the event that they do not leave, the Mayor shall have the power to adjourn the meeting and/or order their removal from the meeting room.

12.25 Suspension of the Council Procedure Rules

Any of these Procedure Rules may be suspended by the way of motion carried by a simple majority at any meeting of the Council, save and except for paragraph 12.22 (Budget and Council Tax Votes).

12.26 Procedure Rules applying to Committees

The following Council Procedure Rules shall apply to all Committees, and Sub – Committees and Working Groups either appointed by Council or by Cabinet:

- (a) Quorum
- (b) Rules of Debate, except those relating to standing; length of speeches and ability to speak only once.
- (c) Voting
- (d) Record of Attendance
- (e) Length of Meeting
- (f) Suspension of the Procedure Rules;
- (g) General Disturbance;
- (h) Points of Order or Personal Explanation;
- (i) Documents;
- (j) Minutes;

13. Cabinet Procedure Rules

13.1 Cabinet Meetings

The Cabinet will meet at least 6 times a year at times to be agreed by the Leader.

Additional Cabinet meetings may be called from time to time by the Leader as and when required.

The Cabinet shall meet at the Council's offices or another location to be agreed by the Leader.

13.2 Quorum

The quorum for a meeting of the Cabinet (or a committee of it) shall be 3 Cabinet Members, which shall include the Leader, or in their absence the Deputy Leader.

13.3 Attendance at Meetings

All Cabinet Members are entitled to attend the Cabinet meetings and hold full speaking and voting rights.

All other Councillors are entitled to attend the Cabinet meetings but shall exercise speaking rights only as set out in these Cabinet Procedure Rules and shall not have voting rights.

The Leader may invite other Councillors to attend Cabinet meetings as and when required and may invite them to speak either on individual items or on any items on the Agenda. In such instances the invited Councillors will not be entitled to vote on any item on the Agenda.

Members of the public are entitled to attend meetings in accordance with the Access to Information Procedure Rules.

13.4 Order of Business

In addition to those items set out in paragraph 12.26, the Cabinet will conduct the following business:

- (a) matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Constitution;
- (b) consideration of reports from the Council's Scrutiny Committees; and
- (c) matters set out in the agenda for the meeting, and which shall indicate

which are Key Decisions in accordance with the Access to Information Procedure Rules set out in this Constitution.

13.5 Taking Decisions

Executive decisions will be taken at a meeting convened in accordance with the Access to Information Procedure Rules.

Where an Executive function has been delegated to a committee of the Cabinet these rules will apply to that Committee.

All decisions will be taken in accordance with these Procedure Rules, and where applicable the Council Procedure Rules and in accordance with the Access to Information Procedure Rules and the Scheme of Delegations contained in Chapter 4.

13.6 Chairing the Meeting

Cabinet meetings will be chaired by the Leader or in their absence the Deputy Leader.

13.7 Conflicts of Interest

Where the Leader has a conflict of interest this should be dealt with in accordance with the Councillor Code of Conduct as set out in this Constitution.

If every member of the Cabinet has a conflict of interest this should be dealt with in accordance with the Councillor Code of Conduct as set out in this Constitution.

In the event that a conflict of interest arising in the exercise of an Executive Function which has been delegated to a Cabinet Committee, a Cabinet Member or an Officer, then the matter will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Councillor Code of Conduct as set out in in this Constitution.

13.8 Who can put items on the Cabinet Agenda

The Leader will determine the items on the Agenda for Cabinet meetings, in consultation with the Chief Executive.

The Monitoring Officer, S 151 Officer or the Head of Paid Service may include an item for consideration on the agenda of a Cabinet Meeting and may request such a meeting in pursuance of their statutory roles.

13.9 Consultation

All reports to the Cabinet which relate to the Budget and Policy Framework must contain details of the nature and extent of consultation with

stakeholders and the Overview and Scrutiny Committee and will provide details of the outcome of that consultation.

Reports about other matters will set out the details and outcome of any consultation undertaken as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration and in accordance with any statutory requirements in force at the time the consultation is undertaken.

13.10 Councillor Questions

A Member who is not a Member of Cabinet, may ask the Leader or a Cabinet Member any question on any matter in respect of which the Cabinet has powers or duties, or which affects the Borough provided notice of the question has been given in writing to the Chief Executive and the Monitoring Officer no later than 4.45pm, 2 working days before the meeting.

No more than one question may be put by the Councillor at any meeting.

Questions shall normally be dealt with in the order in which notice was received. However, the Leader may revise the order of questions if they considers it appropriate and may group together similar questions.

There is no opportunity for a Councillor to make a further statement but they may ask a supplementary question provided that the supplementary question arises solely as a consequence of the response which has been provided to them.

The Leader or relevant Cabinet Member will respond to the question orally or where a response cannot be provided at the meeting, a written response will be provided within [3] working days after the meeting.

The number of Councillors asking questions shall be at the Leader's discretion, having regard to the reasonable and efficient management of the meeting.

13.11 Matters of Urgency

Where the Monitoring Officer in consultation with the Chief Executive considers that a matter of urgency has arisen in connection with the work of the Cabinet and requires a decision before the next regular meeting of the Cabinet, then the following shall have the authority to take the decision:

- (a) the Leader; or
- (b) in their absence the Deputy Leader or
- (c) in their absence the Cabinet Member who has responsibility for the matter concerned.

Where an urgent decision has been taken, the decision taker shall take a report setting out the nature of the decision taken, the reasons for the urgency and details of the actions taken, to the next Council meeting.

This provision shall only apply to Executive functions, or those functions which have been delegated by Council to the Cabinet or a Cabinet Committee.

A decision made by the Cabinet pursuant to this paragraph shall not be subject to the Call-In Procedure and may be implemented with immediate effect.

This provision will apply to a Key Decision. The Leader may only take an Urgent Key Decision if the provisions as set out in paragraph 15.17 of the Access to Information Procedure Rules have been followed.

14. The Budget and Policy Framework Procedure Rules

14.1 The Framework for Cabinet Decisions

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 5 of this Constitution. Once the Budget and Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

14.2 Process for developing the Budget and Policy Framework

The Budget and Policy Framework shall be developed in accordance with the process set out in these Procedure Rules.

Publication

The Cabinet will publish its initial proposals for the adoption of any plan, strategy and budget that forms part of the Budget and Policy Framework at least two months before its submission to Council for adoption.

Consultation

Prior to publication, the Cabinet will first consult and seek the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration.

Details of the Cabinet's consultation process shall be included the **Forward Plan**.

Any representations made to the Cabinet shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them.

If the matter is one where a Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.

Overview and Scrutiny Committee

The Cabinet's initial proposals shall be referred to the Overview and Scrutiny Committee as part of the consultation process.

Cabinet

Following which a report to Cabinet on the outcome of its deliberations will be prepared and submitted. The Overview and Scrutiny Committee shall have at least four weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Overview and Scrutiny Committee of the time for response when the proposals are referred to it.

Having considered the report of the Overview and Scrutiny Committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration.

Council

The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.

In considering the matter, the Council shall have before it the Cabinet's proposals and any report from the Overview and Scrutiny Committee.

The Council's decision will be publicised in accordance with this Constitution and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, (where amendments have made), unless the Leader of the Council objects to it during that period.

Leader Objection

If the Leader objects to the decision of the Council, they shall give written notice to the Monitoring Officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Monitoring Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

The Council meeting must take place within 10 working days of the receipt of the Leader's full and measured written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with the Constitution, and shall be implemented immediately.

14.3 Decisions outside the Budget and Policy Framework

Subject to the provisions of the Financial Procedure Rules, the Cabinet, Cabinet Committees, Cabinet Members and any officer, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework.

If any of these bodies or persons wishes to make a decision which is contrary to the Budget and Policy Framework approved by the Council, then they shall take advice from the Monitoring Officer and the s.151 Officer.

If the advice of either of those officers is that the decision would not be in line with the existing Budget and Policy Framework; then that decision may only be taken by the Council, subject to paragraph 14.4 below.

14.4 Urgent decisions outside the Budget or Policy Framework

The Cabinet, a Cabinet Committee, Cabinet Member or Officer, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Budget and Policy Framework if the decision is a matter of urgency.

Such an urgent decision may only be taken if;

- (a) it is not practical to convene a quorate meeting of the Council; and
- (b) the Chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency, in accordance with the Access to Information Procedure Rules.

The decision notice must specify the reasons why it is not practical to convene a quorate meeting of the Council and the Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter for urgency.

Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

14.5 In-year changes to the Budget and Policy Framework

No changes to any policy and strategy which make up the Budget and Policy Framework may be made by the Cabinet, a Cabinet Committee, Cabinet Member or Officer, area committees or joint arrangements discharging executive functions, except where those changes are:

- (a) necessary to ensure compliance with the law, ministerial direction or government guidance; or
- (b) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

14.6 Call-in of decisions which are outside the Budget and Policy Framework

Where the Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the Budget and Policy Framework, then it shall seek advice from the Monitoring Officer and/or the s.151 Officer.

In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's and/or s.151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report.

The Cabinet must prepare a report:

- (a) to Council in the event that the Monitoring Officer and/or the s.151 Officer conclude that the decision was a departure, or
- (b) to the Overview and Scrutiny Committee if the Monitoring Officer and/or the s.151 Officer conclude that the decision was not a departure.

If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the s.151 Officer is that the decision is or would be contrary to the Budget and Policy Framework, the Overview and Scrutiny Committee may refer the matter to

Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.

The Council shall meet within 10 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the s.151 Officer.

The Council may either:

- (a) endorse a decision or proposal of the decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (b) amend the Council's Financial Procedure Rules or the policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (c) where the Council accepts that the decision or proposal is contrary to the Budget and Policy Framework and does not amend the existing Budget and Policy Framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or s.151 Officer.

15. Access to Information Procedure Rules

15.1 Introduction

These rules apply to meetings of the Council, Council Committees, Scrutiny Committees and Cabinet.

As the Council is functioning under executive arrangements these rules have been prepared in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the provisions set out in sections 100A-H and Schedule 12A of the Local Government Act 1972 (as amended).

These rules do not affect any specific rights to information contained elsewhere in the Constitution or by law.

15.2 Rights to Attend Meetings

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

Members of the public shall not be admitted into any meeting in excess of the number which the public accommodation can safely contain.

15.3 Notices of Meetings

The Council will give at least five clear days' notice of any meeting by posting details of the meeting on the public notice board at the Council Offices Kiln Road and on the Council's website.

If a meeting is convened at shorter notice, notice will be issued at the time the meeting is convened, and in accordance with the general exception and special urgency rules set out in paragraph 15.16 and 15.17.

15.4 Access to Agenda and Rights before the Meeting

At least 5 clear working days before the meeting, the Council will make copies of the following documents available for inspection by the public at its Council office and will publish them on its website;

- (a) the agenda for the meeting;
- (b) any reports which are to be made available to the public in accordance with these rules; and
- (c) Notice of Intention to hold meeting in private.

Where a meeting is convened at shorter notice, a copy of the agenda and the associated reports will be made available for inspection as soon as possible and no later than the commencement of that meeting.

If an item is added to the agenda after it has been made publicly available, the revised agenda and any reports relating to the item for consideration will be made available for inspection from the time the item was added to the agenda.

Where reports are prepared after the agenda has been published and circulated to Councillors, the designated officer shall make each late report available to the public as soon as the report is completed and send it to all Members.

15.5 Supply of Copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item;

to any person on payment of a charge for postage and any other costs.
Copies will be freely available on the Council's website.

Except during any part of a public meeting during which the public are excluded, the Council will make available for use by the public present at the meeting, a reasonable number of copies of the agenda and reports for the meeting.

15.6 Access to Minutes

The Council will make available copies of the following for 6 years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, options considered and rejected, a record of any conflict of interest declared by any Member and in respect of any declared conflict of interest a note of any dispensation granted, 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.

A copy of the minutes of all public meetings will be available for public inspection at the Council offices on weekdays during office hours, and will also be available on the Councils website.

15.7 Background Papers

List of background papers

Officers will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their 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 material or those which disclose Exempt or Confidential Information (as defined in paragraph 15.11).

Public inspection of background papers

The Council will make available for public inspection for at least 4 years after the date of the meeting one copy of each of the documents on the list of background papers at the Council office and on the Council's website.

15.9 Summary of Public's Rights

These Rules constitute a written summary of the public's rights to attend meetings and to inspect and copy documents.

15.10 Recording of Meetings by Persons Present

Requests from reporters

The Mayor shall respond to requests made in accordance with section 100A(6)(c) of the Local Government Act 1972 from any person attending the meeting for the purpose of reporting the proceedings to be afforded reasonable facilities for taking their report.

Use of electronic devices at meetings held in public

Members of the public or representatives of the media may use electronic devices at meetings held in public for the purposes of filming, audio recording, taking photographs, blogging, tweeting and posting to social media websites.

The use of electronic devices for reporting purposes is, in certain circumstances, recognised as contributing towards transparency and democratic debate and there is a presumption in favour of allowing their use. However, the proceedings of a meeting must not be disrupted by the use of

electronic devices and such use must not inhibit the proceedings. Accordingly oral commentary to any recording made during the meeting will not therefore be permitted.

Filming and audio recording of meetings using small devices, is generally permitted.

Any filming or audio recording must take place from fixed positions in the meeting room, the location of which shall be agreed with the Mayor of the meeting. Equipment must be set up before the meeting starts.

If the Mayor considers that the filming or audio recording is disrupting the meeting in any way, the operator will be required to stop immediately.

No-one is permitted to film, record or report any part of a meeting where the press or public are excluded because Confidential or Exempt Information would be disclosed. This includes Councillors and officers present at the Meeting.

No restrictions will be placed on anyone in the public gallery at a meeting in relation to the use of social media and photography, provided that there is no flash photography and the Mayor considers their actions are not disrupting the proceedings of the meeting.

15.11 Exclusion of Access by the Public to Meetings

Confidential Information - requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that Confidential Information would be disclosed.

Meaning of Confidential Information

Confidential Information means information:

- (a) given to the Council by a Government Department on terms which forbid its public disclosure; or
- (b) which cannot be publicly disclosed by any enactment or by Court Order.

Exempt Information - discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that Exempt Information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Meaning of Exempt Information

Exempt Information means information which is covered by the Local Government Act 1972, Schedule 12A and falls within the following 7 categories (subject to any condition/qualifications):

	Category	Conditions
1.	Information relating to any individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
2.	Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information within paragraph 3 is not exempt if it must be registered under <ul style="list-style-type: none"> • The Companies Act 1985; • The Charities Act 1993; • The Friendly Societies Acts 1974; • The Industrial and Provident Societies Acts 1965 to 1978; and • The Building Societies Act 1986.
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council.	Information within paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the Council in those or any other consultations or negotiations in connection with a Labour relations matter. “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.

	Category	Conditions
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	Information which reveals that the Council proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

In determining whether the exemptions above can be applied the public interest test as applicable under the Freedom of Information Act 2000 shall be applied. Accordingly the information will only remain exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information is not exempt if it relates to proposed development for which the Local Planning Authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

15.12 Exclusion of Access by the Public to Reports

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Paragraph 15.11, 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.

15.13 Application of Rules to the Cabinet

If the Cabinet or its Committees meet to take a Key Decision then it must comply with paragraph 15.1 – 15.11 unless paragraph 15.16 or paragraph 15.17 apply. A Key Decision is as defined in Article 7 of this Constitution.

This requirement does not include meetings, whose sole purpose is for Officers to brief Councillors.

Paragraphs 15.14 – 15.23 also apply to the Cabinet and its Committees.

15.14 Procedure before taking Key Decisions

Subject to paragraph 15.16 or paragraph 15.17, a Key Decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with paragraph 15.3 and if the decision is to be taken in private at the meeting, notice has been given in accordance with paragraph 15.4.

15.15 Forward Plan

The Forward Plan will be available for inspection by the public at the Council offices and on the Councils website.

Period of Forward Plan

The Forward Plan will be prepared on behalf of the Leader to cover a period of at least three months, beginning with the first day of any month.

The Forward Plan will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet in the course of the discharge of an executive function.

The Forward Plan will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, their name and title, if any, and where the decision taker is a body, its name together with the relevant officers' contact details;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision; and

- (e) a list of the documents submitted to the decision taker for consideration in relation to the matter.

15.16 General Exception from inclusion on the Forward Plan

Where the publication of the intention to make a Key Decision on the Forward Plan is impracticable, then subject to paragraph 15.17 the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until notice has been given on the Forward Plan for at least 28 clear calendar days;
- (b) the Proper Officer has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of the Overview and Scrutiny Committee, by notice in writing, of the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council and on its website; and
- (d) at least five clear days have elapsed since the Proper Officer complied with (a) and (b) above.

Where such a decision is taken collectively, it must be taken in public.

As soon as reasonably practicable after the Monitoring Officer has complied with 15.16 they must make available at the Council Office and on the Council website a notice setting out the reasons why it is impracticable to defer the decision.

15.17 Special Urgency relating to Key Decisions

If by virtue of the date by which a decision must be taken paragraph 15.15 cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision (where permitted by this Constitution), obtains the agreement of:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no Chair of the Overview and Scrutiny Committee, or the Chair of that Committee is unable to act, then the agreement of the Mayor, or in the absence of the Mayor the Deputy Mayor.

That the taking of the decision is urgent and cannot be reasonably deferred.

As soon as reasonably practicable after the agreement has been obtained a notice must be made available at the Council Office and on the Council's, website setting out the reasons why the matter is urgent and why it cannot reasonably be deferred.

15.18 Reports on Special Urgency Decisions

The Leader will submit a report to the next practicable ordinary meeting of the Council, on Key Decisions taken by the Leader, Cabinet or Chief Executive where the making of the decision was agreed as urgent in accordance with paragraph 15.17. The report will include the number of decisions made, the particulars of each decision made and a summary of the matters in respect of which those decisions were made.

15.19 Report to Council where the Key Decision procedure is not followed

If an executive decision has been made and not treated as a Key Decision and the Overview and Scrutiny Committee is of the opinion that the decisions should have been treated as a Key Decision, the Committee may require the Cabinet to submit a report to the Council within such reasonable period as the Committee may specify.

15.20 Cabinet's Report to Council

In the event that the Overview and Scrutiny Committee request a report in accordance with paragraph 15.19, the Cabinet must prepare a report for submission to the meeting of Council specified by the Committee. However, if the next meeting of the Council is within 7 days of receipt of the written notice, then the report may be submitted to the next Council meeting.

The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

15.21 Records of Decisions

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce and publish a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting; any interest declared in relation to the matter decided by any Member of the decision making body which made the decision and in respect of any declared interest a note of any dispensation granted by the Head of Paid Service .

15.22 Decisions by Individual Cabinet Members

No Cabinet Member shall take a decision unless they have been provided with a report on the issues by the relevant officer. Such report shall contain clear details of the issue, the decision the Cabinet Members is being asked to take, and the details of any alternative options that have been considered.

Such report should be delivered to the Monitoring Officer for publication where the recommendations within the report have been approved by the Cabinet

Member.

As soon as reasonably practicable after an executive decision has been taken by an individual Cabinet Member, a record of the decision shall be prepared and will include:

- (a) the date it was made,
- (b) a statement of the reasons for it,
- (c) any alternative options considered and rejected,
- (d) a record of any conflict of interest declared by any Cabinet Member who is consulted by the decision-maker and in respect of any interest declared a note of any dispensation granted by the Head of Paid Service.

This information can be included within the initial report where appropriate to do so.

As soon as practicable after the decision has been taken the report and the decision must be:

- (a) published on the Council's website; and
- (b) circulated to all Councillors.

15.23 Record of Individual Officer Decision

As soon as reasonably practicable after an Officer has made a decision delegated to them by the Council or any of its committees, or by the Cabinet or a Cabinet Member, then the decision must be recorded if:

- (a) it relates to the discharge of an executive function; or
- (b) it is a decision which is not the responsibility of the Executive and the effect of the decision is:
 - (i) to grant a permission or licence; or
 - (ii) to affect the rights of an individual; or
 - (iii) to award a contract or incur expenditure.

Such a record must be produced by or on behalf of the officer concerned and must include a record of the decision including:

- (a) the date it was made,
- (b) a statement of the reasons for it,
- (c) any alternative options considered and rejected,
- (d) a record of any conflict of interest declared by any Cabinet Member who is consulted by the officer and in respect of any interest declared a note of

any dispensation granted.

As soon as practicable after the decision has been taken the report and the decision must be:

- (a) published on the Council's website; and
- (b) circulated to all Members.

The provisions of Rules 15.7 and 15.8 will also apply to the making of decisions by individual Cabinet Members and decisions taken by Officers which are required to be recorded. This does not require the disclosure of Exempt or Confidential Information.

15.24 Additional Rights of Access for Councillors

Any document which is in the possession of, or under the control of, Cabinet or its Committees and contains material relating to any business to be transacted at a public meeting must be available for inspection by any Member for at least five clear days before the meeting except where the meeting is convened at shorter notice.

Such a documents must be available when the meeting is convened and when an item is added to the agenda at shorter notice such a document must be available for inspection at the time the item is added to the agenda.

Any document which is in the possession of, or under the control of, the executive of a local authority and contains material relating to any business transacted at a private meeting or any decision made by a Cabinet Member or Officer in accordance with executive arrangements must be available for inspection by any Councillor when the meeting concludes or immediately after the decision has been made and in any event within 24 hours of the conclusion of the meeting or the decision being made as the case may be.

The above does not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act unless it is information of a description falling within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by the Council in the course of negotiations for a contract) or paragraph 6.

15.25 Overview &Scrutiny Committee's Access to Documents

Rights to copies

Subject to the provisions below, the Overview & Scrutiny Committee (including its working groups) will be entitled to copies of any document which is in the possession of, or control of, the Cabinet or its Committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its Committees; or

- (b) any decision taken by a Cabinet Member or any Key Decision.

Limit on rights

The Overview & Scrutiny Committee (including its working groups) will not be entitled to:

- (a) any document that is in draft form; or
- (b) any part of a document that contains Exempt or Confidential Information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

16. Financial Procedure Rules - under review

These will be attached as separate appendix

17. Overview and Scrutiny Procedure Rules

17.1 Introduction

Overview and Scrutiny arrangement play an important role in securing the efficient delivery of public services and drives improvements within the Council. Through the legislative powers the Scrutiny Committee are responsible for scrutinising decisions the Cabinet is planning to take and those that it has already taken, thereby holding the Cabinet to account for its decisions and its actions. The Scrutiny Committees carry out the scrutiny function on behalf of the Council.

17.2 The Scrutiny Arrangements

The Council will have in place the Scrutiny arrangements as set out in Article 9 of this Constitution. The Scrutiny Committees may appoint Task and Finish Groups and establish their membership. Reference to the Scrutiny Committee will (unless otherwise stated) include reference to the Task and Finish Groups. The Task and Finish Group may be appointed for a fixed period or to undertake a specific task, on the expiry of which they shall cease to exist.

17.3 Meetings of the Scrutiny Committees

In addition to the Ordinary meetings scheduled at the start of the municipal year, Extraordinary meetings may be called from time to time as and when appropriate. Extraordinary meetings may be called by:

- (a) the Chair of the relevant Scrutiny Committee;
- (b) any 5 members of the relevant Scrutiny Committee or
- (c) the proper officer if they consider it necessary or appropriate.

17.4 Membership

Councillors are eligible to be members of a Scrutiny Committee, subject to the number of places available and the political proportionality rules.

No Councillor may be involved in scrutinising a decision in which they have been directly involved in making.

Cabinet Members are not entitled to be a member of a Scrutiny

Committee.

The Task and Finish Group may consist of any Councillors of the Council, subject to paragraph 17.4, who are not a member of the Scrutiny Committee and will hold voting rights on any question which falls to be determined at the meeting of the Task and Finish Group. (For the avoidance of doubt this includes a member of Cabinet)

Substitutes will be permitted provided they are in accordance with the provisions set out above and the Council Procedure Rules, and should wherever possible be named for the duration of the review being undertaken by the Scrutiny Committee.

17.5 Co-opted Members

The Scrutiny Committees shall be entitled to recommend to the Council the appointment of additional third-party individuals who are not members of the Council, as a result of their expertise they will bring to the Scrutiny Committee in the consideration of their review. Such individuals will be known as 'Co-opted Members' and will be entitled to participate in the review but will not hold voting rights on any question which falls to be determined at a meeting of the Scrutiny Committee.

17.6 Chair

The Chair of each of the Scrutiny Committees will be appointed at the Annual Meeting of the Council.

The Chair of the Overview and Scrutiny Committee should not normally be a member of the Majority Group, unless there are no such other persons available.

The Chair of any Task and finish group will be a member of the Overview and Scrutiny Committee.

The Vice Chair shall be selected from the Scrutiny Committee membership.

17.7 Work programme

The Scrutiny Committees will be responsible for setting their own work programme which exercises the functions as conferred by section 21 of the Local Government Act 2000 and set out in Article 9 of this Constitution.

In doing so they shall review the suggestions provided as part of the annual call for topics and will take into account the views of the Chief Officers.

The work programme shall be considered by the Chair of Overview and Scrutiny Committee to coordinate the work undertaken by each of the Committees. The Chairman may consult with Group Leaders, the Cabinet, any Councillor and any other person or group they consider relevant to inform their considerations.

17.8 Agenda Items

Any member of the Scrutiny Committee shall be entitled to give notice to the Monitoring Officer that they wish an item relevant to the functions of the Scrutiny Committee to be included on the agenda for the next available meeting of the Scrutiny Committee. Where such a request has been received on later than 4.45pm seven working days before the meeting the Scrutiny Lead Officer will ensure that it is included on the next available agenda. Otherwise the item will be included in the next agenda of the Scrutiny Committee.

17.9 Order of Business

In addition to the provisions stipulated in the Council Procedure Rules at paragraph 12.26, the Scrutiny Committees shall also consider the following business:

- (a) consideration of any matter referred to it for a decision in relation to call in of a decision;
- (b) responses of the Cabinet to reports of the Scrutiny Committee; and
- (c) any other business as set out on the agenda for the meeting.

17.10 Reports from the Scrutiny Committees

Once it has formed recommendations, the Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet.

The Cabinet shall consider the report from the Scrutiny Committee at the next meeting of Cabinet for which the agenda has not yet been published.

The Cabinet will normally consider the report within [2] two months of it being submitted to Cabinet. However, the Leader and the Chair of the relevant Scrutiny Committee may agree a longer period.

Having considered the report, Cabinet will provide a response. That response will be reported to Council, together with the original Scrutiny Committees report, setting out details of Cabinets considerations, and set out any recommendations to the Council, including recommendations for a departure from or a change to the agreed Budget and Policy Framework.

17.11 Rights of Scrutiny Committee Members to documents

In addition to their rights as Councillors, members of the Scrutiny Committees in fulfilling their functions have additional rights to documents as set out in the Access to Information Procedure Rules.

Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committees as appropriate depending on the particular matter under consideration.

17.12 Members and Officers Giving Account

The Scrutiny Committees may require any Cabinet Member, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit: any particular decision or series of decisions; and the extent to which the actions taken implement Council policy. It is the duty of those persons to attend if so required.

Where any Cabinet Member or Officer is required to attend a Scrutiny Committee under this provision, the Mayor will inform the proper officer. The proper officer shall inform the Cabinet Member or officer in writing giving at least 5 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for Scrutiny Committees consideration. Where the account to be given to Scrutiny Committee will require the production of a report, then the Cabinet Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Cabinet Member or officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Cabinet Member or Officer to arrange an alternative date for attendance to take as soon as reasonably practicable.

17.13 Attendance by Others

The Scrutiny Committees may invite people other than those people referred to in paragraph 17.13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance by those invited under this provision is entirely optional but encouraged in the spirit of partnership working and community engagement.

17.15 Call In

When a Key Decision is made by:

- (a) the Cabinet,
- (b) a Cabinet Member
- (c) a committee of the Cabinet,
- (d) an officer with delegated authority from the Cabinet, or
- (e) under joint arrangements,

the decision shall be published on the Councils website, and shall be made available at the main offices of the Council normally within 3 working days of being made. Copies of all such decisions will be made available to all Councillors within the same timescale, by the person responsible for publishing the decision.

The notice publishing the decision shall bear the date on which it is published and will specify the date 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 decision is called-in.

A decision taken, may be called in to the Overview and Scrutiny Committee whose remit includes the subject matter of the decision. The Climate Policy and Scrutiny Committee does not have the power to call in a decision.

Individual decisions taken by Non-Executive Committees (Planning, Licensing, Standards and Audit Committees) cannot be the subject of call-in.

Any decision can only be called-in once.

A decision may be called in by:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) any[5] five non-cabinet Councillors.

All valid call-in notices will be referred to the Overview and Scrutiny Committee for determination and the decision maker will be notified of the call-in.

The submission of a call-in notice shall have the effect of suspending the implementation of the decision pending consideration of the matter by the Overview and Scrutiny Committee.

The Chair of the relevant Scrutiny Committee is under an obligation to ensure that the meeting is held within the 10 working days. If the Overview and Scrutiny Committee does not meet the required period, the decision shall take effect on the expiry of the 10 working day period.

If the Overview and Scrutiny Committee has already commented or made recommendations on the specific matter which has been called-in prior to the decision being made call -in will not apply to that decision.

17.16 Call In Procedure

A notice of Call In must be made direct to the Monitoring Officer, and must be received within five working days of the date of publication of the decision. The Call-In notice must set out the details of the decision being called in and state clearly the reasons why the decision needs to be scrutinised based on one or more of the following seven[7] assessment criteria:

- (a) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures;
- (b) The decision is contrary to the Council's Budget and Policy Framework;
- (c) The decision is not consistent with Council policy;
- (d) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable;
- (e) The decision is contrary to a previously agreed decision made by the Council, which has not been superseded by a subsequent decision;
- (f) The decision is inconsistent with a previous Overview and Scrutiny Committee recommendation that has been accepted by Cabinet or Council

and that recommendation has not been superseded by a subsequent decision; or

- (g) The decision was not taken in accordance with the principles set out in Article 7 (Decision-Making) of the Constitution.

On receipt of the notice for call-in, the Monitoring Officer , will:

- (a) acknowledge receipt of the Notice;
- (b) Notify the decision maker in writing of the Call-in; and
- (c) Notify the Chair of the Overview and Scrutiny Committee.

The Monitoring Officer shall call a meeting of the relevant Scrutiny Committee on such date as they may determine, where possible after consultation with the Chair of the Overview and Scrutiny Committee, and in any case within 10 working days of request to call-in.

17.17 Informal Meeting

Prior to the meeting of the Overview and Scrutiny Committee arranged under 17.10 above, the Chair of the Overview and Scrutiny Committee may, in agreement with those calling the decision in, call an informal meeting too be attended by the Chair of the Scrutiny Committee, the Members calling in the decision, and the Decision Maker. The purpose of that meeting will be to discuss the issues and to see if the matter can be resolved.

The Monitoring Officer will attend the informal meeting and will within 24 hours produce a note of the discussion and the outcome, for circulation to all parties for approval.

Once the note and the outcomes have been agreed, by all parties then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution. A report of any call ins that are dealt with by way of an informal meeting will be included on the Agenda for the next meeting of the Overview and Scrutiny Committee.

17.18 Meeting of the Overview & Scrutiny Committee

If the Call In is not withdrawn as a result of the informal meeting, or an informal meeting is not held, the call in will be presented to the Overview and Scrutiny Committee for consideration, The Overview and Scrutiny Committee will meet within 10 working days of the notice of call-in. Wherever possible scheduled meetings of the Overview and Scrutiny Committee will be used. Where this is not possible the Monitoring Officer will liaise with the parties concerned and arrange a special meeting.

At the meeting to consider the call-in notice, the Overview and Scrutiny Committee shall limit its consideration to the reasons stated in the call-in notice.

The meeting shall be conducted in the following way:

- (a) The Members requesting the call-in shall attend and explain their objections to the decision and the reasons for the call-in against the stated

criteria.

- (b) the decision-maker shall establish the reasons behind the decision;
- (c) Questions can be asked by:
 - (i) Those calling in the decision;
 - (ii) The relevant Cabinet Member or relevant Officer; and
 - (iii) The Overview and Scrutiny Committee.

All questions will be at the discretion of the Chair, taking account of relevance to the subject matter.

Both those calling in the decision and the decision maker are permitted to stay at the meeting whilst the Overview and Scrutiny Committee debates and decides what action to take at the discretion of the Chair of the Overview and Scrutiny Committee. However, they will not be able to participate in the general debate. The Chair may allow them to answer questions or points of clarification arising through the debate.

17.19 Decisions referred back to the Decision Maker

On considering the matter, the Overview and Scrutiny Committee will decide whether or not to ask the decision-maker to reconsider its decision.

If, having had regard to the advice of the Monitoring Officer, which will be summarised within the Report, the Overview and Scrutiny Committee considers the executive decision is contrary to the Budget and Policy Framework; the Overview and Scrutiny Committee may refer the matter to the next practicable meeting of the Council.

If the Overview and Scrutiny Committee decides to ask the decision-maker to reconsider their decision, the decision-maker shall be required to do so within 10 working days following the meeting of the Overview and Scrutiny Committee, unless the decision maker was an Officer in which case it will be referred back to the Leader or relevant Cabinet Member for consideration. In that circumstance the Leader or relevant Cabinet Member shall be required to reconsider the decision within 10 working days.

If the Overview and Scrutiny Committee decides that it does not wish to refer the matter back to the decision-maker or to Council, the decision shall be confirmed and shall take effect at the conclusion of the meeting of the Overview and Scrutiny Committee.

If the matter is referred to Council, who do not object to the decision the subject of call-in, no further action is necessary and the decision will be effective on the date of the Council meeting. If Council does object to the decision the subject of call-in, it only has authority to make decisions where it is considered contrary to the Budget and Policy Framework. The Council must refer any decision relating to Cabinet Functions, to which it objects, back to the decision-maker, together with the Council's views on the decision.

The decision-maker shall, within a further 10 working days, choose whether to

amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet or a committee of it, the next meeting of the Cabinet will consider the request of the Council. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

It should be noted that, although a decision may be deemed to meet the criteria for call-in, this does not automatically mean the matter should be referred back to the decision-maker. There may be compelling reasons for the decision being made and all evidence should be heard before determining what action should be taken.

If the Council does not meet, or if it does but does not refer the Key Decision back to the decision making body or person, the Key Decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

17.20 Exceptions to Call In

The call-in procedure set out above shall not apply in respect of Cabinet decisions regarding the following:

Urgent Decisions

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 interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person, or body, the decision is an urgent one and why, and therefore not subject to call-in.

The Chair of the Overview and Scrutiny Committee must agree that the proposed decision is reasonable in all its circumstances and that it should be treated as a matter of urgency. In the absence of the Chair, the Vice Chair's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required.

Decisions taken as a matter of urgency must be reported by the Leader to the next practicable ordinary meeting of the Council, together with the reasons for urgency in accordance with the provision of this Constitution.

Other Exceptions

The following will not be subject to Call-in:

- (a) "Provisional" or "in principle" decisions where the issue is to be referred to a Scrutiny Committee for comment.
- (b) Recommendations from Cabinet to Council.
- (c) Decisions by the Cabinet where the issue has been referred to them by the Council or a Scrutiny Committee for their view or comment
- (d) Non key Decisions

Unless the decision has taken into account new material considerations arising since the original consultation with the Council or the Overview and Scrutiny Committee, a decision by the Cabinet in response to such consultation shall not be subject to call-in.

Where the Council has delegated to the Cabinet the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be construed as urgent for the purposes of paragraph 17.20 above. In such circumstances the Chair of Overview and Scrutiny Committee, or Vice Chair so authorised to act in their absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.

The operation of the provisions relating to call-in and urgency shall be monitored in accordance with Article 1 of this Constitution and a report submitted to Council with proposals for review if necessary.

18. Officer Employment Procedure Rules

These Rules are subject to and must be read in accordance with the provisions of The Local Authorities (Standing Orders) (England) Regulations 2001.

18.1 Recruitment and Appointment

Declarations

The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons; or if they are related in any other way to such persons.

No candidate so related to a Councillor or Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by him.

A candidate who fails to disclose a relationship as set out in paragraph 18.1 above may be disqualified for the appointment and, if appointed, may be liable to dismissal without notice.

Seeking support for appointment

Subject to providing a written reference as set out below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

Subject to providing a written reference as set out below, no Councillors will seek support for any person for any appointment with the Council.

Nothing in paragraphs 18.1 will preclude a Councillor from giving a written reference for an applicant for submission with an application for appointment.

18.2 Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

- (a) Draw up a statement specifying:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed.
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

- (c) Make arrangements for a copy of the statement mentioned in (a) above to be sent to any person on request.

Where a post has been advertised as set out in paragraph 18.2, the Council shall:

- (a) interview all qualified applicants for the posts, or
- (b) select a shortlist of such qualified applicants and interview those included on the shortlist; or
- (c) where no qualified person has applied, the Council shall make further arrangements for the advertisement in accordance with 18.2(b).

18.3 Appointment of Statutory Chief Officers - Head of Paid Service, Monitoring Officer and Chief Financial Officer

Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer following the recommendation of the Staff Appointment and Review Panel the committee appointed for the purposes of that recruitment.

That Committee must include as a minimum [3 Councillors].

18.4 Appointment of Other Chief Officers

The Staff Appointment and Review Panel the committee of Council appointed for this purpose will appoint the Directors, as defined in this Constitution.

That Committee must include as a minimum, [3 Councillors].

18.5 Other Appointments

The appointment of Officers at Tier 3, i.e. those directly reporting to a Director, is the responsibility of the Head of Paid Service or their nominee and may not be made by Councillors.

All other appointments of Officers is the responsibility of the Head of Paid Service or their nominee and may not be made by Councillors.

18.6 Notification of Appointments

No offer of an appointment shall be made to the Head of Paid Services, Monitoring Officer, Chief Financial Officer, or Director until:

- (a) The Chair of the Committee established for the purpose of the recruitment to that post (on behalf of the Committee) has notified the Head of HR or their Deputy, of the name of the person to whom the post is to be offered and any other matter relevant to the appointment.
- (b) The proper officer has notified every Member of the Cabinet of the name and of the person to whom the post is to be offered and any other matter

relevant to the appointment.

The Leader of the Council may object, on behalf of the Cabinet, to the appointment within 3 working days of the issue of the notice in paragraph 18.6(b).

An offer of appointment may be made if:

- (a) The Leader of the Council has notified the proper officer within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the making of the appointment.
- (b) The proper officer has notified the Committee that they have not received any objection in the period specified in paragraph 18.6.
- (c) The Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

18.7 Disciplinary Action

Statutory Chief Officers

The Statutory Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay until conclusion of the investigation and a decision has been made on whether to dismiss or not, and shall be for no longer than 6 months.

In the following paragraphs:

- (a) “the 2011 Act” means the Localism Act 2011;
- (b) “chief finance officer”, “disciplinary action”, “Head of the Councils Paid service ” and “Monitoring Officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) “Independent Person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council;
- (f) “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another Council or Councils as the Council considers appropriate
- (g) “relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the Chief Finance Officer, Head of the Council’s Paid Service or Monitoring Officer, as the case may be.

A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

The Council must invite relevant independent persons to be considered for appointment to the Investigation Panel, with a view to appointing at least two such persons to the Panel.

Subject to paragraph 18.3, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 18.7 in accordance with the following priority order:

- (a) a relevant independent person who has been appointed by the Council and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the Council;
- (c) a relevant independent person who has been appointed by another Council or Council's.

The Council is not required to appoint more than two relevant independent persons in accordance with paragraph 18.4 but may do so.

The Council must appoint any Panel at least 20 working days before the relevant meeting.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

With regards to disciplinary issues in connection with the Statutory Officers, the Panel can only make a recommendation for dismissal. In instances where its recommendation is to dismiss any Statutory Officer it must adhere to the processes set out in these Procedure Rules. The Panel together with the Independent Persons must refer its recommendation to Full Council.

Any remuneration, allowances or fees paid by the Council to an Independent Person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person's role as an Independent Person under the 2011 Act.

Other Chief Officers

The Staff Appointment and Review Panel the Committee established by the Council for this purpose shall deal with disciplinary issues in connection with a Director and resolve any action which it considers appropriate.

A Director may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay until conclusion of the investigation and a decision has been made on whether to dismiss or not, and shall be for no longer than 6 months.

Other Officers

Members will not be involved in the disciplinary action or dismissal against any other officer. The Council's disciplinary, capability and related procedures, as adopted from time to time will apply.

Chapter 3

The Codes and Schemes

19. Member Code of Conduct

19.1 General Provisions

As a Member you are a representative of this Council and the public will view you as such therefore your actions impact on how the Council as a whole is viewed and your actions can have both positive and negative impacts on the Council

This Code as a whole is consistent with “Nolan Principles” which are set out in s29(1) Localism Act 2011 and are as follows:

Selflessness

To serve only the public interest and never improperly confer an advantage or disadvantage on any person.

Integrity

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

Accountability

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

Openness

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

Honesty

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

Leadership

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

In this Code-

(a) “meeting” means any meeting of:

- (i) the Council;
- (ii) the Executive of the Council (Cabinet);

- (iii) any of the Council's or its Executive's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members; or
 - (iv) any briefings by Officers and site visits organised by the Council.
- (b) "relevant period" means the period of 12 months ending with the day on which you give notification to the Monitoring Officer of any disclosable pecuniary interests you had at the time of the notification.
- (c) "profit or gain" includes any payments or benefits in kind which are subject to Income Tax.
- (d) "beneficial interest" means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.
- (e) "Member" includes a co-opted member.

19.2 Who does the Code apply to?

This Code applies to all Members of the Council including Co-Opted Members.

It is your responsibility to comply with the provisions of this Code.

19.3 What does the Code apply to?

You must comply with this Code whenever you:

- (a) Conduct the business of the Council, or
- (b) You are acting as a representative of the Council.

This Code has effect in relation to your conduct in your official capacity.

19.4 Where you act as a representative of the Council

On another relevant Council, you must, when acting for that other Council, comply with that other Council's Code of Conduct; or

On any other body, you must, when acting for that other body, comply with the Council's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

19.5 General obligations

- (a) You must treat others with respect.
- (b) You must uphold the law.

(c) You must not –

- (i) Do anything which may cause the Council to breach any of the equality enactments;
- (ii) Bully any person;
- (iii) Intimidate or attempt to intimidate any person who is or is likely to be:
 - 1. a complainant;
 - 2. a witness; or
 - 3. involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with the Council's code of conduct; or
 - 4. Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

19.6 Confidential Information

You must 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, except where:

- (a) You have the consent of a person authorised to give it;
- (b) You are required by law to do so;
- (c) The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) The disclosure is, reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the Council;

You must not prevent another person from gaining access to information to which that person is entitled by law.

19.7 Conferring an Advantage or Disadvantage

You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;

You must when using or authorising the use by others of the resources of the Council, act in accordance with the Council's reasonable requirements and ensure that such resources are not used improperly for political purposes (including party political purposes);

You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

19.8 Members Interests

Disclosable Pecuniary Interests

You have a Disclosable Pecuniary Interest (DPI)¹ in any business of the Council if it is of a description set out below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as “Relevant Persons”).

A Disclosable Pecuniary Interest is an interest which relates to or is likely to affect:

- (a) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (b) Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Council or a body in which you or they have a beneficial interest;
- (d) A beneficial interest in any land in the Council's area
- (e) A licence of any land in the Council's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer
- (f) Any tenancy where to your knowledge:
 - (i) the landlord is the Council and
 - (ii) the tenant is a body in which you or a Relevant Person has a beneficial interest
- (g) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the Council and 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) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

19.9 Other Pecuniary Interests

You have an Other Pecuniary Interest in any business of the Council where it relates to or is likely to affect:

- (a) Any person or body who employs or has appointed you;

¹ The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011 and take precedence over this definition

- (b) Any contract for goods, services or works made between the Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 19.8 (g)(ii) which has been fully discharged within the last 12 months;

19.10 Non-Pecuniary Interests

You have a non-pecuniary interest in any business of the Council where it relates to or is likely to affect -

- (a) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- (b) Any body of which you are a member or in a position of general control or management
 - (i) functions of a public nature; or
 - (ii) Directed to charitable purposes; or
 - (iii) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- (c) The interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (d) A decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of:-
 - (i) (In the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (ii) (In all other cases) other council tax payers, ratepayers or inhabitants of the Council's area.

19.11 Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

Subject to paragraphs below, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Council and you are present at a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

This section only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.

Where you have an interest in any business of the Council which would be disclosable by virtue of paragraph 19.11 but by virtue of paragraph 19.14 (Sensitive Information) details of the interest are not registered in the Council's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest or Other Pecuniary Interest you need not disclose the nature of the interest to the meeting.

Where you have a Pecuniary Interest in any business of the Council which would be Disclosable by virtue of paragraph 19.11 and a function of the Council may be discharged by you acting alone in relation to that business, you must ensure you notify the Monitoring Officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.

Where you have an interest in any business of the Council which would be disclosable by virtue of paragraph 19.11 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph “executive decision” is to be construed in accordance with any Regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

19.12 Effect of Interests on Participation

Disclosable Pecuniary Interests

If you are present at a meeting of the Council or of any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the Council and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:

You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting unless you have received a dispensation from the Council’s proper officer.

You must withdraw from the room or chamber where the meeting considering the business is being held.

If you have a Disclosable Pecuniary Interest in any business of the Council you must not exercise executive functions in relation to that business; or seek improperly to influence a decision about that business

If a function of the Council may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

Other Pecuniary Interests

If you have an other Pecuniary Interest in any business of the Council which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Council at which such business is to be considered or is being considered you must disclose the existence and nature of the interest in accordance with paragraph 19.11 and; Withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Council’s proper officer.

Non-Pecuniary Interests

After having declared an interest in accordance with paragraph 19.11 you may then participate and vote unless: a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgement; or your interest may give rise to a perception of conflict of interest or bias, in which case you must withdraw.

19.13 Register of Members Interests

Registration of Members' Interests

Subject to paragraph 19.14, you must, within 28 days of this Code being adopted by or applied to the Council; or your Election, Re-Election or Appointment or Re-Appointment to Office (where that is later), or co-opted onto the Council register in the Council's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (a) Disclosable Pecuniary Interests as referred to in paragraph 19.8 that you or a Relevant Person has in so far as you are aware of their interests at that time;
- (b) Other Pecuniary Interests referred to in paragraph 19.9 that you have;
- (c) Non-pecuniary interests referred to in paragraph 19.10 that you have.

You must keep your register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to in 13.1 above within 28 days of the change occurring or becoming aware of the change.

19.14 Sensitive Information

Where you have a Disclosable Pecuniary Interest referred to in paragraph 19.8 or Other Pecuniary Interest referred to in paragraph 19.9 and the nature of the interest is such that you and the Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Council's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 14.1 is no longer sensitive information, notify the Monitoring Officer.

In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

19.15 Register of Gifts and Hospitality

You must within 28 days of receipt, notify the Monitoring Officer in writing of any

gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the Council.

The Monitoring Officer will place your notification on a public register of gifts and hospitality.

This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Council for this purpose.

20. Member Allowance Scheme – UNDER REVIEW

1. Introduction

- 1.1 This Scheme is made under the provisions of The Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations") and was adopted by the Council on 21 July 2008, following the receipt of a report submitted by an Independent Remuneration Panel.
- 1.2 This Scheme becomes effective on 1 January 2008, and replaces the previous Scheme revoked with effect from that date. Appropriate adjustments will be made for any amounts already paid or to be paid under the previous Scheme for any part of the financial year 2007/08.
- 1.3 In this Scheme, "Member" means an elected Member of Castle Point Borough Council.
- 1.4 The Scheme makes provision for the payment of the following remuneration allowances to Members (see 2 below):
 - a Basic Allowance for each Member.
 - a Special Responsibility Allowance for Members who hold certain specified offices.
 - a Co-optees' Allowance for members co-opted to Committees by statutory requirement (such as the Standards Committee) who are not Members of the Council.
 - Allowances for travelling and subsistence.
- 1.5 In addition to matters coming within the scope of the Regulations, for completeness the Scheme also makes provision for:
 - the payment of allowances for attending conferences and meetings under section 175 of the Local Government Act, 1972 (see 4 below);
 - the payment of annual allowances to the Mayor and Deputy Mayor, under sections 3(5) and 5(4) respectively of the Local Government Act, 1972 (see 7 below).
- 1.6 This Scheme may be reviewed by the Council as considered appropriate and as a minimum before the beginning of each financial year, in accordance with the provisions of the Regulations. Reviews must have regard to recommendations from an Independent Remuneration Panel.
- 1.7 Nothing in this Scheme can override the provisions of relevant legislation. In the event of any conflict or uncertainty of meaning, legislation will apply.

2. Basis of Remuneration Allowances

- 2.1 The Basic Allowance is calculated using an average basic allowance per member per head of population to reflect Members' constituent and community councillor role. The special responsibility allowances are structured around this basic element;
- 2.2 A multiplier is used to calculate the special responsibility allowances which reflect the roles and responsibilities of positions within the Constitution which have special responsibilities.

3. Remuneration allowances

3.1 Basic Allowances

- 3.1.1 A Basic Allowance to the value of £3,550 is payable to each Member.
Note: Basic Allowance is intended to recognise the time commitment of all councillors, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes and private telephones and the provision of a broadband connection for Council business.

3.2 Special Responsibility Allowances

- 3.2.1 Special responsibility allowances equivalent to the value of multiplier shown are payable to holders of the following offices:

Office	Multiplier
Leader of the Council	4
Deputy Leader of the Council	2
Leader of the Minority Group	1
Cabinet Member	2
Chairman of Scrutiny Committee	.5
Chairman of Audit Committee	.5
Chairman of Policy & Scrutiny Committee	.5
Chairman of Development Control Committee	1
Vice-Chairman of Development Control Committee	.25
Chairman of Licensing Committee	.5
Independent Person/Co-optee	.1

- 3.2.2 No more than two Special Responsibility Allowances may be paid to any Member.

3.3 Renunciation of remuneration allowances

A Member or Co-optee may, by notice given in writing to the Head of Resources, elect to forgo any part of his or her entitlement to a Basic

Allowance, Special Responsibility Allowance or Co-optee's Allowance.

Note: sometimes, Members who renounce their entitlements seek to have an equivalent amount paid to a charity. This does not constitute a renunciation. In these circumstances, relevant amounts are still included in the reported totals of annual payments and may be liable to deduction of tax and national insurance. If Members wish to do this, the Council will therefore continue to pay them direct so that they can make their own arrangements.

3.4 Part year entitlement to remuneration allowances

Entitlement to Basic Allowance, Special Responsibility Allowance and Co-optee's Allowance shall be calculated by reference to an equivalent daily rate in the following circumstances:

- if the amounts of these entitlements are affected by an amendment to this Scheme;
- where a term of office or entitlement to Special Responsibility Allowance begins and/or ends other than at the beginning or end of a year.

3.5 Suspension of Members

Where a Member is suspended or partially suspended from his or her responsibilities and duties the following allowances payable for the period of suspension or partial suspension shall be withheld by the Council:

- Basic Allowance;
- Special Responsibility Allowance (if any).

Any allowance already made for such a period shall be repayable to the Council.

4. Conference allowances

- 4.1 Conference allowances are payable at the rates specified in Schedule 1 to Members who attend conferences or meetings that are duties approved as set out in Schedule 2, for which attendance has been specifically authorised by the Council, or the Cabinet, or, as a matter of urgency, the Chief Executive.
- 4.2 Conference allowances shall only apply to approved duties that require at least one overnight stay away from the Member's usual place of residence.

5. Travelling allowances

- 5.1 A Member is entitled to receive payment in respect of allowances for travelling as set out in this section.

5.2 The duties approved for the payment of travelling allowances are set out in Schedule 2.

5.3 Approved duties undertaken within the area of Castle Point

- An annual allowance for travelling in respect of approved duties undertaken within the area of Castle Point shall be paid to each Member. The allowance shall be based on the normal return travel distance from a Member's usual residence to the Council Offices, in accordance with the following scale:

Return travel distance from Council Offices	Points
Less than 5 miles	0.33
5 miles or more but less than 10	0.66
10 miles or more	1.00

- The value of one point for Travelling Allowance shall be £361 and this shall be uprated in the same way as Remuneration Allowances, as set out at 2.3 above.
- The rules for part-year entitlement of the allowance for travel within Castle Point shall be the same as for remuneration allowances as set out at 3.4 above.
- The rules for withholding payment of Remuneration Allowances for any period covered by the suspension or partial suspension of a Member as set out at

3.5 above shall also apply to the allowance for travel within Castle Point.

- The annual Travelling Allowance for approved duties undertaken in the area of Castle Point is intended to cover the cost of travel by all modes, including Members' own transport, public transport, cycling or walking.

5.4 Approved duties undertaken outside the area of Castle Point

- Members travelling to undertake approved duties outside the area of Castle Point shall be entitled to receive reimbursement of mileage costs or public transport fares incurred.
- Mileage costs shall be reimbursed in accordance with mileage rates paid to Officers as determined by the Council from time to time. These payments may be increased by the amount of any expenditure necessarily incurred on tolls, ferries or parking fees, including overnight garaging.
- The rates of payment for travel by public transport will be limited to reimbursement of fares actually and necessarily incurred, including

first class.

fares where appropriate, together with other supplementary payments such as reservation fees.

- Payment incurred on travel by taxi or private hire vehicle will be reimbursed in cases of urgency or where convenient other alternative public transport is not reasonably available; the amount reimbursed will be the actual fare plus any reasonable gratuity paid. In other cases, the amount reimbursed will be limited to the equivalent fare for travel by appropriate other public transport.
- The rate of travel by a hired motor vehicle shall not exceed the rate which would have been applicable had the vehicle belonged to the Member who hired it.
- Travel by air may be approved by the Chief Executive where it is justified by substantial saving of time. Payment shall be limited to any fare actually paid by the Member.

5.5 Travel - approved site visits outside the area of Castle Point

In cases of approved site visits, there is no provision for the reimbursement of travelling expenses where the Council, in the interests of economy and convenience, arranges transport for Members, unless the Member must travel from outside the Borough boundary to undertake the visit. In cases of approved site visits where the Council has not arranged transport, there is no provision for the payment of travelling expenses if the Member decides to visit the site at a time other than that arranged and notified.

5.6 Travel – best value

In all cases of travel, it shall be a general principle that the method of travel selected will be the best for the Council and for the Member in terms of cost, convenience and time.

6. Subsistence allowances

- 6.1 A Member is entitled to receive reimbursement of subsistence costs as set out in this section where expenditure has been actually and necessarily incurred by him or her for the purpose of performing an approved duty.
- 6.2 The duties approved for the payment of subsistence allowance are set out at Schedule 2.
- 6.3 The reasonableness of claims for subsistence allowance shall be determined by the Chief Executive (or representative) whose decision shall be final.
- 6.4 This section shall apply in cases of approved attendance at a conference involving an absence from the Member's usual residence of more than 24 hours. In such cases, the Council shall make arrangements for the booking

and payment by the Council of appropriate hotel accommodation. The Member may decide to upgrade hotel accommodation from that approved by the Council and may arrange to be accompanied by a partner and any additional costs involved shall be borne by the Member.

Note: subsistence costs, even if incurred, shall not be reimbursed if breakfast is included in a hotel bill paid by the Council, in cases where the provision of meals is included in a conference fee or in cases where hospitality is provided free of charge.

7. Allowances for the Mayor and Deputy Mayor

- 7.1 Allowances as shown in Schedule 1 are payable to holders of the following offices to enable them to meet the expenses of their office:
- 7.2 The Mayor or Deputy Mayor may, by notice given in writing to the Director of Resources, elect to forgo any part of his or her entitlement to the annual allowance.
Note: in the event of such a renunciation, the position is likely to be as at 3.3 above.
- 7.3 The rules for part-year entitlement of Mayor's and Deputy Mayor's allowances shall be the same as for remuneration allowances as set out at 3.4 above.

8. Claims and payments

8.1 Remuneration allowances

Payments of Basic Allowances, Special Responsibility Allowances, Co-optees' Allowances and Travelling Allowances for travelling within Castle Point shall be made monthly in instalments of one-twelfth of the amount specified in this Scheme (subject to any adjustments required to ensure that the total amounts paid for a year or part year are equal to the amounts allowed by the Scheme).

8.2 Conference, travelling (outside Castle Point) and subsistence allowances

- 8.2.1 Claims for payment of these allowances must be made in writing and in a form specified by the Director of Resources within two months of the date of the relevant approved duty.
- 8.2.2 So far as is reasonably practicable, claims must be supported by appropriate receipts, such as train tickets or receipts, bus tickets, taxi receipts, car park tickets, restaurant bills etc.

8.3 Allowances for the Mayor and Deputy Mayor

These allowances are for a year of office. They will be paid in amounts of equal monthly instalments (subject to any adjustments required to ensure that the total amounts paid for a year or part year are equal to the amounts

allowed by the Scheme), starting with the month of election to office (or with the following month if election occurs too late to allow payment by the usual monthly date) and ending with March.

8.4 General

- 8.4.1 All allowances shall be paid by direct credit to the Member's bank account. Payments shall be made monthly, on or about the 26th of each month. There is no provision for advance payments.
- 8.4.2 The Head of Resources is responsible for deducting tax and national insurance from those payments that are subject to these deductions. If requested by the Head of Resources for purposes of tax and national insurance, Members must provide details and evidence of identity, residence and date of birth.

Note: it is a Member's responsibility to be aware of any impact on earningsrelated benefits and to take the appropriate action.

Schedule 1 - Rates of Allowances

Remuneration Allowances	£ pa
Basic Allowance	3,550
Special Responsibility Allowances	
Leader of the Council	14,200
Deputy Leader of the Council	7,100
Cabinet Member	7,100
Leader of the Minority Group	3,550
Chairman of Scrutiny Committee	1,775
Chairman of Development Control Committee	3,550
Chairman of Audit Committee	1,775
Chairman of Policy & Scrutiny Committee	1,775
Vice-Chairman of Development Control Committee	887.50
Chairman of Licensing Committee	1,775
Independent Member/Co-optee	355

MAYORAL ALLOWANCES	£ pa
Mayor	6,137
Deputy Mayor	2,888

CONFERENCE ALLOWANCES	
Daily allowance for approved conferences and meetings (Payable for each day of attendance)	£15.00

TRAVELLING ALLOWANCE	
Approved duties in area of Castle Point	£ pa
Standard return travel distance from Council Offices	
Less than 5 miles	112
5 miles or more but less than 10	224
10 miles or more	340
Approved duties outside Castle Point	p
Allowance for each mile travelled up to and incl. 8,500 p.a.	40.2
Allowance for each mile travelled over 8,500 p.a.	11.3

Subsistence allowance for approved duties
Reasonable expenses will be reimbursed if supported by receipts. Expenses shall not be reimbursed for breakfast that is included in a hotel bill paid by the Council, in cases where the provision of meals is included in a conference fee or in cases where hospitality is provided free of charge.

Schedule 2 – approved duties

DUTIES APPROVED FOR THE PAYMENT OF CONFERENCE ALLOWANCES

Approved attendance at conferences or meetings organised by any person or body other than by way of trade or by any body whose objects are not wholly or partly political, where the purpose of the conference or meeting is to discuss matters which, in the Council's opinion, relate to the interest of their area, or part of it, or to the inhabitants of their area, or some of them.

Note: this may include conferences and seminars held by professional and public bodies.

DUTIES APPROVED FOR THE PAYMENT OF ALLOWANCES FOR TRAVELLING OUTSIDE CASTLE POINT AND FOR SUBSISTENCE

Approved site visits outside the area of Castle Point at the time when they have been arranged by the Council or the Cabinet or a Committee

Attendance at meetings outside the Borough of outside bodies as the Council's appointed representative (or representative's nominee).

Attendance at meetings outside the Borough approved for the payment of travelling allowance by the Chief Executive (or representative).

21. Gifts and Hospitality Guidance

21.1 Introduction

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Council as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position. This guidance supports the Members' Code of Conduct

The law on the acceptance of gifts and hospitality is set out in the Council's Code of Conduct for Members and in the Bribery Act 2010. These requirements are then supplemented by the procedures which have been adopted by this Council, to provide a clear set of rules for the protection of both Councillors and the Council. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 10 years' imprisonment.

This guidance 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 Council

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this Council.

21.2 General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles.

- (a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor:
 - (f) As a Councillor, you must act in the public interest and must not be swayed in the discharge of your 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.
 - (iii) The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or not doing anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of up to 10 years
 - (iii) Further, the Code of Conduct for Members provides that you must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the

community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

- (b) You should only accept a gift or hospitality if there is a commensurate benefit to the Council.
 - (i) 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.
 - (ii) Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.
 - (iii) As set out above, the Council's Code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code.
- (c) Never accept a gift or hospitality if acceptance might be open to misinterpretation
 - (i) The appearance of impropriety can be just as damaging to the Council and to you as a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
 - (ii) Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:
 - (1) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular Tenderer.
 - (2) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
 - (3) funding decisions, when the Council is determining a grant application by any person or organisation.
- (d) Never accept a gift or hospitality which puts you under an improper obligation
 - (i) Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality

improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

- (e) Never solicit a gift or hospitality
 - (i) You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor. You should also take care to avoid giving any indication that you might be open to such any improper offer. Asking for a benefit may be an offence under the Bribery Act 2010.

21.3 Consent Regimes

For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:

- (a) civic hospitality provided by another Public Authority
- (b) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (c) tickets for sporting, cultural and entertainment events which are sponsored by the Council
- (d) 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. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (e) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a Contractor or party with whom you have done business on behalf of the Council if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (f) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head
- (g) modest souvenir gifts with a value below £50 from another Public Authority given on the occasion of a visit by or to the Council
- (h) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction to make it clear that any such hospitality for Councillors and Officers is to be no more than commensurate with the nature of the visit
- (i) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift

strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the secretary to the Chairman of the Council together with a written statement identifying the information set out below. The Chief Executive will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Chairman's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

Special consent provisions exist where you wish to accept any gift or hospitality which is in accordance with the General Principles set out above, but is not within any of the general consents set out above. You may only accept the gift if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (a) the nature and your estimate of the market value of the gift or hospitality
- (b) who the invitation or offer has been made by or on behalf of
- (c) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved
- (d) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the Council
- (e) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the Council's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of the gift as set out below.

21.4 Reporting

Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £50 or greater, you must, as soon as possible but not later than 28 days after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraph 21.3 above. A form for this purpose is available from the Monitoring Officer, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.

Even if the value of the gift or hospitality is less than £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

21.5 Gifts to the Council

Gifts to the Council 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 Council.

You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and Developers' contributions under Section 106 Agreements.

If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any dis-benefits).

If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then 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 Council.

If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Monitoring Officer directly.

21.6 Definitions

"Gift or hospitality" includes any:

- (a) free gift of any goods or services
- (b) 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
- (c) opportunity to obtain any goods or services which are not available to the general public
- (d) offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

References to the "value" or "cost" of any gift or hospitality are references to the higher of:

- (a) your estimate of the cost to the person or organisation of providing the gift or consideration
- (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 you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

22. Protocol on Member/Officer Relationships

22.1 Introduction

The Success of the Council is greatly dependent upon the positive working relationship between Members and Officers. It is important that there should be a close working relationship between a Cabinet Member and the Chief Officers, Heads of Service and other appropriate senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, that the Officer's ability to deal impartially with other Members and party groups is brought into question.

It is important that dealings between Members and Officers should observe normal standards of courtesy, there should be mutual trust and respect, and neither party should seek to take unfair advantage of their position.

This Protocol seeks to enhance the working relationships between Members and Officers of the Council. Whilst the Protocol cannot be comprehensive it sets out guidance on some of the key issues that arise in those relationships. The Protocol reflects the principles underlying the Member Code of Conduct and the Principles of Public Life. The shared objective is to enhance and maintain the integrity of local government, therefore demanding very high standards of personal conduct.

22.2 The Role of Members and Officers

In fulfilling their roles, the elected Members and Officers are both jointly responsible for:

- (a) acting honestly, with integrity and in the public interest; and
- (b) open and transparent objective decision making.

In addition to the requirements set out in Article 4 and Article 6 of the Constitution, the Members' role is to:

- (a) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;
- (c) Effectively represent the interests of their ward and of individual residents;
- (d) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;
- (e) Be involved in decision-making for the people of the Borough as a whole;
- (f) Be available to represent the Council on other bodies; and
- (g) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

In addition to the requirements set out in Article 3 of the Constitution, Officers are responsible for:

- (a) providing professional and technical advice that Members must have before them when formulating policy and when taking decisions;
- (b) lawfully implementing Members' decisions;
- (c) day-to-day administration, including staffing matters;
- (d) taking managerial and operational decisions in accordance with the Council's Scheme of Delegation;
- (e) the provision of information regarding Council services; and
- (f) undertaking public consultation.

22.3 Underlining Principles for the Working Relationships

The following principles apply to both Members and Officers during the course of their working relationship and in fulfilling their duties and are designed to foster the good working relationships between Officers and Members that are essential to effective decision making and the delivery of services.

- (a) Mutual respect and courtesy between Officers and Members;
- (b) An awareness of each other's responsibilities and duties;
- (c) No inappropriate criticism, intimidating behaviour or the creation of a threatening work environment of any kind;
- (d) Any appropriate challenges are to be conducted in a professional and respectful manner;
- (e) Equal treatment, regardless of personal or political opinion (actual or perceived);
- (f) An adherence to the law and the lawful instructions and advice of others; and
- (g) An avoidance of close personal familiarity.

Alleged breaches of the Members' Code of Conduct are dealt with through the Council's Standards Committee, breaches of the Officer Code of Conduct as contained in the Council's HR Policies are dealt with the Head of Paid Service, in accordance with the Council's HR Policies and Procedures.

If an Officer is concerned about the conduct of a Member, they should report this to their senior manager, who will notify both the Head of Paid Service and the Monitoring Officer. These concerns could include public criticism of an Officer by a Member or unreasonable, frivolous or vexatious requests for information.

22.4 Officer Appointments, Performance and Political Neutrality

The appointment of the Chief Officers and Statutory Officers will be made in accordance with the Officer Employment Procedure Rules. All other appointments are made at the appropriate Officer level.

The main functions and areas of responsibility of Officers are set out in Article 3 and Chapter 4 of the Constitution. The position of the Head of Paid Service is to have overall corporate management and operational responsibility (including overall management responsibility for all officers).

Staffing matters (including discipline, training, setting and monitoring targets) are dealt with by the relevant managers.

Members may wish to comment on an individual Officer's performance and/or deficiencies. In such instances these are expected to be raised with the relevant Chief Officer in the first instance. Thereafter to the Chief Executive if unresolved.

Officers are politically neutral, serve the whole Council and must avoid being identified with any political group. In order to safeguard this neutrality, Officers must avoid involvement in party political matters, such as campaigns in the political arena. This assumes particular significance in the run up to Elections. In their lives outside work, all politically restricted posts, which includes the Chief Officers and Statutory Officers and many Senior Officers, are prevented from active political involvement.

22.5 Officer Advice to Party Groups

There is statutory recognition for Party Groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by Party Groups provided that this is first agreed between the relevant Group Leader and the Chief Executive.

The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman, a Cabinet Member or a Group (either jointly or individually) to a presentation to a full Party Group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed;
- (b) Party Group meetings, whilst they inform part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
- (c) where Officers provide information and advice to a Party Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered; and

- (d) the attendance of Officers at a Party Group meeting does not confer on that meeting any official standing.

Special care needs to be exercised whenever Officers are involved in providing information and advice to a Party Group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Code (in particular, the provisions concerning the declaration of interest and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

Officers must respect the confidentiality of any Party Group discussions at which they are present in the sense that they should not relay any confidential information to another Party Group.

Any particular cases of difficulty or uncertainty with providing advice to Party Groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

22.6 Support Services to Members

The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with Party Political or Campaigning activity or for private purposes or for purposes not directly related to Council business. A similar restriction applies to the Public Relations Officers.

22.7 Members' Access to Information and to Council Documents

Both Members and Officers must adhere to the Access to Information Procedure Rules as set out in the Constitution.

Disclosure of confidential information by either a Member or Officer will constitute a breach of their relevant Code of Conduct and the appropriate action will be taken. In addition, the Council could be exposed to a damages or compensation claim as a result of the disclosure.

Members are able to approach any Council Service with a request to provide them (within a reasonable period) with such information, explanation and advice (about that Service's functions), as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent.

Members entitlement to information from Officers is linked to their role as a Member of the Council, a Ward Councillors, decision makers and performing functions, such as overview and scrutiny (this is referred to as the common law 'need to know' principle). Under common law principles Members have the right to access information held by the Council where it is reasonably necessary to enable the Member to properly perform their duties as a Councillor.

However, if the Member's motive for seeing documents is indirect, improper or ulterior this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on a 'fishing expedition' through the Council's documents.

If a Councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the Councillor would have to show good cause why sight of them is necessary to perform their duties.

In such instances, the Chief Officers may request a Member to demonstrate their 'need to know'.

All requests for information from members should normally be directed to the relevant Head of Service or Chief Officer. It must be remembered, however, that Officers within a Service are accountable to their Head of Service and whilst Officers should always seek to assist Members they must not, in doing so, go beyond the bounds of the Council they have been given by their Head of Service. Individual Members (except Cabinet Members acting under delegated authority) do not have the power or authority to instruct Officers to provide information, explanations, advice or to carry out any specific task or tasks.

Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the private agenda for meetings in accordance with the provisions of the Access to Information Procedure Rules.

Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided and in connection with the proper performance of the Member's duties as a Member of the Council.

22.8 Correspondence

Correspondence between an individual Member and an Officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.

Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which for example, create obligations or give instructions on behalf of the Council should never be sent over the name of the Member.

22.9 Decision Making

Decision making by the Council is closely regulated by law. The taking of a decision by the wrong person or body or taken in the wrong way can invalidate the decision from the beginning or leave it vulnerable to being overturned by a court at a later date.

The law does not interfere with the merits of a decision which is normally left to the discretion of the Council. The law is concerned with process and any failure to follow lawful process will be addressed by the courts, sometimes with severe consequences as to the liability of an authority to others.

All Members and senior officers must understand the parameters of the authority they exercise and recognise that acting outside those parameters leaves the Council open to legal liability and/or public criticism. For Members, such actions are likely to amount to a breach of the Member Code of Conduct and for Officers, may lead to disciplinary proceedings.

22.10 Officer Advice

Any Cabinet Member taking decisions individually must take advice from the relevant officer(s). In taking Officer advice, Cabinet Members must consider what advice they require from the relevant service areas in respect of the particular issue to be addressed.

A Cabinet Member must always have the advice of the Monitoring Officer and Section 151 Officer when taking decisions.

The Cabinet Member must give officers adequate opportunity to provide them with the advice on the issue prior to them taking the decision.

If the Chief Executive and/or the Monitoring Officer agree that a decision is unlawful or in breach of existing Council policy or procedure, they will refer the matter back to the relevant Cabinet Member asking them to reconsider. Ultimately, and in a case of serious disagreement, the Monitoring Officer is under a legal duty to report any likely breach of the law to full Cabinet.

DRAFT

Chapter 4

The Functions and Responsibilities

23. Responsibility for Functions

23.1 Introduction

Section 13 of the Local Government Act 2000 (the 2000 Act) provides that all functions of the Authority shall be functions of the Cabinet except in so far as they are reserved to the Council by any other enactment or by Regulations made under the 2000 Act.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the 2000 Regulations) gives effect to section 13 of the 2000 Act by specifying which functions:

- (a) are not to be the responsibility of Cabinet, as specified in Schedule 1 of the 2000 Regulations and as defined in this Constitution; (Council Functions)
- (b) to be the responsibility of Cabinet (Executive Functions); and
- (c) may (but need not) be the responsibility of Cabinet (Local Choice Functions).

Only the Council has the discretion to decide which functions fall into (b) and (c) above. All other functions not so specified will be the responsibility of Cabinet.

23.2 Council Functions

The functions of the Council are either:

- (a) those functions which are reserved as a Council Function by the 2000 Act and by subsequent enactments and regulations;
- (b) those functions which are reserved as Council Functions by Regulation 2 and Schedule 1 of the 2000 Regulations and subsequent regulations made under the Local Government Act 2000;
- (c) those functions set out in Regulation 3 and Schedule 2 of the 2000 Regulations 2000, unless otherwise stipulated; and
- (d) the plans and strategies whose adoption or approval shall be a Council Function (the “Budget and Policy Framework”), namely those plans and strategies set out in Schedule 3 of the 2000 Regulations, together with such other plans and strategies as the Council may identify from time to time for this purpose and as identified in Article 5.

The Council has determined that decisions relating to Council Functions shall be made in one of the following ways:

- (a) By one of the Council Committees listed in Article 8; or

(b) By Officers, in accordance with the Officer Scheme of Delegation.

23.3 Executive Functions

The Functions of the Cabinet are also known as the Executive Functions, and are:

- (a) those functions stipulated as an Executive Function by the 2000 Act and by subsequent enactments and regulations; and
- (b) all other functions shall be Council Functions.

Decisions in respect of Executive Functions shall be made in one of the following ways:

- (a) by the Cabinet;
- (b) by one of the Cabinet Committees listed in Article 6;
- (c) by an individual Cabinet Member, within their areas of responsibility and delegated powers;
- (d) an Officer, or
- (e) where the decision is outside the Budget and Policy Framework, by full Council following receipt of advice from the Cabinet collectively.

The following committees exercise Executive Functions in accordance with their terms of reference and are currently in operation:

- (a) the South Essex Planning Partnership Joint Committee; and
 - (b) the Essex County Council and Chelmsford City Council Joint Committee.
- (c) Association of South Essex Local Authorities (ASELA)

23.4 Local Choice Functions

The Local Choice Functions are those, which may (but need not) be the responsibility of the Cabinet as set out in Schedule 2 of the 2000 Regulations, as determined by the Council.

The Council has determined that the Cabinet will be responsible for exercising the following Local Choice Functions in accordance with arrangements made by the Leader:

- (a) the appointment of any individual:
 - (i) to any office other than an office in which he is employed by the Council;
 - (ii) to any body other than:
 - the Council;
 - a Joint Committee of two or more authorities;
 - a politically balanced body; or
 - to any Committee or Sub-Committee of such a body;

and the revocation of any such appointment; any such appointments must be notified for information to the Council; and

- (b) the making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.

The Council is responsible for all other Local Choice Functions.

DRAFT

24. Scheme of Delegations to Cabinet Members

24.1 General Principles

This scheme delegates powers and duties in relation to Executive Functions and Local Choice Functions which are the responsibility of the Cabinet to Cabinet Members.

This scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.

This scheme operates under Section 14 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling.

Executive Functions are delegated by the Leader under Section 9J of the Local Government Act 2000 (as amended). References to 'the Regulations' are references to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

24.2 Functions Reserved to Cabinet

Any Executive decision which will result in a recommendation or proposal to the Council may only be taken by the Cabinet as a whole and may not be taken by any individual Cabinet Member or Officer.

Any decision falling within any of the following categories shall be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member, a Cabinet Committee or an Officer or under joint arrangements unless it is delegated to that Cabinet Member, Committee, and an Officer or under joint arrangements after consideration by the Cabinet:

- (a) a decision on a matter which is cross cutting and affects the area of responsibility of more than one Cabinet Member; or
- (b) a decision that the Leader has decided should be referred to the Council; or
- (c) a Key Decision as set out in Article 7.

24.3 Delegations of Executive Functions

The delegations to Officers in respect of the Executive Functions of the Cabinet are set out in paragraph 25 below.

24.4 General Limitations of a Cabinet Member Decision

Cabinet Members are not permitted to take a Key Decision.

Before taking a decision, a Cabinet Member shall receive advice from the appropriate officer and must take advice from the Monitoring Officer and Section 151 Officer.

Any exercise of delegated powers shall be subject to:

- (a) the Budget and Policy Framework approved by the Council;
- (b) the policies approved by the Cabinet from time to time
- (c) any statutory restrictions;
- (d) the Standing Orders of the Council;
- (e) the Financial Procedure Rules; and
- (f) the Procurement Procedure Rules.

Delegation of Executive Functions to a Cabinet Member does not include the functions reserved to the Council contained in Article 5, or the functions reserved to Cabinet contained in Article 6.

24.5 General Delegations to Cabinet Members

In so far as required for the promotion of their Portfolio, the Cabinet Member may:

- (a) authorise officers to conduct any matter in process, or enter into any contract the undertaking of which, in principle, has previously been considered and authorised by Cabinet;
- (b) take non key Decisions;
- (c) to approve or enter into contracts, or the extension, or variation of contracts within the portfolio, providing that this is within the Financial Procedure Rules, Procurement Procedure Rules and the Budget and Policy Framework and the extension or variation was provided at the time of the original award and is permitted under the terms of the Contract;
- (d) authorise a response, or on behalf of the Council to consultations provided that,
 - (i) if the consultation raises issues of Council wide interest or significance it shall be referred to the Cabinet, or the appropriate Committee to agree a response; and
 - (ii) that if the consultation is concerned only with and calls for a response on matters of a technical professional nature, then Officers may deal with it without reference to a Cabinet Member;
- (e) agree appropriate fees and charges which are within the control of the Cabinet in consultation with the Assistant Director Finance and Procurement, providing that they are consistent with the Budget; and
- (f) make, update or change plans and strategies provided that those changes do not conflict with an approved policy, do not raise new issues of policy, are within the approved budgets and do not exceed any of the financial limits set out in the Financial Procedure Rules that are within their portfolio area, and do not relate to a matter which is reserved to the Council.

24.6 Further provisions

All action taken under the terms of these delegations shall be properly documented in accordance with arrangements approved by the Monitoring Officer.

This scheme operates from May 2024.

Cabinet Members will be permitted to approve small amendments to policies falling within their portfolio provided that such change:

- (a) Is to bring clarity or remove ambiguity; and
- (b) Does not change the overall meaning of the policy.

All significant changes and those brought in effect as the result of changes to the relevant legislation must be referred to Cabinet for approval.

Cabinet Members shall consult their Cabinet colleagues on all strategically important issues, or issues that are cross over more than one portfolio.

24.7 Portfolios of Individual Cabinet Members

Members appointed to the Cabinet will lead in the Cabinet in the areas shown and will exercise the functions delegated to them by the Leader. The roles encompass relations with external partners unless another provision is explicitly made.

All Executive functions are, and remain, vested in the Leader.

These responsibilities are in addition to those set out in Article 4 and Article 6.

Note Sections 2 and 4 to be updated

24.7.1 The Leader

24.7.2 Strategic Planning

24.7.3 Environment

24.7.4 Special Projects & Assets

24.7.5 Resources

24.7.6 Economic Growth & Climate Action

24.7.7 Health Wellbeing & Housing

24.7.8 People & Community

DRAFT

25. Officer Scheme of Delegation

25.1 General Principles

This scheme authorises Officers to take decisions about the exercise of the Council's statutory functions. The Council wants its Officers to be empowered to manage the services entrusted to them.

This scheme applies to all of the Council's powers and duties derived from legislation or otherwise and all incidental powers and duties.

Officers identified in this document as exercising delegated powers will be politically restricted under s2(1)(g) of the Local Government and Housing Act 1989.

Where an Officer has delegated powers, the Council or Cabinet or their Committees (where appropriate) can still exercise that power in a particular case if it considers it appropriate to do so.

In exercising any delegated powers, Officers are expected to undertake consultation with Members and Officers as necessary and shall have regard to any advice given.

Decisions taken by Officers must comply with such procedural or other requirements as may from time to time be prescribed by the Section 151 Officer or the Monitoring Officer.

Executive Decisions taken by Officers must be recorded as required by law and in accordance with the provisions in place by the Monitoring Officer. The Council has also agreed that all Council Decisions will be published in accordance with the provisions in place by the Monitoring Officer. In both instances the provisions set out in paragraph 15.23 must be followed.

An Officer may choose not to make a decision if they feel it is not appropriate for them to make a decision and may refer a matter to Cabinet or to the Cabinet Member (where these fall within the delegations set out above) for a decision.

Officers taking decisions are required to keep Members properly informed about relevant decisions.

All delegations to Officers are subject to:

- (a) statutory requirements;
- (b) the Constitution;
- (c) The Procurement Procedure Rules;
- (d) adherence of the Council's policies;
- (e) the requirements of the Chief Executive in relation to the day to day management and co-ordination of the Council; and
- (f) adequate financial provision having been made within the relevant budget for the likely financial consequences of any decision.

All the delegations within this scheme should be interpreted widely to aid the smooth running of the Council, the effective deployment of resources, the efficient delivery of services and the achievement of the Council's aims and ambition. For the avoidance of doubt, the following principles will also apply:-

- (a) the delegations included in this Scheme shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of the power, duty or responsibility;
- (b) where any new power is given to the Council which does not fall within this Scheme of Delegation, the exercise of that power shall be undertaken by the relevant Director or the Chief Executive until such time as the Council has allocated responsibility;
- (c) advice and guidance regarding this Scheme shall be obtained from the Monitoring Officer;
- (d) Where legislation specifically referred to in the Scheme is amended or replaced by new legislation and in the event that the powers contained in the new legislation are substantially the same as those which it replaces then it shall be deemed that the relevant authority delegated in the schedule applies as if the new legislation had been specifically referred to as regards that relevant authority.
- (e) Where the terms of a post change, any delegated powers possessed by the post shall be retained by the holder of the post.
- (f) Where a service area is restructured, the Chief Executive has authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer and shall also notify all Members and Heads of Service.
- (g) When a post is vacant, and an employee takes on the duties of the post in "acting" capacity, they have the same delegated powers that they would have if they held the post.
- (h) The delegation under this scheme can be exercised by the relevant direct line manager if the post is vacant, the post holder is not at work for any reason, or the person who has delegated authority has a conflict of interest in a matter that prevents them from taking the decision.

25.2 Who can take decisions under this Scheme of Delegation

This scheme may be delegated to another Officer of the Council to exercise delegated powers under a scheme of sub-delegations. The Monitoring Officer shall be notified of all sub-delegations and will maintain a record of them.

25.3 Decisions with Financial Implications of over £50,000

This scheme does not authorise anyone other than the Chief Executive or a Director to take a decision on an Executive Function with financial implications which exceed £50,000.

Such a decision may only be taken after the Chief Executive or a Director has:

- (a) considered a written report; and
- (b) consulted the relevant Cabinet Member or in their absence, the Leader.

Nothing in this paragraph requires anything to be published if it includes exempt or confidential information, as set out in the Access to Information Procedure Rules.

25.4 General Limitations

Officers may not take decisions on Executive Functions if the proposed decision is contrary to the Budget and Policy Framework. Any proposal to take a decision contrary to the Budget and Policy Framework must be the subject of a report to Cabinet who will make a recommendation to the Council.

Except as otherwise stated, no Officer may take a Key Decision.

Other than as set out below, the scheme does not authorise:

- (a) Officers to change fees, charges or concession policies, except;
 - (i) Officers may apply inflationary increases to fees, charges and concession policies;
 - (ii) Officers may determine fees for one off events or activities; and
 - (iii) Officers may determine the fees to be charged to other public bodies for services which the Council provides on a commercial or full-cost recovery basis;
- (b) Officers to make a compulsory purchase order;
- (c) the requisition or an interest in land in anticipation of future requirements;
- (d) the confirmation of any order or grant of any permission, consent or licence or the determination where any response is received expressing opposition to the proposed course of action (unless stated);
- (e) any officer of the Council who is not a permanent employee to make any decision with financial implications in excess of £25,000;
- (f) the contravention of policies or strategies approved by Council or Cabinet;
- (g) Create or approve new policies and strategies which relate to the service delivery; or
- (h) Take decisions to withdrawn a service.

Authorisations are subject to any restrictions and limitation identified.

Any delegated power given to the Monitoring Officer or the s.151 Officer in relation to their statutory duties may only be exercised in their absence by their appointed deputies.

25.5 General Delegations

All Officers listed in paragraph 25.7 have delegated authority to exercise any of the Council's functions and powers so far as it is necessary or conducive to do so in order to provide any service for which they have management responsibility. This includes, but is not limited to:

- (a) To act as the proper officer for all statutory purposes unless otherwise determined by this Constitution;
- (b) Commencing a procurement exercise in accordance with the Procurement Procedure Rules, provided the contract value is within the approved Budget;
- (c) entering into contracts in accordance with the Procurement Procedure Rules and the Financial Procedure Rules;
- (d) implementing a policy or decision previously approved or taken by the Council, a Committee, the Cabinet or a Councillor;
- (e) doing anything to facilitate or which is incidental to the implementation of such a policy or decision;
- (f) serving any Notice of Fixed Penalty, Abatement Notice or making any Order, but the instigating of proceedings shall be reserved to the Assistant Director Legal and Democratic Services.
- (g) authorising other officers to take any other steps necessary for or conducive to the performance of any such powers;
- (h) apply for and the party funding which are relevant to their service areas;
- (i) provide consultation responses to any Government White Paper or Green Paper, or any other consultation likely to lead to a policy change or impact upon service; where the response is of a technical professional nature;
- (j) To grant, renew, refuse or cancel any authorisation that may be required under the Regulation of Investigatory Powers Act 2000. This power may only be exercised by those Directors or Assistant Directors who have investigating officers in their service area or by the Monitoring Officer, the Deputy Monitoring Officer or the Chief Executive; and

- (k) To approve small amendments to policies falling within their service area, provided that such change is to bring clarity or remove ambiguity or bring in legislative changes, and they do not change the overall meaning of the policy. All other changes will be reserved to the relevant Cabinet Member, unless the changes are significant or substantial, in which case these must be approved by Cabinet.

25.6 The Directors General Delegations

In addition to the specific delegations set out below, the Directors shall have the following authorisation where it is necessary in accordance with any statutory provision or is relevant to their functional area:

- (a) be permitted to authorise relevant staff to exercise powers of entry over land and buildings (including where relevant residential land).
- (b) be entitled to utilise all legislation relevant to their functional area which enables the enforcement of the Council's policies and procedures, or which protects life, health, safety, welfare, the environment or economic interests.
- (c) will participate in the corporate management of the Council and will direct and manage those services and resources as are allocated to them by the Chief Executive ensuring the most efficient and effective delivery in support of the Council's corporate goals in order that the Council meets its statutory obligations in these areas.
- (d) Purchase of vehicles, plant and equipment for which expenditure falls within the approved budget and in accordance with the Financial Procedure Rules and Procurement Procedure Rules. But if the purchase involves a leasing arrangement such arrangement must be approved by the Senior 451 Officer.
- (e) Hire of plant subject to inclusion of cost of hire within approved Budgets;
- (f) Disposal of surplus plant, equipment and materials.
- (g) Authority to incur expenditure within approved capital and revenue budgets subject to the Financial Procedure Rules.
- (h) Fixing of charges for work for external bodies where the charges are not prescribed by legislation.
- (i) Service of requisitions for information as to ownership of, or other interests in, any land or property under statutory powers.
- (j) Service of requisitions for information under the Crime and Disorder Act 1998.
- (k) The release of Council held information under the Data Protection Act 2018, Freedom of Information Act 2000 and the Environmental Information Regulations 2004, and related frameworks subject to consultation with the Monitoring Officer on any application of

exemptions.

- (l) To sign Statements of Truth under the Civil Procedure Rules 1998 on behalf of the Council; and
- (m) Authority to apply for planning permission in respect of small projects and minor modification to projects.

Human Resources

Further, the Directors shall exercise the following human resource responsibilities as appropriate to their relevant service area;

- (a) Appointment of agency staff provided costs are contained within service budgets.
- (b) To undertake a recruitment process for a vacant position, in accordance with procedures established by the HR Team;
- (c) Appointment of Assistant Directors and below;
- (d) To agree flexible contracts and working patterns including job share, home working and term time working (in line with agreed policy).
- (e) To confirm appointment on completion of probationary period.
- (f) To implement the Council's employment procedures in line with agreed Council policy.
- (g) To authorise officers to attend professional, educational meetings, conferences or courses in consultation with the HR Manager.
- (h) Authorising on-going training and individual qualification courses subject to consultation with the HR Manager.
- (i) To agree unpaid leave of absence and compassionate leave in line with agreed policy.
- (j) Granting of contractual salary progression within career-graded posts in line with agreed Council policy and in line with agreed policy.
- (k) To approve revised job descriptions and job titles where no grading increase is required in line with agreed policy.
- (l) The general organisation of services within the policies laid down by the Council; and
- (m) Subject to consultation and in line with agreed policy and budgets to determine new organisation structures below Assistant Directors.

25.7 Specific Officer Delegations

In addition to the General Delegations the Officers specified below have the following Specific Delegations.

25.7.1 To the Chief Executive

- (a) To act as the Head of the Paid Service for the purposes of Section 4 of the Local Government and Housing Act 1989 and to make any decision which the Council may make as an employer.
- (b) To determine and publish the management structure of the Council.
- (a) Overall corporate management and operational responsibility (including overall management responsibility for all officers);
- (b) To act as the Councils Co-ordinator and to incur expenditure in the event of a civil emergency;
- (c) To determine the level of any performance pay to be awarded to Officers and recommend any level of performance pay to be awarded to Corporate Directors.;
- (d) Responsibility for promoting and maintaining probity in all of the Council's activities;
- (g) Representing the Council on partnerships and external bodies as required by Council's By Statute;
- (h) Be the Electoral Registration Officer and the Local Government Returning Officer and to be empowered in relation to all electoral matters and to take urgent decisions that may arise during the pre-election period. Be able to exercise all the powers delegated to the Directors unless there is a legal or professional impediment;
- (i) In the case of urgent decisions in respect of non-executive function which is considered necessary to protect the interests of or for advancing the business of the Council. In those circumstances, the Chief Executive is authorised to take urgent decisions following consultation with the Mayor (or Deputy Mayor) of Council in respect of non-executive functions. All urgent decisions will be reported to the next appropriate meeting of Council.
- (j) In the absence of the Leader, or their absence the Deputy Leader, to take urgent executive decisions, including a key decision, in accordance with the urgent procedure set out in the Access to Information Procedure Rules;
- (k) To exercise in the case of urgency the functions delegated to anyone under this scheme of delegation (but this does not authorise the Chief Executive to discharge the personal responsibility of the Chief Finance Officer under section 151 of the Local Government Act 1972 or the Monitoring Officer under section 5 of the Local Government and Housing Act 1989);

- (l) The Council's powers to take any action with respect to the Commissioner for Local Administration.
- (m) the transfer of staffing budgets allocated to a particular service area to another service area in any service grouping after notifying the Section 151 Officer and the Cabinet Member for Resources.
- (n) To publish information about Council services on the internet and decide whether or not to link sites.
- (o) In consultation with the relevant Cabinet Member, Leader of the Council and Section 151 Officer to apply for funding from any third party for the purposes of the regeneration of the Borough of Castle Point;
- (p) To approve Closure Orders taken up with the Anti-Social Behaviour, Crime and Policing Act.

Deputising for the Chief Executive

No one officer shall have a general authority to act as deputy or assume any of the duties and responsibilities of the Chief Executive. Instead, in the absence of the Chief Executive any one of the Directors will have the authority to assume the duties and responsibilities of that post; in any given circumstances, the Director best qualified and appropriate to do so will perform the function(s) or make the required decision(s).

25.7. 2 To be revised to reflect new appointments

25.7.4 To be revised to reflect new appointments

- (a) All functions relating to local government pensions;
- (b) Duty to take all steps that are considered appropriate for the proper administration of the financial affairs, of the Council;
- (c) To amend the Financial Procedure Rules or the Procurement Procedure Rules where there has been a change of law, rearrangement of responsibilities or to correct an administrative error, in consultation with the Monitoring Officer. Any change made must be notified to all Members as soon as possible.
- (d) To deal with all matters and to exercise all discretions relating to the determination, administration and collection of non-domestic rates and Council Tax which are not reserved to Members, including the setting of the Council Tax Base under the Local Authorities (Calculation of Tax Base) Regulations 1992

- (e) To discharge the Council's functions relating to Council Tax and Housing Benefit, including measures to combat fraud
- (f) To be responsible for all treasury management matters including the borrowing of money, management of investment funds, banking arrangements and to act in accordance with the CIPFA's Code of Practice on Treasury Management in Local Authorities
- (g) To maintain an adequate and effective system of internal audit, as required under the Accounts and Audit Regulations 1996
- (h) To sign any financial forms required by the External Auditor or Government department, including from MDR 1

25.7.5 To the Monitoring Officer

- (a) To interpret, review, update and publish the Council's Constitution in accordance with Article 1.
- (b) To receive and manage the determination of complaints of failure by Members to comply with the Code of Conduct and to advise the Corporate Governance and Audit Sub-Committee and the Standards Sub-Committee thereon, in accordance with the Code of Conduct Complaints Policy;
- (c) To grant dispensations for dispensation to Members with respect to their or their spouse's interest which arises as a result of membership of another public body;
- (d) To grant dispensation under the Code of Conduct or the Localism Act 2011;
- (e) The power to determine whether any particular claim for payment under the Members' Allowances Scheme is in order;
- (f) To authorise the making and issue of any formal documents and to authenticate documents on behalf of the Council and to determine whether a document should be sealed by the affixing of the Common Seal.
- (g) To attest the affixing of the Council's Common Seal;
- (h) To sign on behalf of the Council any document authorised by the Council or which is necessary or desirable to give effect to any decision of the Council.
- (i) To issue certificates of opinion in connection with politically restricted posts.
- (j) To issue certificates for Major Projects under the Local

Government (Contracts) Act 1997.

- (k) Responsibility for a system of record keeping for all the Council's decisions;
- (l) To be responsible for the Council's engagement with the Independent Remuneration Panel and the Independent Person
- (m) The maintenance of records of all interests given by any Member of the Council;
- (n) The provision of publication of the Council's decision-making process and individual decisions.
- (o) The provision of facilities for Councilors.

25.8 Specific Delegations to Assistant Directors Service Managers or Equivalent – to be revised

25.8.1 To the /Assistant Director Legal & Democratic Services

- (a) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals, but they shall consult the relevant S.151 Officer before a settlement or employment tribunal proceedings.
- (b) To approve the settlement of any claims brought against or by the Council up to a maximum sum of £30,000, in consultation with the S.151 Officer in any contract and provided that if the settlement amount is not included in any existing budget provision, then the Cabinet Member for Finance and Performance Management must also be consulted.
- (c) To service any notice required to terminate any contract, agreement or lease entered into by the Council, including notices to vary any terms of such contracts, agreements or leases;
- (d) To authorise members of the Council to appear in courts or tribunals where permitted by law;
- (e) To instruct Counsel and external solicitors on any matters likely to affect the interests of the Council;
- (f) To sign and serve any statutory or legal notice in accordance with any statutory powers or any functions of the Council and to place any public notice that the Council is required to do in law;
- (g) To sign on behalf of the Council any document, Contract, Agreement, or Lease authorised by the Council or which is necessary or desirable to give effect to any decision of the Council.

- (h) To sign statements of truth in accordance with the Civil Procedure Rules;
- (i) To sign indemnities and provide solicitor undertakings where they are required to enable the Council to exercise any of its functions, provided that where the giving of an indemnity or undertaking could have considerable financial implications, the Cabinet Member Resources and the S.151 Officer shall be required to give their approval;
- (j) take any steps to collect any debt owed to the Council;
- (k) To administer the register of Local Land Charges, carry out official searches and to respond to enquiries of local authorities;
- (l) To exercise the functions of the Council in respect of the arrangements for convening of meetings of Council, Cabinet and their committees, and the preparation of a programme of meetings of the council, the Cabinet and their Committees;
- (m) In consultation with the Chairman of the Licensing Committee be authorised to adjourn a Licensing Panel in accordance with the Licensing Act 2003 (Licensing) Regulations 2005;
- (n) To exercise powers to extend the time limits set out within the Licensing Act 2003 (Licensing) Regulations 2005;
- (o) To act as the Council's Data Protection Officer;
- (p) In consultation with the Chairman or Vice-Chairman of the Licensing Committee be authorised to suspend Hackney Carriage and/or Private hire Driver licences under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) immediately, if in their opinion in the interest of public safety that the suspension should have immediate effect, such suspension to last until the day after the next meeting of the Drivers' Panel.

APPENDIX A – Gambling Act 2005

	Matter To Be Dealt With	Full Council	Licensing Sub Committee	Corporate Director	Assistant Director
a.	Three year Licensing Policy review	<i>All cases</i>			
b.	Fee Setting – when appropriate				All cases
c.	Authority to make minor amendments to the Gambling Act policy statement in conjunction with the Chairman of the Licensing Committee				All cases
d.	Application for Premises Licence		Where representations have been received and not withdrawn		Where no representations received/ representations have been withdrawn
e.	Application for a Variation to a Licence		Where representations have been received and not withdrawn		Where no representations have been received or representations have been withdrawn
f.	Application for a transfer of a Licence		Where representations have been received from the commission		
g.	Application for a Provisional Statement		Where representations have been received and not withdrawn		
h.	Authority to make representations to applications on behalf of the Licensing Authority		All cases		All cases
i.	Authority to attach conditions, where relevant, to Premises Licences			<i>All cases</i>	
j.	Authority to refuse applications for Premises Licences			<i>All cases</i>	
k.	Authority to process applications for Temporary Use Notices		Where representations have been	Where no objections have been made or	

			received and not withdrawn	objections have been withdrawn	
l.	Authority to process applications for Club Gaming and Club Machine Permits		Where representations have been received and not withdrawn	Where no objections have been made or objections have been withdrawn	
m.	Authority to issue permits for more than 2 machines in Licensed Premises			<i>All cases</i>	
n.	Authority to process application for other Permits			<i>All cases</i>	
o.	Cancellation of Club Gaming/ Club Machine Permits		<i>All cases</i>		
p.	Cancellation of Licensed Premises Gaming Machine Permits			<i>All cases</i>	
q.	Review a Premises Licence		<i>All cases</i>		
r.	Determination as to whether a person is an Interested Party			<i>All cases</i>	
s.	Determination as to whether representations are relevant			<i>All cases</i>	
t.	Determination as to whether a representation is frivolous, vexatious or oppressive			<i>All cases</i>	
u.	Consideration of Temporary Use Notice			<i>All cases</i>	
v.	Decision to give a counter notice to a Temporary Use Notice		<i>All cases</i>		
w.	Consideration of a Occasional Use Notice			<i>All cases</i>	

APPENDIX B – Licensing Act 2003

	Matter to be dealt with	Full Committee	Sub Committee	Assistant Director or Officer holding delegated authority.
a.	Application for personal licence		If a police objection	If no objection made
b.	Application for personal licence with unspent convictions		All cases	
c.	Application for premises licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
d.	Application for provisional statement		If a relevant representation made	If no relevant representation made
e.	Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
f.	Application to vary designated premises supervisor		If a police objection	All other cases
g.	Request to be removed as designated premises supervisor			All cases
h.	Application to transfer premises licence		If a police objection	All other cases
i.	Applications for interim Authorities		If a police objection	All other cases
j.	Applications to review Premises licence/club premises certificate		All cases	
k.	Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
l.	Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
m.	Determination of an objection to a temporary event notice		All cases	

n.	Determination of application to vary premises licence at community premises to include alternative licence condition			All cases
o.	Decision whether to consult other responsible authorities on minor variation application			All cases
p.	Determination of minor variation application			All cases

DRAFT

APPENDIX C - Animal Welfare Licensing

	Matter to be dealt with	Council	Licensing Committee	Officers
a.	Setting of Fees and Charges	In all cases		
b.	Adoption of Policy		In all cases	
c.	Grant or renewal of a license to carry on a licensable activity			Assistant Director
d.	Transfer of a license in the event of the death of the license holder			Assistant Director
e.	Suspension, Variation or revocation of a license			Assistant Director
f.	Receipt of representations against the suspension, variation or revocation of a licence			Assistant Director
g.	Service of a Notice			Assistant Director
h.	Appointment of suitably qualified inspectors			Assistant Director
i.	Appeal of a non-qualifying score			Assistant Director

APPENDIX D: PLANNING SCHEME OF DELEGATION

A. Applications to be referred to Development Management Committee for determination ():

- (a) Major Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for residential development comprising 10 or more proposed houses or commercial development (including changes of use) comprising floorspace of 1,000sq.m, including any linked application for Listed Building Consent.
- (b) Major or Minor Planning Applications for Renewable Energy Schemes, including solar, wind and bioenergy projects, and proposals for Anaerobic Digestion Plants.
- (c) Where the Applicant is Castle Point Borough Council or the application is on land that the Council has an interest
- (d) Where the Applicant or Agent is an employee within the Planning Department (Development Management or Planning Policy) or Member of Castle Point Borough Council where an adverse representation or comment has been received, unless the Monitoring Officer has notified the Assistant Director – Development Services in writing that they are satisfied that the delegation may be exercised in the case concerned.
- (e) Where the Applicant or Agent is related to an employee within the Planning Department (Development Management or Planning Policy) or is a Member of Castle Point Borough Council unless the Monitoring Officer has notified the Assistant Director – Development Services in writing that they are satisfied that the delegation may be exercised in the case concerned.
- (f) Any application deemed to be 'significant' by the Assistant Director – Development Services
- (g) An application for a National Strategic Infrastructure Project (NSIP)

B. Applications which can be determined under Delegated Powers

Minor Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval, Full Planning Permission or permission in Principle) for residential development comprising 3-9 proposed houses, including any linked application for Listed Building Consent, **Unless:** the application has been 'Called In' for determination by a Member by the end of the specified consultation period and is accompanied by planning reasons for why the application should be referred to Development Management Committee for determination; Except if a previous application for the same or substantially the same application site has been refused planning permission under Delegated Powers or by the Development Management Committee where the proposal is deemed to be 'similar' to the previously determined application by the Assistant Director – Development Services.

C. Applications which can be determined under Delegated Powers

- (i) Minor Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval, Full Planning Permission or Permission in Principle) for residential development comprising 1-2 proposed houses, including any linked application for Listed Building Consent.
- (j) All Section 73 applications to vary or remove planning conditions, including seeking minor material amendments, associated with any previous consent (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for 'Major', 'Minor', or 'Other' Planning Applications.
- (k) Minor Planning Applications for replacement dwellings.
- (l) Minor Planning Applications for agricultural workers dwellings (temporary or permanent).
- (m) Minor Planning Applications for all other commercial development or change of use.
- (n) All of the following Application Types*:

Application Type	Description
ADV	Applications for Advertisement Consent
AGR	Agricultural Prior Approval
ALT	Certificate of Alterations to Appropriate Development
AREM	Agricultural Reserved Matters
CLPLB	Certificate of Lawfulness for Works to a Listed Building
COMPA	Commercial Extensions Prior Approval
CPA	Applications for Prior Approval (All)
CDDAC	Application for Approval of Details reserved by condition following grant of planning permission or a listed building consent
ESD	Consultation on Essex County Council Discharge of Conditions Applications
ELD	Application for a Certificate of Lawfulness for an Existing Use or Development
FPO	Footpath Order
GOV	Development by Government Department
HDG	Hedges
HH	Householder Application for Planning Permission
HHPA	Householder Extensions Prior Approval
LBC**	Application for Listed Building Consent for alterations, extensions or demolition of a listed building
LDOCC	Local Development Order Compliance Checklist
NMA	Application for a Non-Materials Amendment following a grant of planning permission
OHL	Overhead Electricity Lines
P14JPA	Prior Approval – Part 14, Class J
P3RNOT	Notification – Part 3, Class R

PDEM	Prior Approval for Demolition
PLD	Application for a Certificate of Lawfulness for a Proposed Use or Development
S106A***	S106A to modify or discharge S106
SCO	EIA Scoping Opinion
SCR	EIA Screening Opinion
T56	Telecoms 56 Day Notification
TDC	Technical Details Consent
TEL	Telecommunications General
TMPCOU	Temporary Change of Use
TPO	Works to Protected Trees (Subject to a TPO)
TPOCON	Works to Trees within a Conservation Area

*Application Types – The list of application types suitable for delegation may be updated to include any new prior approval or notification application types introduced by the Government.

**LBC – Except where the Listed Building Consent application has been submitted in connection with an application considered under Part 'A' or Part 'B'.

***S106A – Where significant modifications are proposed to a Section 106 Agreement, the Planning Development Manager will consider whether the application is deemed to be 'significant' and therefore whether it should be referred to Planning Committee for determination under Part 'A' of the Scheme of Delegation.

Consultations on Essex County Council Applications or Out of Borough Applications¹

Consultation Responses which can be determined under Delegated Powers, following referral to the Cabinet Member for Planning:

Application Type	Description
ECC	Consultation on Essex County Council Applications ³
ODC	Out of District Consultation

¹ As the majority of these applications are for smaller scale development, Development Management could notify the Cabinet Member for Strategic Planning on receipt of the consultation and await confirmation of whether a response could be issued by Officers, or if a draft response should be prepared for review and approval, prior to issue.

Part 1 – Financial Regulations

Financial Regulations

1. Introduction

1.1. Context

These Financial Regulations set out the financial policies and the framework for managing the Council's financial affairs. The Financial Regulations should be read and used in conjunction with the Council's other policy documents and guidance.

The Financial Regulations are organised around seven themes, as follows:

- (a) [Financial planning](#) (Section 3)
- (b) [Financial management](#) (Section 4)
- (c) [Accounting records and financial systems](#) (Section 5)
- (d) [Risk Management and Internal Control](#) (Section 6)
- (e) [Control of resources](#) (Section 7)
- (f) [Income and expenditure](#) (Section 8)
- (g) [External arrangements](#) (Section 9)

They seek to ensure that the Council conducts its affairs in a way that complies with specific statutory provisions, generally accepted accounting principles and professional good practice.

Officers and Members are authorised to make decisions in accordance with these Financial Regulations, but they do not authorise any person to make a decision which is contrary to any provision in the Constitution.

1.2. Financial responsibilities

An overview of the financial responsibilities of the Council, the Cabinet, various Committees, the Chief Executive, the Assistant Director, Finance & Procurement, Directors, and the Monitoring Officer is provided in **Section 2** of the Financial Regulations. Specific responsibilities are explained, in context, throughout the Financial Regulations.

The Assistant Director, Finance & Procurement is the Council's Chief Financial Officer under Section 151 of the Local Government Act 1972 and is responsible for maintaining a continuous review of the Financial Regulations and for updating them, as necessary, for the Council to approve. The Assistant Director, Finance & Procurement is also responsible for reporting, where appropriate, breaches of the Financial Regulations to the Cabinet and/or to the Council.

Financial Regulations

1.3. Advice and guidance to underpin Financial Regulations

The Assistant Director, Finance & Procurement will, from time to time, issue advice and guidance to underpin the Financial Regulations, ensure compliance with specific statutory provisions and reinforce best professional practice. Members, officers and others acting on behalf of the Council are required to comply with such advice and guidance.

1.4. Compliance

All financial and accounting procedures must be carried out in accordance with the Financial Regulations and with any other corporate guidance issued by, or on behalf of, the Assistant Director, Finance & Procurement.

Directors will ensure that their staff are aware of the existence and content, of the Council's Financial Regulations and other corporate guidance and ensure compliance with them.

Non-compliance with these Financial Regulations, and with any other corporate guidance issued by the Assistant Director, Finance & Procurement, constitutes a disciplinary matter that will be pursued, as appropriate, in accordance with the Council's Disciplinary Policy.

1.5. Scope of the Regulations

The Financial Regulations, including advice and guidance issued to underpin the Financial Regulations, apply to all services of the Council.

1.6. Scheme of Delegation for Financial Management

The Scheme of Delegation for Financial Management, as set out within Part Two of this document, defines how the responsibilities set out within the Financial Regulations are reserved or delegated to officers. This must be read in conjunction with the general scheme of delegation to Officers which is set out in the Constitution.

2. Financial roles and responsibilities

2.1. Introduction

The roles and responsibilities of Members and Officers are set out within the Council's Constitution. The purpose of the Financial Regulations is to explain the respective financial roles and responsibilities of Members and Officers within the Council. Specific financial responsibilities are set out in the subsequent sections of the Regulations.

2.2. Council

The Council is responsible for:

- (a) Adopting and changing the Constitution (*including the Financial Regulations*), which sets out how the Council works, how decisions are made and the procedures to be followed to ensure efficiency, transparency and accountability to local people.
- (b) Approving and adopting the policy framework which is a series of documents that either the law or the Council require to be adopted at a meeting of full Council. This includes major corporate policies, and is developed in line with the Council's **Budget and Policy Framework Procedure Rules** (contained within Chapter 2 of the Constitution).
- (c) Approving the annual budget, which includes:
 - (i) The allocation of financial resources to different services and to capital projects.
 - (ii) The level of contingency funds, reserves and balances to be held.
 - (iii) The Council Tax base and setting the Council Tax.
 - (iv) The annual Capital Strategy (which comprises decisions relating to the control of the Council's borrowing requirement, the setting of Prudential Indicators that define the parameters for borrowing activity, the Treasury Management Strategy, and its Minimum Revenue Provision (MRP) policy for the repayment of debt).
 - (v) The annual pay policy statement.
- (d) Making arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs.
- (e) Making arrangements for approving the statutory annual statement of accounts by dates specified by relevant regulations.

2.3. Cabinet

The Cabinet, under the direction and authority of the Leader, is responsible for:

- (a) The preparation of the Council's budget and policies forming part of the policy framework and making recommendations on them to Council.
- (b) Taking decisions on resources and priorities to deliver and implement the Council's policies and budget.

- (c) Determining overall Council priorities within the Budget and the Policy Framework set by full Council, to keep under review those priorities and to approve specific plans and strategies.

One member of the Cabinet has specific strategic responsibility for financial administration and management, including preparation and management of the revenue and capital budgets, precepts, levies and borrowing. At the time of writing, this responsibility sits with the **Cabinet Member for Resources**.

Throughout the remainder of this document, where it is stated that the approval of the **Cabinet Member with responsibility for Finance** is required, this means the **Cabinet Member for Resources** or the **Leader of the Council** (or, in the absence of both, the **Deputy Leader**) (or whichever Cabinet Member subsequently has specific strategic responsibility for financial administration and management, as set out within the Constitution).

2.4. Overview and Scrutiny Committee

The Overview and Scrutiny committee exercises the function of call-in of decisions made by Cabinet Members which fall within their remit in order to consider whether:

- (a) To refer the decision back to the person who made it; or
- (b) To refer the matter to the full Council to decide whether to refer the decision back to the person who made it; or
- (c) To accept that the decision is implemented.

In this context, the Committee is responsible for scrutinising the financial arrangements and performance of the Council, including considering the financial position and management of the Council's finances and budgets (revenue and capital). It also contributes to the Council's objectives in relation to the overall strategic direction, policies and priorities of the Cabinet and of the Council, including the overall corporate revenue and capital budget strategy, financial resources, precepts and levies.

2.5. Audit and Governance Committee

The functions of the Audit and Governance Committee are set out in full in the Council's Constitution. However, in summary, the Committee's responsibilities with regard to the financial management of the Council include:

- (a) Approving the Council's Annual Statement of Accounts.
- (b) Considering the Council's arrangements for corporate governance and risk management and approving the Annual Governance Statement.
- (c) All matters related to the appointment of the Council's external auditor.
- (d) Receiving, considering and commenting on reports issued by the External Auditor, including the External Auditor's Annual Audit Plans, Reports on the Financial Statements, Annual Audit Letters, reports on specific matters and written recommendations.

- (e) Ensuring that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit is actively promoted.
- (f) Receiving reports from the Council's Internal Auditor on the outcome of audit reviews and investigations and the implementation of recommendations, including the annual report of the **Chief Audit Executive** (which, at the time of writing, is a role fulfilled by the Head of Assurance).
- (g) Monitoring the effectiveness of the Council's **Financial Regulations, Procurement Policy and Procedures** and other strategies for **counter fraud and corruption, declarations of interest, gifts and hospitality, whistle blowing** and **anti-money laundering**.

2.6. Statutory Officers

2.6.1. Head of Paid Service

The **Chief Executive** is the **Head of Paid Service** and is responsible for the corporate and strategic management of the Council as a whole. The functions of the **Head of Paid Service** are explained fully in the Council's Constitution.

2.6.2. Chief Financial Officer

Section 151 of the Local Government Act 1972 specifies that every authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs. At the time of writing:

- (a) The Council's **Assistant Director, Finance & Procurement** is the designated officer for this purpose. The **Chief Accountant** fulfils this role in the absence of the Assistant Director, Finance & Procurement unless alternative arrangements are made by the **Assistant Director, Finance & Procurement**.

Throughout the remainder of this document, where it is stated that the approval of the **Section 151 Officer** is required, this includes the **Deputy Section 151 officer** when acting in the capacity of Chief Financial Officer for the Council.

The **Section 151 Officer** has statutory duties in relation to the financial administration and stewardship of the Council that cannot be overridden. These statutory duties arise from:

- (a) **Section 151 of the Local Government Act 1972** which requires the Council to make arrangements for the proper administration of its financial affairs and secure that one of its officers has responsibility for the administration of those affairs.
- (b) **Section 114 of the Local Government Finance Act 1988** which places a duty on the **Section 151 Officer** to report to all Members of the Council, and to the Council's external auditor, if it is considered that the Council, Cabinet or an employee has made (or is about to make) a decision involving expenditure or loss which is unlawful.

- (c) The **Local Government and Housing Act 1989** which requires the **Section 151 Officer** to consult with the **Monitoring Officer** and the **Head of Paid Service** before making a Section 114 report to Council.
- (d) The **Local Government Act 2003** which requires the **Section 151 Officer** to make a report to the Council, when it is considering its budget and council tax, which addresses the robustness of the estimates and adequacy (or otherwise) of reserves.
- (e) The **Accounts and Audit Regulations 2015**, which require the **Section 151 Officer** to ensure that the accounting control systems are observed, that the accounting records are maintained in accordance with proper practices and that they are kept up to date.

To fulfil these statutory duties and legislative requirements the **Section 151 Officer** will:

- (a) Set appropriate financial management standards for the Council which comply with the Council's policies and proper accounting practices and monitor compliance with them.
- (b) Determine the accounting records to be kept by the Council.
- (c) Ensure there is an appropriate framework of budgetary management and control.
- (d) Monitor performance against the Council's budget and advise upon the corporate financial position.
- (e) Ensure proper professional practices are adhered to and to act as Head of Profession in relation to the standards, performance and development of finance staff throughout the Council; all finance staff will have a direct reporting line to the **Section 151 Officer**.
- (f) Prepare and publish the Council's Statement of Accounts for each financial year, in accordance with the timetable and arrangements specified by law.
- (g) Make proper arrangements for the audit of the Council's annual Statement of Accounts.
- (h) Ensure that claims for funding, including grants, are made by the due date and in compliance with the terms and conditions of the awarding body.
- (i) Make proper arrangements for the overall management of the Council's Internal Audit function.
- (j) Manage treasury management activities in accordance with the Council's Treasury Management Strategy, Investment Strategy and Prudential Indicators.

2.6.3. Monitoring Officer

The functions of the Monitoring Officer are explained fully in the Council's Constitution. However, the functions that are pertinent in the context of the Financial Regulations include:

- (a) Reporting, after consultation with the Head of Paid Service and the Section 151 Officer, any actual or potential breaches of the law or mal administration to the Council and/or to the Cabinet.
- (b) Advising whether the decisions of Cabinet are in accordance with the budget and policy framework.

- (c) Provision of advice to all councillors on the scope of powers and authority to take decisions, mal administration, financial impropriety, probity and budget and policy framework issues.

2.7. Directors

Directors have delegated responsibility for the financial management of their services. This responsibility must be exercised within the corporate financial management framework determined by the **Section 151 Officer**, and includes:

- (a) Putting in place appropriate budget management and delegation arrangements to ensure the effective use of resources, the safeguarding of assets and the operation of a system of appropriate internal controls.
- (b) Promoting appropriate financial management standards within their Services, and monitoring adherence to the standards and practices, liaising as necessary with the **Section 151 Officer**, and ensuring that relevant training is provided to staff with financial management responsibilities.
- (c) Promoting sound financial practices in relation to the standards, performance and development of staff in their services.
- (d) Advising Cabinet Members and the **Section 151 Officer** of the financial implications of all proposals.
- (e) Seeking approval, in conjunction with the **Section 151 Officer**, on any matter liable to affect the Council's finances materially, before any commitments are made.
- (f) Obtaining the approval of the **Section 151 Officer** on any proposal to commission external financial and/or tax advisory services on behalf of the Council; this requirement does not apply to the Monitoring Officer, although they must consult the Section 151 Officer before commissioning such advice.
- (g) Consulting with, and obtaining the approval of, the **Section 151 Officer** before making any changes to accounting records or procedures.
- (h) Complying with the following principles when allocating accounting duties:
 - (i) Separating the duties of providing information about sums due to or from the Council and calculating, checking (*including reconciling the accounts*) and recording these sums from the duty of collecting or disbursing them.
 - (ii) Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- (i) Ensuring that claims for funds (*including grants, contributions and 'match funding'*) are made, in accordance with accounting instructions issued by the **Section 151 Officer** and the conditions defined by the awarding body, by the due date and that appropriate records are maintained.
- (j) Contributing to the development of performance plans in line with statutory requirements.
- (k) Contributing to the development of corporate and service targets and objectives and performance information.

2.8. Internal audit

Internal Audit will review, appraise and report upon:

- (a) The extent of compliance with, and effectiveness of, relevant policies, plans and procedures.
- (b) The adequacy and application of financial and other related management controls.
- (c) The suitability of financial and other related management data.
- (d) The extent to which the Council's assets and interests are accounted for and safeguarded from loss of any kind from:
 - (i) Fraud and other offences.
 - (ii) Waste, extravagance and inefficient administration.
 - (iii) Inefficient value for money or other causes.
- (e) Directors' self-assessments of the status of the governance framework, including systems of internal controls in place, for each of their service areas.

Further details on the internal audit function are set out in paragraph **6.6.2**.

3. Financial Planning

3.1. Policy framework

The Council is responsible for agreeing the Council's Organisation Plan and budget. In terms of financial planning, the key elements of the Budget are the:

- (a) Revenue budget.
- (b) Capital programme.
- (c) Contingency funds, reserves and balances.
- (d) Council tax base and setting the Council Tax.
- (e) Capital Strategy (comprising the parameters for borrowing activity, the Treasury Management Strategy, and the Minimum Revenue Provision (MRP) policy for the repayment of debt).
- (f) Annual pay policy statement.

3.2. Corporate Plan 2021-24

The Council's ambitions are outlined in corporate policies. At the time of writing, the highest-level document is the Corporate Plan 2021-24, the Council's Plan to improve the borough. This sets out the Council's long term strategic aims and priorities.

The Corporate Plan is a key element of the Council's planning framework – through which the Council ensures that its resources are used to secure progress against a consistent and enduring set of aspirations.

3.3. Revenue budget

3.3.1. Revenue income and expenditure

Revenue income and expenditure represents the current or day to day running costs, and associated receipts, of the Council; including salaries, heating and lighting, travelling and office expenses, income raised by charging service users and government grants.

3.3.2. Revenue budget

Budgets (spending plans) ensure that the Council can plan, authorise, monitor and control the way money is allocated and spent.

The revenue budget must be constructed to ensure that resources are allocated in a way that reflects the service plans and priorities of the Council. The **Section 151 Officer** is responsible for developing and maintaining a resource allocation process that ensures this is achieved.

3.3.3. Budget preparation

The **Cabinet Member with responsibility for Finance** and the **Leader**, in conjunction with the **Section 151 Officer**, will manage the preparation of the budget on an annual basis for consideration by the Council. The annual budget will include allocations to different services and projects, proposed taxation levels, reserves and contingencies.

The **Section 151 Officer**, in consultation with the **Cabinet Member with responsibility for Finance**, will issue detailed guidance and a timetable for production of the budget. Directors must prepare detailed draft revenue and capital budgets, in consultation with the **Section 151 Officer** and the **Cabinet Member with responsibility for Finance**, and in accordance with the laid-down guidance and timetable, for consideration by the appropriate Cabinet Member.

Detailed budgets, as proposed by Directors, will be subject to challenge and review through a process determined by the **Section 151 Officer**. Any proposed changes to service levels as a result of budget plans will be subject to an Equalities Impact

Assessment as part of the consideration process before approval and implementation. The Council will engage partners in the budget preparation process where possible and appropriate.

The **Section 151 Officer** has a statutory duty to report upon the budget proposals presented to Council (see paragraph 2.6.2). Directors must provide the **Section 151 Officer** with any information required to enable the robustness of the budget proposals to be assessed.

The budget and the implied level of taxation will be presented for approval by full Council, following recommendation by the Cabinet. Council Tax and Non-domestic rates must be set by **1st March** in the year prior to the year of taxation.

3.3.4. Format of the budget

The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate and sets the level at which funds may be reallocated within budgets (*see paragraph 4.3.3 for further details*).

3.3.5. Maintenance of reserves

Reserves are maintained to enable the Council to cope with unpredictable financial pressures, and to plan for future spending commitments. A general reserve is maintained as a contingency to protect the budget against cost pressures and unforeseen future events, whilst earmarked reserves are held to protect funds for specific purposes.

The creation of any reserve will be subject to the approval of the **Section 151 Officer**, upon consultation with the **Cabinet Member with responsibility for Finance**. For each reserve

established, the purpose, usage (*including the timeframe for usage*) and basis of transactions will be clearly articulated.

Increases in existing reserves come about through three routes:

- (a) Through the budget setting process, the setting of which requires full Council approval.
- (b) By returning funds previously drawn from reserves that are no longer required for the agreed purpose, which requires approval by the Section 151 Officer.
- (c) By transfer of an under spend or new additional income into reserves in accordance with the table below:

Amount	Minimum approval required
Up to and including £100,000	Section 151 Officer
More than £100,000, but not more than £250,000	Section 151 Officer (following consultation with the Cabinet Member with responsibility for Finance.
More than £250,000 and above, but no more than £500,000	Cabinet Member with responsibility for Finance (following consultation with the Section 151 Officer)
More than £500,000	Cabinet (following consultation with the Cabinet Member with responsibility for Finance and the Section 151 Officer)

The withdrawal of funds from reserves is subject to approval in accordance with paragraph 4.3.4 on supplementary estimates.

The **Section 151 Officer** will advise upon prudent levels of reserves and balances for the Council, taking into consideration the degree of risk in the budget for the Council over the medium and longer term.

Under section 114 of the Local Government Finance Act 1988 the **Section 151 Officer** must report to Council if there is or is likely to be unlawful expenditure or an unbalanced budget. This would include situations where reserves have become seriously depleted and it is forecast that the Council will not have the resources to meet its expenditure in a particular financial year.

No funds withdrawn from a reserve may be spent other than for the purpose agreed at the time the withdrawal was approved without the prior agreement of the **Section 151 Officer** in consultation with the **Cabinet Member with responsibility for Finance**.

3.4. Capital financial planning

3.4.1. Capital expenditure

Expenditure is classified as capital expenditure when it results in the acquisition or construction of an asset (e.g. land, buildings, roads and bridges, vehicles, plant and equipment etc.) that:

- (d) Will be held for use in the delivery of services; and
- (e) Is expected to be used during more than one financial year.

Subsequent expenditure on existing assets is also classified as capital expenditure if these two criteria are met.

There may be instances where expenditure does not meet this definition but would nevertheless be treated as capital expenditure, including:

- (a) Where the Council has no direct future control or benefit from the resulting assets but would have treated the expenditure as capital if it did control or benefit from the resulting assets.
- (b) Where the Government has given explicit permission to apply capital financing resources to fund expenditure that would not otherwise meet the criteria for capitalisation (this is rare though).

The Council operates a number of de-minimis limits for capital expenditure. This means that items below these limits are charged to revenue rather than capital. The limits are currently as follows:

De-minimis limits	£
General limit (<i>to be applied where no specific limit is applicable</i>)	10,000
Specific limits:	
Housing Revenue Account	10,000
Land	Nil

The **Section 151 Officer** is responsible for the application of these de-minimis limits and will report any exceptions to the **Cabinet Member with responsibility for Finance**.

Where expenditure meets the 'capital expenditure' definition and is in excess of the Council's de-minimis limits, it will be classified as capital expenditure, even if provision exists within the Revenue Budget to fund the work (*and vice versa*).

Similarly, where specific financing (*e.g. government grant*) is provided to facilitate a project, this will not determine the accounting treatment of the expenditure. That is, the accounting treatment is determined according to the type of expenditure, and not by the funding source (*see paragraph 5.1*).

3.4.2. Capital programme

The **Cabinet Member with responsibility for Finance**, in conjunction with the **Section 151 Officer**, will manage the preparation of a capital programme, on behalf of the Council, on an annual basis in accordance with the Council's capital projects' governance arrangements and capitalisation criteria.

Each project that is added to the Capital Programme will be for the provision and for the purpose of delivering public services (including housing, regeneration and local infrastructure) or in support of joint working with others to deliver such services. No schemes will be added to the Capital Programme if their only purpose is to achieve a financial return.

Each scheme that is added to the Capital Programme is allocated:

- (a) A '**start date**' for planning purposes
- (b) An overall '**scheme approval**' which sets the overall budget for the scheme
- (c) An '**annual payments guideline**' which sets the parameters for expenditure in each of the financial years over which the scheme is expected to span.

3.4.3. Financing of capital expenditure

The **Cabinet Member with responsibility for Finance**, in conjunction with the **Section 151 Officer**, will determine the financing of the capital programme, taking into consideration the availability of reserves, funding from other bodies and the affordability of borrowing.

3.5. Leasing and rental arrangements

Leases of land or buildings and other property agreements will only be authorised for completion, on the Council's behalf, in accordance with the delegations set out in paragraph 7.1.4. The relevant Finance support will be consulted as part of this process.

Other leasing arrangements (*including rental agreements and hire purchase arrangements*) will only be entered into with prior approval, as follows:

Type of lease	Approval required
Vehicles, plant and equipment	Section 151 Officer
Short term rentals (less than one year)	Assistant Directors or Directors

Prior approval is required to enter into leases to ensure that:

- (a) Leases can be accommodated within the borrowing limits set by the Council.
- (b) Such arrangements represent best value for money and are accounted for appropriately.

3.6. Internal trading activities

3.6.1. Definition and framework

Where services are delivered by one Council function to others within, and external to, the Council, and users of that service have choice about whether and how much to buy then the service is likely to be 'trading'. Where a significant proportion of a service's activities are delivered by trading, the service may need, or wish, to be formally designated as an internal trading activity.

Services are only permitted to operate as an internal trading activity with the prior approval of the **Cabinet**, following consultation with the **Section 151 Officer**.

Services wishing to operate as an Internal Trading Activity must demonstrate that they are:

- (a) Providing all, or the majority, of their services in an environment where their customers have the option to use them or an alternative service provider; and
- (b) Charging for the full cost of the goods / services they provide, based on an agreed charge or rate.

Approved internal trading activities must maintain a Trading Account. Trading Accounts are:

- (a) Charged with all expenditure related to the provision the trading activity's services (including direct costs, the full costs of services provided by the Council's support services, any service management provided by senior managers and asset and other accounting charges).
- (b) Credited with all income due for work done by the trading activity.

Trading activities are required to balance their budgets by generating sufficient income to cover the full costs of the services they provide.

Trading activities must operate within the Council's overall arrangements and rules for personnel and resource management. Cabinet may approve special arrangements in exceptional circumstances, where it can be demonstrated that adherence to these rules and arrangements would lead to the trading activity becoming uncompetitive and losing work and that the proposed departure does not expose the Council to significant risk.

3.6.2. Financial targets

Each trading activity must prepare an annual financial plan for approval by the Council as part of the annual budget setting (*see paragraph 3.1*), which defines the expected levels of income and expenditure for the year.

Trading activities must, as a minimum, aim to break-even (*i.e. only incur expenditure that can be financed from the income the activity expects to generate during the year*). It is only permissible to plan for a deficit in exceptional circumstances, and then only if the deficit can be met from the trading activity's own accumulated revenue reserves or, in exceptional circumstances, from an approved contribution from the General Fund.

3.6.3. Trading reserves

Trading activities are permitted to retain the surpluses they generate, provided they can demonstrate that these are necessary for the future business needs of their operations. The **Section 151 Officer** will advise the Cabinet Member with responsibility for Finance, after consultation with the relevant Director(s), if the level of cash balances held by a trading activity exceed those deemed necessary to meet the business needs of the operation. The **Cabinet Member with responsibility for Finance** will then determine whether the excess balances are transferred to the General Fund or another reserve.

The approval of the **Cabinet Member with responsibility for Finance** is required where it is proposed to transfer part of a trading activity's reserves to finance expenditure by another trading activity or a Service, or to receive a contribution from another trading activity or Service.

3.6.4. Closing a trading account

The approval of the **Cabinet**, in consultation with the **Section 151 Officer**, is required where it is proposed that a trading activity ceases to operate on that basis.

The **Cabinet Member with Responsibility for Finance**, in consultation with the **Section 151 Officer**, may recommend closure of a trading account where the trading activity fails to at least break-even for two successive financial years and/or where the trading activity has exhausted its revenue reserve.

In the event that a trading activity has revenue reserves remaining upon closure of its trading account, the residual balance will be transferred to the General Fund or to another reserve.

3.7. Capital and treasury management strategy

The **Cabinet Member with responsibility for Finance**, in conjunction with the **Section 151 Officer**, will propose an annual Capital and Treasury Management Strategy (comprising the borrowing and investment strategy, a set of Prudential Indicators and the policy for making revenue provision for the repayment of debt (*referred to as the 'Minimum Revenue Provision' policy*)) to the Council in advance of the start of the relevant financial year. These will be consistent with the Council's revenue budget and capital programme proposals.

These documents are required to comply with the CIPFA Codes of Practice on Treasury Management and on the Prudential Framework for Capital Finance, relevant regulations and with Treasury Management Practices; they will set the parameters within which investment and borrowing activity will be managed during the forthcoming financial year.

3.8. Medium Term Financial Strategy (MTFS)

The MTFS brings together the key assumptions about financing resources (including council tax, non-domestic rates and general government grants) and spending pressures over the medium to longer term. This enables the Council to plan for financial risks and thus inform the setting of service financial targets for the annual revenue budget and capital payments guidelines.

The **Section 151 Officer** will ensure that reports are presented to Council, as part of the annual budget setting, on the medium-term budget prospects and the resource constraints set by the Government.

3.9. Fees and charges policy

The expectation is that fees and charges will be set at a level to ensure full cost recovery is achieved as a minimum. However, this principal may be overridden where there are legislative caps or limits, or it can be demonstrated that full cost recovery would result in an uncompetitive price in the market. Assistant Directors will be required to evidence to the **Section 151 Officer** where full cost recovery is not appropriate.

Charges will be reviewed annually. All new charges, and amendments to existing charges, will be subject to formal approval in accordance with the Council's Constitution. The **Section 151 Officer** will, as part of the annual budget setting process, determine a corporate inflation rate to be used for fees and charges. Assistant Directors will be required to use this inflation rate unless the delegations within the Constitution specifically set out alternative governance arrangements for a particular fee or charge, applying the corporate inflation rate would be in excess of what is allowed for in legislation or it is evidenced that doing so would result in an uncompetitive price in the market.

Further detail on income is provided in Section 8.1.

3.10. Pay policy

The pay policy must be prepared as required by law. The pay policy sets out the Council's policy on the level and elements of remuneration for each chief officer, the remuneration of its lowest paid employees, and the relationship between the remuneration of its chief and other officers. It must also address other specific aspects of chief officer remuneration such as remuneration on recruitment, increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

4. Financial Management

4.1. Introduction

Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework, revenue budget, trading activities' financial plans, capital programme and treasury management.

4.2. Financial management standards

All officers and Members have a duty to abide by the highest standards of probity in dealing with public money. This is facilitated by ensuring everyone is clear about the standards to which they are working and by the controls that are in place to ensure that these standards are met.

4.3. Revenue budget monitoring and control

4.3.1. Budget management

The Council operates within an annual cash limit, approved when the annual budget is set. To ensure that the Council does not overspend in total, each service is required to manage its own expenditure and income recovery within the cash limited budget allocated to it. Budget management also ensures that once the Council has approved the budget, the resources are used for their intended purposes and are properly accounted for.

4.3.2. Framework for budgetary control

Once the budget is approved by the Council, Assistant Directors are authorised to incur expenditure in accordance with the approved budget, subject to the limits in the Constitution and the scheme of delegation to officers. Assistant Directors must however maintain effective budgetary control within their service(s) to ensure that spending is contained within the annual cash limit and to secure value for money (i.e. as measured by cost efficiency and output effectiveness).

Assistant Directors must ensure that no commitments are made that would result in an approved budget being exceeded. Prior approval must be obtained to increase the budget either by virement (*see paragraph 4.3.3*) or by a supplementary estimate (*see paragraph 4.3.4*) before additional commitments are made.

In addition, subject to the limits in the Constitution and the scheme of delegation to officers, Directors may exceptionally incur additional expenditure in an emergency (*see paragraph 8.7 for the approval required to make an emergency payment*). In such situations, retrospective approval must be sought, as soon after the event as possible, to offset the additional expenditure by virement or supplementary estimate.

Directors will:

(a) Ensure that all income and expenditure is properly recorded and accounted for

Directors will ensure that all officers responsible for committing expenditure comply with all relevant guidance and follow approved certification processes.

(b) Ensure that an appropriate budget holder structure is in place to ensure that responsibility is assigned for each item of income and expenditure under their control

Budget holders will be accountable for the effective management of their budgets, even where they put delegations in place that enable officers to commit expenditure on their behalf.

(c) Ensure that individual policy budgets are not overspent

A policy budget is a line within a Portfolio which is either a service in its own right or is two or more services which are very closely aligned in their operation. It is expected that each policy budget will be managed within the agreed cash limit budget.

Directors, in consultation with the relevant Cabinet Member(s), will use the virement scheme (see paragraph **4.3.3**) to address areas of overspend, by moving sufficient unspent budget from elsewhere.

Where more specific management actions are required to save funds, the Director, the **Section 151 Officer** and / or Cabinet Members may require a budget holder to prepare a budget recovery plan which explains the actions being taken to mitigate the position. The recovery plan will be monitored to ensure the safe delivery of the budget at policy budget and portfolio level.

(d) Ensure that a monitoring process is in place

A monitoring process is required to review performance and / or service levels in conjunction with the budget and to ensure they are operating effectively.

(e) Regularly report to the relevant Cabinet member(s)

Such reports will be prepared, in consultation with the **Section 151 Officer**, upon the services' projected 'controllable net expenditure' compared with its budget. Cabinet Members must be fully briefed, as part of this process, on any budget pressures and any proposal to address these pressures by virement (*see bullet point (vii) below*).

(f) Ensure prior approval by the Cabinet (as appropriate) for new proposals

Prior approval the Cabinet Member(s) may be required for key decisions or for proposals that create financial commitments in future years or which materially extend or reduce the Council's services, or initiate new ones.

(g) Ensure compliance with the Scheme of Virement

The scheme of virement is explained within paragraph **4.3.3**.

- (h) **Agree with the relevant Director(s) where it appears that a budget proposal, including a virement proposal, may impact on their service area(s).**
- (i) **Ensure that relevant training is delivered to all staff assigned responsibility for budget management**
Officers will undertake approved finance training prior to commencement as an operational budget holder and/or as an authorised signatory, to ensure they have the necessary knowledge and skills to effectively perform their financial responsibilities; refresher training will be undertaken at 24 monthly intervals thereafter, or as specified by the S151 Officer.

The **Section 151 Officer** will ensure that each budget holder receives or has access to timely information on income and expenditure for each budget, which is sufficiently detailed to enable them and their managers to fulfil their budgetary responsibilities.

The **Section 151 Officer** will monitor performance against the Council's budget on an ongoing basis and will advise upon the Council's overall financial position. Specifically, the **Section 151 Officer** will prepare Financial Update reports for the **Cabinet Member with responsibility for Finance** to present to Cabinet on a regular basis. These financial overview reports will:

- (a) Provide a comparison of the Council's projected income and expenditure with the latest approved budget.
- (b) Include an assessment of the Council's reserves and balances and overall financial position.
- (c) If required, seek approval to changes to the approved budget (including virements between policy budgets and supplementary estimate requests).

4.3.3. Scheme of virement

As detailed in paragraph 4.3.2, Directors and Assistant Directors must ensure that spending remains within their services overall cash limit, and that spending does not exceed individual policy budget headings. It is however permissible, in certain circumstances, to switch resources between approved budget headings, subject to obtaining the necessary approval. The switching of resources between approved policy budget headings is referred to as a virement.

The virement rules are as follows:

- (a) No expenditure shall be incurred without appropriate budget provision and, if necessary, a virement should be undertaken to put this in place before the expenditure is incurred.
- (b) No virement relating to a specific financial year should be made at the end of the financial year after the date specified within the **Section 151 Officer's** timetable for closure of the accounts.
- (c) Virements are not permitted in relation to asset charges, IAS 19 pension budgets or other budget headings that are deemed to be outside the control of the relevant budget holder, or where a proposal would adversely affect long-term revenue commitments.

- (d) Virements are not permitted between revenue and capital budgets. Changes to the capital programme will be dealt with in accordance with section 4.5.
- (e) A virement that is likely to impact on the level of service activity of another budget holder can be implemented only with the agreement of the relevant budget holder(s).
- (f) Amounts that require Cabinet Member approval must specify the proposed expenditure and the source of funding and must explain the implications in the current and future financial years.
- (g) Where a Cabinet Member's approval is required to a virement, this approval will normally be sought via a 'Cabinet Member Action' or a report to Cabinet.
- (h) When a Cabinet Member is making a decision on an operational matter, any necessary virements must be included as part of that decision.
- (i) Virements that are being actioned to effect a change in policy or priorities (*either within the same portfolio or between portfolios*) will be subject to the following approval:

Amount	Minimum approval required
Up to and including £25,000 <i>(Subject to the aggregation rule in exception (d) below)</i>	Assistant Director (<i>following consultation with the Budget Holder</i>)
More than £25,000, but not more than £50,000 <i>(Subject to the aggregation rule in exception (d) below)</i>	Director (<i>following consultation with Section 151 Officer and Service Cabinet member(s)</i>).
More than £50,000, but not more than £100,000	Cabinet Member with responsibility for Finance (<i>following consultation with Director, Section 151 Officer and Service Cabinet Member(s)</i>)
More than £100,000	Cabinet (<i>following consultation with Cabinet Members as above, Director and Section 151 Officer</i>)

Exceptions to the virement rules are as follows:

- (a) The virement rules do not apply to the movement of budget between the individual budget headings of an internal trading activity, because trading activities are controlled to an overall financial target rather than against individual expenditure and income headings (see paragraph 3.6.1). The approval of the **Cabinet Member with responsibility for Finance** is however required to transfer resources between individual trading activities and to/from the General Fund - see paragraph 3.6.3.
- (b) Member approval is not required where a budget will continue to be used for the approved purpose but is being moved, for example, to reflect a change in budget holder responsibilities. Such transfers, known as Technical Adjustments, will however require the approval of the **Section 151 Officer**.

- (c) Member approval is not required for budget movements arising in order to comply with the CIPFA Service Expenditure Reporting Code of Practice guidance on accounting for overheads, or budget movements arising in order to comply with proper accounting practice. Approval is required from the **Section 151 Officer**.
- (d) If the proposed virement, together with the total of previous virements within the same financial year, would result in an aggregate increase or decrease in the original 'controllable net' budget for any of the portfolios affected of more than:
 - **25%**; or
 - **£250,000**
 the decision shall be taken by the **Cabinet Member with responsibility for Finance**, in consultation with the **Section 151 Officer**.

4.3.4. Supplementary estimates

If it is not possible to move resources between budget headings to meet a liability, a request may exceptionally be made for additional funding from the General Fund or from an earmarked revenue reserve. Requests for additional funding are referred to as supplementary estimates.

Supplementary estimates can only be requested for one-off purposes, although it may be possible to request funding for a project that spans across more than one financial year. Where additional funding is required on an on-going basis, the full year effect must be addressed through the revenue budget setting process.

A request for a supplementary estimate must specify:

- (a) the total amount of funding required;
- (b) the profile across financial years of the proposed draw down from the General Fund and/or earmarked revenue reserve;
- (c) the source(s) of the supplementary funding (*which will be advised by the **Section 151 Officer***); and
- (d) why the supplementary funding is required and whether there are any on-going cost implications.

Where the source of funding is from an earmarked reserve, and it matches the purpose of the reserve, **Section 151 Officer** approval is required. If the source of funding is the Council's General Fund, following consultation with the **Section 151 Officer**, the supplementary estimate is subject to the approval of the **Cabinet** (*via the Financial Update reports*) (**£100,000 or more**), or the **Cabinet Member with responsibility for Finance** (up to **£100,000**).

Where supplementary funding is granted for a project that slips into a later year, the supplementary funding can be re-profiled from the year of award, and into the following financial year, without the need for further approval up to a threshold of **£100,000** and provided that:

- (a) the funding is still being used for the approved purpose; and
- (b) the total agreed amount is not exceeded.

Where supplementary funding is granted for a project that progresses ahead of schedule, the supplementary funding may be brought forward into an earlier year in consultation with the **Section 151 Officer**, up to a threshold of **£100,000**, provided that:

- (a) The funding is still being used for the approved purpose;
- (b) The total agreed amount is not exceeded.

The approval of the **Cabinet Member with responsibility for Finance** is required to reprofile supplementary estimates between financial years that:

- (a) Are in excess of **£100,000**; and
- (b) Extend the period of utilisation by more than one year beyond the original agreed period of utilisation.

Any supplementary funding provided **must** only be spent for the purposes for which it was approved. This means that:

- (a) The **Section 151 Officer** may withdraw supplementary funding if it becomes apparent that the funding is not being used for the agreed purpose; and
- (b) Funding that is no longer needed for the approved purpose must be returned to the reserve from which it was allocated unless directed otherwise by the **Section 151 Officer**.

4.4. Treatment of year end balances

4.4.1. Carry forward scheme

In certain circumstances, it is permissible to transfer resources between financial years. That is, to:

- (a) carry unspent budget forward for use in the following year; or
- (b) fund an overspend in the current year from next year's budget allocation.

The **Section 151 Officer** is responsible for agreeing with the **Cabinet Member with responsibility for Finance** the procedures for carrying forward under and overspends. The **Section 151 Officer** administers the agreed scheme in accordance with the guidelines agreed by the **Cabinet Member with responsibility for Finance**. Such guidelines will state, as a minimum, the carry forwards will only be approved where the underspend is in respect of an amount originally allocated for a specific purpose and spend has been delayed for a legitimate reason.

All requests to carry unspent budget forward will be subject to approval by the **Section 151 Officer** and reported to Cabinet for information. Whilst such requests may be approved prior to the end of a financial year, no carry forward requests will be guaranteed prior to consideration by Cabinet of the final outturn position upon closure of the accounts. This is because the Council's ability to support the carry forward requests will need to be assessed in the context of the overall financial position of the authority.

The **Section 151 Officer** will advise the **Cabinet Member with responsibility for Finance** if, after consultation with the relevant Director(s), the amount of any unspent budget that a service is permitted to carry forward into the following financial year should be reduced by

the value of any **supplementary estimates** provided during the year for the purpose of funding controllable expenditure.

Overspends will be carried forward and deducted from the relevant service's budget in the following year unless the Cabinet agrees otherwise.

Where a Service identifies the need to incur expenditure in the current financial year for which budget provision has been made in the following year's budget, a supplementary estimate can be requested when this is done in a planned way, and in advance of the expenditure being incurred. In this instance the following year's budget will be correspondingly reduced and the current year's increased expenditure will not be categorised as an overspend.

4.4.2. Trading activities

Internal trading activities' surpluses are carried forward, unless determined otherwise by the **Section 151 Officer** or **Cabinet Member with responsibility for Finance** (and subject to the considerations outlined in paragraph 3.6.3). Any deficits, however they arise, will be financed by a withdrawal from the relevant Trading Activity's accumulated reserves, or from an approved contribution from the General Fund (*see paragraph 3.6.2*).

4.4.3. Partnership schemes

The funding of some partnership schemes is ring-fenced (*including the contribution made by the Council*) and is not therefore available for alternative use by the Council. The unspent balances on approved partnership schemes will be carried into an earmarked Partnerships Reserve, which can be drawn upon to finance expenditure by the partnerships in a subsequent year.

4.4.4. Grant funded schemes

Where revenue grants and contributions are recognised as income in advance of the related expenditure being incurred, the unspent grant may be carried into an earmarked grants equalisation reserve, which can be applied, and matched with the related expenditure, in a subsequent year.

All amounts carried into the grant equalisation reserve will initially be ring-fenced for the purpose(s) for which the grants and/or contributions were given. The **Section 151 Officer** will advise the **Cabinet Member with responsibility for Finance** if any amounts no longer need to be retained for the purposes for which the grants or contributions were given. The **Cabinet Member with responsibility for Finance** will then determine whether the excess balances are transferred to the General Fund or another reserve.

4.4.5. Dividends received

Dividends received from subsidiaries of the Council will be treated as corporate income and use of such income will be determined by the **Cabinet Member with responsibility for Finance**.

4.5. Capital monitoring and control

4.5.1. Approval to spend

Once the capital programme or a scheme is approved, Directors are, subject to the rule in the Constitution that officers may not take a Key Decision and limits within the scheme of delegation to officers, authorised to progress with capital projects that have:

- (a) An approved 'start' date in the current or a prior financial year (*i.e. schemes with a start date in a future financial year are indicative only, and do not constitute approval to spend*); and
- (b) Adequate scheme and payments approval in the capital programme to finance these projects.

4.5.2. Framework for budgetary control

The principles and framework for managing the revenue budget (*as set out within paragraphs 4.3.1 and 4.3.2*) apply equally with regards to the monitoring and management of individual capital projects within their scheme and payment approvals.

4.5.3. Scheme of virement

In the event that an overspend arises against a capital scheme, corrective action must be taken to remedy the position.

Where it is intended to redress an overspend by utilising savings against another approved project the following permission will be required to vary the payment guidelines and scheme approvals for both projects:

Amount	Minimum approval required
Up to and including £25,000	Assistant Director (<i>following consultation with the Section 151 Officer, to ensure that there are no adverse implications upon capital financing resource, and the Budget Holder</i>)
In excess of £25,000, but not more than £50,000	Director (<i>following consultation with Section 151 Officer and Service Cabinet Member(s)</i>) unless the saving being utilised is greater than 25% of the scheme approval that it is to come from, in which case the next level of approval is required.
More than £50,000, but not more than £100,000	Cabinet Member with responsibility for Finance (<i>following consultation with Director, Section 151 Officer and Service Cabinet Member(s)</i>)

Amount	Minimum approval required
More than £100,000	Cabinet (following consultation with Cabinet Members as above, Director and Section 151 Officer)

The scheme of virement, as set out in paragraph 4.3.3, does not otherwise apply to capital expenditure, as approval to capital expenditure is given on a scheme by basis, rather than by portfolio/service.

4.5.4. Re-profiling of payment guidelines between years

Where it is anticipated that a scheme with approval to 'start' will be progressed at a different rate to that scheduled (such that expenditure is expected to vary from the approved payment guideline for the year) approval must be sought to re-profile the payment guidelines for the scheme (or block approval).

For a scheme with approval to 'start', the re-profiling of the capital payment guidelines between financial years is subject to agreement as follows:

Amount	Minimum approval required
Up to and including £50,000	Director (following consultation with the Section 151 Officer , to ensure that there are no adverse implications upon capital financing resources, and Budget Holder)
In excess of £50,000, but not more than £100,000	Director (following consultation with Section 151 Officer , Cabinet Member with responsibility for Finance and Service Cabinet Member , unless the amount being re-profiled is greater than 25% of the scheme approval, in which case the next level of approval is required.
More than £100,000, but not more than £250,000	Cabinet Member with responsibility for Finance (following consultation with Director , Section 151 Officer and Service Cabinet Member)
More than £250,000	Cabinet (following consultation with Cabinet Members as above, Director and Section 151 Officer)

The above approval will also be required where it is intended to accelerate a scheme that is within the Capital Programme with an indicative start beyond the current financial year, where it is proposed to change the start date to within the current financial year.

4.5.5. Adding scheme and payment approvals to the Capital Programme

Schemes will usually only be added to, or removed from, the Capital Programme as part of the annual budget setting process referred to in paragraph 3.4.2.

Any request outside of this process to change the capital programme by adding or removing schemes, or by allocating additional scheme and payment approvals to an approved scheme, must be approved as follows:

Amount	Minimum approval required
Any value where it is funded by new external funding and has no adverse impact on Council resources	Section 151 Officer
Up to £100,000	Cabinet Member with responsibility for Finance (following consultation with the Director , Section 151 Officer and the Service Cabinet Member)
£100,000 and above	Cabinet (following consultation with all of the above)

4.6. Trading activities

Trading activities must manage their income and expenditure to an overall financial target (see paragraph 3.6.2); in doing so, trading activities must operate within the Council's framework for budgetary control (as outlined within paragraph 4.3.2).

Cabinet approval is required to alter a trading activity's overall financial target (via the quarterly Financial Update reports).

Where the proposed target reflects a worsening position that will result in a loss for the year, the request to amend the financial target must explain how the loss is to be financed and the plans for recovery from this position. Where a surplus is now forecast, above that previously reported, the request to amend the target must explain whether and why the additional surplus is to be retained by the trading activity.

5. Accounting records and financial systems

5.1. Accounting records

Maintenance of proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources.

The **Section 151 Officer** is responsible for determining the accounting procedures and records for the Council, and for the compilation of all accounts and accounting records.

The Council's accounting records are maintained within its General Ledger. The General Ledger records all sums of money received and expended and all the assets, liabilities and reserves of the Council, and the matters to which the income and expenditure, assets, liabilities and reserves relate. This information is captured by assigning an account code, at source, to every transaction and balance. The integrity of the Council's financial reporting for management and statutory purposes is dependent upon account codes being assigned to transactions and balances correctly at source, in compliance with the Council's standard coding conventions.

Directors are responsible for ensuring that their services (*including those delivered through strategic partnerships*) comply with the coding conventions adopted within the General Ledger. This includes adherence to standard subjective classifications for categories of income, expenditure, assets, liabilities and reserves. The requirement to adhere to this standard classification applies even where expenditure is matched fully by income.

In the event that application of this standard classification results in under or overspends, appropriate action must be taken to re-align the budgets (*see paragraphs 4.3.3 and 4.3.4*); the guiding principle being that budget provision should follow expenditure and/or income, and not vice versa.

5.2. Annual statement of accounts

The Council has a statutory responsibility to prepare an annual Statement of Accounts that:

- (a) presents a 'true and fair view' of its financial performance during the year and of its financial position at the year-end; and
- (b) Is produced, presented for public inspection and external audit and published to specified timescales.

The **Section 151 Officer** is responsible for ensuring that these requirements are met. In particular, the **Section 151 Officer** will:

- (c) Select suitable accounting policies that comply with relevant codes of practice and other applicable accounting standards and statutory provisions.
- (d) Issue accounting instructions on closure of the annual accounts to budget holders, including a timetable.

- (e) Sign and date the Statement of Accounts, thereby confirming that the accounts give a 'true and fair' view of the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March.
- (f) Submit the accounts to the external auditor and make proper arrangements to support the audit of the Council's accounts and for making the accounts available for public inspection.
- (g) Publish the Statement of Accounts upon completion of the external audit for the year.

Every budget holder must comply with the accounting instructions issued by the **Section 151 Officer** on closure of the accounts, and supply the information requested by the dates specified.

5.3. Financial systems

The **Section 151 Officer** has responsibility for ensuring that the Council's financial systems (*including any financial elements of non-financial or integrated systems*) are sound, properly maintained and held securely. The **Section 151 Officer** will therefore determine the accounting systems, form of accounts and supporting financial records.

Directors must ensure that prior approval is obtained from the **Section 151 Officer** and the Assistant Director with responsibility for Information Technology to:

- (a) operate any financial system (including any elements of a non-financial or integrated system relied upon for financial reporting purposes) within or on behalf of their area of responsibility.
- (b) make changes to any such systems already being operated within a service area.

The 'go live' sign-off criteria, as defined by the Assistant Director with responsibility for Information Technology, must be complied with in respect of implementation or amendment to any financial systems (*or non-financial or integrated system relied upon for financial reporting purposes*) operated within, or on behalf of, a Service area.

A S151 Officer Change Request must be submitted to the **Section 151 Officer** for approval prior to making any changes to such systems.

All finance systems must be documented and backed up, and disaster recovery and business continuity plans must be maintained to allow information system processing to resume quickly in the event of an interruption.

Directors will ensure that an adequate audit trail exists through any computerised finance system operated within their own areas and that audit reviews are being carried out as necessary.

Where appropriate, the data processed by computer systems will be notified to the Information Commissioner in accordance with data protection legislation.

Relevant policies and guidelines for computer systems and equipment that are issued by the Assistant Director with responsibility for Information Technology will be observed.

DRAFT

6. Risk management and internal control

6.1. Introduction

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

6.2. Risk management

Risk management is concerned with evaluating the measures in place, and the actions needed, to identify and control risks effectively. The objectives are to secure the Council's assets and to ensure the Council's continued financial and organisational wellbeing.

The **Audit and Governance Committee** considers the Council's Risk Management Policy and Strategy, and advises on any action necessary to ensure compliance with best practice, and the Cabinet approves it. The Council's Leadership Team keeps under review the strategic risk register and promotes a culture of risk management awareness throughout the Council.

The **Director** with responsibility for **Risk Management** is responsible for preparing the Council's Risk Management Policy and Strategy, and for promoting it throughout the Council where appropriate. The **Director** with responsibility for **Risk Management** will:

- (a) Ensure that procedures are in place to identify, assess and prevent or contain material risks, and also allow for the identification and management of positive opportunities.
- (b) Regularly review the effectiveness of risk reduction strategies and controls.
- (c) Engender a positive attitude towards the control of risk.
- (d) Provide relevant information on risk management initiatives, and training on risk management.
- (e) Ensure that acceptable levels of risk are determined.

The **Director** with responsibility for **Risk Management** is also responsible for:

- (a) Developing risk management controls, including Business Continuity Planning, in conjunction with other Directors and Assistant Directors.
- (b) Ensuring that the Council has effective business continuity plans for implementation in the event of disaster which results in significant loss or damage to its resources and threatens its activities.

Directors must have regard to the advice of the **Director** with responsibility for **Risk Management**, and adhere to the Council's Risk Management Policy and Strategy. Specifically, Directors must:

- (a) Take full ownership of all risks within their areas of responsibility, including those related to partnerships in which their services participate.

- (b) Ensure that risk management is implemented in line with the Council's Risk Management Strategy and the minimum standard for business planning process.
- (c) Appoint a Risk Coordinator for the directorate and authorise them to progress effective risk management that adheres to corporate guidelines.
- (d) Identify and manage risks and ensure that mitigating actions are regularly reported.
- (e) Have regard to other specialist officers (*e.g. information governance, health and safety*).
- (f) Ensure there are appropriate arrangements within their service area to identify risk issues and take appropriate action to mitigate the effects of them and maximise opportunities. This includes ensuring that the relevant officers are trained to manage risk and where required provide a defence for the Council.
- (g) Make sure that consideration is given and appropriate arrangements are made to ensure service delivery by 3rd party providers and delivery vehicles.
- (h) Ensure that service programme, project and partnership risk registers are compiled, and kept up to date.

6.3. Insurance

The Cabinet is responsible for ensuring that proper insurance arrangements exist. The **Section 151 Officer** is responsible for advising the Cabinet on proper insurance cover, and will:

- (a) Effect corporate insurance cover, through external insurance and internal funding, and negotiate all claims in consultation with other officers, where necessary.
- (b) Include all appropriate employees of the Council in suitable fidelity guarantee insurance.
- (c) Ensure that provision is made for losses that might result from identified risks.
- (d) Ensure that procedures are in place to investigate claims within required timescales.
- (e) Be aware of and manage effectively operational risk to the Council.

The settling of insurance claims against the Council will be subject to approval as follows:

Amount	Minimum approval required
Up to £20,000	Claims Lead
In excess of £20,000 and up to £50,000	Insurance Manager
In excess of £50,000 and up to £100,000	Assistant Director with responsibility for Insurance Manager in consultation with the Section 151 Officer
In excess of £100,000	Section 151 Officer in consultation with the Cabinet Member with responsibility for Finance

The **Section 151 Officer** shall notify the **Cabinet Member with responsibility for Finance** if the total amount paid to claimants during a financial year exceeds **£100,000** with respect to any of the following classes of claim:

- (a) Employer Liability
- (b) Public Liability (Highways claims)
- (c) Public Liability (Non Highways claims)
- (d) Property
- (e) Motor
- (f) Other

If the **£100,000** threshold is exceeded for any financial year the **Cabinet Member with responsibility for Finance** may ask to be consulted on further proposed settlements in the category concerned for the remainder of that financial year.

Directors must comply with all relevant Insurance terms and conditions, and in particular must:

- (a) Notify the **Section 151 Officer** immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the **Section 151 Officer** or the Council's insurers.
- (b) Notify the **Section 151 Officer** promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- (c) Consult the **Section 151 Officer** and the **Monitoring Officer** on the terms of any indemnity that the Council is proposing to give.
- (d) Ensure that employees, or anyone covered by the Council's insurances, do not admit or imply liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

6.4. Internal control and the governance framework

The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its strategic objectives and statutory obligations. Internal controls are devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

It is the responsibility of the **Section 151 Officer** to assist the Council to put in place an appropriate control environment and effective internal controls that adhere with proper practices, and provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

The system of internal control is a significant part of the Council's governance framework.

The **Section 151 Officer** will compile an Annual Governance Statement each year. The Governance Statement will be compiled with reference to proper practices in relation to governance (*principally the CIPFA/SOLACE guidance 'Delivering Good Governance in Local Government'*).

The governance framework, control environment and internal controls include:

- (a) Identification and communication of the Council's vision of its purpose and intended outcomes for residents and service users.
- (b) Reviewing the Council's vision and its implications for the Council's governance arrangements.
- (c) Measuring the quality of services for users, and ensuring they are delivered in accordance with the Council's objectives and that they represent the best use of resources.
- (d) Making proper arrangements for project management.
- (e) Defining and documenting the roles and responsibilities of the executive, non-executive, scrutiny and officer functions, with clear delegation arrangements and protocols for effective communication.
- (f) Developing, communicating and embedding codes of conduct, defining the standards of behaviour for members and staff.
- (g) Reviewing and updating standing orders, standing financial instructions, a scheme of delegation and supporting procedural notes/manuals, which clearly define how decisions are taken and the processes and controls required for managing risks.
- (h) Undertaking the core functions of an Audit Committee, as identified in CIPFA's Audit Committees – Practical Guidance for Local Authorities.
- (i) Ensuring compliance with relevant laws and regulations, internal policies and procedures and that expenditure is lawful.
- (j) Whistle blowing and arrangements for receiving and investigating complaints from the public.
- (k) Establishing clear channels of communication with all sections of the community and other stakeholders, ensuring accountability and encouraging open consultation.
- (l) Incorporating good governance arrangements in respect of partnerships and other group working and reflecting these in the Council's overall governance arrangements.
- (m) Policies, objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action.
- (n) Financial and operational control systems and procedures which comprise physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.
- (o) Maintaining an effective internal audit function that is appropriately resourced, and which operates in accordance with the principles contained in the Auditing Practices Board's auditing guideline Guidance for Internal Auditors, CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

It is the responsibility of Directors to:

- (a) 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.

- (b) Manage processes to check that controls are adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- (c) Communicate responsibilities, codes of conduct and the importance of good governance arrangements to their staff and ensure that they understand the consequences of lack of control and inadequate governance arrangements.
- (d) Review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the **Section 151 Officer**. Directors should also be responsible, after consultation with the **Section 151 Officer**, for removing controls that are unnecessary.
- (e) Undertake self-assessments of the status of the governance framework, including systems of internal control for each of their service areas, as directed by the **Section 151 Officer**.
- (f) Support internal audit in any review being undertaken within their area and respond to issues raised within audit reports within the agreed timescale.

6.5. Preventing fraud and corruption

6.5.1. Counter fraud and anti-bribery strategy

The Council has an effective anti-fraud and corruption policy and maintains a culture that will not tolerate fraud or corruption. It is the responsibility of the **Section 151 Officer** to maintain the Council's anti-fraud and anti-corruption policy.

Directors must ensure that this policy is adhered to and that all appropriate action is taken. This will include reporting all suspected irregularities to the **Counter Fraud Team**.

6.5.2. Declaration of Interests

To avoid giving rise to suspicion about the honesty and integrity of the Council or its employees, or giving the impression of corruption or improper behaviour, all interests of a personal and/or financial nature with external bodies or persons who have dealings with the Council, or any other interests which could conflict with an officer's duties, must be declared in accordance with the Code of Conduct for Employees.

6.5.3. Gifts and hospitality

Officers must be cautious regarding offers of gifts and hospitality as acceptance can easily give the impression of improper behaviour or favour.

The Council's Code of Conduct for Employees explains how offers of gifts and hospitality are to be dealt with, including what can be accepted, what cannot be accepted and what must be declared. In accordance with the policy, the Assistant Director with responsibility for Human Resources must ensure that a Gifts and Hospitality register is established and maintained.

6.5.4. Whistle blowing

In accordance with the Council's whistle blowing policy, financial irregularities must be reported to the **Head of Internal Audit**. The **Head of Internal Audit** will report significant matters to the Chief Executive, Cabinet and the Audit and Governance Committee.

6.5.5. Standards of conduct

The full responsibilities with regard to standards of conduct for officers are set out in the Code of Conduct for Employees and the standards for members are set out in the Constitution.

6.5.6. Money laundering

Money laundering is defined as:

- (a) Concealing, disguising, converting, transferring or removing criminal property from the Country.
- (b) Being concerned in an arrangement which a person knows of, suspects or facilitates the acquisition, retention, use or control of criminal property.

In accordance with the Council's Counter-Money Laundering Policy, all suspected attempts to use the Council to launder money must be reported to the **Counter Fraud Team**.

Directors must ensure that their staff understand what money laundering is and of their obligations under the money laundering legislation, so that they can recognise situations that might lead to suspicions of money laundering arising.

When a person knows or suspects that money laundering activity is taking place (or has taken place) or becomes concerned that their involvement in a matter may amount to a prohibited act under the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2011, they must disclose this as soon as practicable or risk prosecution.

To mitigate the risks of the Council being used to launder money:

- (a) cash payments exceeding **£5,000** will not be accepted other than with the prior approval of the **Section 151 Officer**.
- (b) receipts and payments unrelated to the Council's own activities will not be paid into or from an Castle Point bank account without the prior approval of the **Section 151 Officer**.

6.5.7. Anti-bribery policy

In accordance with the Council's Counter Fraud, Bribery and Corruption Policy, the detection, prevention and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. Bribery is an inducement or reward offered, promised or provided to gain personal, commercial,

regulatory or contractual advantage. The Bribery Act has been enacted to enable robust action against such activity.

6.5.8. Promoting good governance

Directors are responsible for ensuring that all required members of staff in their services complete any mandatory governance training provided via e-learning modules on the Council website. Directors are also responsible for ensuring that new employees undertake the relevant modules of the e-learning training within six weeks of the commencement of their employment, and that all staff refresh their learning every 36 months, or as specified.

6.6. Audit requirements

6.6.1. External audit

The duties of the external auditor are defined by the **Local Audit and Accountability Act 2014**, as well as the Code of Audit Practice and relevant auditing standards. In particular, the external auditor must:

- (a) Be satisfied that the Council has complied with the applicable enactments.
- (b) Be satisfied that proper practices have been observed by the Council in the preparation of its annual Statement of Accounts.
- (c) Be satisfied that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- (d) Express an opinion on whether the Council's annual Statement of Accounts:
 - Provide a true and fair view of the financial position and income and expenditure for the period in question.
 - Have been prepared properly, in accordance with the relevant accounting and reporting framework as set out in legislation and applicable accounting standards.
- (e) Certify completion of the annual audit.
- (f) Consider whether to issue a report in the public interest.
- (g) Consider whether to make a written recommendation to the Council, copied to the Secretary of State.

The External Auditor must be given reasonable and timely access to premises, personnel, documents and assets that it is considered necessary for the purposes of their work.

The Council may, from time to time, also be subject to audit, inspection or investigation by other bodies such as HM Revenue and Customs who have statutory rights of access too.

Whilst the External Auditor and other statutory inspectors must comply with statutory and other relevant requirements relating to the security, transfer, holding, disclosure and disposal of information received or obtained during the course of their audit or inspection work, regard must nevertheless be given to sensitivity of data requested by the external auditor or other statutory inspector. If there is any doubt about whether it is appropriate

to provide such data to the external auditor or other statutory inspector, advice should be sought from the **Section 151 Officer** and/or the **Monitoring Officer**.

Services must respond promptly to external audit and inspection recommendations in writing, detailing the action intended to address the recommendations.

6.6.2. Internal audit

The requirement for an internal audit function for local authorities is imposed by regulation 5 of the Accounts and Audit Regulations 2015 and reinforced by Section 151 of the Local Government Act 1972, which requires that authorities 'make arrangements for the proper administration of their financial affairs'.

The Accounts and Audit Regulations 2015 more specifically require authorities to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance. The findings of these internal audits are considered by the **Audit and Governance Committee** on behalf of the Council as part of the consideration of the system of internal control referred to in paragraph 6.4.

Internal audit is an independent and objective appraisal function, established by the Council for reviewing the systems of internal control and assists the Council's stakeholders on business objectives and related risks and, thereby, contributes strategically to the organisation.

The internal auditors adhere to proper practices in relation to internal control; specifically, the CIPFA Code of Practice on Internal Audit in Local Government in the United Kingdom, IIA (Institute of Internal Auditors) and the COSO (Committee of Sponsoring Organisations) risk framework. They examine, evaluate and report upon the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

The internal auditors have the authority to:

- (a) Access any Council premises, assets, records, documents and correspondence, and control systems.
- (b) Receive any information and explanation related to any matter under consideration.
- (c) Require any employee of the Council to account for cash, stores or any other asset under his or her control.
- (d) Access records belonging to third parties (e.g. Contractors) when required.
- (e) Directly access the Chief Executive, the Cabinet, the Audit and Governance Committee and Executive Scrutiny Committee.

The **Section 151 Officer** and the **Audit and Governance Committee** are required to approve an Annual Audit Plan, a draft of which will be prepared by the **Chief Audit Executive** (at the time of writing, this role is fulfilled by the Head of Internal Audit). The Annual Audit Plan will take account of the characteristics and relative risks of the Council's activities. The **Section 151 Officer** and the **Audit and Governance Committee** will also

ensure that effective procedures are in place to investigate promptly any suspected fraud or irregularity.

Services must respond to internal audit reports in writing, within a timescale agreed as part of the internal audit methodology detailing the action intended, responsible officer, timescale for implementation and whether the action will require additional resources, to address all agreed recommendations. The relevant Assistant Directors must ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

The **Chief Audit Executive** will maintain a record of all reports and allegations of suspected fraud, corruption or other financial irregularity in respect of funds and assets that are the responsibility of the Council and will ensure that appropriate action is taken to investigate these.

The **Chief Audit Executive** will be given the opportunity to evaluate the adequacy of new systems, or changes to existing systems, for maintaining financial records or records of assets, in a timely manner before live operation.

DRAFT

7. Control of resources

7.1. Assets

7.1.1. Security of assets

The Council holds non-current assets in the form of property, land, infrastructure, vehicles, plant and equipment which are collectively worth many millions of pounds. These assets must be safeguarded and used efficiently.

All staff have a responsibility for safeguarding the Council's assets and information, including safeguarding the security of the Council's computer systems and paper records, and for ensuring compliance with the Council's computer and Internet security policies.

The Assistant Director, Estates will undertake the role of 'corporate landlord' on the Council's behalf and will:

- (a) Ensure the proper security and maintenance of all premises occupied and/or owned by the Council.
- (b) Hold the title deeds for all Council properties.

Directors and Assistant Directors will:

- (a) Advise the Assistant Director, Estates of any situation where security of Council premises is thought to be defective or where it is considered that special security arrangements may be needed.
- (b) Ensure that no Council asset is subject to personal use by an employee without proper authority.
- (c) Ensure the safe custody of vehicles, equipment, furniture, inventory, stores and other property belonging to the Council.
- (d) Ensure cash holdings on premises are kept to a minimum.
- (e) Ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the relevant Assistant Director and the **Chief Audit Executive**.

7.1.2. Asset register

The **Section 151 Officer** is responsible for the maintenance of a corporate register of the Council's property, plant and equipment assets. This register forms the basis of Balance Sheet reporting on all property, plant and equipment assets held by the Council.

This 'Asset Register' is maintained, in accordance with the requirements of the CIPFA Code of Practice on Local Authority Accounting in the UK and the underlying accounting standards, for:

- (a) All items capitalised in accordance the guidelines set out with paragraph **3.4.1** that are expected to be used and controlled by the Council during more than one financial year; and

- (b) Items that the Council has acquired under the terms of a lease or similar arrangement.

This means that the 'Asset Register' is maintained for:

- (a) All land held by the Council.
- (b) Buildings held and being used by the Council for operational purposes, including those held under the terms of a lease.
- (c) Buildings held for investment purposes.
- (d) Land and buildings deemed to be surplus to current requirements and/or held pending disposal.
- (e) All highways infrastructure (*e.g. roads, structures, traffic management systems etc.*) that, when acquired, was capitalised in accordance with the guidance set out within paragraph **3.4.1**.
- (f) All vehicles, plant and equipment (*including IT hardware*) and intangible assets (*mainly IT software*) that:
 - when acquired, were capitalised in accordance with the guidance set out within paragraph **3.4.1**; or
 - Is held under the terms of a lease or similar arrangement.

Assistant Directors will provide the **Section 151 Officer** with any information necessary to maintain the Asset Register. This will include confirmation, and the location, of moveable assets, which should be appropriately marked and insured.

The Assistant Director, Estates, in conjunction with the **Section 151 Officer**, will ensure that land and building assets that are required to be measured at 'current value' are re-valued, as part of a rolling programme, in accordance with:

- (a) The requirements of the CIPFA Code of Practice on Local Authority Accounting in the UK; and
- (b) Methodologies and bases for estimation set out in relevant professional standards and codes of practice (*including those of the Royal Institute of Chartered Surveyors (RICS) and the Chartered Institute of Public Finance and Accountancy*).

7.1.3. Use of property other than for direct service delivery

The use of property other than for direct service delivery will be subject to prior agreement of, and in accordance with terms and conditions specified by, the Assistant Director, Estates.

Prospective occupiers of Council land and buildings are not permitted to take possession or enter the land and buildings until a lease or agreement, in a form approved by the Assistant Director, Estates, has been put in place.

7.1.4. Property transactions

The Council enters into a variety of property agreements, including (but not limited to):

- (a) Freehold acquisitions and disposals.

- (b) Long leasehold acquisitions and disposals.
- (c) Short leases as tenant and as landlord.
- (d) Section 106 agreements as landowner.
- (e) Release of covenants.
- (f) Compulsory acquisitions and land compensation claims.
- (g) Taking and granting easements.
- (h) Option Agreements; and
- (i) Lease surrenders and exit agreements (including dilapidations).

Each of these transactions has a financial consequence for the Council.

Approval is required to authorise any of these property transactions, and to declare properties surplus to requirements, as follows:

Amount	Minimum approval required	
	Operational and surplus properties	Investment properties
Up to £5,000	Assistant Director, Estates	Section 151 Officer
£5,000 and above, but less than £20,000	Director, Commercial & Assets	(following consultation with the Director, Commercial & Assets)
£20,000 and above, but less than £50,000	Director, Commercial & Assets (following consultation with the Cabinet Member with responsibility for Property)	Section 151 Officer (following consultation with the Cabinet Member with responsibility for Finance)
£50,000 and above but less than £250,000	The Cabinet Member with responsibility for Property (following consultation with Director, Commercial & Assets, Section 151 Officer and the Cabinet Member with responsibility for Finance).	The Cabinet Member with responsibility for Finance (following consultation with the Leader and Section 151 Officer).
£250,000 and above	Cabinet	Cabinet

The financial thresholds for all property transactions apply to decisions based on the open market value (i.e. the value based on highest and best use, taking account of any information the Council has about the purchaser's proposals for the land acquired) of the interest in the land or property reasonably foreseeable at the date of the approval, and not to the actual money involved.

Any moveable assets located within properties proposed for sale, that would be included as part of the sale (e.g. paintings), will be subject to separate consideration in accordance with paragraph 7.1.5.

All property transactions must be subject to considered against the key decisions criteria as per the Constitution.

Once land and buildings have been declared surplus to requirements, the **Assistant Director, Estates** will arrange for the disposal of these assets in accordance with the Council's property strategy and only then when it is in the best interests of the Council and when best value is obtained.

The approval of the **Cabinet Member** with responsibility for **Finance** must be obtained (*after consulting the Cabinet Member with responsibility for Property, if different, and Section 151 officer*) if it is proposed to dispose of the freehold (or an unexpired leasehold interest) of the Council's interest in a property (in full or in part) at a value which is below market value.

The proceeds from the sale of all land and buildings previously held by the Council for operational purposes will (*subject to certain statutory limitations*) be pooled and applied to finance future capital investment or for any other purpose permitted by Regulation; no such capital receipts will be earmarked for use by a specific service.

In relation to the proceeds from the sale of investment properties, these may be reinvested as deemed appropriate by the **Section 151 Officer**.

The **Assistant Director, Estates** will advise on best practice for disposal of other assets that are deemed surplus to requirements, bearing in mind factors such as environmental issues, security and data protection.

7.1.5. Disposal of other assets

From time to time there is a need to dispose of other assets that are not Property Assets. In these situations, the below approval is required:

Amount	Minimum approval required
Up to £5,000	Assistant Director
£5,000 and above, but not more than £20,000	Director
£20,000 and above, but not more than £50,000	Director (following consultation with the Section 151 Officer and Service Cabinet Member)
£50,000 and above but not more than £250,000	Cabinet Member with responsibility for Finance (following consultation with Director as above, S151 Officer and the Cabinet Member)
More than £250,000	Cabinet

The **Director, Corporate & Customer** is responsible for ensuring that the standards, policies and guidelines of decommissioning of IT equipment are well defined and communicated to all staff within the Council. The Data Protection Act must be a key consideration in the decommissioning of IT equipment.

7.2. Consumable stocks and stores

Directors will make adequate arrangements for the care and custody of consumable stocks and stores held by their services, and will maintain inventory records that document the receipt (by purchase or donation) and usage of these items.

The stock of such items should be subject to a regular independent physical check. Discrepancies between inventory records and the physical stock must be investigated and pursued to a satisfactory conclusion.

Stocks and stores must be charged to the relevant Service revenue account when consumed.

The Assistant Director (or operational budget holder) must complete a certificate at each financial year end, confirming the number and value (*i.e. value represents the lower of cost and net realisable value*) of items held in stock as at 31st March.

Obsolete stocks and stores (*ie. items that cannot be sold or consumed*) or items no longer held (*i.e. due to theft or other loss*) must be written off (*i.e. charged to the revenue account as an expense*) straight away. The minimum levels of approval required to write off stock balances are as follows and are cumulative per year for each type of stock:

Amount	Minimum approval required
Up to and including £10,000	Assistant Director
In excess of £10,000, but not more than £25,000	Director (<i>following consultation with Budget Holder and Section 151 Officer</i>)
More than £25,000	Cabinet Member with responsibility for Finance (<i>following consultation with Director, Section 151 Officer and Service Cabinet Member(s)</i>)

7.3. Cash

7.3.1. Introduction

All money in the hands of the Council is controlled by the **Section 151 Officer**. The **Section 151 Officer** is thereby responsible for providing assurances that the Council's money is properly managed in a way that balances risk with return, with the overriding consideration being given to security.

In accordance with the Council's Anti Money Laundering Policy, all suspected attempts to use the Council to launder money must be reported to the **Counter Fraud Team**.

7.3.2. Treasury management

Treasury management is an important aspect of the overall financial management of the Council. Treasury management activities are those associated with the management of the

Council's cash flows and its borrowing and investments. A fundamental aim is to effectively control the risks associated with these activities and to pursue best value, as far as that is consistent with the effective management of risk.

The Council complies with the CIPFA Treasury Management in the Public Services: Code of Practice and Cross-sectoral Guidance Notes, and has approved:

- (a) A **Treasury Management Policy Strategy**, which sets out the policies and objectives of its treasury management activities; and
- (b) A series of **Treasury Management Practices** (TMP's) which set out the manner in which the Council will seek to achieve its policies and objectives for treasury management.

The **Section 151 Officer** is responsible for maintaining the Treasury Management Policy Statement and TMP's, and for recommending any changes to Council for approval following scrutiny by the Audit and Governance Committee.

The **Section 151 Officer** will propose an annual Treasury Management Strategy to the Council in advance of the start of the relevant financial year. This Strategy will comply with CIPFA's Code of Practice on Treasury Management, relevant regulations and statutory guidance, and with the Council's own Treasury Management Policy Statement and TMP's; it will set the parameters within which investment and borrowing activity will be managed during the forthcoming financial year.

The **Section 151 Officer** is responsible for ensuring that all borrowing and investment activity is undertaken in compliance with the approved Treasury Management Strategy.

The **Section 151 Officer** will report to the Cabinet at regular intervals in each financial year, on treasury management activities undertaken within delegated powers.

All investments of money, and borrowings undertaken, on behalf of the Council will be made in the name of the Council. The **Section 151 Officer** will maintain records of such transactions.

7.3.3. Loans to third parties

The following table sets out the circumstances in which loans may be provided by the Council to third parties, and the approval required to each type of loan:

Type of loan	Minimum approval required
1. Season ticket loans made to employees	Line Manager
2. Monies invested with banks and other financial institutions	To be undertaken in accordance with the Council's Annual Treasury Management Strategy (<i>see paragraph 7.3.2 above</i>).
3. Loans to third parties (including to subsidiaries of the Council) for the purpose	Such a loan constitutes capital expenditure by the Council (<i>and the repayment constitutes a capital</i>

Type of loan	Minimum approval required
of financing expenditure which, if incurred by the Council, would constitute capital expenditure	<i>receipt</i>) and so requires Capital Programme approval (<i>see paragraphs 3.4.2 and 4.5</i>).
4. Loans to third parties (including to subsidiaries of the Council) for other purposes (e.g. to support cash flows)	<p>Subject to the following approval:</p> <ul style="list-style-type: none"> • Less than £20,000 - Section 151 Officer • £20,000 and above but less than £50,000 - Cabinet Member with responsibility for Finance (<i>following consultation with the Section 151 Officer</i>) • £50,000 and above - Cabinet

The rate of interest chargeable on loans falling into categories **3** and **4** above will be determined in consultation with the **Section 151 Officer**, having due regard to the subsidy control requirements applicable in the United Kingdom.

The repayments arising from a loan falling into category **3** above are deemed to be capital receipts. These capital receipts will be applied to repay the amounts loaned.

7.3.4. Bank accounts

The opening or closing of any Council bank account will require the prior approval of the **Section 151 Officer** and must be managed in accordance with directions issued by them.

The opening of additional bank accounts (including escrow accounts and performance bonds) in the Council's name is to be avoided if possible. Where money is to be held temporarily as a bond or in joint names, this can usually be more readily achieved by use of a holding account within the Council's accounts.

As noted in paragraph 6.5.6, cash unrelated to the Council's own activities will not be paid into a Castle Point bank account without the prior approval of the Section 151 Officer.

7.3.5. Imprest accounts

Wherever possible, purchase cards will be used for low value transactions for which there is no mandated procurement contract in place (*the use of purchase cards is covered further in section 8.2*). However, in the limited circumstances when purchase cards cannot be used, the **Section 151 Officer** may provide bank imprest (petty cash) accounts to meet minor expenditure on behalf of the Council.

The **Section 151 Officer** will:

- (a) Prescribe rules for operating an imprest account.

- (b) Determine the amount of each imprest account.
- (c) Will maintain a record of all transactions and cash advances made; and
- (d) Periodically review the arrangements for the safe custody and control of these advances.

Employees operating an imprest account will:

- (a) Obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained.
- (b) Make adequate arrangements for the safe custody of the account.
- (c) Produce cash and all vouchers to the total value of the imprest amount.
- (d) Record transactions promptly.
- (e) Reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder.
- (f) Ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made.
- (g) Provide the **Section 151 Officer** with a certificate of the value of the account held at each 31 March.

7.3.6. Trust funds and funds held for third parties

All trust funds will, wherever possible, be held in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities relating to the trust with the **Section 151 Officer** unless the deed provides otherwise.

Trust funds will be operated within any relevant legislation and the specific requirements for each trust.

Where funds are held on behalf of third parties, for their secure administration, records will be maintained of all transactions.

7.4. Staffing

The **Head of Paid Service** is responsible for providing overall management to staff and is also responsible for ensuring that there is proper use of evaluation or other agreed systems for determining the remuneration rate for job roles.

Directors have primary responsibility for their establishment and are accountable for compliance with establishment and financial controls. Directors are responsible for ensuring that positions are only created as new requirements and associated funding emerge and are deleted or modified as needs and funding change. They will ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

The **Section 151 Officer** and **Assistant Director, People & Engagement** will advise on areas such as National Insurance and pension contributions, as appropriate.

7.5. Intellectual property

Intellectual property is a generic term that includes inventions and writing. If an employee creates these during the course of employment then, as a general rule, they belong to the Council, not to the employee.

Directors will ensure that their staff are not conducting private work in Council time and that their staff are aware of the Council's rights with regard to intellectual property.

Instances where intellectual property has been (or may be) created which has, or may have, commercial value to the Council should be referred to the relevant Director(s).

DRAFT

8. Income and Expenditure

8.1. Income

8.1.1. Introduction

Effective income collection systems are necessary to ensure that all income due to the Council is identified, collected and banked properly.

Whenever possible, income should be collected in advance of supplying goods or services, to minimise the time and cost required to administer debts and to avoid bad debts.

It is the responsibility of Directors to ensure that staff authorised to act on their behalf in respect of income collection are clearly identified.

Directors will supply the **Section 151 Officer** with details relating to work done, goods supplied, services rendered or other amounts due, to enable invoices to be raised promptly for sums due to the Council, and to ensure that such amounts are properly recorded as due to the Council.

8.1.2. Income collection

The **Section 151 Officer** will agree the arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection.

The **Section 151 Officer** and Directors will ensure that:

- (a) All money received by, or on behalf of, the Council is paid fully and promptly into the appropriate Council bank account in the form in which it is received.
- (b) Income is not used to cash personal cheques or other payments.
- (c) Appropriate details are recorded onto paying-in slips to provide an audit trail.
- (d) A record is kept of money received directly by employees of the Council.
- (e) The receiving officer signs for the transfer of funds, and the transferor must retain a copy.
- (f) Wherever possible, at least two employees are present when post is opened so that money received by post is properly identified and recorded; this requirement must be met where post regularly contains money.
- (g) Money collected and deposited is reconciled to the appropriate bank account on a regular basis.
- (h) The responsibility for cash collection is separated from that for identifying the amount due and that responsibility for reconciling the amount due is separated from handling of the amount received.
- (i) Income is only held on premises up to levels approved by the **Section 151 Officer**. All such income will be locked away to safeguard against loss or theft, and to ensure the security of cash handling.
- (j) All appropriate income documents are retained and stored for the defined period in accordance with the Council's Information Management policies and guidance.

- (k) The **Section 151 Officer** is advised of outstanding income relating to the previous financial year as soon as possible after 31 March, and in line with the timetable for closure of the accounts determined by the **Section 151 Officer**.

8.1.3. Debt recovery

Amounts owed to the Council will be recorded by billing the customer or client in accordance with the Council's income management framework.

Directors will ensure that arrangements are in place within their areas of responsibility that define who is empowered to raise a debt on the Council's behalf.

Once debts are raised, Directors must assist the **Section 151 Officer** with collection, recovery and enforcement by responding promptly to queries and assisting with disputes in compliance.

8.1.4. Writing off debts

Directors will critically review outstanding debts on a regular basis, in conjunction with the **Section 151 Officer**, and take prompt action to write off debts no longer deemed to be recoverable.

No bona fide debt may be cancelled, other than by formal write off. Debts will only be written off if:

- (a) The Debtor is deceased, insolvent or has absconded.
- (b) The debt is statute barred.
- (c) It is uneconomical to pursue the debt.
- (d) The debt is uncollectable after exhausting all options.

The approval required to write off any debt meeting any of the above criteria is as follows:

Amount	Minimum approval required
Up to £5,000	Budget Holder
In excess of £5,000, and not more than £10,000	Assistant Director (<i>following consultation with the Budget Holder</i>)
In excess of £10,000, and not more than £25,000	Director (<i>following consultation with Assistant Director</i>)
In excess of £25,000, and not more than £50,000	Section 151 Officer (<i>following consultation with the Director</i>)

Amount	Minimum approval required
In excess of £50,000 not more than £100,000	Service Cabinet Member (<i>following consultation with the Director and Section 151 Officer</i>)
More than £100,000	Cabinet Member with responsibility for Finance (<i>following consultation with the Section 151 Officer and the Service Cabinet Member</i>)

A record must be maintained for all debts written off. The appropriate accounting adjustments must be made following approval to write-off a debt.

The manager with responsibility for the Revenues service will periodically advise the Section 151 Officer and impacted Budget Holders of the debts written off using their delegated powers. The frequency of reporting will be determined by the Section 151 Officer.

Where debts have been referred to Legal Services, the **Section 151 Officer** will have due regard to their advice when considering action relating to bad debts.

8.1.5. Credit notes

A credit note to cancel or reduce a debt can only be issued following a financial assessment of the amount payable or to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt, and once it is confirmed that the debt is not payable.

Credit notes will not be issued:

- (a) For irrecoverable debts, as the formal write off procedure should be followed.
- (b) Where the debtor cannot afford to pay at that time. The debt should remain, and revised payment terms agreed, as appropriate.
- (c) Where a debt is to be recovered through deductions from payments. In such instances, the deductions made should be offset against the debtor.

Credit notes will be subject to the approval of manager with responsibility for the Revenues service, in consultation with the operational budget holder.

8.2. Purchasing and procurement

8.2.1. Introduction

The Council applies a standardised approach to purchasing and procurement, according to the complexity and level of risk involved. Sourcing activity therefore depends on whether the work, goods or services are available via one of the Council's corporate mandated contracts and, if not, on:

- (a) What is being procured.
- (b) The value of the procurement.
- (c) The contract terms.
- (d) Whether there is likely to be a transfer of staff, safeguarding, clinical governance or information security requirements as a consequence of the procurement.

Compliance with the Council's procedures helps to ensure that value for money is obtained from its purchasing arrangements and compliance with legislation.

8.2.2. Purchasing via corporate contracts

The Council has a number of corporate mandated contracts in place through which standardised supplies and materials must be procured. Details of the corporate mandated contracts are available on the Intranet.

The Council's Purchase-to-Pay system must be used for ordering goods via a corporate mandated contract.

8.2.3. Procurement

Where there is no corporate mandated contract in place, it is necessary to follow the procurement approach laid out within the Council's Procurement Rules.

There is no requirement for competition for very low risk procurements. Very low risk procurements are those for one off purchases, up to a threshold of **£10,000 inclusive of VAT** (or such other limit as set out in the Council's Procurement Rules). Such procurements can be made using:

- (a) **Purchase Card** (in accordance with the Council's Purchase Card Policy).
- (b) **Purchase to Pay system** (currently the intranet requisition system and eProc)
- (c) **Electronic Payments Tool** (currently the eFinancials Invoice Register) only for procurements where it is not possible or practicable to use a purchase card or the Purchase to Pay system.

All other work, goods and services must be procured utilising a framework and/or following a competitive process that reflects the relative risks of the procurement (i.e. as laid out within the Council's Procurement Rules).

Officers involved with engaging contractors, and/or with purchasing decisions, must declare:

- (a) Any links or personal interests that they may have with purchasers, suppliers and/or contractors; and
- (b) Any gifts or hospitality offered by, or received from, purchasers, suppliers and/or contractors.

The necessity to make such declarations arises from the requirements outlined in paragraphs **6.5.2** and **6.5.3**.

Directors must ensure all new contracts are recorded and retained in the corporate contracts register in accordance with the Procurement Rules.

Where a third party is procuring goods, work or services on behalf of the Council then the relevant officer(s) must ensure that the third party is aware of and complies with the Council's procurement procedures.

Managers responsible for letting contracts should regularly review contractors' performance and address errors, poor performance and/or mis-representation, and to invoke service credits where applicable.

8.3. Ordering and paying for work, goods and services

8.3.1. Orders for work, goods and services

Orders for work, goods and services must:

- (a) Be in a form approved by the **Section 151 Officer**.
- (b) Be raised via one of the Council's Purchase-to-Pay systems and issued to the supplier prior to receipt of goods or services or commencement of works. The only exceptions to this are for periodic payments such as rent or rates and payments made from petty cash, using a purchase card or via the Electronic Payment Tool.
- (c) Not be raised for any personal or private purchases.
- (d) Be authorised by someone of at least the seniority set out below:
 - (i) Where the order is issued to reflect a specific procurement decision taken by Members then the order may be authorised by the operational **budget holder**.
 - (ii) In other cases the order must be authorised in accordance with the table below:

Financial limit	Minimum approval required	Allocated cost centres
£500,000 and over	Chief Executive or Section 151 Officer	All
Up to £500,000	Directors	As defined by Chief Executive
Up to £250,000	Assistant Directors	As defined by Director
Up to £25,000	Operational Budget Holder	As defined by the Assistant Director
Up to £5,000	Officers authorised to act on behalf of the Operational Budget Holder	As defined by the Assistant Director

Contracts with a value of under **£500,000** may be signed by:

- (a) A person who is authorised to issue an order for that contract; or
- (b) The **Chief Executive, Monitoring Officer** or **Section 151 Officer** (or a person authorised by any of them).

Contracts with a value of more than **£250,000** must be in writing and must be signed in accordance with the Constitution (i.e. by an **Director, Monitoring Officer, Section 151 Officer** or the **Chief Executive** or be affixed under the common seal of the Council). Electronic signatures are acceptable if in a form approved by the **Monitoring Officer**.

8.3.2. Authorised signatories

Directors must ensure that a primary approver is assigned to each cost centre code within their respective functional areas. The primary approver is the lowest level authorised signatory for a cost centre code.

Where the primary approver is not the budget holder, the primary approver must be in the line management hierarchy of the budget holder. This is because all requisitions are routed up the primary approver's line management hierarchy until reaching the person with the relevant delegated approval limit.

Assistant Directors will identify in each case the delegated limits of the primary and other approvers below the relevant budget holder, and the other staff to whom a primary or other approver can delegate their approval rights to. An approver may only reassign their authorisation rights to an officer with an equivalent or higher delegated limit to their own. No one may authorise an order unless they are satisfied that:

- (a) They have the delegated power to commit the expenditure.
- (b) The work, goods and services ordered are appropriate and needed.
- (c) There is adequate budgetary provision.
- (d) Where a suitable corporate mandated contract exists, this has been used.
- (e) Where there is no corporate mandated contract, the Council's Procurement Rules have been adhered to.

8.3.3. Receipt of work, goods and services

When work, goods and services are received they must be checked against the applicable purchase order, to ensure they are in accordance with that order. Wherever possible, goods should not be received by the person who approved the order.

For work, goods or services ordered via the Council's Purchase-to-Pay system, the quantity of work, goods and services received must be recorded on a timely basis in that system against the original purchase order (referred to as 'receipting' the purchase order). The receipting of the purchase order provides approval to pay the suppliers' invoice (to the value of the work, goods or services received) and results in the expenditure being recognised in the accounts. For these reasons, no purchase order must be 'receipted' in advance of the Council receiving the relevant work, goods or services.

For work, goods or services obtained using a **Purchase Card** it is the cardholder's responsibility to ensure that this is done in compliance with the Council's Purchase Card Policy.

8.3.4. Payment of suppliers

For items ordered via the Council's Purchase-to-Pay system, the **Section 151 Officer** will make payments from the Council's funds upon the receipt of proper original, certified copy or valid electronic VAT invoice provided that:

- (a) A valid **purchase order number** is quoted on the suppliers' invoice; and
- (b) Confirmation of receipt of the work, goods or services has been provided and the invoice is consistent with the receipted amount.

Invoices received which do not quote an approved purchase order number are not valid and will be returned to the supplier unpaid.

The **Section 151 Officer** will also make payments from the Council's funds upon the receipt of proper original, certified copy or valid electronic VAT invoices that have been checked, coded and certified in accordance with the thresholds set out in paragraph 8.3.1, confirming:

- (a) The receipt of goods or services to the correct price, quantity and quality standards.
- (b) That the invoice has not previously been paid.
- (c) That expenditure has been properly incurred and is within budget provision.
- (d) That prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices.
- (e) That discounts have been taken where available.
- (f) The correct accounting treatment of tax.

Payments to creditors will be made as soon as possible within agreed payment terms, in order to avoid late payment charges under the **Late Payment of Commercial Debts (Interest) Act 1998**, as amended by the **Late Payment of Commercial Debts Regulations 2013**.

Any invoice in dispute with a supplier must be clearly identified and processed in accordance with guidance issued by the **Section 151 Officer**.

It is not permissible to make a payment in advance of the delivery of works, goods or services, or to vary the Council's standard settlement terms, other than with the prior approval of the **Section 151 Officer**.

Directors will notify the **Section 151 Officer** immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision. In such cases, appropriate budget provision should be sought, either by way of a virement (see paragraph 4.3.3) or by way of a supplementary estimate (see paragraph 4.3.4).

The normal methods of payment by the Council shall be by:

- (a) BACS payments direct into suppliers' bank accounts.

(b) Purchase Card (*in accordance with the Council's Purchase Card Policy*).

The use of direct debits to make payments will require the prior agreement of the **Section 151 Officer**. Under no circumstances will cheque payments be made.

All appropriate evidence of the transaction and payment documents will be retained and stored in accordance with the Council's Information Management policies and guidance.

Directors must advise the **Section 151 Officer**, at the end of each financial year, of outstanding expenditure relating to the financial year just ended, in line with the timetable for closure of the accounts determined by the **Section 151 Officer**.

8.3.5. Contracts for construction and alterations to buildings / civil engineering works

The systems and procedures for dealing with the financial aspects of contracts for construction and alterations to buildings and for civil engineering works must be agreed with the **Section 151 Officer**. This will include the systems and procedures for the certification of interim and final payments, checking, recording and authorising payments, for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

8.4. Authority to make payments

For payments other than those arising from purchasing and procurement, transactions must be authorised in accordance with the table below:

Financial limit	Minimum approval required	Allocated cost centres
£500,000 and over	Chief Executive or Section 151 Officer	<i>All</i>
Up to £500,000	Directors	<i>As defined by Chief Executive</i>
Up to £250,000	Assistant Directors	<i>As defined by Director</i>
Up to £25,000	Operational Budget Holder	<i>As defined by Director</i>
Up to £5,000	Officers authorised to act on behalf of the Operational Budget Holder	<i>As defined by the Assistant Director</i>

As noted in paragraph 8.3.2, the primary approver will be the lowest level approver for each cost centre. However, Assistant Directors have discretion to set the primary approver's delegated approval limit at a lower limit than that in the above table.

Payments must be backed by a decision taken in accordance with the Constitution.

8.5. Payments to Employees and Members

8.5.1. Salaries

The **Section 151 Officer and Director, Corporate & Customer** are responsible for all payments of salaries and overtime to staff. The **Section 151 Officer and Director, Corporate & Customer** will therefore:

- (a) Arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with prescribed procedures, on the due date.
- (b) Record and make arrangements for the accurate and timely payment of tax, pensions and other deductions.

The **Assistant Director, People & Engagement** is responsible for ensuring there are adequate arrangements for administering payroll and pension matters on a day-to-day basis.

Directors must ensure that effective systems and procedures are operated, so that:

- (a) Payments are only made to bona fide employees.
- (b) Payments are only made where there is a valid entitlement.
- (c) Conditions and contracts of employment are correctly applied.
- (d) Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

The **Section 151 Officer and Assistant Director, People & Engagement** will advise upon the employment status of individuals employed on a self-employed consultant or sub-contract basis.

8.5.2. Expenses and allowances

The **Section 151 Officer and Director, Corporate & Customer** are responsible for the payment of certified expense claims submitted by employees that are made in accordance with the Council's travel and subsistence policy.

Certification of travel and subsistence claims is taken to mean that journeys were authorised, and expenses properly and necessarily incurred for business purposes, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved.

The **Section 151 Officer and Director, Corporate & Customer** are also responsible for the payment of Members' travel or other allowances. Members expenses must be claimed in accordance with the provisions set out in the **Members Allowance Scheme** (as set out within the Constitution).

The **Section 151 Officer and Director, Corporate & Customer** will ensure that taxable allowances and benefits are accounted for, recorded and returned, where appropriate, to HM Revenue and Customs. Details of any employee benefits in kind must be notified to the **Section 151 Officer and Assistant Director, People & Engagement** to enable full and complete reporting within the income tax self-assessment system.

Due consideration should be given to tax implications, ensuring that advice is sought and the **Section 151 Officer and Assistant Director, People & Engagement** is informed where appropriate.

8.5.3. Ex-gratia payments

Ex-gratia payments are one-off payments made to an employee or former employee as a gesture of goodwill, and not because there is a legal or contractual obligation to do so. They include compromise and other payments made for loss of office.

Ex-gratia payments can be made to employees or former employees subject to obtaining the following approval:

Amount	Minimum approval required
Up to £5,000	Budget Holder
In excess of £5,000, but not more than £10,000	Assistant Director (<i>following consultation with the Budget Holder</i>)
In excess of £10,000 but not more than £50,000	Director (<i>following consultation with the Assistant Director</i>)
More than £50,000	Section 151 Officer (<i>following consultation with the Director</i>)

The circumstances of the proposed payment must not have the effect of circumventing other Council pay and allowance policies, tax rules or other legislation.

8.6. Taxation

The **Section 151 Officer** is responsible for ensuring compliance with all relevant taxation regulations and guidance that affect the Council either directly, as a consequence its own activities, or indirectly, as a consequence of service delivery through external partners.

To enable the **Section 151 Officer** to fulfil the requirements of this role, Directors will:

- (a) Ensure that the **Section 151 Officer** is consulted on all proposals that may alter or affect the Council's tax liability, including proposals to implement alternative service delivery models (as outlined in section 9.1).

- (b) Ensure that the VAT guidance issued by the **Section 151 Officer** is complied with (*i.e. to ensure that the correct liability is attached to all income due and that all amounts recoverable on purchases can be claimed*).
- (c) Ensure that, where construction and maintenance works are undertaken, the subcontractor fulfils the necessary **construction industry tax scheme** requirements (*as advised by the **Section 151 Officer***).
- (d) Ensure that the guidance on fee payments to consultants, individuals or partners is complied with.

The **Section 151 Officer** will maintain the Council's tax records, make all tax payments, receive tax credits and submit tax returns by their due date, as appropriate.

8.7. Emergency Payments

Emergency payments may arise as a consequence of unforeseen circumstances (e.g. as a consequence of a natural disaster, a civil emergency or a court order etc.) where budget provision has not been made and the payment cannot be covered within the relevant service's existing budget.

Emergency payments can only be made in extenuating circumstances with the following approval (as a minimum):

Amount	Approval required
Up to £25,000	Director <i>The Director will notify the Section 151 Officer as soon as practicable after the event that the emergency payment has been made.</i>
In excess of £25,000, but not more than £100,000	Chief Executive <u>or</u> the Section 151 Officer (following consultation with the Cabinet Member with responsibility for Finance)
More than £100,000	Cabinet Member with responsibility for Finance (<i>following consultation with all of the above</i>)

Details of emergency payments made within the financial year will be reported retrospectively to the Cabinet.

8.8. Transparency

To provide transparency in its stewardship of public funds the Council makes information available to the public in relation to its spending where it is more than £500. Monthly payment transactions made via purchase card and accounts payable are available to download via the Council's website.

9. External Arrangements

9.1. Alternative service delivery models

9.1.1. Introduction

Alternative service delivery models may be considered, including but not limited to:

- (a) Outsource service provision to the private or voluntary sector, or to another public sector organisation.
- (b) Spin out a service to a separate independent enterprise.
- (c) Enable joint working with other public sector bodies.
- (d) Facilitate working with the private or voluntary or public sector, or a combination of these.
- (e) Use a company owned by the Council or by another local authority.

There is no one model that stands out as the best or dominant model for service delivery. It is necessary to consider any proposals to use an alternative delivery model on a case-by-case basis. However, an alternative delivery vehicle can only be pursued and established in compliance with the decision-making process outlined in paragraph 9.1.2.

9.1.2. Business cases for alternative delivery vehicles

Any proposal to establish an alternative delivery vehicle must be developed through the Council's business case governance framework to ensure that there is a robust planning and decision-making process in place.

Local authority owned entities can take any number of forms, including companies limited by shares, companies limited by guarantee, community benefit societies and cooperative societies.

The Business Case must clearly articulate the options being considered and measure these against the desired outcomes. It should also set out whether there is a statutory basis for the provision of the service or activity under consideration.

Directors are responsible for ensuring that Cabinet approval is obtained before any contract negotiations and/or financial transactions are entered into, and that all agreements and arrangements are properly documented.

The Cabinet is responsible for approving the Council's participation in all significant partnerships / joint working arrangements with other local public, private, voluntary and community sector organisations.

Directors, following advice from key stakeholders (*including the **Section 151 Officer** and **Monitoring Officer***), will advise the Cabinet on the key elements of the alternative delivery vehicle, including:

- (a) The arrangements for financial record keeping, accounting, billing customers and paying suppliers, tax, pensions, banking and cash management.
- (b) The arrangements to ensure that the Council can maintain adequate oversight and assurances over the financial performance of the alternative delivery vehicle.
- (c) An assessment of the financial and non-financial risks, together with the plans to mitigate those risks. The financial and reputational impact of failure to deliver services should be considered, with clear plans on how this would be addressed.
- (d) The financial commitments the Council will make (including to provide cash management, working capital and longer term loan funding and/or financial guarantees), and details of any other financial implications for the Council arising as a consequence of the proposed alternative delivery model.
- (e) Arrangements for providing any information required for the Council's Statement of Accounts to the **Section 151 Officer**.
- (f) Audit requirements (both internal and external) and arrangements for the Council's auditors, where relevant, to have access to information.
- (g) The governance arrangements for decision making, and how these will be carried out to ensure that the services provided remain aligned to those of the Council.
- (h) Performance measurement arrangements.
- (i) Insurance arrangements.
- (j) Any proposals to transfer Council assets to the alternative delivery vehicle, and the arrangements for safeguarding their title and use.
- (k) Whether equality, sustainability, recruitment and employment practices, data handling and protection, freedom of information principles, standards and behaviour and arrangements for engaging with citizens and service users are aligned to the Council's legal requirements and policies.
- (l) The pensions arrangements for employees of the alternative delivery vehicle, especially if Council employees are transferring to the alternative delivery vehicle.
- (m) In the event that the proposal is for a local authority trading company, the proposed policy and decision making process for the retention or distribution of profits. A dividend policy should be agreed that sets out the process by which decisions will be taken regarding the retention or distribution of profits.
- (n) Exit arrangements, and if relevant what would be done to ensure services continue to be delivered in the event of non-delivery by the alternative delivery vehicle.

Where it is proposed to establish a local authority trading company, the new company will be mandated to use the Council's support service functions and the Council's property (and its facilities management services) for the delivery of services on behalf of the Council, unless and until otherwise agreed by the **Section 151 Officer**. The new company will bear the full cost of the services provided by the Council's support service functions.

9.2. Partnerships

9.2.1. Context

Partnerships include any arrangements where the Council agrees to undertake, part fund or participate in a project with other bodies; either as a beneficiary of the project, or because the nature or status of the project gives the Council a right or obligation to support it. It does not include situations where the Council is simply providing funding without assuming any obligation or risk relating to delivery of the project.

It is important to understand and distinguish between a partnership in this context and a supplier who the Council may refer to as a 'partner' due to the status that the Council has contractually awarded to it. Irrespective of the title applied to it, this latter type of partnership is a supplier relationship, which will be entered into in accordance with, and governed by, the Council's Procurement Policy and Procedures.

9.2.2. Forming of partnerships

The approval of both the **Section 151 Officer** and the **Monitoring Officer** is required prior to the Council entering into any formal partnership agreement. The approval of the **Section 151 Officer** must also be obtained where it is proposed that the Council adopts the role of 'Accountable Body' for a partnership. This is to ensure that the:

- (a) Legal status and financial viability of the arrangement are clearly established and that they are acceptable.
- (b) Council's financial commitment to the partnership is quantified and can be accommodated within the existing budget provision.
- (c) Financial and corporate governance arrangements in place for the partnership are robust, and acceptable from the Council's perspective.
- (d) The Council is not exposed to undue financial, legal or reputation risk as a consequence of its involvement in the partnership.
- (e) Council's own financial accounting and reporting requirements can be satisfied.

A partnership agreement must be produced that documents each of these matters, and the arrangements for dispute resolution and for exiting from the arrangement.

The Cabinet is responsible for approving delegations and frameworks for all partnerships.

Directors will ensure that:

- (a) The approval of the **Section 151 Officer** and the **Monitoring Officer** is obtained prior to entering into a partnership agreement.
- (b) An appraisal is undertaken which demonstrates that the risks associated with the arrangement are minimal, or that appropriate arrangements are in place to mitigate any such risks.

- (c) The partnership agreement and arrangements will not impact adversely upon the services provided by the Council or upon its finances.
- (d) The proposed financial contribution by the Council to the partnership can be met from existing budget provision.
- (e) Cabinet approval is secured for all delegations and frameworks for the proposed partnership.

9.2.3. Delegation of budget to a partnership

The delegation of budget to a partnership (whether or not the arrangement is binding on the parties involved), where money is normally spent in accordance with the wishes of a group of individuals or organisations, is subject to approval as follows:

Amount	Minimum approval required
Less than £25,000	Assistant Director
£25,000 and above, but not more than £100,000	Director (<i>following consultation with the Assistant Director</i>)
£100,000 and above, but not more than £250,000	Section 151 Officer (<i>following consultation with Director</i>)
£250,000 and above, but not more than £500,000	Cabinet Member with responsibility for Finance (<i>following consultation with Director and the Section 151 Officer</i>)
More than £500,000	Cabinet (<i>following consultation with the Section 151 Officer and the Cabinet Member with responsibility for Finance</i>)

9.2.4. Financial administration

Where the Council is the 'accountable body' for a partnership, these Financial Regulations and the Council's Constitution will apply to decisions relating to the expending of that money. All expenditure must be authorised by an appropriate officer, or by someone else who has a statutory power to authorise expenditure. Directors are responsible for ensuring that the Council is promoting and applying the same high standards of financial administration to the partnership as those that apply throughout the Council.

Whenever any such arrangements are made there must be a written document which clearly establishes the responsibilities of the respective partners for managing the arrangement and the resources made available to the partnership.

The document must also set out the arrangements in respect of unspent funding at each year end, unless this is to be returned to the Council as unspent money, and for addressing any overspend. The Council cannot carry underspent partner contributions forwards from one financial year to another if this is contrary to the partners' own financial procedure rules.

Directors must provide information on the partnership arrangements to the **Section 151 Officer**, in order that the appropriate disclosures can be made within the Council's annual Statement of Accounts.

9.2.5. Documenting and recording of partnership agreements

Directors must ensure that all partnership agreements and arrangements are properly documented, and that all money for which the Council is accountable is spent via a written contract with the recipient (even if the recipient is a party to the arrangements) and that a register of those contracts must be maintained in accordance with procedures specified by the **Section 151 Officer**.

9.2.6. Representing the Council

Directors will ensure that the Council has full oversight of the operation of the arrangements. This will usually be by officer support and by representation on the 'partnership board' by Members of the Council.

Directors will ensure that appropriate officer input is provided to support Members in this role, and that all decisions made by the Council are discharged as permitted within the Scheme of Delegation that forms part of the Council's Constitution.

9.3. External funding (grants and other contributions)

9.3.1. Funding conditions

External funding is an important source of income to the Council. However, the conditions attached to such funding need to be carefully considered prior to applying or bidding for, and accepting the funding, to ensure that:

- (a) They are compatible with the aims and objectives of the Council;
- (b) The necessary procedures and resources are in place to meet funding conditions and reporting requirements; and
- (c) Appropriate budget provision is available if 'match funding' is required.

The relevant Finance Business Partner should be notified of all external funding bids and applications and will support the bid or application through the process.

9.3.2. Accounting for external funding

The **Section 151 Officer**, in conjunction with Directors must, as appropriate, ensure that all grants and other funding awarded by external bodies is received and properly recorded in the Council's accounts.

9.3.3. External funding claims

Directors must, as appropriate, ensure that appropriate records are maintained to evidence compliance with any applicable conditions placed on external funding by the awarding body and any instructions issued by the **Section 151 Officer**.

Directors must also ensure that claims and returns are made by the due date, allowing sufficient time for **Section 151 Officer** review of those claims and returns prior to submission to the awarding body.

Directors will notify the **Section 151 Officer** in the event that the awarding body requires an internal or external audit of a grant or similar claim to evidence compliance with the grant or funding conditions.

9.3.4. Third party expenditure

Sometimes, grant funding awarded to the Council may be passed to a third party outside of the direct responsibility of the Council. The Council will however remain accountable for the grant funding and, as such, will be responsible for ensuring that the terms of the grant are met. Directors must therefore ensure that effective monitoring and reporting procedures are in place to provide assurances over the eligibility of expenditure incurred by a third party.

9.4. Work by the Council for other organisations

9.4.1. Approval to contractual arrangements

Work can only be undertaken for other organisations where the Council has the legal powers to undertake the work. Where such legal powers exist, Directors are responsible for:

- (a) Approving the contractual arrangements for any work undertaken by their services for third parties or external bodies.
- (b) Ensuring that the appropriate expertise exists to fulfil the contract.
- (c) Ensuring that no contract adversely impacts upon the services provided by the Council.

9.4.2. Financial aspects of third-party contracts

The **Section 151 Officer** will determine the accounting, banking and other financial arrangements for third party contracts.

Directors will:

- (a) Comply with any accounting instructions and other guidance issued by the **Section 151 Officer**.
- (b) Ensure that the appropriate insurance arrangements are made.
- (c) Ensure that all costs arising from the provision of services to a third party are recovered and hence that there is no subsidy included within the contract.
- (d) Ensure that the Council is not exposed to the risk of non-recovery of contract income.

9.4.3. Documenting and recording contracts

A written agreement must be put in place between the Council and the third party, which details the services to be provided, over what period and at what price; this will be signed by both parties to the agreement.

Financial Regulations

10. Financial Limits

10.1. General

Throughout these Regulations, there are various financial limits. These limits have been brought together in this section, for ease of reference. The financial limits are to be applied subject to any limitations set out elsewhere in Financial Regulations.

The following tables summarise the minimum level of approval required on each matter; in the event that an officer at the specified level is unable to take a decision for any reason then the decision may be taken at a higher level in the organisation.

10.2. Revenue budget virements

Paragraph 4.3.3 set out the Scheme of Virement. This explains that virements that are being actioned to effect a change in policy or priorities (*either within the same portfolio or between portfolios*) will be subject to the following approval:

Amount	Minimum approval required
Up to and including £25,000 <i>(Subject to the aggregation rule in exception (iv) below)</i>	Assistant Director (<i>following consultation with the Budget Holder</i>)
More than £25,000, but not more than £50,000 <i>(Subject to the aggregation rule in exception (iv) below)</i>	Director (<i>following consultation with Section 151 Officer and Service Cabinet member(s)</i>).
More than £50,000, but not more than £100,000	Cabinet Member with responsibility for Finance (<i>following consultation with Director, Section 151 Officer and Service Cabinet Member(s)</i>)
More than £100,000	Cabinet (<i>following consultation with Cabinet Members as above, Director and Section 151 Officer</i>)

10.3. Supplementary funding

All requests for supplementary funding are subject to the approval of Section 151 Officer, Cabinet or the Cabinet Member with responsibility for Finance (as detailed in paragraph 4.3.4).

As noted in paragraph 4.3.4, where supplementary funding is provided for a project that slips into the following financial year, or which progresses ahead of schedule, the supplementary funding can be re-profiled by one financial years without the need for

Financial Regulations

further approval up to a threshold of **£100,000** provided that the funding is still being used for the approved purpose and the total agreed amount is not exceeded.

The approval of Cabinet is required to re-profile supplementary funding in excess of **£100,000** and to extend the period of utilisation of an approved supplementary estimate by more than one year beyond the original agreed period of utilisation.

10.4. Capital expenditure

As noted in paragraph **3.4.1**, the Council applies various de-minimis limits below which items that meet the definition of capital expenditure will be charged to revenue on the grounds of materiality. The limits are as follows:

De-minimis limits	£
General limit <i>(to be applied where no specific limit is applicable)</i>	10,000
Specific limits:	
Housing Revenue Account	10,000
Land	Nil

10.5. Capital monitoring and control

Section **4.5** sets out the arrangements for making changes to the capital programme in year, as follows.

10.5.1. Applying under spends to offset over spends

Where it is intended to redress an over spend against one scheme or 'block' approval by achieving savings against another project, the following consent is required to align the payment guidelines and scheme approvals for both projects:

Amount	Minimum approval required
Up to and including £25,000	Assistant Director <i>(following consultation with the Section 151 Officer, to ensure that there are no adverse implications upon capital financing resource, and the Budget Holder)</i>
In excess of £25,000, but not more than £50,000	Director <i>(following consultation with Section 151 Officer and Service Cabinet Member(s))</i> unless the saving being utilised is greater than 25% of the scheme approval that it is to come from, in which case the next level of approval is required.
More than £50,000, but not more than £100,000	Cabinet Member with responsibility for Finance <i>(following consultation with Director, Section 151 Officer and Service Cabinet Member(s))</i>

Financial Regulations

Amount	Minimum approval required
More than £100,000	Cabinet (following consultation with Cabinet Members as above, Director and Section 151 Officer)

10.5.2. Re-profiling of payment guidelines between years

For schemes with 'starts approval', the re-profiling of capital payment guidelines between financial years is subject to agreement as follows:

Amount	Minimum approval required
Up to and including £50,000	Director (following consultation with the Section 151 Officer , to ensure that there are no adverse implications upon capital financing resources, and Budget Holder)
In excess of £50,000, but not more than £100,000	Director (following consultation with Section 151 Officer , Cabinet Member with responsibility for Finance and Service Cabinet Member , unless the amount being re-profiled is greater than 25% of the scheme approval, in which case the next level of approval is required.
More than £100,000, but not more than £250,000	Cabinet Member with responsibility for Finance (following consultation with Director , Section 151 Officer and Service Cabinet Member)
More than £250,000	Cabinet (following consultation with Cabinet Members as above, Director and Section 151 Officer)

10.5.3. Adding scheme and payment approvals to the Capital Programme

Any request to change the capital programme outside of the annual budget setting by adding or removing schemes, by allocating additional scheme and payment approvals to an approved scheme or by accelerating a scheme within the programme must be approved as follows:

Amount	Minimum approval required
Any value where it is funded by new external funding and has no adverse impact on Council resources	Section 151 Officer
Up to £100,000	Cabinet Member with responsibility for Finance (following consultation with the Director , Section 151 Officer and the Service Cabinet Member)
£100,000 and above	Cabinet (following consultation with all of the above)

Financial Regulations

10.6. Settling insurance claims

As set out in paragraph 6.3, the settling of insurance claims against the Council will be subject to approval as follows:

Amount	Minimum approval required
Up to £20,000	Claims Lead
In excess of £20,000 and up to £50,000	Insurance Manager
In excess of £50,000 and up to £100,000	Assistant Director with responsibility for Insurance Manager in consultation with the Section 151 Officer
In excess of £100,000	Section 151 Officer in consultation with the Cabinet Member with responsibility for Finance

10.7. Property transactions

Paragraph 7.1.4 sets out the approval required to authorise property transactions, and to declare properties surplus to requirements, as follows:

Amount	Minimum approval required	
	Operational and surplus properties	Investment properties
Up to £5,000	Assistant Director, Estates	Section 151 Officer
£5,000 and above, but less than £20,000	Director, Commercial & Assets	(following consultation with the Director, Commercial & Assets)
£20,000 and above, but less than £50,000	Director, Commercial & Assets (following consultation with the Cabinet Member with responsibility for Property)	Section 151 Officer (following consultation with the Cabinet Member with responsibility for Finance)
£50,000 and above but less than £250,000	The Cabinet Member with responsibility for Property (following consultation with Director, Commercial & Assets, Section 151 Officer and the Cabinet Member with responsibility for Finance).	The Cabinet Member with responsibility for Finance (following consultation with the Leader and Section 151 Officer).
£250,000 and above	Cabinet	Cabinet

Financial Regulations

Notwithstanding the above thresholds, the approval of the **Cabinet Member** with responsibility for **Finance** must be obtained (*after consulting the Cabinet Member with responsibility for Property*) if it is proposed to dispose of the freehold or a leasehold interest (in full or in part) in a property at a value which is below fair value.

10.8. Disposal of other assets

Paragraph 7.1.5 sets out the approval required for the disposal of other assets, as follows:

Amount	Minimum approval required
Up to £5,000	Assistant Director
£5,000 and above, but not more than £20,000	Director
£20,000 and above, but not more than £50,000	Director (following consultation with the Section 151 Officer and Service Cabinet Member)
£50,000 and above but not more than £250,000	Cabinet Member with responsibility for Finance (following consultation with Director as above, S151 Officer and the Cabinet Member)
More than £250,000	Cabinet

10.9. Write off of inventory

The approval required to write off inventory balances per annum is detailed in paragraph 7.2, as follows:

Amount	Minimum approval required
Up to and including £10,000	Assistant Director
In excess of £10,000, but not more than £25,000	Director (<i>following consultation with Budget Holder and Section 151 Officer</i>)
More than £25,000	Cabinet Member with responsibility for Finance (<i>following consultation with Director, Section 151 Officer and Service Cabinet Member(s)</i>)

10.10. Acceptance of cash payments

As noted in paragraph 6.5.6, the acceptance of cash payments of greater than **£5,000** is prohibited, other than with the prior approval of the **Section 151 Officer**.

10.11. Loans to third parties

The approval required for loans sought from the Council (paragraph 7.3.3) that are not loans to employees, treasury management investments, or loans for the purpose of

Financial Regulations

financing expenditure which, if incurred by the Council, would constitute capital expenditure, requires approval as follows:

Amount	Minimum approval required
Less than £20,000	Section 151 Officer
£20,000 and above but less than £50,000	Cabinet Member with responsibility for Finance (following consultation with the Section 151 Officer)
£50,000 and above	Cabinet

*The rate of interest chargeable on loans for this purpose will be determined in consultation with the **Section 151 Officer**, having due regard to the subsidy control requirements applicable in the United Kingdom .*

10.12. Writing off debts

The approval required to write off debts is detailed in paragraph **8.1.4**, as follows:

Amount	Minimum approval required
Up to £5,000	Budget Holder
In excess of £5,000, and not more than £10,000	Assistant Director (following consultation with the Budget Holder)
In excess of £10,000, and not more than £25,000	Director (following consultation with Assistant Director)
In excess of £25,000, and not more than £50,000	Section 151 Officer (following consultation with the Director)
In excess of £50,000 not more than £100,000	Service Cabinet Member (following consultation with the Director and Section 151 Officer)
More than £100,000	Cabinet Member with responsibility for Finance (following consultation with the Section 151 Officer and the Service Cabinet Member)

10.13. Purchasing

As set out in paragraph 8.3.1, orders for work, goods and services must be authorised by someone of at least the seniority set out below:

- (a) Where the order is issued to reflect a procurement decision taken by Members then the order may be authorised by the operational budget holder;
- (b) In other cases the order must be authorised in accordance with the table below:

Financial limit	Minimum approval required	Allocated cost centres
£500,000 and over	Chief Executive or Section 151 Officer	All

Financial Regulations

Financial limit	Minimum approval required	Allocated cost centres
Up to £500,000	Directors	<i>As defined by Chief Executive</i>
Up to £250,000	Assistant Directors	<i>As defined by Director</i>
Up to £25,000	Operational Budget Holder	<i>As defined by the Assistant Director</i>
Up to £5,000	Officers authorised to act on behalf of the Operational Budget Holder	<i>As defined by the Assistant Director</i>

Contracts with a value of under **£500,000** may be signed by:

- (a) A person who is authorised to issue an order for that contract; or
- (b) The **Chief Executive, Monitoring Officer** or **Section 151 Officer** (or a person authorised by any of them).

Contracts with a value of more than **£250,000** must be in writing and must be signed in accordance with the Constitution (i.e. by an **Director, Monitoring Officer, Section 151 Officer** or the **Chief Executive** or be affixed under the common seal of the Council).

10.14. Other payments

Payments other than those arising from purchasing and procurement must be authorised in accordance with the limits set out in paragraph 8.4, which are listed below:

Financial limit	Minimum approval required	Allocated cost centres
£500,000 and over	Chief Executive or Section 151 Officer	<i>All</i>
Up to £500,000	Directors	<i>As defined by Chief Executive</i>
Up to £250,000	Assistant Directors	<i>As defined by Director</i>
Up to £25,000	Operational Budget Holder	<i>As defined by Director</i>
Up to £5,000	Officers authorised to act on behalf of the Operational Budget Holder	<i>As defined by the Assistant Director</i>

10.15. Ex-gratia payments

The approval required to make ex-gratia payments to staff is set out in paragraph 8.5.3, as follows:

Amount	Minimum approval required
Up to £5,000	Budget Holder
In excess of £5,000, but not more than £10,000	Assistant Director (<i>following consultation with the Budget Holder</i>)

Financial Regulations

Amount	Minimum approval required
In excess of £10,000 but not more than £50,000	Director (<i>following consultation with the Assistant Director</i>)
More than £50,000	Section 151 Officer (<i>following consultation with the Director</i>)

10.16. Emergency Payments

As set out in paragraph 8.7, the following approval is required to make emergency payments:

Amount	Approval required
Up to £25,000	Director <i>The Director will notify the Section 151 Officer as soon as practicable after the event that the emergency payment has been made.</i>
In excess of £25,000, but not more than £100,000	Chief Executive <u>or</u> the Section 151 Officer (<i>following consultation with the Cabinet Member with responsibility for Finance</i>)
More than £100,000	Cabinet Member with responsibility for Finance (<i>following consultation with all of the above</i>)

10.17. Delegation of budget to a partnership

Paragraph 9.2.3 sets out what is meant by the term 'partnership', and sets out the approval required to delegate budgets to a partnership as follows:

Amount	Minimum approval required
Less than £25,000	Assistant Director
£25,000 and above, but not more than £100,000	Director (<i>following consultation with the Assistant Director</i>)
£100,000 and above, but not more than £250,000	Section 151 Officer (<i>following consultation with Director</i>)
£250,000 and above, but not more than £500,000	Cabinet Member with responsibility for Finance (<i>following consultation with Director and the Section 151 Officer</i>)
More than £500,000	Cabinet (<i>following consultation with the Section 151 Officer and the Cabinet Member with responsibility for Finance</i>)

Part 2 – Scheme of Delegation for Financial Management

Scheme of Delegation for Financial Management

1. Introduction

The purpose of the Financial Regulations is to set out the Council's financial policies and framework for managing the Council's financial affairs. The Regulations seek to ensure that the Council conducts its affairs in a way that complies with specific statutory provisions and best professional practice. All financial and accounting procedures and delegations must therefore be carried out in accordance with the Regulations and other corporate guidance.

The purpose of this document is to set out how **non-executive decisions** are reserved or are delegated to officers within the Council.

2. Principles of delegation

2.1 Introduction

The Financial Regulations are organised around seven themes of financial management as follows:

- (a) [Financial planning](#) (Section 3)
- (b) [Financial management](#) (Section 4)
- (c) [Accounting records and financial systems](#) (Section 5)
- (d) [Risk Management and Internal Control](#) (Section 6)
- (e) [Control of resources](#) (Section 7)
- (f) [Income and expenditure](#) (Section 8)
- (g) [External arrangements](#) (Section 9)

For each of these themes, delegation arrangements are needed that:

- (a) support the efficient running of the Council, through appropriate allocation of tasks and responsibilities; and
- (b) contribute to an effective internal controls' framework.

This latter point is assessed on an annual basis through the self-assessment process that Directors are asked to undertake and reported in the Annual Governance Statement.

The specific components of the internal controls' framework are:

- (c) Preventative controls (*i.e. segregation of duties, authorisation procedures, physical custody, access limitations*);
- (d) Detective controls (*i.e. arithmetical and accounting checks, consistency checks, continuity checks*); and
- (e) Directive controls (*i.e. written policies and procedures, reporting lines, supervision and management and training*).

Compliance with Financial Regulations and the Scheme of Delegation for Financial Management not only enhances the Council's control environment but also protects employees against allegations of mismanagement, fraud and unprofessional conduct.

Scheme of Delegation for Financial Management

2.2 Powers for delegation

The Council operates a system of devolved financial management which is enshrined within its Constitution. It states that any exercise of delegated powers shall be subject to:

- (a) Any statutory restrictions.
- (b) Council Procedure Rules.
- (c) Financial Procedure Rules,
- (d) Procurement Policy and Procedures.

In exercising delegated powers:

- (e) Cabinet Members and Officers shall not go beyond the provision made in the revenue or capital budgets for their service except to the extent permitted by Financial Procedure Rules and Procurement Policy and Procedures.
- (f) The delegated authority to Officers includes management of the human and material resources made available for the service areas and the functions concerned.

Decisions which an officer takes under delegated powers must:

- (g) Only implement a policy or decision previously approved or taken by Council, Cabinet or Cabinet Member.
- (h) Facilitate or be conducive or incidental to the implementation of a policy or decision previously taken by the Cabinet or Cabinet Member.
- (i) Relate to the management of the human, material and financial resources made available for the functions for which they are responsible.

Officers do not have the power to:

- (j) Make changes to policies relating to fees, charges or concessions.
- (k) Make decisions on the use of permanent savings in a budget.
- (l) Approve the making of an order for the compulsory acquisition of land.
- (m) Approve the acquisition of land in advance of requirements.

This framework reflects the Financial Regulations and allocates responsibilities to **Directors** as follows:

- (n) Putting in place appropriate budget management and delegation arrangements to ensure the effective use of resources, the safeguarding of assets and the operation of a system of appropriate internal controls.
- (o) Promoting the financial management standards set by the **Section 151 Officer** within their Services, and monitoring adherence to the standards and practices, liaising as necessary with the **Section 151 Officer**, and ensuring that appropriate training is provided to those staff with financial management responsibilities.
- (p) Promoting sound financial practices in relation to the standards, performance and development of staff in their services.
- (q) Advising Cabinet Members of the financial implications of all proposals and ensuring that the financial implications have been agreed by the **Section 151 Officer**.

Scheme of Delegation for Financial Management

- (r) Seeking approval on any matter liable to affect the Council's finances materially before any commitments are incurred.
- (s) Signing contracts on behalf of the Council (in accordance with the Council's Procurement Policy and Procedures).
- (t) Consulting with, and obtaining the approval of, the **Section 151 Officer** before making any changes to accounting records or procedures.
- (u) Complying with the following principles when allocating accounting duties:
- (v) Separating the duties of (i) providing information about sums due to or from the Council and calculating, checking (including reconciliations) and recording these sums, from (ii) the duty of collecting or disbursing them.
- (w) Employees with the duty of examining or checking the accounts of financial transactions must not themselves be engaged in these transactions.
- (x) Ensuring that claims for funds, including grants and 'match funding', are made by the due date and that appropriate records are maintained, according to funding conditions.
- (y) Contributing to the development of performance plans in line with statutory requirements.
- (z) Contributing to the development of corporate and service targets, objectives and performance information.

3. Financial delegations

Matter	Threshold	Delegation to	Ref to Fin Regs
3.1 Control of Resources			Section 7
Ensure that borrowing and investment activities are undertaken in accordance with the parameters and limits set by the Council.	Within the parameters and limits set by the Council (in the annual Capital Strategy)	<ul style="list-style-type: none"> Section 151 Officer; and Chief Accountant. 	7.3.2
Day to day management of the Council's treasury management activities , ensuring that temporarily surplus funds are invested until next needed or that funds are borrowed to cover temporary shortfalls of cash.		<ul style="list-style-type: none"> Chief Accountant; and Authorised dealing officers. 	7.3.2
Operation of a petty cash imprest account .		Nominated Petty Cash Account Holders	7.3.5
Authorisation of petty cash disbursements per item		Operational Budget Holders	7.3.5
3.2 Income and Expenditure			Section 8
Operation of a purchase card	Total value of less than £2,000 and in accordance with the Council's Purchase Card Policy	Operational Budget Holders	8.2.3
Authorise requisitions for work, goods and services via the Council's purchase to pay system	Requisitions for items individually up to £200 and raised against corporate mandated contracts All other requisitions	<ul style="list-style-type: none"> Self-certification by the person raising the requisition Approved by an authorised signatory with the relevant approval limit, as defined in Financial Regulations. 	8.3.1 8.4

Matter	Threshold	Delegation to	Ref to Fin Regs
Authorise orders for IT hardware and software	For orders of any value funded from revenue budgets	<ul style="list-style-type: none"> IT operational budget holder 	N/A
	For orders of any value funded from capital budgets	<ul style="list-style-type: none"> Capital scheme budget holder 	N/A
Authorise the payment, to relevant government agencies and other bodies, of amounts either deducted from salaries, or related to officers' remuneration.		<ul style="list-style-type: none"> Section 151 Officer Director, Corporate & Customer; or Assistant Director, People & Engagement 	8.5.1
	Claims of up to £50 (or 100 miles)	<ul style="list-style-type: none"> Self-certification by claimant 	8.5.2
Authorise expense claims (incl. travel and subsistence)	Claims in excess of £100 (or 200 miles) and up to £1,000 (or 2,000 miles)	<ul style="list-style-type: none"> Line manager 	8.5.2
	Claims in excess of £1,000 (or 1,000 miles)	<ul style="list-style-type: none"> Operational Budget Holder 	8.5.2

4. Guidance on roles and responsibilities

4.1 Introduction

The Council operates a system of devolved financial management which, in practice, means certain responsibilities are devolved to services, as follows:

- (a) Ensuring that there is proper stewardship of public resources.
- (b) Ensuring that statutory and regulatory standards are met.
- (c) Ensuring value for money in the use of resources.
- (d) Identifying, evaluating and managing risk.
- (e) Supporting good decision making through the provision of financial information and advice to decision makers.
- (f) Analysis of service activity costs and trends to feed into performance information.
- (g) Aligning resource allocations with business objectives.
- (h) Maximising income sources without being diverted from business priorities.

It is therefore important that there is clarity over roles and responsibilities within these areas of activity.

4.2 Budget holders

The operation of financial management across the Council is carried out within a framework of budget holders, supported by Finance & Procurement.

The term 'budget holder' is used to cover a range of responsibilities and accountabilities starting from the Director, who will oversee the overall delivery of a range of services, down to the operational budget holder who will be accountable for the day to running of a service and the management of the associated budget.

The default position is that the Assistant Director will be the operational budget holder. However, the Assistant Director may designate a Tier 4 officer (i.e. a direct line report of the Assistant Director) as the operational budget holder.

There will usually be a series of delegations operating in support of the operational budget holder, whereby those with delegated authority are able to commit funds on the budget holder's behalf (*i.e. within parameters agreed by the operational budget holder*).

The role of each of these levels of 'budget holder', across the main themes in Financial Regulations, is summarised in the following pages.

Theme	Director	Assistant Director and Operational Budget Holder	Officers with delegated authority to act on Budget Holder's behalf
Financial Planning	<ul style="list-style-type: none"> Provides the overall strategic direction, and oversees the preparation of the budget, for their set of services. 	<ul style="list-style-type: none"> Ensures that new initiatives and legislative requirements are considered as appropriate. Prepares the detailed revenue and capital budgets, reflecting the strategic direction set by the Director / Assistant Director. 	
Financial Management	<ul style="list-style-type: none"> Assigns budget holder responsibility and ensures there are appropriate budgetary control processes in place. Receives regular reports on performance against budget from Assistant Directors. Where appropriate, approves virements within the financial limits set out with Financial Regulations, or seeks additional funding if necessary. Ensures budget provision is in place for any new policies. 	<ul style="list-style-type: none"> Places orders and incurs expenditure for services in accordance with appropriate procurement advice and the approved budget. Records income and expenditure properly and maintains appropriate commitment records to aid with budget management. Prepares reports, with finance support on performance against budget. Where appropriate, approves virements within the financial limits set out with Financial 	<ul style="list-style-type: none"> Places orders and incurs expenditure for services in accordance with appropriate procurement advice and the approved budget.

Theme	Director	Assistant Director and Operational Budget Holder	Officers with delegated authority to act on Budget Holder's behalf
		<p>Regulations, or refers to the Director/Assistant Director for action,</p> <ul style="list-style-type: none"> Reviews regularly the value for money of the service delivery arrangements. 	
Accounting records and Financial Systems	<ul style="list-style-type: none"> Ensure Section 151 Officer' approval is obtained to operate or change a financial system (or any financial element of a non-financial system). Ensure that systems are backed up and disaster recovery and business continuity plans are maintained to allow information system processing to resume quickly in the event of interruption. Ensure adequate audit trail exists through computerised systems. 	<ul style="list-style-type: none"> Ensures compliance with proper accounting guidance and practice by following advice and guidance from finance. 	<ul style="list-style-type: none"> Complies with proper accounting practices and guidance issued from finance.

Theme	Director	Assistant Director and Operational Budget Holder	Officers with delegated authority to act on Budget Holder's behalf
Risk Management and Control	<ul style="list-style-type: none"> • Takes overall ownership of risk within their service areas, ensuring risk management is implemented in line with the overall risk management strategy. • Reviews risks in their service areas and progress on mitigating actions at regular management meetings. • Consults the Section 151 Officer and the Monitoring Officer on the terms of any indemnity. • Establishes 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. • Undertakes an annual self-assessment of the status of the 	<ul style="list-style-type: none"> • Ensures risk management within their area is implemented in line with the strategy. • Reviews service risks and progress on mitigating actions at regular management meetings. • Notifies the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the Council. • Notifies the Section 151 Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances. • Responds to internal audit reports in writing, within a timescale agreed detailing the action intended to address any recommendations, and monitors implementation of agreed actions. 	

Theme	Director	Assistant Director and Operational Budget Holder	Officers with delegated authority to act on Budget Holder's behalf
	<p>systems of internal control within their service areas, as directed by the Section 151 Officer.</p> <ul style="list-style-type: none"> Supports Internal Audit in any review being undertaken within their area, nominates a sponsor responsible for taking forward audit issues, and responds to issues raised within audit reports within the agreed timescale. Ensures that the anti-fraud and corruption policy is followed and that any appropriate action is taken. 	<ul style="list-style-type: none"> Maintains a Hospitality Register and a Register of Interests within each service in which the acceptance of any hospitality or gifts is recorded. 	
Control of resources	<ul style="list-style-type: none"> Ensures there are appropriate control procedures in place with regard to assets, stock and stores 	<ul style="list-style-type: none"> Ensures the proper security of all buildings, vehicles, equipment, furniture, stock, stores and other property belonging to the Council and consults with the Assistant Director, Estates in any case where security is thought to be defective or where it is 	<ul style="list-style-type: none"> Employees operating an imprest account will make adequate arrangements for the safe custody of the account as set out in paragraph 7.3.4 of the Financial Regulations.

Theme	Director	Assistant Director and Operational Budget Holder	Officers with delegated authority to act on Budget Holder's behalf
		<p>considered that special security arrangements may be needed.</p> <ul style="list-style-type: none"> Ensures that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of such keys must be reported to the Chief Audit Executive. Provides the Section 151 Officer with the information required to maintain the asset register in relation to vehicles, plant and equipment (including IT) Maintains inventories of all furniture, fittings, equipment, plant and machinery, and carries out an annual check of all items on the inventory. 	
Income and Expenditure	<ul style="list-style-type: none"> Establishes a charging policy for the supply of goods or services, and reviews it regularly, in line with corporate policies and 	<ul style="list-style-type: none"> Implements the charging policies. Acts in accordance with the delegated limits applied to 	<ul style="list-style-type: none"> Raises invoices according to the agreed charging policies. Places orders for goods and services in accordance with the Council's Procurement Policy

Theme	Director	Assistant Director and Operational Budget Holder	Officers with delegated authority to act on Budget Holder's behalf
	<p>annual budget setting timetables.</p> <p>Ensures there are adequate arrangements and delegations in place for ordering, authorising, and receipting of goods and services.</p> <ul style="list-style-type: none"> • Maintains an up-to-date list of those staff who can order, authorise and receipt goods and services, and identifies in each case, any limits to an individual's authority. • Ensures there is an appropriate control arrangement in place relating to cash handling. • Provides an up-to-date list of the names of officers authorised to sign records to the Head of Human Resources, together with specimen signatures, • Ensures that appropriate arrangements are made for 	<p>ordering, authorisation and receipt of goods and services.</p> <ul style="list-style-type: none"> • Has regard to value for money when considering procurement activities. • Establishes and initiates appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly. • Notifies the Section 151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision. • Ensures that adequate and effective systems and procedures are operated for payments to employees and for goods and services. 	<p>and Procedures (and on the Council's e-procurement purchase to pay system).</p> <ul style="list-style-type: none"> • Checks goods and services upon receipt to ensure they are in accordance with the order (<i>wherever possible, goods should not be received by the person who approved the order</i>). • Records the receipt of goods on the Council's e-procurement purchase to pay system in order to provide an approval to pay for goods and services received by the authority. • Ensures that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases and expenses complies with HM Revenue and Customs regulations.

Theme	Director	Assistant Director and Operational Budget Holder	Officers with delegated authority to act on Budget Holder's behalf
	meeting the competitive requirements set out in the Financial Regulations.		<ul style="list-style-type: none"> Follows the guidance on VAT issued by the Section 151 Officer.
External arrangements	<ul style="list-style-type: none"> Ensures partnership arrangements meet corporate policies and strategies for working with other bodies. Ensures partnerships are governed by formal documented agreements. Undertakes a risk management appraisal of proposed new partnership arrangement. Ensures information on the partnership arrangements is provided to the Section 151 Officer, so that the appropriate disclosures can be made within the Council's annual statement of accounts. Approves the contractual arrangements for any work 	<ul style="list-style-type: none"> Monitors partnership arrangements to ensure they are operating according to agreements. Measures the performance of partnerships to ensure that the overall arrangements represent best value for the residents of Castle Point. Ensures that all funding notified by external bodies is received and properly recorded in the Council's accounts. 	

Theme	Director	Assistant Director and Operational Budget Holder	Officers with delegated authority to act on Budget Holder's behalf
	undertaken for third parties or external bodies.		

Scheme of Delegation for Financial Management

4.3 Finance support

The Council's system of devolved financial management means that services take decisions on their budgets, supported by Finance. The organisational model for Finance is one that seeks to minimise transactional resource through the use of technology, allowing for a focus on value-added support to budget holders, backed up by specialist and technical accountants where appropriate and when needed.

There is a Finance Business Partner assigned to each Director, acting as key liaison point between the services covered by the Director and Finance. The Finance Business Partners report to the **Section 151 Officer**. The Finance Business Partners are required to report regularly on any issues relating to possible non-compliance with any financial rules or agreed practices and on any financial pressures which may result in a failure to meet the budgets.

5. Authorised signatory process

In order to facilitate compliance with the Financial Regulations and Scheme of Delegation for Financial Management (SoDFM), the Council has an authorised signatory process.

The authorised signatory arrangements are predicated on there being a primary approver assigned to each cost centre code. The primary approver is the lowest level authorised signatory for a cost centre code.

Budget holders must determine whether to fulfil the role of primary approver for their cost centre code(s) or whether to designate another officer as their primary approver. If the primary approver is an officer with delegated authority to act on the budget holder's behalf, the primary approver must be in the Budget Holder's line management hierarchy. This is because all requisitions will be routed up the primary approver's line management hierarchy until reaching the person with the relevant delegated approval limit.

The delegated limits of the primary and other approvers will be determined with reference to the following parameters:

Financial limit	Minimum approval required	Allocated cost centres
£500,000 and over	Chief Executive or Section 151 Officer	<i>All</i>
Up to £500,000	Directors	<i>As defined by Chief Executive</i>
Up to £250,000	Assistant Directors	<i>As defined by Director</i>
Up to £25,000	Operational Budget Holder	<i>As defined by the Assistant Director</i>
Up to £5,000	Officers authorised to act on behalf of the Operational Budget Holder	<i>As defined by the Assistant Director</i>

Whilst Financial Regulations (see paragraph 8.3.4) allow for the possibility of officers with delegated authority to act on their budget holder's behalf having a delegated limit of up to **£5,000**, in exceptional circumstances Budget Holders have the flexibility to assign a lower approval limit, taking account of the individual's job level.

It is only possible to have one primary approver for a cost centre code, and one approver at each successive level in the approval chain. However, any approver in the applicable approval chain can reassign their delegated limit to another officer (for example to cover periods of absence). No approver can assign their delegated limits to an officer who would have a lower limit than that implied in the above table though. Similarly, no one may authorise an order unless they are satisfied that they have the delegated power to commit the expenditure.

Details of the budget holder and primary approver for each cost centre code are held by Financial Services and are used to notify the relevant authorised signatory when there are transactions to be approved. The authorised signatory details may also be used by Internal and External Audit to support their testing of the Council's internal controls framework.

DRAFT