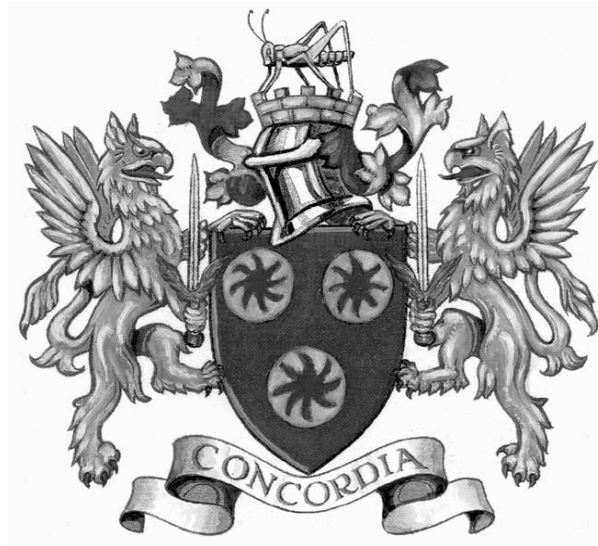


TANDRIDGE DISTRICT COUNCIL CONSTITUTION

(February 2024)



[PART A - GENERAL OVERVIEW OF HOW THE COUNCIL OPERATES](#)

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(including the 'Call In' process; Members' Code of Conduct; Members' Allowances Scheme and Planning Protocol)

– PART A –**GENERAL OVERVIEW OF HOW THE COUNCIL OPERATES****1. The Constitution**

- 1.1 This constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure transparency and accountability. Some of these processes are required by law, while others have been adopted at the Council's discretion.

2. Current Composition of the Council

- 2.1 Tandridge District Council comprises 42 elected Members representing 20 Wards. Councillors are usually elected once every four years although by-elections may arise from time to time to fill any casual vacancy. Surrey County Council elections are held once every four years. Councillors are democratically accountable to the residents of their Ward and have a special duty to constituents including those who did not vote for them. Councillors' overriding duty is, however, to the community as a whole. Councillors must also follow general principles of conduct set out in this document which can cover their personal actions as well activities undertaken on behalf of the Council.

3. Key Roles of Members

- 3.1 The Chair of the Council is appointed by the Council to hold office until the next Annual Council meeting at the start of the new Municipal Year (usually mid-May of each year). As referred to in Standing Order 4 (Part B of this Constitution) the Chair's powers regarding the conduct of meetings may, in his/her absence, be exercised by the person presiding at the meeting (i.e. the Vice Chair if present).
- 3.2 All Councillors will:
- collectively be the Council's policy-makers and carry out a number of strategic and corporate management functions;
 - contribute to the good governance of the area and actively encourage community participation and involvement in decision making;
 - represent the interests of their Ward and of individual constituents;
 - act as advocate for constituents in resolving particular concerns or grievances;
 - respond to constituents' enquiries and representations, fairly and impartially;
 - represent the Council on other bodies;
 - participate in the governance and management of the Council; and
 - maintain the highest standards of conduct and ethics.
- 3.3 A list of contact details for Councillors, together with political affiliations, is available via the Council's website.

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4. Management Team/Officers

- 4.1 The day to day running of the business of the Council is undertaken by Officers under the direction of the Chief Executive and the Management Team which comprises the Chief Executive; the Deputy Chief Executive; the Director of Resources, and the Head of Legal & Democratic Services (Monitoring Officer).
- 4.2 Some Officers have specific statutory roles. The general management and supervision of the Council's staff is the overall responsibility of the Chief Executive as Head of Paid Service, appointed under s.4 of the Local Government and Housing Act 1989. The Monitoring Officer is appointed pursuant to s5 of the same Act to ensure that the Council acts within the law. Finally, the Director of Resources is appointed under s.151 of the Local Government Act 1972 and s.114 of the Local Government Finance Act 1982 to ensure the proper administration of financial affairs and to report on any improper expenditure.

5. Rights and Duties

5.1 Councillors

Councillors (also referred to as Members) have certain rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law. There are, however, some restrictions upon what documentation Members are able to see.

Councillors should not 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.

5.2 The Public

The public have the following rights:

(A) Participation in meetings:

Any person resident, working or studying in the District may ask questions at certain meetings or present petitions. Members of the public and other interested parties can also make representations at certain meetings in connection with particular agenda items.

(B) Attendance at meetings and access to documents – the public can:

1. attend meetings of the Council and its Committees except where confidential/exempt information is likely to be disclosed, and the meeting is therefore held in private;
2. see reports and background papers, and any records of decisions made by the Council and its Committee;
3. inspect the Council's accounts and make, if they so wish, an objection to the accounts to the External Auditors.

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(C) Complaints - the public have the right to complain to:

1. the Council itself under its complaints procedure;
2. the Local Government Ombudsman after using the Council's own complaints procedure;
3. the Council's Monitoring Officer concerning alleged breaches of the Members' Code of Conduct.

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TANDRIDGE DISTRICT COUNCIL CONSTITUTION

**PART B –
STANDING ORDERS FOR MEETINGS AND GENERAL GOVERNANCE (Dec 2023)**

Procedures for Council meetings

meetings of the Council	motions / amendments which can be moved without notice
appointment of Chair / Vice Chair	presentation of committee minutes
quorum	rules of debate
order of business	voting
notices of free standing motions to Council	appointment of committees
notices of amendments to free standing motions or Committee recommendations at Council	

Committee meetings & procedures

types of committee	special meetings
confidentiality of proceedings	substitutes / sub-committees / quorum
terms of reference / delegation	rules of debate (inc length of speeches)
committee / sub-committee business	attendance by non-committee members
chair / vice-chairs etc	voting

Provisions relating to both Council and Committee meetings

attendances	petitions
disclosure of interests	disorderly conduct
representations and questions at meetings	disturbance by the public

Members and staff

urgency provision	chief officers – appointment / disciplinary
motions affecting staff	politically restricted posts
recruitment matters	political groups
officer / Member consultation	

General matters (incl. interpretation / suspension of Standing Orders/ Code of Conduct

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PROCEDURES FOR FULL COUNCIL MEETINGS

No. 1

MEETINGS OF THE COUNCIL

- (1) Subject to any subsequent legislation to the contrary, the Annual Meeting of the Council shall be held within three weeks of the District or County Council Elections to accord with the provisions of the Local Government Act 1972.
- (2) In addition to the Annual Meeting of the Council and any meetings convened by the Chair or Members of the Council (SO 1 (3) below refers), meetings for the transaction of general business shall be held in each year on dates to be determined for the ensuing year by the Council.
- (3) Five Members of the Council may call for an extraordinary meeting of the Council in accordance with the requirements of Schedule 12 to the Local Government Act 1972 (Part 1, section 3)¹.

No. 2

APPOINTMENT OF CHAIR OF THE COUNCIL

The first business to be dealt with at the Annual Meeting of the Council shall be the appointment of the Chair for the ensuing year.

No. 3

APPOINTMENT OF VICE-CHAIR OF THE COUNCIL

After the appointment of the Chair of the Council at the Annual Meeting, the next business to be dealt with shall be the appointment of a Vice-Chair for the ensuing year.

No. 4

CHAIR OF THE MEETING

Any power or duty of the Chair in relation to the conduct of a meeting may, in the absence of the Chair, be exercised by the person presiding at the meeting.

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¹ LGA 1972, Schedule 12, Part 1, Section 3: *“An extraordinary meeting of a principal council may be called at any time by the chairman of the council. If the chairman refuses to call an extraordinary meeting of a principal council after a requisition for that purpose, signed by five members of the council, has been presented to him, or if, without so refusing, the chairman does not call an extraordinary meeting within seven days after the requisition has been presented to him, then any five members of the council, on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the council.”*

No. 5**QUORUM OF COUNCIL**

- (1) If, during any meeting of the Council, the Chair, after counting the number of Members present, declares that there is not a quorum present, (11 in normal circumstances) the meeting shall stand adjourned.
- (2) The consideration of any business not transacted shall be adjourned to a time fixed by the Chair at the time the meeting is adjourned, or if s/he does not fix a time, to the next ordinary meeting of the Council. No business shall be transacted at an adjourned meeting except the unfinished business of the original meeting.

No. 6**ORDER OF BUSINESS FOR COUNCIL MEETINGS**

- (1) Except as otherwise provided by paragraph (2) of this Standing Order, the order of business at every meeting of the Council shall be:-
 - (a) To choose a person to preside if the Chair and Vice-Chair are absent.
 - (b) Declarations of Interest
 - (c) To deal with any business required by statute to be done before any other business.
 - (d) To approve as a correct record and sign the minutes of the last meeting of the Council.
 - (e) To deal with any business expressly required by statute to be done.
 - (f) Chair's announcements.
 - (g) To deal with questions under Standing Order No. 30, beginning with 'Questions from residents and others studying in the District' followed by 'Questions from Councillors' (not applicable to the Annual Meeting).
 - (h) To deal with petitions under Standing Order No. 31.
 - (i) To dispose of business remaining from the last meeting (if any).
 - (j) To receive and consider reports, minutes and recommendations of Committees.
 - (k) To authorise the sealing of documents.
 - (l) To consider motions in the order in which notice has been received.
 - (m) Other business, if any, specified in the summons.

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Annual Policy Statement

- (2) The last business to be dealt with at the Annual Council shall be to receive from the leader(s) of the Administration (if they so wish) a policy statement covering the next municipal year. One spokesman for each of the Political Group(s) as defined by the Local Government & Housing Act 1989 not forming the Administration (if they so wish) will have the right to reply. No speech is to last longer than 10 minutes.

Variation of Order of Business

- (3) Business falling under items (a), (b) or (c) of paragraph (1), shall not be displaced, but the order of the remaining business may be varied by:-
- (a) the Chair at his / her discretion; or
 - (b) a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

No.7

NOTICE AND SCOPE OF FREE STANDING MOTIONS TO COUNCIL

- (1) Notice of every motion (other than a motion which under Standing Order No.8 may be moved without notice) shall be sent by e-mail, or submitted in writing to Democratic Services by noon at least seven clear working days prior to the next meeting of the Council.

Motions to be set out in summons

- (2) The Chief Executive shall set out in the summons for every meeting of the Council all motions of which notice has been duly given in the order of receipt unless the Member giving such a notice intimated by email or in writing when giving it, that s/he proposed to move it at some later meeting, or has since withdrawn it in writing.

Motion not moved

- (3) If a motion set out in the summons is not moved either by a Member who gave notice thereof or by some other Member on his / her behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

Scope of motions

- (4) Every motion shall be relevant to some matter in relation to which the Council have powers or duties or which affects the District.
- (5) Unless supported by one-third of the Members of the Council, it is not permissible to propose a further free-standing motion under this Standing Order:
- (a) to rescind any resolution in respect of a Standing Order 7 motion passed by Full Council during the previous six months; or
 - (b) to the same effect as a Standing Order 7 motion which has been rejected by Full Council within the previous six months

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No. 8**NOTICE OF AMENDMENTS TO FREE STANDING MOTIONS OR COMMITTEE / SUB-COMMITTEE RECOMMENDATIONS AT COUNCIL**

- (1) Proposals to:
- (i) amend a free-standing motion submitted under Standing Order 7 above
 - (ii) amend a Committee / Sub-Committee recommendation to Council
 - (iii) refer a 'resolved item' back to a Committee (which shall be deemed an amendment to the motion to receive the 'minutes and report' of the associated Committee meeting)
- ... must be sent by email, or submitted in writing to Democratic Services by 5pm on the working day before the Council meeting in question.
- (2) Acceptance of such proposed amendments shall be at the discretion of the Chair in accordance with Standing Order 12 (6).
- (3) Any such proposed amendments submitted after the deadline specified in (1) above shall only be put to the Council meeting at the discretion of the Chair.

No. 9**MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE**

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

- (1) Appointment of a Chair of the meeting at which the motion is made.
- (2) Motions relating to the accuracy of the minutes.
- (3) Referral of a free-standing motion (under Standing Order 7) to a Committee
- (4) Adoption of recommendations.
- (5) That leave be given to withdraw a motion.
- (6) Extending the time limit for speeches.
- (7) That the Council proceed to the next business.
- (8) That a vote shall now be taken.
- (9) To adjourn the debate.
- (10) To adjourn the meeting.
- (11) Suspending Standing Orders, in accordance with Standing Order No. 48.
- (12) A Motion under Section 100A (2) and (4) of the Local Government Act 1972 to exclude the public.

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- (13) That a Member named under Standing Order No. 33 (Disorderly Conduct) be not further heard or leave the meeting.

No. 10

MINUTES

- (1) The Chair shall put the question that the minutes of the meeting of the Council held on the ... day of..... be approved as a correct record.
- (2) No discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Chair shall sign the minutes.
- (3) The minutes of the last meeting shall be approved at the next ordinary meeting.

No. 11

PRESENTATION OF COMMITTEE MINUTES AT COUNCIL

- (1) The minutes of a Committee shall be presented to the Council by the Chair of the Committee, or in the Chair's absence by:
 - the Vice-Chair; or
 - another member of the Committee if the Vice Chair is also absent

who shall move that the minutes be received and the recommendations contained therein (if any) be adopted. Such motions must be seconded.
- (2) Unless any Members wish to speak under clauses (3) and (5) below, the Council shall receive the minutes (and adopt any recommendations as the case may be) en-bloc.
- (3) Any Member wishing to speak on any committee minute must notify Democratic Services or nominated officer by email or in writing by 5pm on the working day before the Council meeting in question.
- (4) Any later requests to speak under (3) above shall only be determined at the discretion of the Chair.
- (5) Once a Member speaks to a Committee minute by virtue of 11(3) or 11(4) above, the Chair shall open the debate to any other Members who may then also wish to speak.
- (6) The Chair may refuse to allow questions from Members on specific Committee minutes on the grounds that the same or similar question has already been asked during the 'questions from Councillors' agenda item.
- (7) Where discussion of any minute takes place and the minute contains recommendations, such recommendations shall be considered as separate motions, and the rules of debate as contained in Standing Order No.12 shall apply, save that the motion shall be deemed to have been moved by the Chair of the relevant Committee and seconded in accordance with 11(1) above.

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No. 12**RULES OF DEBATE FOR COUNCIL MEETINGS****Motions and Amendments**

- (1) A motion or amendment shall not be discussed unless it has been proposed and seconded by Members physically present in the meeting room, and unless notice has already been given in accordance with Standing Order Nos. 7 and 8. It shall, if required by the Chair, be put in writing and handed to the Chair before it is further discussed or put to the meeting.

Secunder's Speech

- (2) A Member when seconding a motion or amendment may, if s/he then declares his / her intention to do so, reserve his / her speech until a later in the debate.

Members wishing to speak (Standing Order 11 also refers)

- (3) A Member shall indicate his/ her wish to speak in the manner required by the Chair. If two or more Members indicate their wish to speak, the Chair shall call on one to do so. While a Member is speaking, the other Members shall remain silent, unless they raise a point of order or speak in personal explanation.

Content and length of speeches

- (4) A Member shall direct his / her speech to the question under discussion or to a point of order or to a personal explanation. No speech shall exceed ten minutes in the case of a mover of a motion or the Chair of a Committee in replying to a debate, and five minutes in all other cases including the mover of an amendment, except by consent of the Council.

When a Member may speak again

- (5) A Member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:-
 - (a) to speak once on an amendment moved by another Member;
 - (b) if the motion has been amended since s/he last spoke, to move a further amendment;
 - (c) if his / her first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which s/he spoke was carried;
 - (d) in exercise of a right of reply given by paragraph (12) or (15) of this Standing Order;
 - (e) on a point of order; and
 - (f) by way of personal explanation.

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Amendments to free standing motions and Committee / Sub-Committee recommendations (subject to the notice requirements of SO 8)

- (6) An amendment shall be relevant to the motion/recommendation and shall either:-
- (a) refer a subject of debate to a Committee for consideration or reconsideration;
 - (b) leave out words;
 - (c) leave out words and insert or add others;
 - (d) insert or add words;

but such omission, insertion or addition of words shall not have the effect of negating* the motion or Committee / Sub-Committee recommendation before the Council.

*(*the term negating can include the effect of distorting a motion so that its original meaning is lost)*

- (7) Subject to (8) below, only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of.
- (8) The Chair may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.
- (9) If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

Alteration to motion

- (10) A Member may, with the consent of the Council, signify without discussion -
- (a) an alteration to a motion of which s/he has given notice, or
 - (b) with the further consent of his / her seconder, the alteration of a motion which s/he has moved

if (in either case) the alteration is one which could be made as a valid amendment in accordance with Standing Order 12(6) above.

Withdrawal of motion

- (11) A motion or amendment may be withdrawn by the mover with the consent of his / her seconder and of the Council, without discussion. No Member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

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Right of reply

- (12) The rights of reply at the close of a debate on a motion or Committee minute before any vote is as follows:-
- (a) on any motion the mover of the motion
 - (b) on any amendment the mover of the original motion
- (The mover of the amendment shall have no right of reply to the debate on his / her amendment).
- (13) Members exercising a right of reply shall confine themselves to answering previous speakers, and shall not introduce any new matter.

Motions which may be moved during debate (parts (15) and (16) of this Standing Order also refer)

- (14) When a motion is under debate no other motion shall be moved except the following:-
- (a) to amend the motion
 - (b) to adjourn the meeting
 - (c) to adjourn the debate
 - (d) to proceed to the next business
 - (e) to proceed to a vote
 - (f) that a Member be not further heard
 - (g) by the Chair under SO33(2) (Disorderly Conduct) that a Member leave the meeting
 - (h) under Section 100A(4) of the Local Government Act 1972 to exclude the public.

Closure motions

- (15) A Member may move, without comment at the conclusion of a speech of another Member, closure motions to:
- (i) proceed to the next business; or
 - (ii) require a vote to be taken now ; or
 - (iii) adjourn the debate; or
 - (iv) adjourn the meeting.

on the seconding of which the Chair shall proceed as follows:-

- (a) On a motion to proceed to the next business; unless in the Chair's opinion the matter before the meeting has been insufficiently discussed, the Chair shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to the next business;
- (b) On a motion to proceed to a vote, unless in the Chair's opinion the matter before the meeting has been insufficiently discussed, the Chair shall first put to the aforesaid motion to the vote , and if it is passed then give the mover of the original motion his / her right of reply under paragraph 12 of this Standing Order before putting his / her motion to the vote;

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- (c) On a motion to adjourn the debate or the meeting; if in the Chair's opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, the Chair shall put the adjournment motion to the vote without giving the mover of the original motion his / her right of reply on that occasion.

- (16) The closure motions referred to above can only be moved once during the course of a debate.

Points of Order/Personal Explanation

- (17) A Member may indicate that s/he wishes to speak on a point of order or in personal explanation and shall be entitled to be heard immediately. A point of order shall relate only to an alleged breach of a standing order or statutory provision and the Member shall specify the standing order or statutory provision and the way in which s/he considers it has been broken.
- (18) A personal explanation shall be confined to some material part of a former speech by him / her which may appear to have been misunderstood in the present debate.
- (19) The ruling of the Chair on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

Respect for Chair

- (20) Whenever the Chair interjects during a debate, the Council shall be silent.

No. 13

VOTING AT FULL COUNCIL MEETINGS

- (1) Subject to SO 13(6) below, the manner of voting at meetings of the Council shall be at the discretion of the Chair, to ensure that the outcome of any vote is beyond doubt. Only Members physically present in the meeting room shall be entitled to vote.
- (2) In the event of an equality of votes, the Chair shall have a casting vote.
- (3) Immediately after a vote is taken, any Member may request that the way in which s/he voted (or abstained) be recorded in the minutes.
- (4) Before a vote on any matter is taken, a Member (physically present in the meeting room) may request that details be recorded in the minutes to show how each Member voted, or whether they abstained. For this to proceed, five other Members (physically present in the meeting room) will be required to indicate their support.
- (5) In any event, at any meeting of the full Council at which a budget decision is made, the voting shall be recorded in the minutes. 'Budget decisions' for the purposes of this Standing Order shall mean any decision defined as such under the Local Authorities (Standing Orders) (England) (Amendments) Regulations 2014.
- (6) Recorded votes required under (4) and (5) above shall be conducted by an appropriate Officer calling the name of each Member present who shall thereupon state whether they are voting 'for' 'against' or whether they wish to 'abstain'. The Officer shall record the voting and inform the Chair of the result.

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- (7) Where there are two persons nominated for any position to be filled by the Council, the Chair shall conduct a vote by:
- asking Members to vote (by a show of hands) for the first nominee according to alphabetical order of surname; and
 - repeating the process for the other nominee, with the individual with the most votes being duly appointed.
- (8) Where there are three or more persons nominated for any position (or positions) to be filled by the Council, an appropriate Officer shall call the name of each Member present who shall thereupon state his / her preferred candidates. The Officer shall record the votes cast for each person nominated and shall inform the Chair of the result who will then confirm which Councillor has been appointed.

No. 14

COMMITTEES - APPOINTMENT OF

- (1) The Council shall at, the Annual Meeting, appoint Policy Committees (Standing Order 15 refers) and any other Committees which it is deemed necessary to appoint (such appointments shall be confined to determining Committees' terms of reference; their size; and the allocation of seats to political groups).
- (2) Full Council may, at any time, similarly appoint such other Committees as are necessary to carry out the work of the Council.
- (3) Subject to any statutory provision, Full Council:-
- (i) shall not appoint any Member of a Committee to hold office later than the next Annual Meeting of the Council;
 - (ii) may, at any time, dissolve a Committee, amend a Committee's terms of reference, or alter a Committee's membership in so far as its size or allocation of seats to political groups are concerned.
- (4) Committees may, in turn, appoint Sub-Committees and Working Groups in accordance with Standing Order 21.
- (5) Subject to (6) below, the appointment of Members to committee seats shall be determined by political groups and noted by Full Council at the earliest opportunity.
- (6) Political Group Leaders may, from time to time, change their Members (including substitutes) in respect of the Committee seats allocated to their Groups by submitting written notice to Democratic Services. Such changes will become effective for the next meeting of the respective Committee, provided that the required notice is received at least seven clear working days prior to the meeting in question.

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COMMITTEE MEETINGS AND PROCEDURES

No. 15

COMMITTEES

- (1) The Policy Committees of the Council are:-
- Community Services Committee
 - Housing Committee
 - Planning Policy Committee
 - Strategy & Resources Committee
- (2) The Regulatory/Statutory/Other Committees of the Council are:
- Audit & Scrutiny Committee
 - Licensing Committee
 - Planning Committee
 - Standards Committee

No. 16

COMMITTEES - CONFIDENTIALITY OF PROCEEDINGS

- (1) Committee or Sub-Committee reports may be exempt from publication and shall be treated as confidential if:
- (i) their content falls within the descriptions of exempt information in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) (reproduced in (3) below); and
 - (ii) the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (2) Proceedings at Committee / Sub-Committee meetings shall be conducted in public (including by way of public access to webcasting and/or conferencing facilities) unless a Committee / Sub-Committee passes a resolution to exclude the press and public on the grounds referred to in (1) above (via exclusion from the physical meeting place or by terminating remote access to the meeting).
- (3) The definitions of exempt information detailed in Part 1 of Schedule 12A of the Act (referred to in (1) (i) above) are:
- 1. *Information relating to any individual.*
 - 2. *Information which is likely to reveal the identity of an individual (including the authority holding that information).*
 - 3. *Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

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

The following additional descriptions of exempt information also apply to meetings of Standards Committees /Standards Sub-Committees:

- 7A. *Information which is subject to any obligation of confidentiality.*
- 7B. *Information which relates in any way to matters concerning national security.*
- 7C. *Information presented to a Standards Committee, or to a Sub-Committee of a Standards Committee, set up to consider any matter under regulations 13 or 16-20 of the Standards Committee (England) Regulations 2008 or referred under section 58(1)(c) of the Local Government Act 2000.*

Qualifications:

8. *Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:*
 - (a) *the Companies Act 1985[3];*
 - (b) *the Friendly Societies Act 1974[4];*
 - (c) *the Friendly Societies Act 1992[5];*
 - (d) *the Industrial and Provident Societies Acts 1965 to 1978[6];*
 - (e) *the Building Societies Act 1986[7]; or*
 - (f) *the Charities Act 1993[8].*
9. *Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992[9].*
10. *Information which:*
 - (a) *falls within any of paragraphs 1 to 7 above; and*
 - (b) *is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.*

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No. 17**COMMITTEES' TERMS OF REFERENCE AND DELEGATION**

- (1) The statutory and other powers and duties of the Council shall be delegated to its Committees and any ad hoc Committee in accordance with the terms of reference of Committees as agreed by Full Council.
- (2) The Council may, by resolution, from time to time vary a Committee's terms of reference.
- (3) Subject to any statutory provision to the contrary, and to the exclusions and limitations specified in paragraphs (4) and (5) of this Standing Order, there shall be delegated to the respective Committees all the powers and duties of the Council specified in the above mentioned terms of reference, and in any resolution of the Council making a specified reference to a Committee.
- (4) There shall be excluded from the delegation to any Committee:-
 - (i) The power of raising money by tax or loan.
 - (ii) The power of incurring any expenditure or of taking any decision, which under Financial Regulations approved by the Council and operative at the time, requires the prior approval of the Council.
 - (iii) The power of taking any decision which, under Standing Orders regulating the business and proceedings of the Council or Standing Orders relating to contracts approved by the Council and operative at the time, is required to be taken by the Council.
 - (iv) The enactment, alteration or revocation of any schemes, orders, rules, regulations or byelaws made by the Council under the provisions of any Act of Parliament.
 - (v) The appointment or dismissal of the Chief Executive.
- (5) The delegation to any Committee shall be subject to the following restrictions or conditions:-
 - (i) The Committee shall give effect to any resolution of the Council upon matters of principle or policy.
 - (ii) The Committee shall, where a matter
 - (a) involves, or appears likely to involve, a departure from an existing policy; or
 - (b) is a new policy

... which would impact upon available resources, direct that its decision be submitted to the Council as a recommendation.
 - (iii) Committee resolutions are subject to the call-in procedure in Part F of the Constitution.

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No. 18**COMMITTEE AND SUB-COMMITTEE BUSINESS**

- (1) Any Member of the Council may give notice of any item of business for consideration at any meeting of a Committee or Sub-Committee.
- (2) Items of business referred to in paragraph (1) above shall be sent by email, or given in writing to Democratic Services at least 10 clear working days before the meeting.
- (3) If notice is given of any item of business which in the opinion of the Chief Executive is, potentially illegal, improper or not within the relevant terms of reference, the Chief Executive shall submit such notice to the Chair of the Committee or Sub-Committee within whose terms of reference it falls and it shall not be accepted and placed on the agenda without that Chair's sanction. Where an item of business is not accepted, the Chief Executive shall inform the Member in writing.

No. 19**COMMITTEES - APPOINTMENT OF CHAIRS, VICE-CHAIRS, SUB-COMMITTEES AND WORKING GROUPS**

- (1) At the conclusion of an Annual Meeting of the Council, each Committee shall meet to elect a Chair and a Vice-Chair and any Sub-Committees and Working Groups for the year. For each of these meetings, the Chair of the Council (or in his / her absence the Vice-Chair of the Council) shall preside.
- (2) If any urgent business needs to be transacted at a Committee meeting immediately following Annual Council, the Chair or Vice-Chair of the Council shall vacate the Chair in favour of:
 - (i) the newly elected Chair of the Committee; or
 - (ii) the newly elected Vice-Chair of the Committee if the Chair of the Committee is absent; or
 - (iii) another member of the Committee, to be appointed by the Committee to take the chair for the business concerned, if both the newly elected Chair and Vice Chair are absent.
- (3) No member of the Council shall be Chair of more than one Committee.
- (4) At other Committee meetings, in the absence of the Chair:
 - (i) the Vice-Chair shall preside; or
 - (ii) if the Vice-Chair is absent, the Committee shall elect one of its other members to preside.

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No. 20**COMMITTEES - SPECIAL MEETINGS**

The Chair of a Committee may call a special meeting of the Committee at any time. A special meeting shall also be called on the requisition of a quarter of the whole number of the Committee (communicated by email, or given in writing to Democratic Services) but in no case shall fewer than three Members requisition a special meeting. The summons to the special meeting shall set out the business to be considered thereat, and no business other than that set out in the summons shall be considered at that meeting.

No. 21**SUB-COMMITTEES AND WORKING GROUPS**

- (1) Every Committee may appoint Sub-Committees and Working Groups for purposes to be specified by the Committee. Such appointments shall be confined to determining Sub-Committees' and Working Groups' terms of reference; their size; and the allocation of seats to political groups. Subject to (3) below, the appointment of Members to Sub-Committee and Working Group seats shall be determined by Political Groups and noted by the parent Committee at the earliest opportunity.
- (2) Each Sub-Committee and Working Group shall elect a Chair at its first meeting of the Municipal Year.
- (3) Political Group Leaders may, from time to time, change their principal Members in respect of the Sub-Committee and Working Group seats allocated to their Groups by submitting written notice to Democratic Services. Such changes will become effective for the next meeting of the respective Sub-Committee or Working Group, provided that, in the case of Sub-Committees, the required notice is received at least seven clear working days prior to the meeting in question.
- (4) Unlike Sub-Committees, Working Groups have no decision-making powers and can only make recommendations to their parent Committees.
- (5) Unless there are practicable reasons not to do so, parent Committees shall endeavour to make their Working Groups politically balanced.
- (6) Other procedural arrangements for Working Group meetings, if not already prescribed by the parent Committee or specified elsewhere within the Constitution, shall be at the discretion of the Chair.

No. 22**COMMITTEES AND SUB-COMMITTEES – SUBSTITUTES AND QUORUM**

- (1) Every Political Group may appoint two named substitute Members for each Committee by submitting written notice to Democratic Services (Standing Order 14(6) also refers). Such appointments, or changes to existing appointments, will become effective for the next meeting of the respective Committee, provided that the required notice is received at least 7 clear working days prior to the meeting in question.

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- (2) Committees may allow for more than one substitute to be appointed (by Political Groups) to their Sub-Committees, including arrangements where a principal Member can be replaced, at any time prior to a meeting, by any Councillor serving on the parent Committee or any Councillor from the wider Council membership if deemed appropriate.
- (3) A substitute member of any Committee or Sub-Committee shall, in the absence of the appointed Member, be entitled to attend, speak and vote at the meeting. Should the appointed Member arrive during the course of the proceedings, the substitute Member, after completion of the item of business under consideration, may remain in the meeting and, subject to the consent of the Chair (Standing Order No. 24), may speak to subsequent items but shall not vote.
- (4) The quorum for Committee and Sub-Committee meetings shall be the greater of:
 - one quarter of the membership of the Committee or Sub-Committee; or
 - three Members

No. 23

STANDING ORDERS TO APPLY TO COMMITTEES AND SUB-COMMITTEES

Subject to the following exceptions, the Standing Order of the Council headed "Rules of debate for Council meetings" (Standing Order No. 12) shall, with any necessary modification, apply to Committee and Sub-Committee meetings:

- (i) Members may speak more than once during any debate;
- (ii) there be no automatic time limit for the length of speeches, although the Chairs of relevant Committee / Sub-Committee meetings may curtail the length of Councillors' speeches to no more than five minutes if they consider it to be justified, having regard to the nature of the debate; and
- (iii) proposers and seconders of motions must be members of the relevant Committee or Sub-Committee.

No. 24

ATTENDANCE OF MEMBERS AT MEETINGS OF COMMITTEES, SUB-COMMITTEES AND WORKING GROUPS OF WHICH THEY ARE NOT MEMBERS

- (1) Any Councillors may attend meetings of any Committee or Sub-Committee of which they are not members. However, in such cases, a Councillor must obtain the consent of the Chair of the meeting concerned in order to speak.
- (2) Attendance and participation at Working Group meetings by Councillors who are not members of the Working Group shall be at the discretion of the Chair.
- (3) In no circumstances shall Councillors vote or propose / second motions at meetings of a Committee, Sub-Committee or Working Group of which they are not members.

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No. 25

VOTING AT COMMITTEES, SUB-COMMITTEES AND WORKING GROUPS

- (1) In the case of Committee and Sub-Committee meetings, only the Members (of the respective Committee / Sub-Committee) physically present in the meeting room shall be entitled to vote.
- (2) The manner of voting shall be at the discretion of the Chair, to ensure that the outcome of any vote is beyond doubt.
- (3) In the event of an equality of votes, the Chair shall have a casting vote.
- (4) Immediately after a vote is taken at a Committee or Sub-Committee meeting, any Member may request that the way in which s/he voted or abstained be recorded in the minutes of that meeting.

No. 26

**MOVER OF MOTION - RIGHT OF ATTENDANCE
AT MEETINGS OF COMMITTEES OR SUB-COMMITTEES**

A Member of the Council who has moved a motion which has been referred to any Committee or Sub-Committee shall:-

- (i) have notice of the meeting of the Committee or Sub-Committee at which it is proposed to consider the motion;
- (ii) have the right to attend the meeting; and
- (iii) if s/he attends, have an opportunity of explaining the motion.

**PROVISIONS RELATING TO BOTH FULL COUNCIL
AND COMMITTEES**

No. 27

ATTENDANCES AT MEETINGS

- (1) The clerk of the meeting or other appropriate officer shall record the names of every Member of the Council attending a meeting of the Council, or of any of its Committees or Sub-Committees.

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No. 28**DISCLOSURE OF INTERESTS AND PARTICIPATION AT MEETINGS**

Members shall:

- (1) Disclose any disclosable pecuniary interest, or other interest which the Council has decided is appropriate for disclosure, at meetings at which they are present and at which associated matters are considered;
- (2) Notify the Monitoring Officer of any interest not already registered but which is disclosed to a meeting under (1) above within 28 days of the disclosure; and
- (3) Not participate in any discussion or vote where they have a disclosable pecuniary interest in a matter and withdraw from the meeting during consideration of the matter unless a dispensation has been granted.

No. 29

**REPRESENTATIONS AT MEETINGS
(other than petitions – Standing Order 32 refers)**

(1) Representations at meetings of the Planning Committee

- 1.1
 - an objector;
 - a representative of the relevant parish or village council; and
 - the applicant or agent

...may speak about a planning application from within the meeting room, or remotely via audio/visual conferencing facilities, for up to three minutes each. Speakers must pre-register with Democratic Services by 4.30pm on the day before the Committee meeting.

- 1.2 Alternatively, such speakers will be given the opportunity to pre-record their representations (such recordings to be facilitated by the Council, limited to the individual speaking to camera, without additional augmentations to promote his or her views) and for the recordings to be replayed at the meeting. Otherwise, such representations must be submitted in writing (including via e-mail) and read out at the meeting by the Chief Executive or nominated representative, **either from within a physical meeting place or from a remote location**. In either case, the deadline for the receipt of such submissions shall be by noon on the working day before the meeting. The maximum time allowed for replaying or reading out each representation shall be three minutes. Such representations shall be tested for compliance with the three-minute rule and individuals will be asked to curtail their recordings if necessary.
- 1.3 **In either case**, if more than one objector wishes to speak or have their representation recorded or read out, a single representative will normally be asked to speak or submit representations on behalf of fellow objectors. Professional agents may act on behalf of objectors. Supplementary written submissions, visual aids, hand-outs or other material will not be allowed. Representations should not seek to introduce new information or material not previously submitted with the application. This may result in the application being deferred for further consideration or public comment.

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- 1.4 Where there is considerable public interest in an application and a number of objectors want to speak on particular and different aspects, the Chair may allow additional speakers. In such circumstances, the applicant may be granted more time to respond at the Chair's discretion.
- 1.5 Where an application straddles one or more Parish boundaries, each Parish Council will be allowed to speak for three minutes.
- 1.6 All public speaking at the meeting is at the Chair's discretion.
- 1.7 The provisions of this Standing Order shall take precedence over the Planning Protocol.

(2) Representations at other Committee meetings

2.1 Members of the public and other interested parties can make representations at meetings of any Policy Committee (or Sub-Committee thereof) or the Audit & Scrutiny Committee in connection with a particular agenda item. The maximum time allowed shall be three minutes per person. Unless the agenda already makes special provision for members of the public to participate at a particular meeting, such requests must be sent by email, or submitted in writing to Democratic Services at least two working days prior to the Committee meeting in question. Acceptance of such requests, together with those received after the aforementioned deadline or at the meeting, shall be at the discretion of the Chair of the relevant meeting, having due regard to the number of contributions, the potential for repetition of the subject matter and the likely length of the meeting. Members of the public or interested parties can either:

- read out their representations at the meeting, either from within the physical meeting room, or remotely via audio/visual conferencing facilities; or
- they will be given the opportunity to pre-record their representations (such recordings to be facilitated by the council, limited to an individual speaking to camera, without additional augmentations to promote his or her views) and for the recordings to be replayed at the meeting.

Otherwise, such representations will be read out by the Chief Executive or nominated representative, either from within a physical meeting place or from a remote location. Such representations shall be tested for compliance with the three-minute rule and individuals will be asked to curtail their submissions if necessary.

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QUESTIONS AT MEETINGS

- (1) Subject to (i) to (xiii) below, a Councillor, or a person resident, working or studying in the District, may put a question to the Leader or a Committee Chair at any meeting of the Council (other than the Annual Meeting) or to the Chair presiding at a Committee meeting on any matter in relation to which the Council / Committee has powers or duties or which affects the District:
- (i) such questions must be received by e-mail or in writing to Democratic Services by 5pm on the second working day prior to the day of the meeting;
 - (ii) the Chief Executive may, at her / his discretion, refuse to allow a question to be presented if s/he considers it to be offensive, excessively lengthy, outside the scope of this Standing Order, or on the same subject as another question or upon which a question has been answered in the previous three months;
 - (iii) subject to (ii) above, questions shall be e-mailed to all Members by 6.00pm on the working day prior to the meeting and either:
 - read out at the meeting by the individual concerned, either from within the physical meeting room or remotely via audio/visual conferencing facilities; or
 - the individuals concerned will be given the opportunity to pre-record their questions (such recordings to be facilitated by the Council, limited to the individual speaking to camera, without additional augmentations to promote their views) and for the recordings to be replayed at the meeting

otherwise, such questions will be read out by the Chief Executive or nominated officer, either from within a physical meeting place or from a remote location;
 - (iv) the maximum total time periods allowed for questions shall normally be as follows and can only be extended at the discretion of the Chair:
 - 1 hour for Council meetings; and
 - 10 minutes for Committee meetings
 - (v) the questions shall be taken in the order that they were received by Democratic Services, subject to questions from residents and others working or studying in the District being dealt with first, followed by questions from Members;
 - (vi) such questions shall be dealt with at the beginning of the relevant meeting;
 - (vii) at Full Council meetings, the Chair may request that the answer be given by another Member of the Administration (e.g. if the Member to whom a question is directed is absent or if the Chair considers that, in any event, it would be more appropriate for another Member to respond);
 - (viii) at Committee meetings, the Chair may request that the answer be given by another Member of the Administration or an Officer;

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- (ix) at the meeting, subject to the person asking the question being present (whether 'in person' or remotely) the Chair will ask them if the response answers their concern or if they wish to ask a supplementary question (if a supplementary question is asked, it must arise from the reply given);
 - (x) at Full Council meetings, the person asking the question shall be allowed to ask a second supplementary question (if a second supplementary question is asked, it must arise from the reply given to the original or first supplementary question);
 - (xi) at Full Council meetings Members who respond to original questions may nominate another Member(s) to respond to supplementary questions;
 - (xii) at Committee meetings, those responding to original questions may nominate another Member(s) or Officer(s) to respond to supplementary questions;
 - (xiii) answers to both original and supplementary questions may take the form of:-
 - (a) a direct oral answer; or
 - (b) where the desired information is contained in a publication of the Council, a reference to that publication;
 - (xiv) both the questions and responses in respect of Standing Order 30(1) shall be recorded in the minutes of the relevant Full Council or Committee meeting
- (2) Subject to the notice requirements of Standing Order 11(3), a Member of the Council may also ask the Chair of a Committee any question regarding a Committee minute which is under consideration by the Council.

No. 32

PRESENTATION OF PETITIONS TO MEETINGS OF THE COUNCIL AND ITS COMMITTEES (excluding the Planning and Licensing Committees)

- (1) This Standing Order applies to the presentation of petitions at meetings of:
 - (i) the Council (other than the Annual Meeting); and
 - (ii) Committees (excluding the Planning and Licensing Committees).
- (2) Such petitions must be:
 - (i) confined to matters which fall under the Authority's powers or duties or which specifically affect the whole or part of the District, but must not concern individual planning applications / enforcement matters / licensing decisions, or other matters where there is a statutory right of review or appeal. (Whilst members of the public may wish to organise petitions in respect of planning and licensing issues, these will be taken into account as part of the Council's separate decision making processes. For example, petitions about planning applications can be referred to by residents when addressing the Planning Committee as part of the public speaking arrangements specifically tailored for that Committee);

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- (ii) signed by at least ten persons living, working or studying in the area;
 - (iii) submitted at least ten clear working days before the relevant meeting to Democratic Services, either via email, the Council's website (on-line format), or the delivery of a paper copy, together with notice of the intention to present it.
- (3) The Chief Executive must be satisfied that it would be appropriate for the petition to be presented (i.e. that the prayer of the petition does not exceed 300 words; does not contain offensive language; and that it otherwise complies with the requirements of this Standing Order).
- (4) Subject to (3) above, the presentation of petitions shall take place:-
- (i) at Council meetings (other than the Annual Meeting), in accordance with Standing Order 6; or
 - (ii) at Committee meetings specified in 1 (ii) above, immediately after the submission of questions by members of the public.
- (5) The presentation of a petition (to be by any one of the ten or more signatories specified in 2(ii) above or a Member of the Council) shall be in the form of a statement, limited to not more than three minutes, and shall be confined to the subject matter of the petition, indicating the number and description of the signatories, and making such further supporting remarks relevant to the petition. Spokespersons can either:
- read out their statements at the meeting, either from within the physical meeting room, or remotely via audio/visual conferencing facilities; or
 - be given the opportunity to pre-record their statements and for the recordings (such recordings to be facilitated by the Council, limited to an individual speaking to camera, without additional augmentations to promote his or her views) to be replayed at the meeting.
- Otherwise, such statements will be read out by the Chief Executive or nominated officer on behalf of the spokesperson, either from within a physical meeting place or from a remote location.
- (6) Regarding petitions presented to the Council itself, the Chair of the Council:-
- (i) may, if s/he considers it convenient and conducive to the despatch of business, allow the subject matter to be dealt with at the meeting at which it is presented; or otherwise
 - (ii) shall refer the subject matter, without discussion, to the relevant Committee or Sub-Committee for consideration.
- (7) Regarding petitions presented to a Committee:-
- (i) the Chair of the Committee may, if s/he considers it convenient and conducive to the despatch of business, allow the subject matter to be dealt with at the meeting at which it is presented; or otherwise
 - (ii) the subject matter shall stand referred, without discussion, either to the next ordinary meeting of the Committee or appropriate Sub-Committee.

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- (8) Petitions shall be presented in the order in which notice of them is received by Democratic Services.
- (9) Notwithstanding the provisions of this Standing Order, it is acknowledged that any person may, if s/he so wishes, present a petition to the Council out of meeting.

No. 33

DISORDERLY CONDUCT - MEMBERS

- (1) If at any meeting of the Council, a Committee, or Sub-Committee, any Member of the Council, in the opinion of the Chair misconducts him/herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the meeting, the Chair or any other Member may move "that the Member named be not further heard", and the motion, if seconded, shall be put and determined without further discussion.

Continuing misconduct by a named Member

- (2) If the Member named continues his / her misconduct after a motion under the foregoing paragraph has been carried, the Chair may :-

EITHER

Move "That the Member named do leave the meeting" in which case the motion shall be put and determined without seconding or discussion (if carried, the named Member shall be asked to leave the meeting

OR

Adjourn the meeting for such period, as s/he in her/his discretion considers expedient.

General disturbance

- (3) In the event of general disturbance which, in the opinion of the Chair, makes it impossible to conduct business, s/he may adjourn the meeting without question for whatever period s/he considers appropriate.

No. 34

DISTURBANCE BY THE PUBLIC

- (1) The Chair shall warn any member of the public who interrupts the proceedings at any meeting. If the individual continues the interruption, the Chair may order his / her removal from the meeting venue. In the event of general disturbance in any part of the meeting venue open to the public, the Chair shall order that part to be cleared. Similarly, in event of general disturbance from members of the public participating remotely, the Chair may order all such public access to be terminated.
- (2) The Chair may adjourn the meeting as per SO 33(3) above.

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MEMBERS AND STAFF

No. 35

GENERAL URGENCY PROVISION

Notwithstanding anything in this Constitution, the Chief Executive and other Extended Management Team (EMT) members shall be authorised to take decisions on the grounds of urgency regarding matters which would otherwise be reserved for determination by a Committee or the Council. A matter can be deemed urgent if, in the reasonable opinion of the EMT member concerned, a delay would seriously prejudice the interest of the Council or of the public and it is not practicable to convene a quorate meeting of the relevant decision-making body in sufficient time to take the decision.

The EMT member concerned shall also:

- advise and seek the views of the Political Group Leaders and the Chair of the appropriate Committee at the earliest opportunity; and
- report the matter to next scheduled meeting of the appropriate Committee.

No. 36

PECUNIARY INTERESTS OF OFFICERS

If an Officer has a direct or indirect pecuniary interest in a contract which the Council has entered into, or proposes to enter into, he /she shall make arrangements for the interest to be recorded within an electronic register maintained for this purpose.

No. 37

MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

If any question arises at a meeting of the Council, Committee or Sub-Committee to which Section 100A(4) of the Local Government Act 1972 applies as to the appointment, promotion, dismissal, salary, superannuation or condition of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council, Committee or Sub-Committee, as the case may be, has decided whether or not the power of exclusion of the public under Section 100A(4) of the Local Government Act 1972 shall be exercised.

No. 38

CANVASSING OF AND TESTIMONIALS BY MEMBERS

- (1) Canvassing of Members of the Council or any Committee of the Council directly or indirectly for any appointment under the Council may disqualify the candidate concerned for that appointment. The purport of this paragraph of this Standing Order shall be included in any form of application.

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- (2) A Member of the Council shall not solicit for any person any appointment under the Council, but this shall not preclude a Member from giving a written testimonial of a candidate's ability, experience, or character for submission to the Council with an application for appointment.
- (3) A Member of the Council shall inform the Chief Executive of any Officer canvassing them directly or indirectly for any favour relating to their employment. The Chief Executive will consider the appropriate course of action to be taken against that Officer.

No. 39

APPLICANTS FOR EMPLOYMENT VACANCIES WHO ARE RELATIVES OR PARTNERS OF MEMBERS OR OFFICERS

- (1) A candidate for any appointment by the Council who is a relative or partner of anyone known to be a Member or officer of the Council shall, when making an application, disclose that relationship. A candidate who fails to disclose such a relationship may be disqualified for the appointment and, if appointed, shall be liable to dismissal without notice. If a Member or officer is a relative or partner of anyone known to be such a candidate, they must disclose this to Human Resources.
- (2) The purport of this Standing Order shall be included in any form of application.

No. 40

FILLING OF VACANCIES

All vacancies, unless they are to be filled by promotion or transfer, shall be advertised on a relevant website. Consideration may be given to advertising in a relevant newspaper or a journal or an agency/consultancy as well where the best opportunity lies for reaching prospective applicants except where determined by the appropriate Committee. If, within six months of the filling of a vacancy which has been advertised, a similar vacancy occurs, one of the former applicants may be appointed.

NOTE:

- (i) The appointment of Local Authority staff generally is dealt with under Sections 112 to 119 of the Local Government Act 1972.
- (ii) The appointment of the Chief Executive and other Chief Officers are covered in Standing Order No. 41.

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No. 41**APPOINTMENT OF CHIEF OFFICERS**
(i.e. those who will serve on the Management Team)

- (1) Where the Council proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among existing staff, the Chief Executive shall:-
 - (i) draw up a statement specifying -
 - (a) the duties of the post; and
 - (b) any qualifications / qualities to be sought in the person to be appointed;
 - (ii) invite applications by public advertisement; and
 - (iii) provide a copy of the statement referred to in paragraph (i) above to any person on request.
- (2) Where a post has been advertised as provided in paragraph 1 (ii) above, the Chief Officer Sub-Committee will interview all qualified applicants for the post or a short list of qualified applicants. Such short-listing will be undertaken by the Sub-Committee where the appointment in question is for the post of Chief Executive. For other Chief Officer appointments, short-listing will be undertaken by the Chief Executive.
- (3) Where no qualified person has applied, further applications may be invited in accordance with paragraph 1 (ii).
- (4) An appointment to the post of Chief Executive shall be made by the Council.
- (5) Appointments to other Chief Officer posts will be dealt with by the Chief Officer Sub-Committee which is empowered to make an appointment and report its decision to the next meeting of the Council.

No. 42**DISCIPLINARY ACTION AGAINST CHIEF OFFICERS**

- (1) Subject to (2) below, the Chief Officer Sub-Committee shall deal with disciplinary matters relating to the Chief Executive and other Chief Officers.
- (2) In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, any recommendation of the Sub-Committee to dismiss the Chief Executive, Monitoring Officer or the Section 151 Officer must be referred to full Council following a disciplinary hearing by an independent advisory panel.
- (3) Should a Chief Officer be suspended for the purpose of investigating alleged misconduct, any such suspension shall be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

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No. 43

INSPECTION OF LANDS, PREMISES, ETC.

Unless specifically authorised to do so by the Council or a Committee, a Member of the Council shall not issue any order respecting any works which are being carried out by or on behalf of the Council or claim by virtue of his / her Membership of the Council any right to inspect or to enter upon any lands or premises which the Council has the power or duty to inspect or enter.

No. 44

POLITICALLY RESTRICTED POSTS

The following posts have been listed in accordance with Subsection (1) of Section 2 of the Local Government and Housing Act 1989:

1. Specified Posts

Chief Executive
Deputy Chief Executive
Director of Resources
Head of Legal & Democratic Services (Monitoring Officer)
Chief Planning Officer
Head of Policy and Communications
Head of Assets and Regeneration
Transformation Programme Director
Head of Housing
Head of Environment
Head of Building Control
Head of Communities
Building Control Business Manager

2. Posts included by virtue of Subsection (3) of Section 2 of the Local Government and Housing Act 1989 (giving advice to the Authority and speaking to the press on a regular basis on behalf of the Authority):

The list of the posts concerned is currently under review.

No. 45

RECOGNITION OF POLITICAL GROUPS

Political Groups will be provided with use of the Council Chamber and/or committee rooms in the Council Offices for the consideration of matters connected with the functions of the Authority.

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No. 46**REQUIREMENTS FOR OFFICERS TO CONSULT WITH MEMBERS**

Throughout Financial Regulations, the Scheme of Delegation and the Planning Protocol (parts C, E and F of the Constitution) requirements for officers having to consult Members shall be interpreted as follows:

- (i) if the Council is in a state of no overall control (i.e. where no single political group or a coalition of groups has an absolute majority of seats) such consultation shall be with the Leaders, or their nominated representatives, of political groups comprising eight or more Councillors; or
- (ii) if a single political group or a coalition of groups forming the Administration has an absolute majority of seats, such consultation shall be solely with the Leader(s) of the Council or his / her / their nominated representative(s).

GENERAL MATTERS**No. 47****INTERPRETATION OF STANDING ORDERS**

- (1) The ruling of the Chair as to the construction or application of any of these Standing Orders, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. The Chair may call upon the Chief Executive to give advice at Council meetings on any matter.
- (2) This Standing Order shall also apply with any necessary modification to the ruling of the Chair at any Committee or Sub-Committee meeting.

No. 48**SUSPENSION OF STANDING ORDERS**

- (1) Subject to paragraph (2) of this Standing Order, any of the preceding Standing Orders (other than Standing Orders 13 (3) and (5) which are mandatory) may be suspended so far as regards any business at the meeting where its suspension is moved.
- (2) A motion to suspend Standing Orders shall not be moved without notice in Council (i.e. under Standing Order No. 9) or Committee unless there shall be present at least one-half of the whole number of the members of the Council or Committee.

No. 49**CONSTITUTION - AMENDMENTS**

Power to make significant revisions to the Constitution is reserved for the Council (including upon consideration of recommendations from the Strategy & Resources Committee (subject to other Policy Committees being able to make recommendations direct to Council about proposed changes to their Terms of Reference). Subject to the matter being reported on the Delegated Action List, minor and consequential amendments can be made by the Chief Executive.

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No. 50**LOCAL CODE OF CONDUCT FOR MEMBERS**

- (1) All Members of the Council must familiarise themselves with the contents of the Local Code of Conduct, a copy of which forms part of the Council's Constitution.
- (2) Each Member shall provide an annual signed undertaking to abide by the 7 'Nolan Principles of public life' (listed below) while serving as a Councillor:
 - selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership.

No. 51**CUSTODY OF SEAL**

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

No. 52**INSPECTION OF DOCUMENTS**

In addition to the rights given to Members by Section 100F (Rights of Access to Documents) of the Local Government Act 1972, a Member of the Council may also establish the need to know and hence a right to inspect any document in the Council's possession on an approach to the Chief Executive.

NOTES

- (i) References in these Standing Orders to the feminine / masculine genders are interchangeable. References to the singular shall also include the plural and vice-versa.
- (ii) A clear working day means any day from Mondays to Fridays inclusive but specifically excludes Public and Bank Holidays and weekends.
- (iii) In respect of the decision making process and by virtue of Minute 541 (94/95), the Council has accepted the general principle that a decision, once taken, should not be changed at the same Council/Committee/Sub-Committee meeting.

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PART C – FINANCIAL REGULATIONS

(July 2023)

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1. Introduction

- 1.1. The Council is required by law, section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations 2015, to conduct its business efficiently and to ensure that it has sound financial management policies in place, which are strictly adhered to.
- 1.2. The Local Government Act 1972 (Section 151) makes the Director of Resources responsible for the proper administration of the Council's financial affairs. These Financial Regulations ('Regulations') are issued pursuant to these responsibilities and form part of the Council's Constitution (Part C).
- 1.3. The Regulations apply to every Councillor (known as 'Members') and Officer of the Council and to anyone acting on its behalf, including agencies and partnerships with whom the Council does business and for whom the Council is the relevant accounting body.
- 1.4. All Members and Officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public monies. Further to this, the Council expects honesty, openness, and integrity to be the values which underpin its financial affairs and all those involved with the Council's business should work with these values in mind.
- 1.5. Failure to comply with any part of these Regulations may:-
 - For employees, constitute misconduct and lead to formal disciplinary action;
 - For Members, form part of the Code of Conduct for Members, so a breach will be reported to the Hearing Panel (part of the Standards Committee) which will make an appropriate decision.
- 1.6. Although the Regulations cover all major financial systems and processes (whether electronic or not), regard must also be had to other documents which form part of the Council's Constitution e.g., Contract Standing Orders, Schemes of Delegation, Members' Code of Conduct and Protocol on Member/Officer Relations. Consideration should also be given to the Council's policies relating to Anti-Fraud, Bribery and Corruption, Anti-Money Laundering and Whistleblowing.
- 1.7. It is not possible to draft regulations that cover every eventuality or circumstance. Consequently, the principles of sound financial management, proper exercise of responsibility, and accountability, as set out in the Regulations, should be applied in all circumstances, even where any circumstance is not specifically referred to. Should any doubt arise, you should consult the s151 Officer.
- 1.8. Throughout this document all references to authorisation/signatories apply to both hardcopy and electronic records. A digital signature/authorisation carries no less weight and imposes no less responsibility on the authorising officer than a handwritten signature.

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2. Responsibilities for Financial Management

- 2.1. Financial management describes the system of financial control throughout the Council and covers all financial responsibilities for the Council, including budget-setting and integrating medium-term policy planning with financial planning, budget monitoring and closing of the accounts.
- 2.2. The Council is responsible for the stewardship of public money and will plan to safeguard the interests of taxpayers and other stakeholders.

3. The Full Council

- 3.1. The Full Council is responsible for adopting the Council's constitution and Members' Code of Conduct and for approving the policy framework, budget and borrowing within which the Council operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability as set out in its Constitution and is responsible for monitoring compliance with agreed policy and reporting decisions taken.

4. Committees

- 4.1. The Audit & Scrutiny Committee is responsible for scrutinising Committee decisions and for holding the Council to account. It also is responsible for reviewing the external auditor's reports, the annual audit letter and the internal audit's annual plan and report.
- 4.2. The Standards Committee is responsible for advising the Council on the adoption and revision of the Members Code of Conduct and for monitoring the operation of the Code.
- 4.3. The Strategy & Resources Committee is responsible for proposing the policy framework and budget to Council and for discharging its functions in accordance with the policy framework and budget.

5. The Statutory Officers

Head of Paid Service (Chief Executive)

- 5.1. Throughout the Regulations the title for the post holder in the Council (Chief Executive) is used rather than the statutory definition (Head of Paid Service). The Chief Executive as Head of Paid Service is responsible for the corporate and overall strategic management of the Council. S/he must report to and provide information to Strategy and Resources Committee, Council and to other Committees to enable them to fulfil their responsibilities. S/he is responsible for establishing a framework for management direction, style, and standards and for monitoring the performance of the organisation. The Chief Executive is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Council's decisions.

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Monitoring Officer (Head of Legal Services)

- 5.2. The Monitoring Officer (also referred to as the 'Head of Legal Services') is responsible for promoting and maintaining high standards of probity and the administration of the Council's political management structures. The Monitoring Officer is also responsible² for reporting on any proposal, decision or omission which has or may give rise to contravention of law or maladministration to Full Council.
- 5.3. The Monitoring Officer must ensure that committee decisions and the reasons for them are made public. S/he must also ensure that Members are aware of who has authority to take a particular decision.
- 5.4. The Monitoring Officer is responsible for maintaining a review of the Constitution and submitting any additions or changes necessary to Full Council for approval.

Director of Resources (s151 Officer)

- 5.5. The Director of Resources is appointed in accordance with Section 6 of the Local Government and Housing Act 1989. The Director of Resources shall, for the purposes of Section 151 of the Local Government Act, 1972, be responsible for the proper administration of the Council's financial affairs.
- 5.6. In respect of maintaining and upholding the Regulations, the Section 151 Officer is responsible for:
- Reviewing and reissuing these Regulations as necessary. Minor amendments and editing changes, including in year changes necessary to align with new or revised legislation or UK law can be made without committee approval;
 - Reviewing and reissuing financial procedures as necessary to support the effective operation of these Regulations;
 - Reporting, where appropriate, any breaches of these Regulations to Councillors on at least an annual basis; and
 - Interpreting and/or arbitrating should any uncertainty or dispute arise pursuant to these Regulations in consultation with the Monitoring Officer.
- 5.7. CIPFA has described five principles that are critical to the achievement of the section 151 Officer's (SECTION 151 OFFICER's) statutory responsibilities:
- the s151 Officer is a key member of the leadership team, helping it to develop and implement strategy and to resource and deliver the council's strategic objectives sustainably and in the public interest;
 - the s151 Officer is actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and long-term implications, opportunities and risks are fully considered, and alignment with the council's overall financial strategy;

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² Section 5, Local Government and Housing Act 1989

- the s151 Officer leads the promotion and delivery by the whole council of good financial management so that public money is always safeguarded and is used efficiently, effectively, economically and appropriately;
 - the s151 Officer must lead and direct a finance function that is resourced to be fit for purpose; and
 - the s151 Officer must be professionally qualified and suitably experienced.
- 5.8. The Council has adopted these best practice principles as they describe in plain terms the role of the s151 Officer and encompass the specific statutory duties set out below.
- 5.9. The s151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The s151 Officer is responsible for:
- the proper administration of the Council's financial affairs;
 - setting and monitoring compliance with financial management standards;
 - establishing an adequate and effective system of Internal Audit;
 - advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
 - providing financial information;
 - preparing the revenue budget and capital programme;
 - treasury management;
 - approving accounting policies, procedures and ensuring that they are applied consistently;
 - ensuring that the annual Statement of Accounts is prepared in accordance with the CIPFA/ LASAAC Code of Practice on Local Authority Accounting in the United Kingdom, and for signing and dating the Statement of Accounts; and
 - the s151 Officer is responsible for determining the accounting and financial procedures and records for the Council, whether they be paper based or electronic.
- 5.10. Section 25 of the Local Government Act 2003 provides that, where a billing authority such as this Council is making calculations for the purposes of setting its Council Tax, the s151 Officer must report to it on the following matters:
- the robustness of the estimates made for the purpose of the calculations; and
 - the adequacy of the proposed financial reserves.
- 5.11. A Section 25 report will either be a separate annex to the budget report or the constituent parts will be within the Budget report, to assist Members when making decisions about the premise on which the calculations are based.

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5.12. Section 114 of the Local Government Finance Act 1988 requires the s151 Officer to report to Council and the External Auditor if Council or one of its Officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure;
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council; and
- is about to make an unlawful entry in the Council's accounts.

5.13. Section 114 of the 1988 Act also requires:

- the s151 Officer to nominate a properly qualified member of staff to deputise should s/he be unable to perform the duties under section 114 personally;
- the Council to provide the s151 Officer with sufficient staff, accommodation, and other resources – including legal advice where this is necessary to carry out the duties under Section 114.

5.14. The s151 Officer is also responsible for:

- issuing advice and guidance to underpin the Regulations that Members, Officers and others acting on behalf of the Council are required to follow;
- advising Committees whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
 - initiating a new policy; and
 - committing expenditure in the current or future years above the budget.

5.15. Officers are responsible for:

- complying with the Regulations and any other financial instructions the s151 Officer may issue from time to time;
- ensuring that Members are advised of the financial implications of all proposals and that these have been agreed by the s151 Officer;
- entering into contracts on behalf of the Council, in accordance with any procurement regulations;
- ensuring that their service areas are aware of the existence and content of the Regulations;
- ensuring that if a breach of the Regulations comes to light that it is reported immediately to the s151 Officer; and
- ensuring that the services under their control are managed to promote value for money and good standards of financial control and accountability.

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6. Budget managers

- 6.1. Budget managers are responsible for specific Revenue and Capital Budgets which provide the financial resource for them to deliver the elements of the service for which they are responsible.
- 6.2. Budget managers are responsible for:
- ensuring that the Regulations and the Council's Contract Standing Orders are observed in the management of their budgets;
 - ensuring the legality and proper control of expenditure and income under their direction, including compliance with the law relating to general taxation, VAT, and the Public Contracts Regulations 2015 (as amended);
 - ensuring expenditure and income is within the agreed budget within their control and complying with the budget management framework agreed by the Council;
 - ensuring that payments are made in accordance with the Scheme of Delegated authority, comply with the Regulations and Contracting Standing Orders, and are checked for accuracy and appropriateness;
 - proper, secure and efficient management of assets under their control;
 - the management of risk within their sphere of activity;
 - the management of capital and specific grant funded projects within their sphere of activity in accordance with these Financial Regulations and the grant conditions;
 - notifying the s151 Officer of any loss or shortfall of funds, including any errors or discrepancies; and
 - other matters specific to their role.
- 6.3. The above responsibilities can be delegated, and a written record shall be maintained. Where decisions have been delegated or devolved to another Officer, reference in the Regulations shall be read as referring to them.

7. Financial Planning

7.1. Policy and Budget Framework

The Council is responsible for agreeing the Council's budget framework, which is proposed by the Strategy and Resources Committee.

7.2. For the purposes of financial planning, the key elements are the:

- Strategic Plan.
- Medium-Term Financial Strategy.
- Annual Budget.
- Capital Strategy and Capital Programme.
- Treasury Management Strategy.

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7.3. Medium Term Financial Strategy

- 7.3.1 At least annually, the s151 Officer shall present to the Strategy & Resources Committee, to be made public, a medium-term financial strategy giving at least a three year forward assessment (for the next budget year and the two following years) of revenue commitments based on present levels of service and efficiency and showing the financial implications of changes in Council policy, legislation, service levels, activity and other factors including also decisions already taken on new commitments. The plan will show, in summary, the estimated impact of future spending plans on the General Fund.
- 7.3.2 In order that the information requirements of a medium-term financial strategy are satisfied, reports to committees with significant financial implications shall show the full year effect of the proposals and the implications for at least the next three years.
- 7.3.3 The respective Officers and Budget Managers must regularly review the financial implications of changes in their committees and must notify the s151 Officer promptly of the impact on current and future budgets.

7.4. Annual Budgeting

- 7.4.1 The s151 Officer will prepare a budget timetable each year. All budget submissions shall be made in accordance with the timetable.
- 7.4.2 The general format of the budget will be approved by the Strategy and Resources Committee on the advice of the s151 Officer.
- 7.4.3 The detailed form of the revenue estimates shall be determined by the s151 Officer and must be consistent with the general directions of the Strategy and Resources Committee.
- 7.4.4 The s151 Officer, in consultation with the Senior Officers, shall prepare annual estimates, for the ensuing year, of revenue expenditure and income for consideration and approval of Committees.
- 7.4.5 Each Senior Officer shall supply the s151 Officer with such information as is necessary to support the annual estimates.
- 7.4.6 The Strategy and Resources Committee shall consider the aggregate of all committee estimates and, after making such amendments as it thinks fit, submit the aggregate estimates to the Council for approval, together with recommendations as to the Council Tax to be levied for General Fund expenditure.
- 7.4.7 The s151 Officer shall advise the Strategy and Resources Committee and other committees as necessary on budget matters.
- 7.4.8 When approving the annual budget, the Council may set aside specific sums to meet unforeseen eventualities.

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7.5. Revenue budget monitoring and control

- 7.5.1 It is the responsibility of each Senior Officer to manage and direct resources to achieve the objectives of the budget. This involves the monitoring of income and expenditure and the regular review of performance. Where budgets are delegated to Budget Managers, they are charged with the same responsibility.
- 7.5.2 Senior Officers are authorised to incur revenue expenditure up to the amounts included in the approved Annual Budget.
- 7.5.3 If it is proposed to incur expenditure for which no or insufficient provision has been made in the budget and cannot be met by virement then the committee shall not incur such expenditure without the approval of Full Council and following consideration by the Strategy & Resources Committee.
- 7.5.4 In circumstances of urgency, some Senior Officers shall be allowed to incur unavoidable expenditure subject to the concurrence of the Chief Executive, the s151 Officer and the Monitoring Officer. A written record of such decisions should be kept. A matter can be deemed urgent if, in the reasonable opinion of the Senior Officer concerned, a delay would seriously prejudice the interest of the Council or of the public and it is not practicable to convene a quorate meeting of the relevant committee in sufficient time to take the decision. The Senior Officer concerned shall also:
- advise and seek the views of all the Political Group Leaders (if the Council is in no-overall control) and the Chair and Vice Chairs of the appropriate committee at the earliest opportunity; and
 - report the matter to the next scheduled meeting of the appropriate committee.
- 7.5.5 The s151 Officer shall make available to each Senior Officer, information relating to statements of income and expenditure under each head of approved estimate, in such format as deemed appropriate together with any other relevant information.
- 7.5.6 Reports monitoring expenditure against the Council's current year revenue budgets, including an analysis of any major variances, shall be submitted to Committees on a quarterly basis.
- 7.5.7 Reports monitoring expenditure against the Council's current year revenue budgets, including an analysis of any major variances, shall be submitted to Committees on a quarterly basis.

7.6. Financial Effects of New or Increased Commitments

When a committee is considering new or increased financial commitments, information shall be provided by the Senior Officer concerned to show the estimated revenue and expenditure consequences of the decision options over a 3-year period (i.e. the budget year in question and the following two years) and the consequences for any other future year where these are significant.

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7.7. Capital Programme

- 7.7.1 Capital expenditure is a key part of the Council's Property Investment Strategy. It should therefore be linked to any asset management plans and be carefully prioritised to maximise scarce resources.
- 7.7.2 Each Committee shall annually review the Capital Programme for all schemes.
- 7.7.3 The s151 Officer, in consultation with the respective Senior Officer, shall annually prepare estimates for the ensuing year of capital expenditure (including the future revenue implications of each scheme) for consideration and approval by committees prior to their submission (in aggregate) to the Strategy & Resources Committee.
- 7.7.4 Projects that are reliant on the receipt of government or other third-party funding, including central government and other grants, must follow the capital programme procedures.

7.8. Capital Financing Costs

- 7.8.1 When a committee is considering any capital expenditure, the Senior Officer must bring this to the attention of the s151 Officer and seek advice on borrowing options and financial implications. Information shall be provided by the s151 Officer in consultation with the Senior Officer to indicate the costs, benefits, risks, and value for money of different financing options.
- 7.8.2 The Capital Financing costs of all schemes must be reflected in the Council's budget over the life of the scheme.

7.9. Control of Capital

- 7.9.1 Inclusion in the Capital Programme is to be regarded as authority for any scheme to proceed, but any scheme costing £180,000 or more requires the specific approval of the Council on the recommendation of the appropriate committee to which an appraisal of the scheme including the financial implications shall be submitted at the same time as authority is sought for the invitation of tenders.
- 7.9.2 If it appears at any time that the approved estimated cost of a capital scheme will be exceeded, then the variation of expenditure may be approved by:
- the relevant Senior Officer, subject to the concurrence of the s151 Officer where the variation of expenditure does not exceed £30,000 and can be met by virement elsewhere in the Council's budget; or
 - the relevant committee in cases where the expenditure variation exceeds £30,000 but can be met by virement within that Committee.
- 7.9.3 The s151 Officer shall make available to each Senior Officer information relating to income and expenditure under each head of approved estimate in such format as deemed appropriate together with any other relevant information.

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- 7.9.4 Reports monitoring expenditure against the Council's current year capital budgets, including an analysis of any major variances, shall be submitted to policy committees on a quarterly basis; and
- 7.9.5 For capital schemes not completed by 31st March, a schedule of capital budgets to be carried forward will be presented to Strategy & Resources Committee by July.

8. Reserves and Provisions

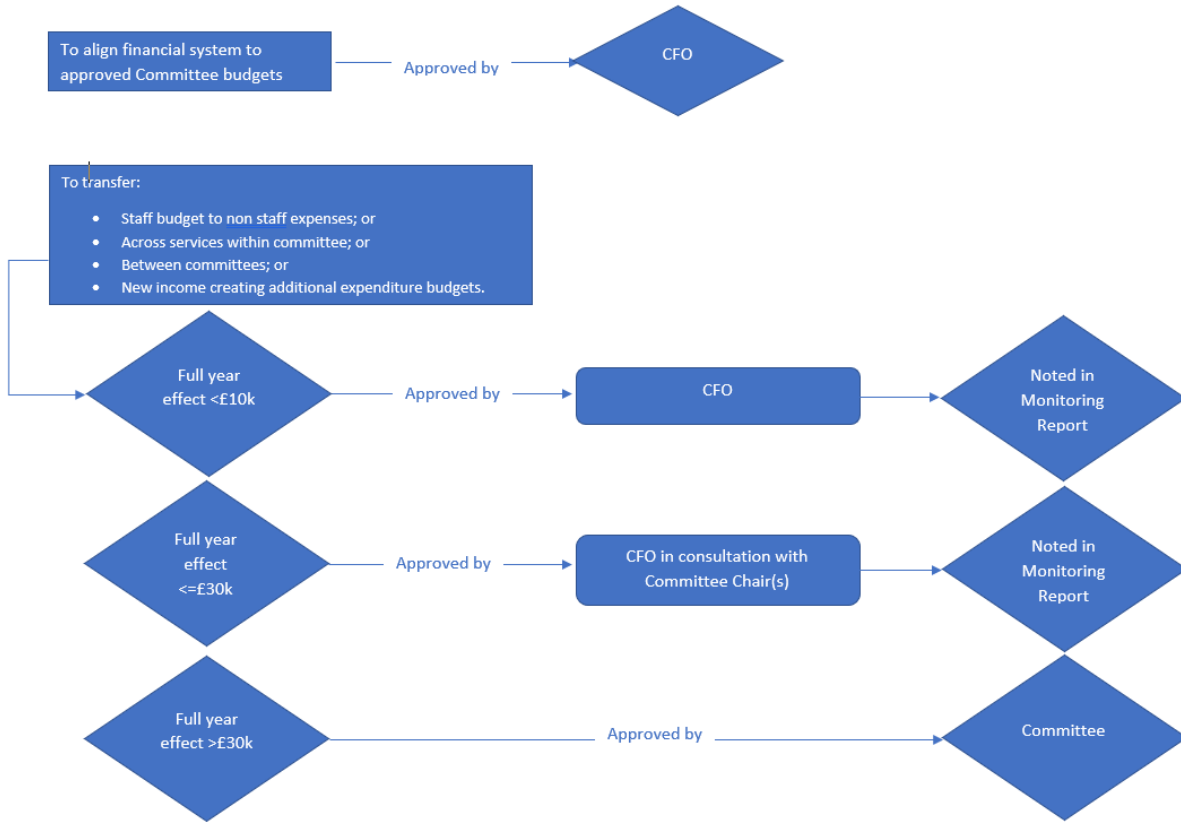
- 8.1. It is the responsibility of the s151 Officer to advise and consult with Senior Officers on prudent levels of reserves and provisions for the authority before reporting to the Strategy & Resources Committee.
- 8.2. The s151 Officer is responsible for ensuring that reserves and provisions are established, maintained at appropriate levels and applied only for the purposes for which they were earmarked. Any reserves no longer required for their original purpose shall be returned to the General Fund.
- 8.3. The s151 Officer may, except for the General Fund Reserve, authorise the application of reserves and provisions for their intended purpose and shall report to Strategy & Resources on the application of those reserves. Strategy & Resources Committee must approve the application of the General Fund Reserves.
- 8.4. As part of the Budget paper, the Reserves policy will be reviewed and updated to outline the prudent level for earmarked and general reserves for the Council.

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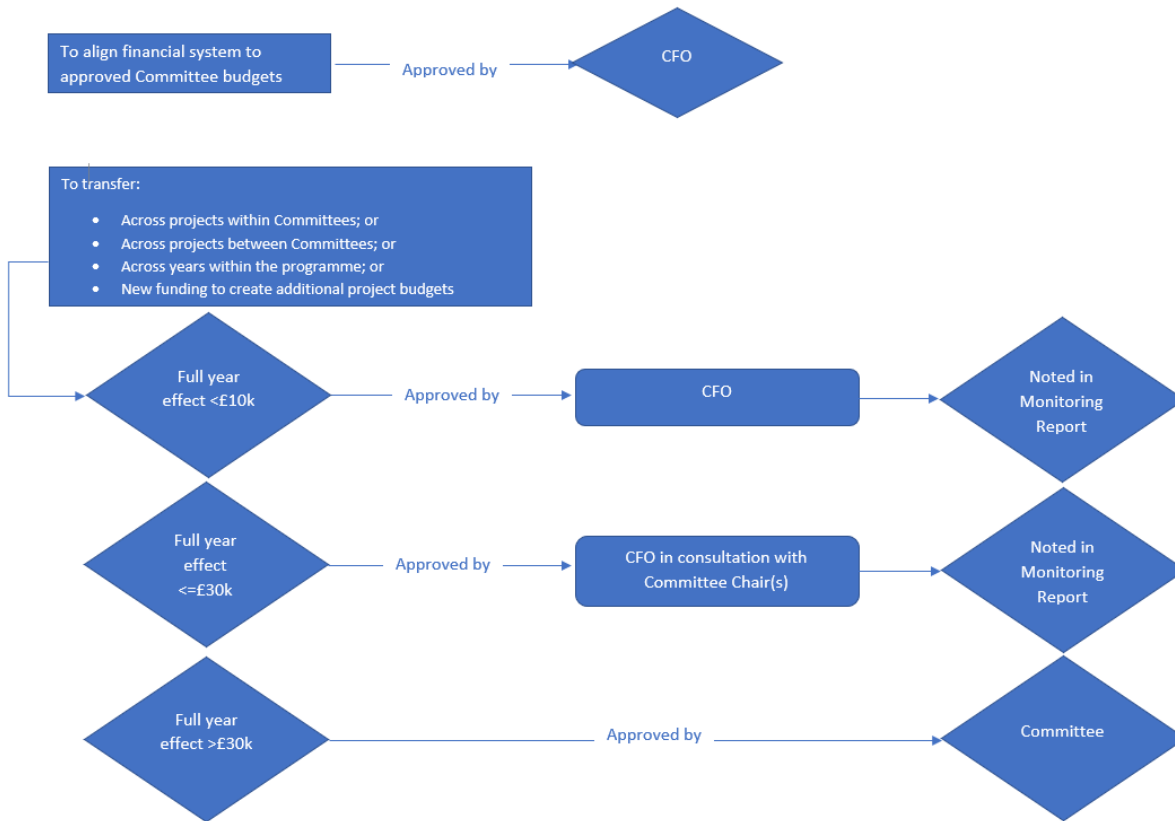
9. Virements

9.1. A virement is a transfer of budget from one service to another or one capital scheme to another.

9.2. A scheme of Virement flowchart for Revenue is shown below:



9.3 A Scheme of Virement flowchart for Capital is shown below:



9.4. Where there are overspends on a capital project, virement can take place utilising the capital resources under the control of the Senior Officer in conjunction with the s151 Officer and the Chief Executive.

9.5. Where there may be the need to vire from a project that is funded by borrowing, this must be agreed with the s151 Officer.

9.6. Any overspend that needs to be funded from an increase in borrowing will require the approval of the respective committee. Full Council approval will be needed if the overall borrowing requirement for the Council increases.

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10. Risk management and control of resources

- 10.1 All organisations, whether private or public sector, face risks to people, property, and continued operations. Risk is the chance or possibility of loss, damage, injury, or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation, and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and wellbeing of the organisation.
- 10.2 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This shall include the proactive participation of all those associated with planning and delivering services.
- 10.3 The s151 Officer is responsible for preparing the Council's Risk Management Strategy and for promoting good risk management practice throughout the Council. Senior Officers must take responsibility for risk management, having regard to advice from the s151 Officer and other specialist officers and ensuring that there are regular reviews of risk within their service units.
- 10.4 Strategy & Resources Committee is responsible for reviewing and approving the Council's Risk Management Strategy.

11 Insurance

- 11.1 The s151 Officer is responsible for the effective and efficient procurement and administration of the Council's insurance arrangements. This includes the provision of advice and effective administration of all insurance claims.
- 11.2 The s151 Officer is responsible for maintaining a register of insurances and the risks covered and for maintaining a register of insurance claims made against the Council including those that have yet to be settled.
- 11.3 The responsible Senior Officer is responsible for notifying the s151 Officer of asset disposals for which insurance cover is no longer required and the purchase of new assets, which need to be included within the Council's insurance cover.
- 11.4 The s151 Officer shall periodically review all insurances in consultation with the Heads of Service, Chief Executive, and Senior Officer as appropriate.
- 11.5 Any Officer is responsible for notifying the s151 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 Council's insurers.

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12 Internal Control

- 12.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient, and effective use of resources, ensures that statutory obligations are identified, met, and complied with and that the Council's assets and interests are safeguarded. In addition, the system of internal control facilitates reliable financial reporting and demonstrable compliance with laws and rules.
- 12.2 The s151 Officer is responsible for assisting the Council to put in place an appropriate control environment and effective internal control which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- 12.3 The s151 Officer shall ensure that the Council puts in place effective internal financial controls covering budgetary systems, accounting, financial monitoring, safeguard of assets, segregation of duties, accounting procedures, information systems, risk management systems, authorisation, and approval processes. The Head of Internal Audit is responsible for testing compliance with these internal controls and reporting on any variations to the Audit and Scrutiny committee.
- 12.4 It is the responsibility of Senior Officers to ensure that established controls are being adhered to and to evaluate their effectiveness. Senior Officers should review existing controls considering changes affecting the authority and establish and implement new controls in line with guidance from the s151 Officer.

13 Audit requirements

- 13.1 Internal audit is an independent, objective assurance and consulting activity designed to add value and improve the council's operations. It helps the council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes (Public Sector Internal Audit Standards definition). It contributes an objective opinion to the council's Annual Governance Statement.
- 13.2 The s151 Officer is responsible for ensuring that the Council complies with the Accounts and Audit Regulations 2015. The Accounts and Audit Regulations 2015 require the Council to 'maintain an adequate and effective system of Internal Audit of its accounting records and of its system of internal control in accordance with proper internal audit practices.'
- 13.3 Internal Audit should operate 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, Public Sector Internal Audit Standards (PSIAS) including the Code of Ethics and with any other statutory obligations and regulations.
- 13.4 Internal Audit (in conjunction with s151 Officer) shall prepare an Audit Plan having due regard to the Council's strategic priorities and the associated risks. The s151 Officer must agree the Audit Plan prepared by Audit. The Head of Internal Audit will present the Audit Plan to The Audit and Scrutiny Committee for discussion and approval. The Head of Internal Audit must report to the s151 Officer or the Audit and Scrutiny Committee if there are insufficient resources or other factors that are limiting the scope of their work and adversely affecting their ability to provide reasonable assurance.

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- 13.5 The Head of Internal Audit must investigate promptly any fraud or irregularity of which they become aware and report the matter to the Head of Paid Service, who will consider any legal or disciplinary action to be taken in consultation with the s151 Officer and the Monitoring Officer.
- 13.6 The s151 Officer must ensure that internal audit remains independent in both its planning and operation.
- 13.7 The s151 Officer must ensure that internal auditors have the authority to:
- access authority premises at reasonable times;
 - access all assets, records, documents, correspondence and control systems;
 - receive any information and explanation considered necessary concerning any matter under consideration;
 - require any employee of the authority to account for cash, stores or any other authority asset under his or her control;
 - access records belonging to third parties, such as contractors when required;
 - have direct access to the Chief Executive, the Audit and Scrutiny Committee, the Chair of the Audit and Scrutiny Committee, elected Members and the external auditor; and
 - evaluate and report on the adequacy and effectiveness of internal controls.
- 13.8 Senior Officers are responsible for the following matters:
- ensuring that internal auditors are always given access and without notice to Council and partners' premises, personnel, records, documents, correspondence, systems and assets that the auditors consider necessary for the purposes of their work;
 - ensuring that auditors are provided with any information and explanations that they seek in the course of their work;
 - considering and responding promptly to recommendations in audit reports;
 - ensuring that actions arising from audit recommendations are carried out in a timely and efficient fashion; and
 - ensuring that new systems for maintaining financial records or records of assets, or changes to such systems are discussed with and agreed by the head of internal audit prior to implementation.

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13.9 The Council must also appoint External Auditors and the s151 Officer is responsible for ensuring that the selection of External Auditors is carried out in line with statutory guidance. The basic duties of the External Auditor are governed by the Local Audit and Accountability Act 2014: the auditor must be satisfied:

- that the authority has made proper arrangements for securing economy, efficiency, and effectiveness in its use of resources;
- that the Accounts are prepared in accordance with rules made under section 23 of the 1980 to act and comply with the requirements of all statutory provisions applicable to the Accounts;
- that the Accounts present a true and fair view of the Council's financial position, its income and expenditure for the year in question and complies with legal requirements.

13.10 The External Auditor can identify and report significant deficiencies in any internal controls directly to the Audit and Scrutiny Committee and those charged with governance.

13.11 The s151 Officer is responsible for:

- ensuring that external auditors are given the same rights of access to premises, personnel, records, documents, systems and assets that are given to Internal Audit;
- drawing up the timetable and issuing guidance for the production of final accounts and advising staff and external auditors accordingly;
- ensuring that there is effective liaison between external and internal audit; and
- working with the external auditor and advising the Full Council, Committees and Senior Officers of their responsibilities in relation to external audit.

13.12 Senior Officers are responsible for:

- ensuring that external auditors are given access at all reasonable times to premises, personnel, documents, and assets which the external auditors consider necessary for the purposes of their work; and
- ensuring all records are up to date and available for inspection.

13.13 The Council may, from time to time, be subject to audit, inspection, or investigation by external bodies such as HM Revenue and Customs who have statutory rights of access.

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14 Preventing Financial Irregularities, Fraud and Corruption

- 14.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities whether from inside or outside the Council.
- 14.2 The Council is committed to maintain a strong anti- fraud and corruption culture through its Anti-Fraud, Bribery and Corruption Policy which are issued to all Members and Officers of the Council. This is designed to:
- encourage prevention.
 - promote detection.
 - identify a clear pathway for investigation, and
 - fulfil the requirements of Section 17 of the Crime and Disorder Act 1998.
- 14.3 The Council expects that Members and Officers at all levels will lead by example and act with integrity in ensuring adherence to legal requirements, rules, procedures, practices, and internal controls including internal checks. This includes a duty to report a suspected breach of the Council's Contract Standing Orders and Regulations.
- 14.4 The Council also expects that the individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.
- 14.5 Any Officer of the Council suspecting financial irregularity shall immediately inform the s151 Officer. The s151 Officer shall, in consultation with the Chief Executive and the Monitoring Officer, make what investigation s/he thinks proper and if s/he is satisfied that irregularity exists, s/he shall immediately inform the External Auditor. An investigation concerning an allegation or suspicion of fraud must be conducted in accordance with the Council's Anti-Fraud, Bribery and Corruption Policy.
- 14.6 The s151 Officer shall, at his/her discretion and after consultation with the Chief Executive and the Monitoring Officer, report to the Audit and Scrutiny Committee any case of non-compliance with these Regulations.
- 14.7 As an alternative to the Regulations above, Officers may raise concerns under the Whistle-Blowing Policy confidentially.

15 Physical assets and their security

- 15.1 Senior Officers are responsible for ensuring that:
- records and assets whether held in a manual or electronic format are properly maintained and securely held;
 - contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place and have been tested in advance where practicable;
 - proper arrangements exist for the security and care at all times of buildings, stocks, stores, furniture, equipment, cash etc. under their control and shall consult the s151 Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;

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- no authority asset is subject to personal use by an employee without proper authority;
- keys to safes and similar receptacles are always kept securely; loss of any such keys to be reported to the s151 Officer immediately after the loss is discovered;
- the s151 Officer is consulted in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;
- proper security and privacy of information contained in all financial records under their control is maintained, in accordance with the Data Protection Act, having regard to any advice given by the Data Protection Officer; and
- Officers are aware of their responsibilities under Freedom of Information Act 2000 and The Environmental Information Regulations 2004.

15.2 The s151 Officer is responsible for ensuring that:

- an asset register is maintained in accordance with good practice. All assets with either a purchase price (if known) or an approximate replacement value of over £10,000 should be included. Highly desirable portable assets with a lower value may also be included. The function of the asset register is to provide the authority with information about fixed assets so that they are:
 - safeguarded
 - used efficiently and effectively
 - adequately maintained
- assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom

15.3 The Asset Management Team shall maintain a property database for all land and property currently owned or used by the Council. Any use of land or property by a service unit should be supported by documentation identifying terms, responsibilities, and duration of use.

15.4 The Asset Management Team are responsible for ensuring that:

- lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by a Senior Officer in consultation with the s151 Officer, has been established as appropriate;
- title deeds are passed to the Monitoring Officer who is responsible for custody of all title deeds;
- all service units maintain a register of moveable assets in accordance with arrangements defined by the s151 Officer;
- that assets are identified, their location recorded and that they are appropriately marked and listed. Information must be provided to the s151 Officer so that appropriate insurance arrangements can be made for the Council's assets;
- that case holdings on premises are kept to a minimum;

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- assistance with the valuation of assets for accounting purposes to meet requirements specified by the s151 Officer; and
- that all employees are aware that they have a personal responsibility regarding the protection and confidentiality of information, whether held in manual or computerised records.

16 Stocks and stores

16.1 All systems, documents, and records in connection with the receipt, issue and custody of stocks, stores and property shall be approved by the s151 Officer.

16.2 It shall be the joint responsibility of the s151 Officer and the relevant Senior Officer to:

- plan for the regular stocktaking of stocks, stores and property held, including items held on inventory, to verify location, review condition and to act in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council;
- ensure that all discrepancies are investigated and pursued to a satisfactory conclusion;
- investigate and remove from the authority's records (ie write off) discrepancies of up to £5,000;
- seek advice from Internal Audit on the treatment of deficiencies in excess of £5,000;
- authorise the disposal or write off redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction unless, following consultation with the s151 Officer, the Audit and Scrutiny Committee agrees otherwise in a particular case. It is acceptable to use electronic auction sites if these offer the most appropriate route to disposal; and
- seek Committee approval to the write-off of redundant stocks and equipment more than £5,000.

17 Purchase of land and buildings utilising the Housing Revenue Account (HRA)

17.1 Subject to the conditions specified [Annex A](#), the Chief Executive, in consultation with the Leader or Deputy Leader and the Chair or Vice Chair of the Housing Committee, can utilise the Housing Revenue Account, for the purchase of land or buildings in accordance with the Council's general power of competence under the Localism Act 2011, or in the case of the HRA, for the Council's House Building Programme.

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18 Asset disposal

18.1 The s151 Officer is responsible for:

- issuing guidelines representing best practice for disposal of assets; and
- ensuring appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

18.2 Senior Officers are responsible for complying with guidelines representing best practice for the disposal of assets issued by the s151 Officer.

19 Treasury Management

19.1 The Council shall comply with CIPFA's Treasury Management in the Public Services Code of Practice and Cross-Sectoral Guidance Notes (the Code), as described in section 5 of that Code.

19.2 The Council will create and maintain, as the cornerstones for effective treasury management:

- a treasury management policy statement, stating the policies, objectives, and approach to risk management of its treasury management activities; and
- treasury management practices (TMPs) that are compliant with the Code setting out the way the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.

19.3 Full Council delegates responsibility for the implementation and regular monitoring of its TMPs, practices, and strategy, including the operation of its borrowing strategy, to the Strategy and Resources Committee which, in turn, may delegate the function to its Investment Sub-Committee. This will include a mid-year review and annual report in the form prescribed in its TMPs. The execution and administration of treasury management decisions and borrowing strategy is delegated to the officer designated for the purposes of section 151 of the Local Government Act 1972 (i.e., s151 Officer). The s151 Officer will act in accordance with the policy statements, strategies and TMPs and CIPFA's Standard of Professional Practice on Treasury Management.

19.4 Strategy and Resources Committee or the Investment Sub Committee will receive reports on its TMPs and activities and approve the treasury management policy statement and an annual treasury management plan, incorporating strategies for borrowing and investment.

19.5 The Council nominates the Strategy and Resources Committee to be responsible for ensuring effective scrutiny of treasury management and borrowing. Should TMPs require scrutinising, the Council nominates Audit and Scrutiny Committee to perform this function.

19.6 In respect of adherence to the Regulations on Treasury Management, all money of the Council shall be controlled by the s151 Officer.

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19.7 The s151 Officer is authorised to approve prudential borrowing, if considered to be the most appropriate funding option, to support asset purchases. The s151 Officer is also responsible for:

- approving proposals for opening or closing bank accounts;
- ensuring that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Senior Officer
- effecting all borrowings in the name of the authority; and
- acting as the authority's registrar of stocks, bonds and mortgages and maintaining records of all borrowing of money by the authority.

19.8 Senior Officers are responsible for:

- ensuring that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council, following consultation with the s151 Officer;
- arranging for all trust funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities etc relating to the trust with the s151 Officer unless the deed otherwise provides;
- arranging, where funds are held on behalf of third parties, for their secure administration, approved by the s151 Officer, and to maintain written records of all transactions; and
- ensuring that trust funds are operated within any relevant legislation and the specific requirements for each trust.

20 Financial Systems and Procedures

20.1 There are many systems and procedures used by Council services in relation to the control of the authority's assets, including purchasing, costing and management systems. The information contained within the Council's financial management information systems must be accurate and the systems and procedures sound. They should contain controls to ensure that transactions are properly processed, and errors detected promptly.

20.2 The key controls for systems and procedures are

- basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated;
- performance is communicated to the appropriate managers on an accurate, complete and timely basis;
- early warning is provided of deviations from target, plans and budgets that require management attention; and
- operating systems and procedures are secure.

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21 Collection of income

- 21.1 The s151 Officer is responsible for agreeing arrangements for the collection of all income due to the Council and approval of the procedures, systems and documentation for its collection.
- 21.2 Each Senior Officer is responsible for reviewing fees and charges annually as part of the budget setting process in consultation with their Budget Managers and for operating assessment and collection arrangements in accordance with laws, regulations and good practice guidance.
- 21.3 Any proposal to introduce or vary a scheme of fees and charges shall be considered by the appropriate Committee and then referred to Full Council. The relevant Senior Officer shall report on the financial implications of any such proposal.
- 21.4 Particulars of all charges for work done, goods supplied and services rendered or other sums becoming due to the Council (where an account is due to be raised) shall be notified promptly to the s151 Officer. All accounts for income due shall be rendered by the s151 Officer or in accordance with arrangements approved by him.
- 21.5 The collection of all monies due to the Council shall be subject to control by the s151 Officer. All monies received shall be paid promptly to the s151 Officer or subject to his/her instructions shall be banked without delay to the credit of the Council.
- 21.6 All receipt forms, tickets and other documents of a similar nature shall be in a form approved by the s151 Officer and shall be controlled by him/ her.
- 21.7 Each Senior Officer will ensure that the s151 Officer is notified promptly of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.
- 21.8 The writing-off of debts due to the Council shall be carried out in accordance with an operational procedure issued and maintained by the s151 Officer.

22 Official Orders

- 22.1 Official orders in the form approved by the s151 Officer must be issued for all requirements of the Council except:
- rents, rates, charges for the supply of electricity, gas and water and other items of an obligatory and continuous nature including telephone rentals and calls;
 - transfer payments; and
 - other items specifically agreed by the s151 Officer for exception.
- 22.2 Every order shall be authorised by the Senior Officer concerned or delegated budget manager in a form approved by the s151 Officer, in accordance with delegation levels agreed with the s151 Officer. They shall include any contractual requirements set out in contract standing orders. The s151 Officer shall determine the authorising process, which will be set out in Procurement Rules.

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- 22.3 No order shall be issued unless covered by an approved annual estimate or other financial provision and signatories must ensure that goods and services are appropriate and needed, that Contract Standing Orders have been complied with and that value for money principles have been followed prior to signing or authorising invoices.
- 22.4 The Council's computerised commitment accounting system shall be used unless an exception is agreed in advance by the s151 Officer. Outstanding orders shall be checked by the Senior Officer or their delegate at least quarterly, to ensure management information is accurate.

23 Payment of accounts

- 23.1 The relevant Senior Officer or delegated budget manager issuing an order is responsible for examining, verifying and certifying the related invoice(s) or an electronic Goods Received Note and similarly for any other payment vouchers or accounts arising from sources under his/her control. Such certification shall be in a form approved by the S151 Officer and can be electronic or in manuscript and prepared by or on behalf of the relevant Senior Officer. The names of Officers authorised to sign such records shall be sent to the s151 Officer together with specimen signatures and shall be amended on any change therein.
- 23.2 Before certifying an account, the certifying Officer shall, save to the extent that the s151 Officer may otherwise determine, have satisfied himself that:
- the work, goods, or services to which the account relates have been received, carried out, examined and approved;
 - the prices, extensions, calculations, trade discounts, other allowances, credits and tax have been compared to the order and are correct;
 - the relevant expenditure has been properly incurred and is within the relevant estimate provision;
 - appropriate entries have been made in inventories, stores records or stock books as required;
 - the account has not been previously passed for payment and is a proper liability of the Council;
 - the account (including any Value Added Tax) has been correctly coded;
 - appropriate checks have been carried out to ensure that the supplier and changes to the supplier details are bona fide and that a check on employment status is carried out prior to entering into a contract with any sub-contractor; and
 - all payments, irrespective of method are made under dual control, with one Officer raising the payment and a second approving.

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- 23.3 The s151 Officer shall examine as far as he considers necessary certified accounts passed to him/her for payment and pay such accounts which he is satisfied are in order and in accordance with the Financial Regulations and in accordance with the Prompt Payment Code (30 days). The s151 Officer may withhold payment until the resolution of any dispute relating to an invoice.
- 23.4 Budget holders will notify the s151 Officer of the value and detail of all expenditure and income relating to goods or services provided by 31 March but not yet settled, to ensure these are accounted for on an accrual basis.
- 23.5 Use of Council corporate purchase cards, including fuel cards and credit cards shall be in accordance with an operational procedure issued by the S151 Officer and a signed undertaking. Only the s151 Officer shall have authority to obtain corporate purchase cards.

24 Works contracts

- 24.1 All payments to contractors shall be made by s151 Officer based on certificates, or other documentation, in a form approved by him/her and issued and authorised by the appropriate officer.
- 24.2 Any variation of addition to or omission from a works contract duly authorised by the appropriate officer shall be in writing and retained by the relevant Senior Officer.
- 24.3 For the purposes of audit, vouchers, documents, and other information which the s151 Officer may require, shall be made available to him/her.
- 24.4 Where outside professional architects, engineers, quantity surveyors or other consultants are engaged to supervise any works contract, it shall be a condition of their employment that they shall comply with Financial Regulations.

25 Banking arrangements

- 25.1 The s151 Officer is authorised to make arrangements for banking facilities to be provided to the Council. The s151 Officer shall ensure that the bank accounts are operated in an appropriate and proper manner.
- 25.2 All bank accounts shall be in the name of "Tandridge District Council" unless authorised by the s151 Officer.
- 25.3 The s151 Officer may authorise appropriate officers to be 'authorised signatories' on the Council's bank accounts. The s151 Officer shall maintain a list of authorised signatories.
- 25.4 The s151 Officer shall determine and deploy safe and secure procedures for electronic payments and transfers. All electronic payments shall be authorised by the s151 Officer or his/her delegated officer. An up-to-date record of signatures shall be securely and accurately maintained.

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25.5 Payments made on behalf of the Council can be made as set out below.

- by Bankers Automated Clearing Services order direct to the recipient's personal account
- by Faster Payments or CHAPS using the online banking system provided by the Council's bankers.
- by written instruction, not being a cheque, to the Council's bankers bearing the impressed or manuscript signature of the s151 Officer or any two 'authorised signatories'
- Standing orders, direct debits and other regular bank account transfers shall only be set up with the prior written approval of the s151 Officer
by computer generated cheque bearing the facsimile signature of the s151 Officer.
- the maximum single value of a computer-generated cheque shall be up to £50,000. All payments above £50,000 shall be made by electronic payment only.
- the maximum single value of a payment requiring two authorised signatories, one of which must be the s151 Officer, is £250,000.
- any payment of greater than £250,000 requires the authorisation of the s151 Officer and either the Monitoring Officer or the Head of Paid Service; and
- the exception shall be transactions for the purposes of Treasury Management, including borrowing from the PWLB, which shall be authorised by the s151 Officer and other authorised signatories in accordance with a written procedure determined by the s151 Officer. This written procedure and its operation shall be subject to regular internal audit. There will be a division of duties established to meet the requirements of the bank.

25.6 Each Officer who banks money shall comply with any instructions prescribed by the s151 Officer. All money received on behalf of the Council shall be made to the Council's cashier, approved cash receptacles or to the Council's bank account without delay and always within three working days of collection.

25.7 The s151 Officer shall maintain a facility to make emergency payments. Payments will be authorised in line with the limits set out above. Directors shall ensure that all emergency payments made in the event of initiating an approved emergency plan are charged, in the first instance, to the emergency cost code.

25.8 Payments received in full and final settlement shall only be accepted if they are sufficient to fully clear the appropriate debt.

25.9 Personal cheques shall not be cashed out of the money held on behalf of the Council.

25.10 The Council does not currently operate petty cash accounts. The s151 Officer shall determine whether operational circumstances justify maintaining petty cash for the purpose of meeting minor expenditure on behalf of the Council.

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25.11 Where petty cash is deemed necessary, the s151 Officer shall provide a named officer with an agreed amount of cash and shall prescribe rules for operating the petty cash account.

26 Payroll and Payments to Employees and Members

- 26.1 The s151 Officer in consultation with Human Resources shall establish arrangements for:
- the accurate and timely payment of all salaries, wages, and other payments due to Officers in accordance with their terms and conditions of employment are processed and paid through the Council's payroll system;
 - the accurate and timely calculation of tax, pensions contributions and other deductions made on behalf of employees and for paying sums due to the relevant bodies on a timely basis (e.g. HMRC and Surrey Pension Fund (SCPF));
 - Members' basic, special responsibility, travel, or other allowances; and
 - ensuring that there are adequate arrangements for administering pensions matters in accordance with the requirements of Surrey Pension Fund.
- 26.2 All Senior Officers shall notify the Human Resources (HR) team and the Finance Business Partner, using the Council's standard forms, on a timely basis of all the following details:
- appointments, resignations, dismissals, suspensions, secondments and transfers or other relevant changes to contract terms and conditions;
 - absences from duty excluding normal annual, statutory, or flexible working leave;
 - changes in remuneration excluding normal pay scale increments, pay awards and agreements of general application such as changes in pension contribution rates;
 - information necessary to maintain records of service such as pension, income tax, national insurance and bank details.
- 26.3 Each Senior Officer is responsible for ensuring there is adequate budgetary provision and written approval from the s151 Officer prior to the recruitment of staff.
- 26.4 Appointments of all Officers shall be made in accordance with the regulations of the Council and the established grades and rates of pay.
- 26.5 Each Senior Officer shall, at least annually, certify the staffing budget for their services as part of the budget setting process.
- 26.6 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenditure shall be submitted, duly certified to the respective Senior Officer for authorisation on a standard form approved by the s151 Officer.

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26.7 The certification of expense claims shall be taken to mean that each Senior Officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are correctly calculated in line with the Council's terms and conditions.

26.8 Members are responsible for submitting claims for their travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end the Monitoring Officer for processing.

27 Taxation

27.1 The s151 Officer or their nominee is responsible for:

- all communications with HMRC on all matters relating to taxation. The s151 Officer shall maintain records and accounts sufficient to meet the obligations of the collection agency;
- maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date; and
- contacts with HM Revenue and Customs on all matters, including income tax, national insurance, corporation tax, construction industry tax and VAT.

27.2 The s151 Officer is responsible for issuing an operational procedure on the application of value added tax rules. Each Senior Officer is responsible for ensuring that transactions within their areas of responsibility comply with the law relating to general taxation and VAT and clarification is sought where necessary from their respective Budget Manager.

27.3 All matters of both principle and practice, including any significant errors or discrepancies, shall be referred to the s151 Officer immediately.

28 External arrangements

28.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental wellbeing of the District.

29 Partnerships

29.1 The Head of Paid Service, in consultation with the Monitoring Officer and the S151 Officer, could form partnerships with other local public, private, voluntary and community sector organisations to address local needs.

29.2 Each Senior Officer is responsible for assessing the risks and benefits associated with partnerships. Given that these arrangements may be complex in nature, the s151 Officer must approve the financial management arrangements for such partnerships. Each Senior Officer must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies and seek advice at an early stage from the s151 Officer and the Monitoring Officer.

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- 29.3 Each Senior Officer is responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to financial transactions with external bodies. The s151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory and that all grant conditions are met.
- 29.4 The s151 Officer is responsible for ensuring proper arrangements for partnership cost sharing where appropriate. He/she must ensure that risks have been fully appraised before agreements are entered into with external bodies.

30 External funding

- 30.1 External funding can prove an important source of income, but funding conditions must be carefully examined and evaluated for risk before any agreement is entered into to ensure they are compatible with the aims and objectives of the Council. The S151 Officer therefore needs to be involved in preparing for, and approving, any bid for external funding prior to submission of such bids.
- 30.2 It is the s151 Officer's responsibility to ensure that any match funding or part funding requirements are considered prior to entering into any agreement, that future budgets reflect these requirements, and that any longer-term sustainability costs have been properly assessed.
- 30.3 The s151 Officer is also responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 30.4 Each Senior Officer shall ensure any conditions attached to the relevant agreement are progressed and in accordance with the agreed project plan. They will also ensure that all expenditure is properly incurred and recorded.
- 30.5 If any new financial obligations are placed upon the Council as a condition of receiving external funding, these obligations must be approved by Strategy and Resources Committee prior to the submission of any bids. In the case of urgency, seek advice from the Monitoring Officer.

31 Works for third parties

- 31.1 Contractual arrangements to undertake work for third parties must be approved by the relevant service committee in situations where the S151 Officer is of the view that such a contract may cause a significant risk of net cost to the Council, or where the total value of new work in one year will exceed £50,000.
- 31.2 Where support services and frontline services are to be sold to external customers, due diligence must be undertaken to ensure that services provided are of good quality and to minimise the risk of non-payment.

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32 Amendments to the Regulations

- 32.1 The Regulations are subject to an annual review which will be approved by Strategy and Resources Committee and will incorporate minor amendments and editing changes.
- 32.2 For transparency purposes all changes in the annual review will be flagged using red text, this will enable both experienced and inexperienced users of the Regulations to clearly identify where changes have occurred year on year. Changes from previous years review will be incorporated into standard text, only the latest review is shown in red text.

33 Scheme of Delegation

- 33.1 The Scheme of Delegation is detailed in Part E of the Constitution. Senior Officers are required to maintain a written record where decision making has been delegated to members of their staff, including consultants and interim Officers. Where decisions have been delegated or devolved to responsible budget holders/service managers or other designated officers, references to the S151 Officer in the Regulations should be read as referring to them.
- 33.2 Delegated Authority for officers in respect of the Regulations is held and maintained by the s151 Officer as a Scheme of Delegated Authority for Finance.
- 33.3 The Scheme of Delegated Authority for Finance does not override or take precedence over any clause of the Regulations or wider Constitution and must be read in parallel.
- 33.4 Officers are responsible for ensuring that any financial activity complies with the Regulations, the wider Constitution and the Scheme of Delegated Authority for Finance.

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Annex 'A' - purchase of land & buildings utilising the Housing Revenue Account

	Size of funds	Within the agreed Council House Building Programme for the year
(i)	Purpose of funds	To facilitate the Council's House Building Programme
(ii)	Authority is delegated to the Chief Executive, subject to (iii) to (viii) below,	To, in consultation with Members in accordance with Standing Order 46 of Part B of the Constitution, to purchase land and buildings* in accordance with the above. <i>*Management Team has authority to undertake the necessary investigative, procurement and legal arrangements to facilitate the acquisition and development of any such land, buildings or sites in accordance with the delegation above</i>
(iii)	Requirement to notify local Ward Members, if contactable during the required timeframe	Inform Members if the site concerned is within their Ward.
(iv)	Upper limit on individual purchases	Up to £5 million
(v)	Upper limit on total sum of purchases	Within the agreed Council House Building Programme for the year
(vi)	Purchase criteria	Purchase of such assets and associated income would facilitate or improve the delivery of services to the residents of Tandridge or be of economic benefit to businesses in the Tandridge area.
(vii)	Appraisal requirements	<p>(a) an independent R.I.C.S. qualified commercial valuation has been obtained and the purchase price (net of SDLT and VAT):</p> <ul style="list-style-type: none"> • is within the independent R.I.C.S. qualified commercial valuation for the proposed or potential use; or • does not exceed the valuation by more than 15% where an acquisition is being made for future regeneration purposes <p>(b) where appropriate, building / mechanical / electrical / lift and environmental surveys</p> <p>(c) the net rental yield (if appropriate) shall represent a reasonable return in light of prevailing market rates; and</p> <p>(d) in order to identify potential Full Life Costs, the valuation has taken account of the condition of the property and where deemed necessary by the Lead Legal Specialist, an independent building condition survey will be commissioned to inform the Net Rental Yield</p>
(viii)	Authority is delegated to the Strategy & Resources Committee / Housing Committee to approve the following in accordance with the above criteria ...	Approve individual purchases of land or buildings within the District at or above £5million in value

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TANDRIDGE DISTRICT COUNCIL CONSTITUTION

PART D – CONTRACT STANDING ORDERS

(December 2023)

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GENERAL

1. Introduction

- 1.1 The purpose of these Contract Standing Orders ('CSOs') is to establish clear rules for the procurement of all the Council's goods, works and services as required by section 135 of the Local Government Act 1972. They apply to all Council staff and external consultants ("Officers") with responsibility for letting Contracts.
- 1.2 The CSOs are put in place to ensure that the Council gets value for money for residents, complies with all legal requirements, minimises the risk of challenge/undue criticism, supports social value and sustainability and provides transparency as to how it spends public money.
- 1.3 All procurement and resulting Contracts made by or on behalf of the Council must comply with these rules as well as:
 - all applicable statutory provisions
 - the UK Regulations 2015 and as of January 2021 the 'Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 and Public Procurement (Amendment etc. (EU Exit) (No.2) Regulations 2019 ('Withdrawal Regulations')
 - the Council's constitution, including the Financial Regulations and the Scheme of Delegation to Officers.
- 1.4 These CSOs have been written to reflect the current legislative requirements; however, in the event of any inconsistencies between these CSOs and the requirements of the UK Regulations the latter will take precedence.
- 1.5 The Thresholds referred to in these CSOs and the appropriate process to follow are set out in **Table 1**.
- 1.6 These CSOs are supported by the Procurement Toolkit which provides practical and more detailed advice about how to undertake a procurement exercise, including access to a suite of template documentation.
- 1.7 The Procurement Specialist is responsible for ensuring the CSOs are up to date and reflect current legislation.
- 1.8 Any query regarding the application or interpretation of these CSOs must be referred in the first instance to the Procurement Specialist.
- 1.9 For the purposes of these CSOs, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail as well as hard-copy.
- 1.10 Words or phrases that begin with an initial capital letter, initialisms and acronyms are defined in the CSOs.

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2. Scope

2.1 A Contract for the purposes of these CSOs is any arrangement made by, or on behalf of the Council regardless of value including Concession Contracts:

- 2.1.1 The supply of goods
- 2.1.2 Execution of works
- 2.1.3 The delivery of services
- 2.1.4 The hire, rental, repair, maintenance or lease of goods or equipment.

2.2 Sections 12-30 of these CSOs do not apply to:

- 2.2.1 Contracts of employment for members of staff including members of staff sourced through employment agencies
- 2.2.2 Contracts for the purchase or sale of land (including leasehold interest)
- 2.2.3 Awarding grants to external organisations provided that no works or services are provided direct to the Council in return for the grant
- 2.2.4 Loans to or from banks or other financial institutions
- 2.2.5 Provision of emergency accommodation as required by the Homeless Act 2002
- 2.2.6 Subscriptions to magazines/publications/online resources/professional journals/professional memberships
- 2.2.7 Call-offs from Contracts procured in compliance with these CSOs
- 2.2.8 Where there is a joint procurement with one or more public sector authority or where the Council is part of a public-sector consortium where the Council is not the lead authority and the Contract complies with the lead authority's CSOs
- 2.2.9 Collaborative proposals for joint working or shared services with other public authorities which the CPB has approved as meeting the conditions set out below, where the principal activity of the collaborative arrangement is the provision of services back to the participating authorities:
 - The collaborating public authorities when acting together exercise the same kind of control over the service provision as they would over inhouse service provision and
 - There is no independent or private sector partner involved in the collaborative arrangement

2.2.10 External legal advice:

The Head of Legal Services and Monitoring Officer commissions all external solicitors, counsel, experts within Legal Proceedings (actual or contemplated) and arbitrators /adjudicators.

The engagement of barristers, experts and adjudicators/arbitrators in construction disputes shall be subject to completion of a formal letter, contract of appointment or brief. The barrister, expert or arbitrator /adjudicator or chambers must either be named in the relevant contract or be on an approved list maintained by the Head of Legal Services and Monitoring Officer for this purpose and the appointment shall be approved by the Head of Legal Services and Monitoring Officer.

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Where there is no current framework agreement in place for external legal services, the Head of Legal Services and Monitoring Officer, in consultation with another Chief Officer, will together determine whether, in exceptional circumstances, a particular firm or barristers should be commissioned without requiring a procurement exercise. (However, in urgent situations when, for whatever reason, another Chief Officer cannot be contacted at the point of commissioning, it would be open to the Head of Legal Services and Monitoring Officer to utilise the urgency provisions of Standing Order 35 to demonstrate the reasons for the required advice). Effective records of such instructions shall be maintained by the Head of Legal Services and Monitoring Officer and reported to the Corporate Procurement Board and, should Standing Order 35 apply, to the relevant Committee

The engagement of external solicitors shall be made by formal letter or appointment contract and approved by the Head of Legal Services and Monitoring Officer. In most cases the Head of Legal Services and Monitoring Officer will authorise the use of external solicitors on the Surrey Legal Alliance Solicitors Framework. Requests for advice (up to £20k) can be obtained without the need to advertise or seek alternative quotes subject to the Head of Legal Services and Monitoring Officer being satisfied that the appropriate specialism is not obtainable elsewhere and that value for money is achieved.

Instructions to, or a brief to external counsel shall be issued in consultation with the Head of Legal in respect of any matter.

Before instructing or briefing external counsel or external legal advisor, the Head of Legal or their substitute shall take all reasonable steps to obtain an oral quotation from Counsel's clerk or from the firm's legal director. Where the Head of Legal anticipates that the net value of counsel's fees or external legal advisor will exceed £20k, the Head of Legal shall take all reasonable steps to obtain fee quotations from three (3) different counsels' chambers for counsel or external legal firms of comparable experience and seniority unless, in the opinion of the Head of Legal it is not practicable or appropriate to do so.

- 2.3 All other Contracts made by or on behalf of the Council must comply with these CSOs unless there is an Exception (CSO 4).
- 2.4 All contracts are subject to the provisions of clause 31 – 35.
- 2.5 Under the Local Government (Contracts) Act 1997, local authorities can enter into contracts with third parties in connection with any of their functions. However, first the Head of Service must be able to demonstrate there is a business need for the proposed Contract.

3 Compliance

- 3.2 All Officers procuring goods or services on behalf of the Council must comply with these CSOs (except where Exceptions are obtained in advance) and the requirements of all relevant and applicable legislation.
- 3.3 Failing to comply with these CSOs when letting Contracts could result in legal challenge. Therefore, Officers have a duty to remain familiar with these CSOs and to adhere to them at all times.
- 3.4 Breach of the CSOs will be taken very seriously as they are intended to both protect public money and demonstrate that the Council takes its role as a guardian of public money extremely seriously. Should an Officer be found to be in breach of these rules then it may be treated as gross misconduct and could result ultimately in the dismissal of the Officer. Similarly, anyone having knowledge of a failure to follow these rules must report a breach of these rules to the relevant Management Team as soon as possible afterwards. Any failure to report a breach by an Officer may also be treated as gross misconduct and could result in the Officer being dismissed. Concerns can also be raised via the procedures set out in the Council's Whistleblowing Policy or the Anti Money Laundering Guidelines set out in the Council's SharePoint page – Policies and Protocol and the Hub.

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- 3.5 Procuring Officers must comply with all staff policies and must not invite or accept any gift or reward in respect of the award or performance of any Contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are mandatory. Corrupt behaviour may lead to dismissal.
- 3.6 Staff must not deliberately break down a Contract with the intention of disaggregating spend for the purpose of avoiding the appropriate governance.
- 3.7 Any Officer who is unclear as to the requirements of these CSOs should contact the Procurement Officer or the Legal Team to discuss.

4 Exceptions and Waivers

- 4.2 The following circumstances represent permitted exceptions from all or part of CSOs provided that the CPB has given prior approval by means of a CSO waiver, where:

4.2.7 only one supplier is able to carry out the works or services and where no satisfactory alternative is available because of:

- technical or artistic reasons or because of exclusive rights
- statutory undertakers that have a monopoly
- the specialised nature of the work or service

4.2.8 there is a variation (additional work) to an existing Contract where the variation is outside the scope of the Contract, but it would be inappropriate to offer the additional work to competition.

4.2.9 there is an extension to the duration of an existing Contract provided that it is on the same terms and adequate budget provision has been made.

4.2.10 there is a demonstrable and justifiable need to waive or vary one or more of the CSOs on the grounds of urgency, when, for example it is likely that not making the proposed exception to CSOs will lead to personal injury, damage to property or to the Council incurring additional liability or missing an opportunity to secure best value.

- 4.3 Lack of forward procurement planning does not represent a permitted exception.

- 4.4 Where a proposed Contract is likely to exceed the UK Find a Tender Threshold (previously OJEU), the Council has no authority to waive these CSOs.

- 4.5 For all waivers from CSOs written approval must be obtained by use of the CSO Waiver Form (Appendix A).

- 4.6 The named supplier on the exemption must be invited to submit their quotation through the Council's e-tendering portal.

- 4.7 All exemptions and waivers and the reasons for them, must be recorded in a register and reported annually to the S&R Committee.

5 e-Procurement

- 5.2 Electronic tendering is the mandated method of carrying out a Tender or Request for Quote (RFQ) exercise for procurements with an Estimated Total Contract Value exceeding £5,000.

- 5.3 The South East Shared Services portal on the In-tend platform is the Council's approved e-procurement platform.

- 5.4 A full user guide is provided in the Procurement Toolkit, a link can be found in the Council's SharePoint page.

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6 Transparency

- 6.2 In accordance with the Local Government Transparency Code 2015 local authorities must publish details of any Contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000.
- 6.3 This information is held in the Contracts Register, and an export is uploaded to the Council's public website quarterly.
- 6.4 In order to capture contract information in the Contracts Register all Contracts over £5,000 must be published on In-tend.
- 6.5 All Contracts valued over £25,000 must also be advertised on Contracts Finder unless a Closed group is used (Closed group –refers to the use of a selected shortlist of suppliers e.g. a Constructionline shortlist).
- 6.6 All Contract awards over £25,000 must also be published on Contracts Finder, whether advertised or not.
- 6.7 Contracts over the current UK Find a Tender Threshold (previously OJEU) additionally must be advertised via the Find a Tender Service (FTS).

7 Freedom of Information

- 7.2 In accordance with the Freedom of Information Act (FOIA) 2000 and Environmental Information Regulations (EIR) 2004, we have an obligation to publish specific information and to provide information to members of the public upon request.
- 7.3 By exception confidential or commercially sensitive information may be withheld. Suppliers should be given the opportunity to identify areas of their tender submission they do not wish to be disclosed.

8 Conflict of Interest

- 8.2 Officers must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Code of Conduct for Staff and includes:
 - 8.2.7 not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;
 - 8.2.8 not working for organisations or suppliers that the Council has dealings with;
 - 8.2.9 notifying the CPB in writing if an Officer has links with an organisation or supplier who is tendering or quoting for a Contract with the Council or already has a Contract with the Council. (For example, a family member or close friend works for the organisation).
- 8.3 Token gifts of a very small value like pens marked with a company name, or calendars, which might be seen as advertisements, are acceptable.
- 8.4 Officers and Councillors should notify the Head of HR and the Head of Legal Services and Monitoring Officer of any gifts received 'out of the blue' other than the token gifts outlined in CSO 8.2. The Head of Legal Services and Monitoring Officer and the Head of HR respectively will record receipt of the gift and decide whether the gift should be returned or forwarded to a local charity.
- 8.5 An Officer's and Councillor's interests shall not conflict with their public duty. An official position or information acquired in the course of employment or public office should not be used to further personal interests or for the interests of others.

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- 8.6 All contract conditions need to contain robust terms that will allow the Council to terminate a contract where there have been acts relating to fraud, bribery, or corruption as defined under the Bribery Act 2010, and/or section 117(2) of the Local Government Act 1972; and/or the contractor/supplier has committed an act which is an offence under the Enterprise Act 2002. More information about the Bribery Act is available in the Council's Anti-Fraud and Corruption Policy.
- 8.7 If a Councillor or an Officer has an interest, financial or otherwise, in a Contract, or proposed Contract, he/she must declare it in writing immediately to the Head of Legal Services and Monitoring Officer and Head of HR as soon as he/she becomes aware of the interest. A Councillor or Officer who has an interest in a Contract must not take part in the procurement or management of that Contract.
- 8.8 Failure to comply with CSOs 8.3 is a breach of Council's Code of Conduct for Staff and Councillors and an offence in accordance with section 117 of the Local Government Act 1972.
- 8.9 The Head of Legal Services and Monitoring Officer must maintain a record of all declarations of interest notified by Councillors and HR team of Officers.
- 8.10 All Consultants engaged to act on behalf of the Council must declare that they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council.
- 8.11 If a Member or an Officer of the Council or a Consultant working on the Council's behalf becomes aware that a Contract in which they have an interest is being re-tendered, they shall immediately give written notice to the Head of Legal Services and Monitoring Officer. Such written notice is required, irrespective of whether the pecuniary interest is direct or indirect. Consideration will then be given as to the appropriate action.

9 Social Value

- 9.2 Social value is the term used to describe the additional value created in the delivery of a Contract which has a wider community or public benefit. This extends beyond the social value delivered as part of the primary Contract activity.
- 9.3 Social Value is the means by which the Council aims to meet its Climate Change objectives detailed in the Procurement Strategy.
- 9.4 Under the terms of the Social Value Act 2012 contracting authorities are obliged to consider wider social and environmental objectives alongside price and cost when evaluating tenders for services which are valued over the FTS Procurement Thresholds
- 9.5 The Council has extended this obligation to all Contracts valued over £100k.
- 9.6 The Council's procurement approach covers the following areas:
- 9.6.7 Economic - boost to local economy including use of local suppliers, and creation of apprenticeships
 - 9.6.8 Environmental - including carbon reduction, recycling of materials, and use of sustainable materials
 - 9.6.9 Social and Well-Being - Engagement with local Voluntary, Community and Faith (VCFS) partners
- 9.7 The Procurement Activity Request Form identifies where Social Value criteria should apply to a proposed procurement.
- 9.8 Where the inclusion of Social Value opportunities has been identified, the relevant key performance indicators (KPIs) must be included within specifications and evaluation criteria, and monitoring and reporting of performance and achievements against the KPIs must be undertaken.

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10 TUPE

- 10.2 When an employee of the authority or of a supplier providing a service may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) issues are considered and obtain advice from HR before proceeding with Tenders or Quotations.

11 Information Governance and Data Protection

- 11.2 Procuring Officers must consider the information governance requirements of the Contract if they anticipate any Personal Data is to be processed as part of the Contract e.g. data protection, security of information, records management.
- 11.3 Where Personal Data may be processed as part of the Contract Procuring Officers must seek further advice from the Legal Team.
- 11.4 Where Personal Data may be processed as part of the Contract, a Data Protection Impact Assessment tool must be completed. This will help the Council identify the most effective way to comply with its data protection obligations.
- 11.5 Where requirements are identified by the Data Protection Assessment, Procuring Officers must ensure that any requirements are considered and built into the Contract, and assessed where appropriate as part of the evaluation.

PREPARING FOR PROCUREMENT

12 Pre-Procurement

- 12.2 Before commencing a procurement process, officers must first check with the Procurement Specialist if there is an existing Contract in place for the goods, works or services required. If a Contract exists it must be used and no further quotations or tenders are required.
- 12.3 Where no such Contract exists Procuring Officers must ensure that:
- 12.1.1 They have approval from their Head of Service in principle for the proposed procurement exercise and that Finance have been consulted to confirm there are no financial matters which may impact the procurement proceeding in principle
 - 12.1.2 They have conducted an options appraisal and identified that a procurement is required
 - 12.1.3 There is adequate budgetary provision for the goods, services or works that they are procuring
 - 12.1.4 a specification is prepared
 - 12.1.5 An assessment, appropriate to the scale and scope of the Contract, of associated risks shall be undertaken by competent officers or Consultants to include, but not limited to, technical, commercial, health and safety and reputational risks posed to the Council.
- 12.2 Procuring Officers may consult potential suppliers prior to the issue of a Request for Quote or Invitation to Tender in general terms about the nature, level and standard of the supply, Contract packaging and other relevant matters. Records must be kept of this consultation.
- 12.3 Procuring Officers may seek or accept technical advice on the preparation of a specification from anyone who may have a commercial interest in bidding for the Contract provided that it does not prejudice the equal treatment of all potential Tenderers and distort competition.

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13 Identification of potential suppliers

- 13.1 All procurement opportunities are advertised on the Council's tendering portal, and Contracts Finder if over £25,000.
- 13.2 All suppliers providing a Quote or Tender must be registered on the Council's tendering portal.
- 13.3 Constructionline should be used to identify suppliers for Works related Contracts.
- 13.4 Where a Closed Group of suppliers is to be invited to bid the CPB must be satisfied that only suitably qualified and capable suppliers are chosen.

14 Calculating Contract Value

- 14.1 Prior to commencing a procurement exercise Procuring Officers must estimate the aggregate value of the Contract. This will determine which Threshold the procurement falls under.
- 14.2 The total value of the Contract should be calculated by reference to the following (where one or more apply use the higher value):-
 - 14.2.1 for fixed term Contracts the total price expected to be paid during the whole of the Contract period, including possible extensions.
 - 14.2.2 where the Contract period is uncertain, multiply the price expected to be paid each month by 48 (where the value exceeds the FTS Threshold, other rules apply and you should seek advice from Legal Services);
 - 14.2.3 if the Contract involves a series of separate transactions for the same type of item, the total value of the Contract is the expected aggregate value of all those transactions in the coming 12 months.
 - 14.2.4 for feasibility studies, when the Contractor may potentially also carry out the work, it is the value of the scheme or Contract which may be awarded as a result.
- 14.3 Contracts must not be artificially separated so as to circumvent the application of any part of CSOs or UK Regulations.
- 14.4 Subject to CSO 14.5 the estimated total Contract value must exclude Value Added Tax (VAT) but must include all other taxes and duties.
- 14.5 The estimated total Contract value for Contracts at threshold 5 and above must include Value Added Tax (VAT) and all other taxes and duties.
- 14.6 The suggested, but not prescriptive, default for calculating VAT is to add an equal amount to the standard rate of VAT (currently 20%) to the contract estimation net amount. This would remove any problems of underestimating the contract value.

15 Approval

- 15.1 Before commencing on a formal procurement process at Threshold 2 or above, approval must be sought from the Corporate Procurement Board ('CPB').
- 15.2 To seek approval a Procurement Activity Request form must be completed and submitted to the CPB for approval to proceed.
- 15.3 Where the Contract value is above the FTS Threshold for goods and services (Threshold 5) approval must also be obtained from the relevant Committee.
- 15.4 Where the final contract award is greater than the value approved by the CPB, the award must be approved by the CPB.

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FINANCIAL THRESHOLDS

16 Financial Thresholds and Minimum Procurement Requirements

There are 5 financial Thresholds that determine the minimum procurement process to be followed, detailed below and summarised in **Table 1**.

16.1 Threshold 1 – Below £5,000

- 16.1.1 A minimum of 1 written quote must be sought, this is only a required minimum and best practices dictates that multiple quotes be sought to prove value for money.
- 16.1.2 Quotes can be sourced via In-tend or e-mail.
- 16.1.3 Local suppliers should be asked to quote where appropriate.
- 16.1.4 Approval required from relevant SLT member
- 16.1.5 An official purchase order may constitute the Contract if appropriate

16.2 Threshold 2 – From £5,000 - £24,999

- 16.2.1 A minimum of 3 quotes must be sought.
- 16.2.2 All quotes must be obtained via In-tend.
- 16.2.3 CPB must approve the route to market.
- 16.2.4 An official purchase order may constitute the Contract
- 16.2.5 A Contract must be signed by an approved Contract signatory

16.3 Threshold 3 - £25,000 - £99,999

- 16.3.1 A minimum of 3 quotes or tenders must be sought.
- 16.3.2 The decision whether to use Request for Quote or a Tender is dependent on the complexity of the requirement. As a rule, a RFQ is to be used for Goods and a Tender for Services.
- 16.3.3 All opportunities must be published on In-tend and Contracts Finder.
- 16.3.4 For Works related Contracts Constructionline can be used to select a closed shortlist of suitable Contractors. If selecting from a Closed Group of suppliers there is no requirement to advertise on Contracts Finder
- 16.3.5 CPB must approve the route to market.
- 16.3.6 The Contract must be signed by an approved Contract signatory

16.4 Threshold 4 - £100,000 – FTS Threshold (previously EU)

- 16.4.1 A minimum of 4 tenders must be sought.
- 16.4.2 The Invitation to Tender process must be followed.
- 16.4.3 All opportunities must be published on In-tend and Contracts Finder.
- 16.4.4 For Works related Contracts Constructionline can be used to select a closed shortlist of suitable Contractors. If selecting from a 'Closed' group of suppliers there is no requirement to advertise on Contracts Finder.
- 16.4.5 CPB must approve the route to market
- 16.4.6 The Contract must be signed by an approved Contract signatory

16.5 Threshold 5 - Over FTS Threshold (£214,904 and £5,372,609 for Works from 01/01/2024)

- 16.5.1 A minimum of 5 suppliers must be invited to tender
- 16.5.2 All tenders must be advertised on In-tend and Contracts Finder.
- 16.5.3 The opportunity must also be published on FTS.
- 16.5.4 One of the four prescribed routes (Open, Restricted, Competitive Dialogue or Competitive Procedure with Negotiation) must be used.
- 16.5.5 Relevant Committee and CPB must approve the route to market.
- 16.5.6 The Contract must be signed by an approved Contract signatory

16.6 Contracts Sourced via a Framework

- 16.6.1 The above Thresholds also apply where a Contract is sourced via a Framework or Dynamic Purchasing System, but there are key differences relating to the minimum number of quotes/tenders that must be sought. Refer to **CSO 18**.

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TABLE 1.
Procurement Thresholds and Contract Award Procedure Summary

The table sets out the general rules applying to the choice of procedure for Contracts at the stated financial values:

Aggregate Value	£0 - £4,999	£5,000 - £24,999	£25,000 - £99,999	£100,000 - FTS Threshold*	Above FTS Threshold	Additional / Different Requirement if Procured via a Framework	
						Below FTS Threshold	Above FTS Threshold
Threshold	1	2	3	4	5	2-4	5
Procedure	Quote	Quote	Open (or Closed*)	Open (or Closed*)	Open, Restricted, CD, CPN,	Framework	Framework
Process	RFQ or email	RFQ	RFQ or Tender	Tender	Tender	Direct Award or Mini Competition or Direct Award	Direct Award or Mini Competition or Direct Award
Minimum No. of quotes / tenders that must be sought	1	3	3	4	5	As per specific Framework rules	As per specific Framework rules
In-tend - Advert	No	Yes	Yes	Yes	Yes	No	No
Contracts Finder - Advert	No	No	Yes	Yes	Yes	No	No
Contracts Finder - Award Notice	No	No	Yes	Yes	Yes	Yes	Yes
FTS	No	No	No	No	Yes	No	No
Approval	SLT Member	CPB	CPB	CPB	Relevant Committee	CPB	Relevant Committee
Required Contract Type (unless otherwise advised by the Legal Team)	PO with standard TDC T&C	PO with standard TDC T&C	TDC contract (Works = JCT*)	TDC contract (Works = JCT*)	TDC contract (Works = JCT*)	Framework Call off	Framework Call off
Contract Award	Delegated Officer	Head of Service	Head of Service	Head of Service	Committee	Head of Service	Committee
Contract signed by	Approved Signatory	Approved signatory	Approved signatory	Approved signatory	Approved signatory	Approved signatory	Approved signatory

For below FTS (previously EU) Threshold procurements (£5k - £214,904)

- Minimum of three quotes or tenders sought (can be Closed, Restricted or Open)
- For Works related projects Constructionline can be used to select shortlist of suitable Contractors
- If selecting from a 'Closed' group of suppliers (whether on Framework or not) there is no requirement to advertise on Contracts Finder
- An Open tender (above £25k) must be advertised on Contracts finder.
- All Contract awards above £25k must be published on Contracts Finder regardless of whether the opportunity was advertised* or not.

*FTS – refers to the FTS Thresholds detailed in 16.7 below.

*JCT – refers to the Joint Contracts Tribunal suite of construction related Contracts

*Closed – refers to the use of a selected shortlist of suppliers e.g. a Constructionline shortlist

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16.7 FTS Thresholds from 1st January 2024

Table 2

Supplies	Services	Works	Concession Contracts	Light Touch Regime
£214,904	£214,904	£5,372,609	£5,372,609	£663,540

FTS thresholds are inclusive of VAT.
The financial Thresholds are updated every 2 years.

PROCEDURAL STEPS OF PROCUREMENT

17 Procurement Procedures Overview

17.1 General

- 17.1.1 The Council may apply any procedure that conforms to the UK Regulations in its procurement process.
- 17.1.2 Subject to CSO 4 (Exceptions and Waivers) the appropriate process set out in Table 1 must be followed for each procurement determined by the estimated value of that Contract.
- 17.1.3 Invitations to Tender or Requests for Quotations must be issued electronically (via email for Threshold 1 and via the Council's e-tendering portal for Threshold 2 and over).
- 17.1.4 All tenders or quotations must be returned to the Council electronically (via email for Threshold 1 and via the Council's e-tendering portal for all procurements at Threshold 2 or over).
- 17.1.5 A **Procurement Activity Request** must be completed and stored on e-tendering portal for each tender or quotation within or exceeding Threshold 2

17.2 Below FTS Threshold (Thresholds 1-4) - There are 3 available procurement routes:

- Framework; Invitation to Mini Competition or Direct Award (CSO 18)
- Request for Quote – (CSO 19) -£5k - £100k
- Open Procedure (CSO20) -over £25k

17.3 Above FTS Threshold (Threshold 5) - There are 5 available Procurement Procedures

- Framework; Invitation to Mini Competition or Direct Award (CSO 15)
- Open (CSO20)
- Restricted (CSO21)
- Competitive Dialogue (CSO22)
- Competitive Procedure with Negotiation (CSO23)
- Light Touch Regime (CSO 24)

18 Frameworks and Dynamic Purchasing Systems (DPS)

- 18.1 A Framework Agreement is a Contract that has been officially tendered for by another local authority, public sector organisation, Purchasing Consortium, or central Government.
- 18.2 A Dynamic Purchasing System is a fully electronic open Framework.
- 18.3 The Council encourages the use of Framework Agreements as it obviates the need for the Council to undertake a full tender process reducing timescales and the resource burden of procurement activity.

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- 18.4 Contracts based on Framework Agreements must always be awarded in accordance with the rules set out within the Framework Agreement documentation. This may be either by:
- 18.4.1 undertaking a 'direct call-off' from the Framework Agreement, where the terms are sufficiently precise to cover the particular call-off requirements without re-opening competition and a Contract can be award directly to a Framework Supplier; or
 - 18.4.2 By holding a 'further competition' in accordance with the rules set out in the framework, where the requirements are provided to the Framework Suppliers in the relevant lot of the framework, and the Framework Suppliers provide their responses and price in return.
 - 18.4.3 If both options are available 'further competition' should be used.
- 18.5 In-tend must be used to run a Mini-Competition.
- 18.6 Procuring Officers must ensure they are fully conversant with the rules, stipulations and eligibility of the Council to use the framework, as stated within the Framework Agreement. Failure to comply with the rules of a Framework Agreement could result in the Council being found in breach of the Regulations. If these rules are not sufficiently detailed for the Procuring Officer to be assured of the eligibility and requisite process, the Procuring Officer must engage with the Procurement Specialist to seek advice on the validity of the Framework Agreement.
- 18.7 **Utility procurement:** Due to the volatility of the energy market, prices of water, diesel, electricity, gas, oil and petroleum fluctuate on a daily basis and the sums quoted by central purchasing bodies in this sector require immediate acceptance. In order to achieve the Best Value for the Council all decisions relating to energy procurement including award and/or the variation of contracts may be approved jointly by the S151 Officer and Deputy Chief Executive. All decisions relating to the award of or variation of energy related contracts will be reported to the CPB for information purposes only.
- 19 Request for Quotation (RFQ)**
- 19.1 This procedure only applies for procurement at Threshold 4 or below, where suppliers are requested to submit a quote for the requirements.
- 19.2 This process is simpler and shorter than the Invitation to Tender process reflecting a less complex requirement.
- 19.3 The decision whether to use Request for Quote or a Tender is dependent on the complexity of the requirement. As a rule, a RFQ is to be used:
- for the procurement of Goods or Works rather than Services
 - where price is the only evaluation criteria
- 19.4 The RFQ must include:
- A description of the works, goods or services being procured
 - A specification indicating the outcome required
 - Standard TDC Terms and Conditions
 - The evaluation criteria including any weightings
 - The Cost (pricing) mechanism and instructions for completing the tender sum response
 - The Quality and Service requirements and associated response form if applicable
 - The form and content of any method statements to be provided of applicable
- 19.5 RFQs may be published to a Closed Group of suppliers where it can be established that the Open Procedure will attract too many responses to be adequately evaluated and responded to.
- 19.6 A minimum of 3 suppliers must be asked to provide a quotation.
- 19.7 Suppliers should be selected in line with CSO13.
- 19.8 Quotations must be submitted via in-tend if over £5k.

20 Open Procedure (ITT)

20.1 This is a single stage process where all suppliers expressing an interest are invited to respond to an ITT. A pre-qualification stage is not permitted where the Contract value is below the FTS Threshold for Goods or Services. This procedure shall apply where:

- the value of the Contract award will be below the FTS Threshold;
- the value of the Contract award will be above the FTS Threshold and the Council has decided that a single stage tender is appropriate.

20.2 The ITT must include:

- A description of the works, goods or services being procured
- A specification indicating the outcome required
- Terms and conditions of Contract
- The evaluation criteria including any weightings
- The Cost (pricing) mechanism and instructions for completing the tender sum response
- The Quality and Service requirements and associated response form
- Where there is a potential transfer of employees, the Council's view on whether TUPE will apply
- The form and content of any method statements to be provided

20.3 For Works related Contracts where it can be demonstrated that the response to an open advertisement would generate such a large number of responses that the time spent in evaluating such tenders would be disproportionate to the value of the Contract Constructionline can be used to select a Closed Group of suppliers to be invited to submit tenders for below FTS Threshold Contracts.

21 Restricted Procedure (PQQ and ITT)

21.1 This procedure can only apply where the value of the Contract award will be above the FTS Threshold.

21.2 **Stage 1 – Pre-qualification**

21.2.1 Suppliers respond to a Contract opportunity by submitting a Selection Questionnaire ("SQ"). This is used to establish their capability, experience and suitability.

21.2.2 For any Works Contracts the national standard PQQ [PAS91 2013] must be used if you are following a restricted procedure. There is limited scope to amend this PQQ template. The PQQ can be found in the procurement toolkit.

21.2.3 Upon receipt of the completed SQ the information will be evaluated.

21.2.4 A minimum of 5 qualifying suppliers to be shortlisted for the next stage.

21.3 **Stage 2 – Invitation to Tender**

21.3.1 Invitation to Tender documents published to the shortlisted suppliers from stage 1.

21.3.2 If fewer than the required minimum number of suppliers either meet the minimum qualification requirements or express an interest, the CPB must be consulted to agree whether to seek additional tenderers.

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22 Competitive Dialogue (Multi stage)

- 22.1 This procedure can only apply where the value of the Contract award will be above the FTS Threshold.
- 22.2 This method is used usually where the requirement is very complex and where specifications or outcomes of a solution have not yet been clearly defined. This will usually involve an initial shortlisting followed by an Invitation to Participate in Dialogue whereby initial proposals are made proceeding to various stages of dialogue to determine the final solution.
- 22.3 This is an extremely complex process and should not be undertaken without the prior approval of the CPB.

23 Competitive Procedure with Negotiation (Multi stage)

- 23.1 This procedure can only apply where the value of the Contract award will be above the FTS Threshold
- 23.2 This is a method which is used where the requirement requires design or innovation solutions which cannot be readily identified through market engagement, or dialogue is required to determine with sufficient precision the final legal and financial make up, but that minimum requirements and objectives can be identified prior to procurement. The process normally involves shortlisting of bidders who respond most robustly to the minimum requirements and objectives and then final negotiations are held on certain elements.
- 23.3 The competitive with negotiation procedure allows award following the initial ITT stage before negotiations have commenced providing this is stipulated in the tender documentation.
- 23.4 This is an extremely complex process and should not be undertaken without the prior approval of the CPB.

24 Light Touch Regime

- 24.1 This procedure can only apply where the value of the Contract award will be above the FTS Threshold.
- 24.2 The Light Touch Regime (LTR) covers Health, Education and Social Care Contracts. As with all procurements, the process undertaken to award the Contract must be fair, open and provide for equal treatment.
- 24.3 This process should not be undertaken without the prior approval of the CPB.

25 Concession Contracts

- 25.1 Concession Contracts are governed by the Concession Contracts Regulations 2016 and not Contract UK Regulations.
- 25.2 They relate to the granting of a right to a third party to provide a service or an asset and transferring the opportunity to that third party to exploit the market and retain any profit it makes.
- 25.3 The granting of such Contracts should not be undertaken without the prior approval of the CPB.

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General

26 Opening of Quotations and Tenders

- 26.1 All quotes and tenders (over Threshold 1) must be submitted electronically via the SE Shared Services portal.
- 26.2 All quotes and tenders must remain locked until the specified return date.
- 26.3 Any quotation or tender received after the specified date and time will be rejected.
- 26.4 In-Tend allows for all bids to be opened and recorded within the system alleviating the need to employ a bid opening committee to sign and witness the opening of bids. For the avoidance of doubt, the Procuring Officer running the procurement exercise can proceed to open the bids using the electronic opening ceremony independently.
- 26.5 The confidentiality of quotations, tenders and the identity of contractors must be preserved at all times and the information about one contractor's response must not be given to another contractor.

27 Supplier Assessment

- 27.1 No assessment of a suppliers financial standing is needed for Contracts estimated to be within Thresholds 1 or 2 unless the goods being purchased are a proprietary item, in which case a financial assessment must be conducted.
- 27.2 A financial assessment of potential suppliers must be undertaken for all Contracts estimated to be within or above Threshold 3
- 27.3 An assessment will be made of a Supplier's:
 - 27.3.1 financial stability and resources;
 - 27.3.2 insurances;
 - 27.3.3 technical and other relevant references;
 - 27.3.4 business continuity plans;
 - 27.3.5 qualifications and experience;
 - 27.3.6 environmental, ethical and employment policies;
 - 27.3.7 previous experiences.
- 27.4 A supplier that does not meet the Council's minimum requirements will not be accepted.

28 Evaluation of Quotations and Tenders

- 28.1 Quotations or Tenders will be evaluated strictly in accordance with the evaluation criteria published in advance. The available options are:
 - 28.1.1 Price only - accept the offer from the Contractor who, having satisfied the council's minimum requirements, has offered the lowest price.
 - 28.1.2 Price / Quality – where a price quality split is stipulated, the supplier who ranks highest over-all shall be awarded the Contract, this is otherwise known as the Most Economically Advantageous Tender (M.E.A.T).
 - 28.1.3 Where the most economically advantageous tender is to be sought, an assessment criteria and associated weightings will be specified in the ITT.
 - 28.1.4 The Procuring Officer must ensure that evaluation of tenders takes place involving suitably experienced officers to form "the evaluation panel". The results of the evaluation must reflect the consensus of the panel and be approved by the CPB.

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28.2 Abnormally low Tenders (ALTs)

There is no definition in the Regulations of an abnormally low tender, but in practice, it will be identified where the tenderer's price is significantly lower than other tenderers. Where such a tendered price is received an explanation from the tenderer must first be sought. Where the evidence does not provide a satisfactory explanation, the tender can be rejected.

29 Contract Award Notice

29.1 Award notification letters must include the following debriefing information, and no additional details should be given without taking the advice of Procurement:

- How the award criteria were applied;
- The name of the successful Tenderer(s);
- The score/price of the Tenderer, together with the score/price of the successful Tenderer;
- Details of the reason for the decision, including the characteristics and relative advantages of the successful Tender; and
- Confirmation of the date before which the Council will not enter into the Contract (i.e. the date after the end of the 'standstill period')

29.2 For all Contracts with a value exceeding the FTS Threshold a 10 stand-still period will apply, in compliance with PCR 2015 regulations.

29.3 If a decision is challenged by an unsuccessful Tenderer, after the issue of an award notification letter, the Procuring Officer must not award the Contract but immediately inform the relevant Chief Officer and the Procurement Officer and seek the advice of the Head of Legal Services and Monitoring Officer.

30 Commencement of Work

30.1 No supply of work, supplies or services is to commence until a Contract is in place.

30.2 Proposed payment arrangements under a Contract must be discussed and agreed by the S151 Officer in advance of any Contract being entered into. However, the S151 Officer may issue guidance on approved payment arrangements.

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CONTRACTS

31 Contract Sign Off and Sealing

31.1 A Contract can only be signed by one of the following:

- Chief Executive
- S151 Officer
- Head of Legal Services & Monitoring Officer
- Deputy Head of Legal
- Solicitors

31.2 A Contract should normally be sealed where:

- the Council may wish to enforce the Contract more than six years after its end;
- the price paid or received under the Contract is a nominal price and does not reflect the value of the goods or services;
- where there is any doubt about the authority of the person signing for the other Contracting party;
- some Contracts with a value at or below Threshold 3;
- all Contracts above Threshold 3

Legal advice should be sought as to whether a Contract should be sealed. Contracts may be sealed electronically where advised accordingly by the Legal Team.

31.2 Where there is hard copy contract documentation, along with confirmation of authority to enter into the contract (including any delegated urgent decision record, where appropriate) this must be passed to the legal team for signing as soon as possible.

31.3 Where a Contract is to be signed underhand, electronic signatures may not be used where statute imposes a requirement for the document to be in writing with an original signature. Advice should be sought from the Head of Legal Services and Monitoring Officer where there is uncertainty. Examples include property transactions, transfer of securities, assignments of copyright etc.

31.4 Once the contract documentation has been signed and dated (completed), the officer must pass the documentation to the Legal Team and to the Procurement Specialist. The Legal Team will arrange for hard copy documentation to be stored in the Council's strong room, in accordance with the Council's document retention policy. Soft copy contracts will be stored in the Legal Team's document management system and a copy will be provided to the Officer.

31.5 The Legal team should be consulted on all proposed contractual arrangements. A simple contract that on the face of it appears to have no financial cost to the Council may still have financial implications or need careful consideration as to the risks involved in entering into it.

31.6 Every contract that the Council enters into must have a demonstrable governance audit trail. No contract may be entered into without it first being established that there is appropriate governance in place. Please contact Legal Team for guidance if required.

31.7 Except in exceptional circumstances with the prior written approval of the CPB all Contracts must be signed or sealed before their commencement.

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32 Contract Conditions / Form of Contract

All Contracts should be in writing and on terms and conditions (including any provision for liquidated damages) as may be determined by the Head of Legal Services and Monitoring Officer. Standard contract clauses as detailed in this section 32 shall be used in all contracts, except where Officers consider that such clauses are not appropriate for the contract being considered. In these circumstances, Officers shall seek legal advice on appropriate contract clauses from the Legal Team.

32.1 The following clause (or suitable alternative drafted by the Council's Legal Team) shall be put in every written Council contract:

"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone on the Contractor's behalf (whether with or without the knowledge of the Contractor) does any of the following:

- i. Offers, gives or agrees to give to anyone, any inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other Contract with the Council or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Council (even if the Contractor does not know what has been done); or
- ii. Commit an offence under the Bribery Act 2010 or Section 117 (2) of the Local Government Act 1972 and/or the Contractor has committed an act which is an offence under the Enterprise Act 2002;
- iii. Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees
- iv. Any clause limiting the Contractor's liability shall not apply to this clause."

32.2 All Contracts shall:

- 32.2.1 specify the goods, materials or services to be supplied and/or works to be undertaken, price to be paid, payment terms and conditions, details of any discounts or penalties, the period of the Contract and any other terms and conditions that may be agreed;
- 32.2.2 provide for the payment of liquidated damages where they are appropriate;
- 32.2.3 contain details of any security that is required by the council;
- 32.2.4 prohibit the Contractor from sub-Contracting or assigning all or any part of the Contract without the express consent of the council;
- 32.2.5 require compliance with current legislation with respect to health and safety at work and with all statutory requirements under the Equality Act 2010;
- 32.2.6 shall make provision for the Council's obligations under Freedom of Information and Data Protection legislation.

32.3 Bonds and Parent Company Guarantees

32.3.1 Procurement Officers must consult with Procurement Specialist about whether a Parent Company Guarantee or Bond is necessary when a company is:

- a subsidiary of a parent company; and
- the Total Value exceeds £50,000; or
- award is based on evaluation of the parent company; or
- there is concern about the financial stability of the Candidate.
-

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32.3.2 Where the Contract value exceeds £1,000,000 CPB will consider whether it is appropriate to provide for performance bonds. The amount for each performance bond will be approved by the S151 Officer. The bond will be in a form that is acceptable to the S151 Officer and the Head of Legal Services and Monitoring Officer.

32.4. Corruption, bankruptcy and cancellation

32.4.1 Every Contract must state that the Council may cancel the Contract and recover any resulting losses if the supplier, his employees or anyone acting on his behalf, with or without his knowledge, does anything improper to influence the Council or commits an offence under Bribery Act 2010.

32.4.2 Every Contract must state that if the supplier enters into liquidation or administration, the Council is entitled to cancel the Contract and recover any resulting losses.

32.4.3 A non-collusive tendering certificate is to be included with all tender documentation which must be signed by Tenderers and included with their Tender.

32.5 Consultants

32.5.1 Any Consultant employed by the Council to let or manage Contracts must comply with these CSOs. The Contract with any Consultant must provide that all records maintained by the Consultant in relation to a Contract must be made available to the Council on request and handed over to the Council on completion of the procurement.

32.6 Insurance

32.6.1 The Procuring Officer must consider the Council's need for appropriate indemnities backed by insurance. In the case of a Contract for works or services, the Contract must require the supplier to carry Public Liability insurance to a minimum of £10m unless otherwise agreed by the S151 Officer.

32.6.2 In the case of a Contract for professional services, the Contract must require the supplier to carry Professional Indemnity insurance to a minimum of £5m unless otherwise agreed by the S151 Officer.

32.6.3 For all Contracts there must be a requirement for the supplier to carry Employers Liability insurance to a minimum of £10m unless otherwise agreed by the S151 Officer.

Table 3 - Insurance Requirements

Type of Insurance	Minimum Value
Public Liability	£10m
Professional Indemnity	£5m
Employers Liability	£10m

33 Contract Management

33.1 For all Contracts with a value at Threshold 4 or above a Contract Manager must be appointed. Where reasonably practicable, the Contract Manager should be part of the initial procurement process. The Procuring Officer must notify the name of the Contract Manager to the supplier prior to letting of the Contract.

33.2 The role of the Contract Manager will be to manage the Contract throughout its duration, as well as enforce duties owed to the Council under Contract and to be responsible on behalf of the Council for those duties owed to the Contractor.

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33.3 The Contract Manager must check that services, goods and works have been delivered to the required standard before goods are 'received' and invoices approved. Officers checking and approving

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invoices must ensure invoices are in line with agreed Contracts and should challenge suppliers and contractors where necessary before any payments are made and ensure that any penalties or rebates are claimed.

33.4 The responsibilities of the Contract Manager will include:

- 33.4.1. undertake appropriate risk assessments that have considered service continuity, health and safety, fraud and information management risks
- 33.4.2. maintain a risk register during the contract period
- 33.4.3. ensure appropriate contingency measures are in place for identified risks
- 33.4.4. in line with the Council's Risk Management Strategy:
 - formally review monthly and regularly monitor and report to the Procurement Specialist on: a Contractor's performance against the agreed level of service; the regularity of meetings held with the contractor; compliance with specification and contract costs and identifying as early as possible any potential over-spends and any Best Value requirements
 - monitoring the continuing level of operational and financial risk to which the Council is exposed and to institute controls as appropriate
- 33.4.5. facilitating the resolution of issues between the supplier and users of the service
- 33.4.6. ensuring prompt payment of invoices and compliance with all financial regulations and CSOs during the lifetime of the Contract
- 33.4.7. ensuring that appropriate arrangements are made for the termination or re-letting of the Contract at the appropriate time.

33.5 Variations

- 33.5.1. Where the relevant Contract Manager considers an existing Contract needs to be varied (i.e. practical changes which do not alter the essential nature of the original Contract as opposed to additional works or supplies not originally envisaged) he or she may approve these subject to the proposed variation being contained within the total budget approved for the Contract. The reasons for and details of any such variation must be recorded and stored with the Contract.
- 33.5.2. Where the approved budget would be exceeded because of the variation, approval for any such variation must be sought from the CPB.

33.6 Contract Termination

- 33.6.1. Contracts may be terminated, by the relevant Head of Service, by agreement prior to the expiry date or in accordance with the Termination Provisions set out in the Contract. Advice must be sought from the Head of Legal Services and Monitoring Officer.

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33.7 Contract Extension

- 33.7.1 Any Contract that expressly provides for extension may be extended in accordance with its terms provided that the CPB are satisfied that Value For Money will be achieved, and the extension is reasonable in all the relevant circumstances.
- 33.7.2 Where the Contract does not make provision for the extension of the Contract, the CPB shall not extend the Contract, unless legal advice has been sought from the Head of Legal Services and Monitoring Officer at the earliest opportunity.
- 33.7.3 For the purposes of CSO 33.7.1 an extension of a Contract includes the option to increase the amount of supplies, services or works as well as the option to lengthen the duration of the Contract.

34 Contracts Register

- 34.1 Under Government Transparency Law the Council must publish and maintain details of all “live” Contracts over £5,000. In order to achieve this requirement, Procurement will add details of all Contracts to the e-procurement systems Contract Register.
- 34.2 The e-procurement systems Contract Register allows for private documents to be stored. Procurement will add an electronic copy of the final signed / sealed Contract and any relevant documents. This will be accessible to Council officers linked to the procurement.
- 34.3 All original sealed deed Contract documents must be held centrally by Legal Team for the term of the Contract (including any agreed extension periods), plus the statutory limitation period (12 years for sealed deeds). They must be referenced back to the Central Register.
- 34.4 Contract Managers are responsible for ensuring that:
- the original signed/sealed copies of the Contract and any subsequent signed variations, have been stored as set out in 34.2 and 34.3;
 - summary details of any Contract that has been entered into, that binds the Council to the terms and conditions of the Contract plus a pdf copy of the signed / sealed Contract is provided to Procurement to be entered on the Contracts Register administered by Procurement;
 - Procurement will maintain the online Contracts Register (via the electronic procurement system) to ensure the Council complies with the obligations of the Local Government Transparency Code (2015).
- 34.5 The Contract information that shall be entered into the register is as follows:
- the date of the award of Contract;
 - the name and address of the Contractor;
 - a description of the purpose of the Contract;
 - the duration of the Contract;
 - the estimated value of the Contract including any extensions available;
 - the start date;
 - the end date for the Contract, or the circumstances in which the Contract will end;
 - the duration of the potential extension periods to the Contract; and
 - any other information relating to the Contract which procurement considers to be material.

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35 Purchasing Cards

- 35.1 The Council operates a purchase card facility; these are available, with the approval of the Head of Service and finance.
- 35.2 Purchase cards are to be used for low value or one-off incidental spend where it is not efficient to add the suppliers to the finance management system
- 35.3 Purchase cards must not be used to bypass corporate Contracts without the express permission of Procurement.
- 35.4 The principle of disaggregation applies to spend on purchase cards both in relation to the individual and the Council as a whole.

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DEFINITIONS

Authorised Signatory List	The list of officers authorised to make financial transactions. Head of Service approval is required before an officer may be included in the list.
Award Criteria	The criteria on which the award of a Contract is based following an evaluation of Contract tenders in a procurement procedure. Award criteria must be focused on the tender and not the tenderer (which will already have been assessed at the pre-qualification stage against the relevant Selection Criteria).
Closed Group	Refers to the use of a selected shortlist of suppliers eg a Constructionline shortlist. PCR 2015 Regulation 110 states ‘a contracting authority does not advertise an opportunity where it makes the opportunity available only to a number of particular economic operators who have been selected for that purpose (whether ad hoc or by virtue of their membership of some closed category such as a framework agreement), regardless of how it draws the opportunity to the attention of those economic operators’
Call-off Contracts	This term is used to describe a Contract that is entered into for a specified period but where the total value and quantity of items ordered cannot be quantified at the outset. An example might be a Contract for the supply of office stationery. Prices are specified for the duration of the Contract, subject as necessary to fluctuation according to agreed formulae.
Chief Officer(s)	The Officers defined as such in the Constitution.
Concession Contracts	As defined by the Concession Contracts Regulations 2016; Contracts for pecuniary interest concluded in writing between a Contracting authority/utility) and an economic operator/(s) Where the consideration (or “payment”) is either: <ul style="list-style-type: none"> • Simply that the Contractor has the right to exploit (that is, to profit from) the works/services that are the subject of the Contract. • Where the Contractor has that right together with some payment from the Contracting authority/utility.
Constructionline	A national register of pre-qualified local and national construction and construction related Contractors and Consultants. The Council uses this register as its selection method for construction related Contracts.
Consultant(s)	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with skills, experience or capacity to undertake the work

Contract	In this context, means <ul style="list-style-type: none"> (i) an agreement between parties for the supply of goods or services or the execution of works. (ii) any Framework Agreement; (iii) any agreement where no payment is made by the Council, but which is of financial value to the Contractor (e.g. a concession); but does not include (without exception): <ul style="list-style-type: none"> • an employment Contract; or • a Grant Agreement.
Contract Value	All references to Contract values refer to the estimated value unless otherwise specified. The estimated value is calculated over the entire period of the Contract, including the period of any possible extensions to the term of the Contract. Where the term of the Contract is not known, a term of 4 years must be assumed and applied when calculating the Contract value. The calculation of the value must be assessed exclusive of Value Added Tax.
Contracts Finder	A central website maintained by Government on which public sector tender opportunities above advertised by the Council are required to be advertised.
Contracts Manager	Those Officers authorised to carry out the day to day activities required to manage a Contract.
Contracts Register	The electronic register hosted on In-tend that must be populated, with key information about Contracts, for all Contracts awarded as required by these procedures.
Corporate Management Team	The Corporate Management Team is the meeting of the Chief Executive, Deputy Chief Executive, S151 Officer and Head of Legal Services & Monitoring Officer, which is advised by Heads of Service and other Officers as appropriate.
Corporate Procurement Board / CPB	This is a board made up of members of the Corporate Management Team and acts as the governance board for the Council's procurement activity. Their role is: <ul style="list-style-type: none"> • To challenge all spend and procurement activity • To ensure compliance with CSOs • To support the development of a consistent and coherent approach to procurement • Develop and sponsor a procurement strategy and procurement work plan • To take collective responsibility for driving forward best practice for procurement. • Ultimately to approve all procurement expenditure over £5k
Council	For the purposes of these CSOs, "Council" refers to Tandridge District Council
Deed	A signed and sealed Contract document.

Disaggregation	Deliberately splitting down purchases or Contracts to avoid having to undertake a full competitive exercise.
Dynamic Purchasing System (DPS)	A fully electronic compliant 'Approved List', which in effect operates as an open framework where economic operators can join at any point while the DPS is open, and they meet the Suitability Criteria
Electronic Tendering	A secure means to store and transmit all Procurement Documentation via a secure electronic vault.
Estimated Total Contract Value	The estimated value of a procurement as defined in CSO 14
EU Directives	As of January 2021 no longer applicable. Replaced by to 'PCR 2015 (as amended)'
EU Threshold / OJEU Threshold(s)	As of January 2021 no longer applicable. Thresholds are contained in to 'PCR 2015 (as amended)' The Estimated Total Contract Value at which 'PCR 2015 (as amended)' apply for the category of spend, i.e. Goods, Services and Works.
Evaluation Criteria	Detailed assessment and comparisons of each Bid against the Evaluation Criteria verifying how Bidders will meet the requirements of the Contract; measured against quality and/or price criteria.
Financial Regulations	This refers to the set of rules that govern the way the council's finances are administered and controlled. They are maintained by the S151 Officer.
Find a Tender Service (FTS)	A new UK e-notification service "Find a Tender" (FTS) replaces OJEU as the means of publication of official procurement notices under the UK Procurement Regulations from 1 January 2021.
Framework Agreement	An agreement with Supplier Contract, to establish terms governing individual Contracts that may be awarded during a given period.
Framework Supplier(s)	An economic operator who has successfully secured a place on a public framework Contract.
Goods/Works/Services	A Contract will be in connection with the acquisition of one or more of these categories of procurements. The use of one of these terms should be taken to mean all the terms unless expressly stated to the contrary.
In-Tend	The Councils e-tendering system which must be used for all procurement exercises exceeding £5,000.
Invitation to Tender / ITT	A key document within the Procurement Toolkit which must contain or reference, the instructions for Bidders, specification, evaluation model and other relevant materials to allow the procurement activity to be concluded successfully.
JCT	The Joint Contracts Tribunal suite of construction related Contracts. The Council's preferred form of Contract for construction Contracts.

Most Economically Advantageous Tender (MEAT)	<p>is a method of assessment used as the selection procedure for publicly-procured contracts, allowing the contracting party to award the contract based on aspects of the tender submission other than just price.</p> <p>Regulation 67 of the Public Contract Regulations 2015 states that:</p> <p>(1) Contracting authorities shall base the award of public contracts on the 'most economically advantageous tender' assessed from the point of view of the contracting authority.</p> <p>(2) That tender shall be identified on the basis of the price or cost, using a cost-effectiveness approach, and may include the best price-quality ratio, which shall be assessed on the basis of criteria, such as qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question.</p>
OJEU	<p>The Official Journal of the European Union. As of January 2021 no longer applicable, replaced by 'FTS' or 'Find a Tender, the UK's e-notification service'</p>
Open Procedure	<p>A one-stage procurement where there is an open advert and any potential supplier can access and submit a tender to be evaluated.</p>
PAS 91 PQQ	<p>Prequalification questionnaire to be used for all procurements for Works that are between the Service and Supplies Threshold and the Works Threshold where the Restricted Process is used. A template is available in the Procurement Toolkit.</p>
Public Contract Regulations	<p>Refer to Public Contract Regulations or PCR 2015 and from January 2021 is amended to 'PCR 2015 (as amended)' and, the first time PCR 2015 is defined, expand the definition so it reads 'Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 and Public Procurement (Amendment etc. (EU Exit) (No.2) Regulations 2019 ('Withdrawal Regulations')'.</p>
Procurement Toolkit	<p>A guide to procurement providing help and advice in the procurement processes along with supplying template documents, useful forms and sample documents to assist Officers in running their own procurement projects.</p>
Procuring Officer	<p>Any Officer procuring a Contract on behalf of the Council.</p>
Quotation	<p>A quotation of price given by a supplier for a specified piece of work, goods or service (without the formal issue of an Invitation to Tender).</p>
Relevant Director	<p>This term is used to denote the Executive Director, Director of Finance and Resources (S151 Officer) or the Director of Operations in person. Where an officer from one service is working in circumstances where they are responsible to another service for the purposes of a procurement exercise, then it is that other director who is the responsible director. In some CSOs the Executive Director and the S151 Officer are mentioned by title; where this is done, they are not acting as the relevant director.</p>
Relevant Head of Service	<p>This term is used to denote the head of the service responsible for procuring a Contract.</p>

Request for Quote / RFQ	A key document within the Procurement Toolkit which must contain or reference, the instructions for Bidders, specification, evaluation model and other relevant materials. Only to be used for procurements with a value below Threshold 4.
Restricted Procedure	A two-stage procurement, where the advert invites potential suppliers to submit a Pre-Qualification Questionnaire and only those that meet the selection criteria are then shortlisted and permitted to submit a tender for evaluation. The Regulations only permit this procedure for above FTS Threshold procurements.
S151 Officer	This refers to the council's S151 Officer, being the officer responsible for the council's financial administration as defined by the Local Government Act 1972.
Scheme of Delegation	This term refers to the council's Scheme of Delegation, which specifies the extent to which the conduct of the council's affairs is delegated to council officers. If at any time there appears to be a conflict between the Scheme of Delegation and Contract Procurement Rules, the former shall take precedence.
Selection Criteria	The criteria by which Tenderers are chosen to be invited to submit Quotations or Tenders, where a Restricted Procedure is adopted.
Shortlisting	The process of selecting Tenderers who are to be invited to submit Quotations or Tenders or to proceed to final evaluation.
Social Value	Social value is the term used to describe the additional value created in the delivery of a Contract which has a wider community or public benefit. This extends beyond the social value delivered as part of the primary Contract activity. Under the terms of the Social Value Act 2012 contracting authorities are obliged to consider wider social and environmental objectives alongside price and cost when evaluating tenders for services which are valued over the FTS Procurement Thresholds.
Specification	The use of the word 'specification' refers to a statement of the council's minimum purchase requirements. For illustrative purposes, it includes as appropriate such matters as: a) Technical drawings b) Recognised international standards c) Method of delivery d) Terms and conditions of supply and delivery e) Responsible purchasing requirements.
Standard Form of Contract	Forms of agreement to be used without variation for certain agreed areas of work with values []
Standard Selection Questionnaire	This is the questionnaire which has been developed to simplify the supplier selection process for businesses using the Restricted Procedure to procure goods or services. It has replaced the Pre-Qualification Questionnaire.
Standstill Period	Contracts over the FTS Threshold must include a 10 calendar day standstill period between the notice of intention to Award and the actual award of Contract. This allows unsuccessful Bidders to be notified of the outcome of the Evaluation provides unsuccessful Bidders with an opportunity to appeal if they believe there is a justified reason to appeal against the Award.

Supplier/Contractor	Both these terms are used to refer to a provider or potential provider of goods, works or services. Once a Contract has been placed with a supplier, that supplier may be more precisely referred to as a Contractor.
Tender	A Tenderer's proposal on price and quality submitted in response to an Invitation to Tender.
Tenderer	Any person who asks or is invited to submit a Quotation or Tender.
TUPE Transfer of Undertakings (Protection of Employment) Regulations	TUPE refers to the Transfer of Undertaking (Protection of Employment) Regulations, 1981. These regulations were introduced to ensure the protection of employees when, for example, a business is taken over by another organisation. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.
UK Regulations	Refers to The Public Contracts Regulations 2015. From January 2021 is amended to 'PCR 2015 (as amended)' and, the first time PCR 2015 is defined, expand the definition so it reads 'Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 and Public Procurement (Amendment etc. (EU Exit) (No.2) Regulations 2019 ('Withdrawal Regulations)'
Value For Money	Value for Money (VfM) is not the lowest possible price; it combines goods or services that fully meet the needs, with the level of quality required, delivery at the time it is needed and at an appropriate price. (Refer to Most Economically Advantageous Tender).

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- PART E -**DELEGATION OF POWERS TO COMMITTEES
(INCLUDING TERMS OF REFERENCE) AND OFFICERS**

February 2024

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OVERVIEW OF DELEGATION ARRANGEMENTS

Subject to the urgency provisions of (vii) below, powers, duties, and delegation arrangements for each Committee are set out under these headings:-

TERMS OF REFERENCE	These set out the duties/functions/provision of services for which a Committee is responsible
TO RECOMMEND (matters reserved for a Committee to recommend)	This signifies that a Committee has no power of decision but may only make recommendations. Such recommendations are to Full Council unless expressly stated to be otherwise.
TO RESOLVE (matters reserved for a Committee to determine)	This signifies that the Council has delegated its power to decide issues to a Committee. A Committee can resolve matters within its terms of reference, provided they are not reserved for determination by Full Council (by virtue of this Constitution or statute) even if the matter concerned does not appear within the list of its “resolved” functions.
DELEGATION TO SUB-COMMITTEES (if any)	Each Sub-Committee is identified, together with the powers delegated by the parent Committee.
DELEGATION TO OFFICERS	The Chief Executive and other Management Team (MT) members (i.e. Deputy Chief Executive ; the Director of Resources and the Head of Legal Services & Monitoring Officer) are empowered to exercise, on behalf of the Council, all those functions, which are not reserved in this Constitution for determination by Council, Committees or Sub-Committees.

General arrangements / explanatory notes:

- (i) Notwithstanding the fact that a body has delegated a power to another body, the delegating body may elect to take a decision on such a matter itself.
- (ii) The Council, its Committees and Sub-Committees may delegate individual decisions to other Council bodies or Officers from time to time.
- (iii) Expenditure shall be incurred within the cash limited budgets determined by the Council in accordance with the Financial Regulations (in cases of urgency, Financial Regulation 7.5.4 shall apply with a report being subsequently submitted to the appropriate Committee).
- (iv) Principles or policies laid down by the Council or its Committees shall not be contravened or varied without further recourse to the Council or the relevant Committee as appropriate.
- (v) Authority to institute proceedings in respect of Council Tax, National Non - Domestic Rates and Housing Benefit proceedings is delegated to the S151 Officer.

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- (vi) Authority to settle court proceedings to protect the Council's interests is delegated to the Monitoring Officer in consultation with Members in accordance with Standing Order 46 of Part B of the Constitution.
- (vii) Notwithstanding anything in this Constitution, the Chief Executive and other MT Members shall be authorised to take decisions on the grounds of urgency regarding matters which would otherwise be reserved for determination by a Committee or Council. A matter can be deemed urgent if, in the reasonable opinion of the MT Member concerned, a delay would seriously prejudice the interest of the Council or of the public and it is not practicable to convene a quorate meeting of the relevant decision making body in sufficient time to take the decision. The MT Member concerned shall also:
- advise and seek the views of the Political Group Leaders and the Chair of the appropriate Committee at the earliest opportunity; and
 - report the matter to next scheduled meeting of the appropriate Committee.
- (viii) The Chief Executive will publish regular reports of action taken by Officers under delegated powers in a document referred to as the 'Delegated Action List'. Any Member can request the Chief Executive to refer any matter within such reports to a future meeting of the appropriate Committee (such reference shall not retrospectively affect the validity of the decision in question).
- (ix) The Common Seal of the Council shall:
- not be affixed to any document unless the sealing has been authorised by a resolution of the Council or under powers delegated to a Committee or an Officer; and
 - be attested by one of the following Officers:
 - Chief Executive
 - Director of Resources (S151 Officer)
 - Head of Legal
 - Deputy Head of Legal
 - Legal Specialists (Solicitors, Barristers and Chartered Legal Executive Lawyer)
- and an entry of every sealing of a document shall be made and consecutively numbered in a register kept for the purpose and shall record the name of the person who has attested the seal.
- (x) Where any document will be a necessary step in legal proceedings on behalf of the Council it shall be signed by the Chief Executive or the Head of Legal Services & Monitoring Officer unless any enactment otherwise requires or authorises, or the Council give the necessary authority to some other person for the purpose of such proceedings.

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COUNCIL

The following matters are reserved for Council:

- (i) significant revisions to the Constitution (subject to other Committees being able to make recommendations direct to Council about proposed changes to their Terms of Reference)
- (ii) appointment of the Chief Executive
- (iii) dismissal of the Chief Executive, Head of Legal Services & Monitoring Officer or S151 Officer following consideration of the advice, views or recommendations of an independent panel and other matters specified in Schedule 3 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015
- (vi) determining the number, size and political balance of Committees
- (v) civic matters (i.e. appointment of representatives on Outside Bodies; Members' Allowances and the conferment of a title of Honorary Alderman)
- (vi) Members' Code of Conduct
- (vii) determination of Licensing policy
- (viii) other policy matters (new policies / changes in policy) which require resources beyond those allocated to Committees (subject to the Strategy & Resources Committee being able to resolve rephrasing of budgetary provision within the Council's capital programme to the next or subsequent financial years where this does not increase overall Council borrowing).
- (ix) financial programmes for overall revenue and capital expenditure as part of the annual budget preparation cycle
- (x) annual Pay Policy Statement
- (xi) freehold disposals of General Fund assets worth over £1million
- (xii) leasehold disposals of General Fund assets for periods of over 99 years and periods of between 16 and 19 years if the annual rental valuation is more than £100,000 plus premium
- (xiii) determination of Polling District and Community Governance Reviews
- (xiv) making of byelaws
- (xv) adoption of Development Plan Documents
- (xvi) publication of draft Local Plans under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012
- (xvii) Individual purchases of land or buildings within or outside the District (including by means of a loan to a Local Authority owned company) via the Council's General Fund
- (xvi) other matters which, by virtue of statutory provision, must be determined by full Council.

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AUDIT & SCRUTINY COMMITTEE

1. TERMS OF REFERENCE

To be responsible for the review and scrutiny of the decisions and performance of the Council, audit arrangements and providing opportunities for other organisations to present / explain key aspects of their local services, including:

- (i) Exercise the Council's scrutiny and review functions including overall responsibility for audit and governance frameworks.
- (ii) Exercise the right to call-in, for reconsideration, decisions made by any policy committee but not yet implemented by any policy committee.
- (iii) Exercise scrutiny over the Council's budget, the management of its budget, capital programme, revenue borrowing and assets and its audit arrangements.
- (iv) Monitor implementation of recommendations from the external and internal auditors.
- (v) Monitor and review the Council's Anti-Bribery and Anti-Corruption policy.
- (vi) Oversee compliance with the Council's duties concerning Best Value.
- (vii) Review opportunities for cooperation with other authorities.
- (viii) Review and/or scrutinise decisions made, or actions taken, in connection with the discharge of any of the Council's functions and make reports and/or recommendations to full Council where necessary.
- (ix) Monitor progress on the Council's Strategic Plan.
- (x) Review and approve the Annual Governance Statement.
- (xi) Calling upon representatives of outside organisations to present information about services which have a significant impact upon local residents.
- (xii) Monitor the Council's performance against targets which seek to ensure the provision of cost effective, quality services to the community (as part of the Council's own performance management regime).
- (xiii) Monitor and review the Council's Whistle Blowing Policy.
- (xiv) Monitor and review the Local Government Ombudsman's annual report.

The Committee shall include a co-opted, non-voting Independent Member to serve for a two-year period (Minute 67 (2023/24) refers)).

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2. TO RECOMMEND

- (i) Matters with significant budgetary and/or policy implications arising from Internal or External Audit reports.
- (ii) Matters with significant budgetary and/or policy implications arising from the reviewing and scrutinising of the performance of the Council in relation to its policy objectives, performance targets, Committee Service Plans and any Government sponsored assessment regime.
- (iii) Matters with significant budgetary and/or policy implications arising from presentations by representatives of outside organisations about services which have a significant impact upon local residents.
- (iv) Consideration of any Councillor Call for Action.
- (v) Changes to the Committee's Terms of Reference.
- (vi) Other matters under the Committee's jurisdiction which, by virtue of statutory provision, must be determined by full Council.

3. TO RESOLVE

- (i) Matters in connection with 2 (i) to (iii) above with no significant budgetary and/or policy implication.
- (ii) Decisions to refer matters to Policy Committees.
- (iii) Approval of the Council's annual statements of accounts.
- (iv) Issues arising out of the financial audit of the accounts.

4. DELEGATION TO OFFICERS

1. To the Chief Executive and other MT Members the power to implement Council/Committee policies and deal with the day-to-day management of services relevant to this Committee, including the discharge of all functions of the Council, except for those which are identified above as reserved for determination by the Council, Committee or Sub-Committee.
2. To the S151 Officer, in consultation with the Chair and Vice Chair of the Committee, power to recruit and appoint the Independent Member on the Committee at such time as this (non-voting, co-opted) position becomes vacant (Minute 67 (2023/24) refers).
3. The officers referred to in 1. above have the power in turn to delegate to other officers of their choice, the power to deal on their behalf and in their name with any of the above functions. Such delegation shall be in writing and signed by the relevant MT Member and may contain such limitations or be subject to such conditions as that Officer shall decide.

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COMMUNITY SERVICES COMMITTEE

1. TERMS OF REFERENCE

- A. To be responsible for formulating and reviewing the Council's policies in respect of the leisure, cultural environmental health and amenity needs of the District, including:-
- (i) Waste and amenity management (street cleaning, refuse collection, cesspool emptying, public conveniences, vehicle parking, abandoned vehicles, fly-tipping, recycling and cemeteries).
 - (ii) Provision and maintenance of leisure facilities, including leisure and sports centres, formal parks, pavilions, and open spaces.
 - (iii) Drainage and sewerage matters.
 - (iv) Health & Safety, Food Safety, Pollution Control, Registration of motor salvage and scrap metal operators, Control of Dogs, Street/House to House Collections, Pest Control, water supply, infectious diseases and unauthorised encampments.
 - (v) Control of Hackney Carriage and Private Hire Vehicles.
 - (vi) Grants to voluntary bodies.
 - (vii) Exercise the Council's scrutiny and review functions in relation to local crime and disorder matters and to act as the local Crime & Disorder Committee.
- B. Subject to the agreement of the Chief Executive and in consultation with Members in accordance with Standing Order 46 of Part B of the Constitution, to deal exclusively with any matter that also falls within the terms of reference of another Policy Committee / other Policy Committees and to resolve such matters unless reserved for determination by Full Council.

2. TO RECOMMEND

- (i) New policies or changes in policy within the remit of the Committee which would require resources beyond those allocated to the Committee.
- (ii) Financial programmes for overall revenue and capital expenditure as part of the annual budget preparation cycle.
- (iii) Making of Byelaws for good rule and government and the suppression of nuisance within the remit of this Committee.
- (iv) Changes to the Committee's Terms of Reference.
- (v) Other matters under the Committee's jurisdiction which, by virtue of statutory provision, must be determined by full Council.

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3. TO RESOLVE

- (i) New policies or changes in policy within the remit of the Committee which can be accommodated within the Committee's overall allocation of resources and/or trading reserves.
- (ii) Requests for assistance in individual cases which fall outside of policy but which do not impact upon resources, or where the individual wishes to appeal against the officer decision.
- (iii) Responses to consultations from the Government, other authorities and external agencies where there is a potentially significant impact upon the delivery of services falling under the remit of the Committee.
- (iv) Provision of Hackney Carriage ranks and variations in fees and fares in respect of Hackney Carriage and Private Hire Vehicles.
- (v) The award of contracts falling under the remit of the Committee and within the allocated budget.
- (vi) Any grant applications referred to the Committee for determination.
- (vii) The seeking of planning permission by, or on behalf of, the Council.
- (viii) Rents and charges for services, accommodation and land.
- (ix) Measures to reduce crime & disorder and to promote community safety, including those delivered via the local Community Safety Partnership.
- (xi) Addition of externally funded schemes to the capital programme.

4. DELEGATION TO OFFICERS

1. To the Chief Executive and other MT Members respectively the power to implement Council/Committee policies and deal with the day-to-day management of services relevant to this Committee, including the discharge of all functions of the Council, except for those which are identified above as reserved for determination by the Council, Committee or Sub-Committee.
2. The officers referred to in 1. above have the power in turn to delegate to other officers of their choice, the power to deal on their behalf and in their name with any of the above functions. Such delegation shall be in writing and signed by the relevant MT Member and may contain such limitations or be subject to such conditions as that Officer shall decide.

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HOUSING COMMITTEE

1. TERMS OF REFERENCE

- A. To be responsible for formulating and reviewing the Council's policies in respect of the housing and community care needs of the District, including:-
- (i) Management (including repair, maintenance, improvements, sale, acquisition, allocation and control) of the housing stock, buildings, housing land (including garages, mobile homes parks, caravan sites and day centres) and other land and property which is not clearly identified as belonging to any other Committee.
 - (ii) Management of the emergency alarm system for the elderly and disabled.
 - (iii) Private sector housing conditions, including standards of fitness, slum clearance, houses in multiple occupation, overcrowding, harassment, improvements on an individual or area basis, grants/mortgages for purchase, improvement or repair of property and the provision of a housing advisory service.
 - (iv) Contributing to the provision of affordable housing to meet local housing needs, both:
 - via the direct supply of new Council owned homes (including the appropriation of land, subject to any statutory consents and procedures, identified for Council housebuilding for planning purposes); and
 - as a housing enabler, supporting the delivery of homes by other agencies, e.g. housing associations.
- B. Subject to the agreement of the Chief Executive and in consultation with Members in accordance with Standing Order 46 of Part B of the Constitution, to deal exclusively with any matter that also falls within the terms of reference of another Policy Committee / other Policy Committees and to resolve such matters unless reserved for determination by Full Council.

2. TO RECOMMEND

- (i) New policies or changes in policy within the remit of the Committee which would require resources beyond those allocated to the Committee.
- (ii) Financial programmes for overall revenue and capital expenditure as part of the annual budget preparation cycle.
- (iii) Freehold disposals of Housing Revenue Account assets worth over £1 million.

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- (iv) Leasehold disposals of Housing Revenue Account assets for:
 - periods over 99 years; and
 - periods of between 16 and 99 years if the annual rental valuation is more than £100,000 plus premium.
- (v) Making of Byelaws for good rule and government and the suppression of nuisance within the remit of this Committee.
- (vi) Changes to the Committee's Terms of Reference.
- (vii) Other matters under the Committee's jurisdiction which, by virtue of statutory provision, must be determined by full Council.

3. TO RESOLVE

- (i) New policies, or changes in policies within the remit of the Committee which can be accommodated within the expenditure limits as defined within the Committee's revenue and capital budgets.
- (ii) Freehold disposals of Housing Revenue Account assets worth between £250,000 and up to £1 million (the Chief Executive can determine freehold disposals of assets worth less than £250,000 in consultation with Members in accordance with Standing Order 46 of Part A of the Constitution).
- (iii) Leasehold disposals of Housing Revenue Account assets for:
 - periods between 16 and 99 years if the annual rental valuation is up to £100,000 plus premium; and
 - periods up to 16 years if the annual rental valuation is more than £100,000

(Authority is delegated to the Chief Executive, in consultation with, Members in accordance with Standing Order 46 of Part A of the Constitution, to approve leasehold disposals of HRA assets of up to 16 years and with an annual rental valuation of up to £100,000).
- (iv) Schemes for the building of Council owned homes (subject to necessary planning consents and budgetary provision).
- (v) The appropriation of land necessary to facilitate Council house-building schemes.
- (vi) Individual purchases of land or buildings within the District in accordance with Financial Regulation 17.
- (vii) Requests for assistance in individual cases which fall outside of policy but which do not impact on resources, or where the individual wishes to appeal against the Officer decision.
- (viii) The writing off of rent arrears and associated charges which are in excess of £10,000.

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- (ix) Responses to consultations from the Government, other authorities and external agencies where there is a potentially significant impact upon the delivery of services falling under the remit of the Committee.
- (x) The award of contracts falling under the remit of the Committee and within the allocated budget.
- (xi) The seeking of planning permission by, or on behalf of, the Council.
- (xii) Rents and charges for services, accommodation and land
- (xiii) Addition of externally funded schemes to the capital programme.

4. DELEGATION TO OFFICERS

1. To the Chief Executive, and other MT Members the power to implement Council/Committee policies and deal with the day-to-day management of services relevant to this Committee, including the discharge of all functions of the Council, except for those which are identified above as reserved for determination by the Council, Committee or Sub-Committee.
2. The officers referred to in 1. above have the power in turn to delegate to other officers of their choice, the power to deal on their behalf and in their name with any of the above functions. Such delegation shall be in writing and signed by the relevant MT Member and may contain such limitations or be subject to such conditions as that Officer shall decide.

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LICENSING COMMITTEE

1. TERMS OF REFERENCE

- 1.1 To be responsible for exercising regulatory and policy functions under the relevant legislation concerning the determination of licence applications, as and when necessary, relating to the following activities:
- (i) Alcohol and regulated entertainment
 - (ii) Other activities under the jurisdiction of the Council as the licensing authority, including those in connection with hackney carriage / private hire vehicle operations; gambling and racing licence applications; animal welfare; pollution control; house to house and street collection licences; street trading; scrap metal dealing; sex establishments and other premises requiring licences.
- 1.2 The Committee shall act as the statutory committee under the Licensing Act 2003 (Section 6) when dealing with licensing policy matters in connection with 1.1(i) above. As such, the Committee shall comprise between 10 and 15 members.
- 1.3 The Committee shall act as an 'ordinary committee of the Council' as defined by the Local Government Act 1972 (Section 101) when dealing with licensing policy matters in connection with 1.1(ii) above. As such, the Committee shall also be subject to the political balance requirements of the Local Government & Housing Act 1989.

2. TO RECOMMEND

- (i) New policies or changes in licensing policy.
- (ii) Changes to the Committee's Terms of Reference.
- (iii) Other matters under the Committee's jurisdiction which, by virtue of statutory provision, must be determined by full Council.

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3. DELEGATION TO THE LICENSING SUB-COMMITTEE

- (i) Determination of licence/registration applications and enforcement action relating to the activities defined in 1.1 above, referred by:
- (a) any Member of the Council; or
 - (b) the Chief Executive or Deputy Chief Executive, including:
 - instances where they are minded to refuse a licence application; and
 - referrals arising from the scheme of delegation for alcohol and regulated entertainment licensing (see Annex 1 to these Terms of Reference).
- (ii) The Licensing Sub-Committee shall comprise three members drawn from the parent Committee. In the event of one or more of the three principal members being unable to attend a hearing, their places shall be filled by selecting substitutes from the Licensing Committee. (*Membership of the Licensing Committee does not preclude Members from attending a hearing as the local Ward Member and undertaking a representative role as an interested party within the meaning of the Licensing Act*).

4. DELEGATION TO OFFICERS

1. To the Chief Executive and other Management Team Members the power to implement Council/Committee policies and deal with the day to day management of services relevant to this Committee, including the discharge of all functions of the Council, except for those which are identified above as reserved for determination by the Council, Committee or Sub-Committee.
2. The Officers named in 1. above to have the power in turn to delegate to other Officers of their choice the power to deal on their behalf and in their name with any of those functions. Such delegation shall be in writing and signed by the relevant MT Member and may contain such limitations or be subject to such conditions as that Officer shall decide.
3. For the purposes of Alcohol and Entertainment licensing, delegation shall be exercised in accordance with the scheme of delegation recommended by the Secretary of State in section 182 of the Licensing Act 2003 Guidance as refined by Minute 162, 2004/05 (Licensing Committee – 25th November 2004) (see Annex 1 to these Terms of Reference on the following page) and section 154 of the Gambling Act 2005.

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Licensing Committee Scheme of Delegation

The Authority will exercise and delegate functions in accordance with this table.

Matter to be dealt with	Sub-Committee	Officers
Application for personal licence	If a Police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated personal licence holder		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Application for Interim Authorities	If a Police objection	All other cases
Application to review premises licence/club registration certificate.	All cases	
Decision on whether a complaint is frivolous, vexatious etc		All cases in consultation with Members in accordance with Standing Order 46 of Part B of the Constitution.
Decision to object when Local Authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a Police representation to a temporary event notice.	All cases	

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PLANNING COMMITTEE

1. TERMS OF REFERENCE

To be responsible for exercising regulatory functions under the Town and Country Planning legislation including:

- (i) Determination of planning and related applications.
- (ii) Enforcement action in response to breaches of control.

2. TO RECOMMEND

- (i) Changes to the Committee's Terms of Reference.
- (ii) Other matters under the Committee's jurisdiction which, by virtue of statutory provision, must be determined by full Council.

3. TO RESOLVE

- (i) Determination of all planning and related applications and enforcement action referred to the Committee by any Member of the Council and/or the Chief Executive.
- (ii) Guidelines under which the Committee shall determine its level of involvement in individual planning, building control and enforcement decisions.
- (iii) Confirmation (or modification) of Tree Preservation Orders where there are unresolved objections.

4. DELEGATION TO OFFICERS

1. To the Chief Executive and other MT Members the power to implement Council/Committee policies and deal with the day to day management of services relevant to this Committee, including the discharge of all functions of this Committee, except for those which are identified above as reserved for determination by the Council or Committee or Sub-Committee that may be set up from time to time
2. To the Chief Executive and other MT Members the power to authorise in writing Officers to enter on to land or to apply for a warrant and thereafter enter land pursuant to sections 196A-196C and 214B-214D of the Town and Country Planning Act 1990 as amended.

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3. The Officers named in 1. above may authorise other Officers of their choice the power to deal on their behalf and in their name with any of those functions (save for those referred to in 2. above). Such authorisation(s) shall be in writing and signed by the relevant MT Member and may contain such limitations or be subject to such conditions as the relevant MT Member shall decide.

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PLANNING POLICY COMMITTEE

1. TERMS OF REFERENCE

- A. To be responsible for influencing and controlling development, use of land and the administration of Community Infrastructure Levy funds, including:
- (i) Preparation, adoption and review of the statutory Development Plan, including Local Development Documents.
 - (ii) Administration of Building Control regulations.
 - (iii) Transport issues.
 - (iv) The determination of Community Infrastructure Levy (CIL) allocation criteria and applications for CIL funding.
 - (v) The setting of CIL budgets and the monitoring of CIL income, expenditure and disbursements to Parish Councils.
- B. Subject to the agreement of the Chief Executive and in consultation with Members in accordance with Standing Order 46 of Part B of the Constitution, to deal exclusively with any matter that also falls within the terms of reference of another Policy Committee / other Policy Committees and to resolve such matters unless reserved for determination by Full Council.

2. TO RECOMMEND

- (i) New policies or changes in policy within the remit of the Committee which would require resources beyond those allocated to the Committee.
- (ii) Financial programmes for overall revenue and capital expenditure as part of the annual budget preparation process.
- (iii) Adoption of Development Plan Documents.
- (iv) Publication of draft Local Plans under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- (v) Changes to the Committee's Terms of Reference.
- (vi) Other matters under the Committee's jurisdiction which, by virtue of statutory provision, must be determined by full Council.

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3. TO RESOLVE

- (i) New policies or changes in policy within the remit of the Committee which can be accommodated within the Committee's overall allocation of resources.
- (ii) Preparation and review of Local Development Documents, subject to the publication of draft Local Plans (under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012) having to be recommended to Full Council.
- (iii) Adoption of Neighbourhood Development Plans.
- (iv) Adoption of Supplementary Planning Documents.
- (v) Confirmation of Conservation Area designations.
- (vi) Responses to consultations from the government, other authorities, external agencies and other bodies, including transportation related consultations, where they would have a significant impact on the delivery of the Local Plan or on the District's environment.
- (vii) The seeking of planning permission by, or on behalf of, the Council.
- (viii) Approving Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders.
- (ix) Rents and charges for services, accommodation and land
- (x) Revisions to CIL allocation criteria.
- (xi) CIL allocations upon consideration of applications and associated representations.
- (xii) Addition of externally funded schemes to the capital programme.

4. DELEGATION TO OFFICERS

1. To the Chief Executive and other MT Members the power to implement Council/Committee policies and deal with the day-to-day management of services relevant to this Committee, including the discharge of all functions of the Council, except for those which are identified above as reserved for determination by the Council, Committee or Sub-Committee.
2. To the Chief Executive, the power to agree an application for a Neighbourhood Area to be designated (in cases where the Chief Executive is minded to refuse such an application, the matter will be referred to the Committee for determination).
3. To the Chief Executive (subject to the Chair of the Committee being advised of the actions concerned) the power to agree amendments to the Local Validation Requirements and associated documents; and to publish these on the Council's website.

4. The Officers named in 1. above have the power in turn to delegate to other officers of their choice, the power to deal on their behalf and in their name with any of the above functions. Such delegation shall be in writing and signed by the relevant MT Member and may contain such limitations or be subject to such conditions as that Officer shall decide.

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STANDARDS COMMITTEE

1. TERMS OF REFERENCE

To be responsible for:

- (i) Promoting and maintaining high standards of conduct by Councillors and co-opted Members in accordance with the duty contained in Section 27 of the Localism Act 2011.
- (ii) Assisting Councillors and co-opted Members to observe the Members' Code of Conduct.
- (iii) Advising the Council on the adoption or revision of the Members' Code of Conduct.
- (iv) Monitoring the operation of the Members' Code of Conduct.
- (v) Advising, training or arranging to train Councillors and co-opted Members of Tandridge District Council and the Parish Councils within the District on matters relating to Members' Codes of Conduct.
- (vi) Granting dispensations under Section 33 of the Localism Act 2011 to Councillors and co-opted Members from the requirements relating to interests set out in the Members' Code of Conduct.
- (vii) Making arrangements for investigating and determining complaints regarding alleged breaches of the Members' Code of Conduct applicable to Tandridge District Council or one of the Parish Councils within the District.
- (viii) Discharging, through a Hearings Panel, decisions made following consideration of reports by an Investigating Officer in connection with (vii) above.

The Committee shall include a co-opted, non-voting Independent Person (the protocol in respect of this position is set out in Part F of this Constitution)

2. TO RECOMMEND

- (i) The adoption and revision of the Members' Code of Conduct.
- (ii) Changes to the Committee's Terms of Reference.
- (iii) Other matters under the Committee's jurisdiction which, by virtue of statutory provision, must be determined by full Council.

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3. TO RESOLVE

- (i) The granting of dispensations in the following circumstances (under Section 33 of the Localism Act 2011) to Councillors and co-opted Members from the requirements relating to interests set out in the Members' Code of Conduct.
 - (a) that without the dispensation, the representation of Political Groups transacting the business would be so upset as to alter the outcome of any vote on the matter;
 - (b) that dispensation is considered to be in the interests of persons living in the authority's area; or
 - (c) it is otherwise considered appropriate to grant a dispensation.

(Authority has been delegated to the Head of Legal Services & Monitoring Officer, in consultation with the 'Independent Person', to grant dispensations in situations where so many Members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would otherwise impede the transaction of the business (Minute 157, 2011/12 – Standard Committee, 4th January 2012).

4. DELEGATION TO HEARINGS PANELS

Determination of complaints referred by an Investigating Officer regarding alleged breaches of the Members' Code of Conduct (applicable to Tandridge District Council or one of the Parish Councils within the District).

Such Panels shall comprise three District Councillors serving on the Standards Committee.

5. DELEGATION TO OFFICERS

To the Head of Legal Services & Monitoring Officer and Deputy Monitoring Officer respectively the power to determine matters in respect of the Code of Conduct and arrangements for dealing with allegations of breach (following consultation with the Independent Person / Reserve Independent Person as appropriate) except for those which are identified above as reserved for determination by the Council, Committee or Hearings Panel.

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STRATEGY & RESOURCES COMMITTEE

1. TERMS OF REFERENCE

- A. To be responsible for the general administration and overall policy/financial framework of the Council including:-
- (i) Civic matters (the Appointment of Representatives on Outside Bodies with the exception of the list considered at the Annual Meeting of the Council; Members' Allowances; Conferment of a Title of Honorary Alderman; and Regalia).
 - (ii) Arrangements for the appointment of, and disciplinary action against, Management Team members.
 - (iii) Land and Buildings not within the purview of any other Committee.
 - (iv) The annual budget preparation process and consideration of overall Committee budgets, including the setting of Council Tax and prudential indicators.
 - (vi) Formulation and review of the Constitution.
 - (vii) Formulating and reviewing emergency plans.
 - (viii) Publicity/public relations/complaints procedure.
 - (ix) Formulating, implementing and reviewing corporate and financial strategies (e.g. those relating to IT; Data Protection; Debt Management; Risk Management; and Asset Management) which do not fall within the remit of other Committees.
 - (x) Health & Wellbeing.
 - (xi) Administration of Council Tax and benefits.
 - (xii) Treasury management (including strategies for borrowing and investment).
 - (xiii) Electoral matters.
 - (xiv) Financial oversight of the procurement process for significant contracts being tendered by the Council (including those for IT and waste collection).
- B. Subject to the agreement of the Chief Executive and in consultation with Members in accordance with Standing Order 46 of Part B of the Constitution, to deal exclusively with any matter that also falls within the terms of reference of another Policy Committee / other Policy Committees and to resolve such matters unless reserved for determination by Full Council.

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2. TO RECOMMEND

- (i) New policies or changes in policy within the remit of the Committee which would require resources beyond those allocated to the Committee.
- (ii) Financial programmes for overall revenue and capital expenditure, including the medium term financial strategy and, as part of the annual budget setting process, the level of Council Tax and Prudential Indicators (subject to the Committee being able to resolve rephasing of budgetary provision within the Council's capital programme to the next or subsequent financial years where this does not increase overall Council borrowing).
- (iii) Changes of use of Council owned (General Fund) land, subject to consultation with other Policy Committees who may be responsible for services currently operating from the land in question.
- (iv) Decisions on whether or not to proceed with freehold disposals of General Fund assets worth over £1 million.
- (v) Decisions on whether or not to proceed with leasehold disposals of General Fund assets for:
 - periods over 99 years; and
 - periods of between 16 and 99 years if the annual rental valuation is more than £100,000 plus premium.
- (vi) Individual purchases of land or buildings within or outside the District (including by means of a loan to a Local Authority owned company) via the Council's General Fund.
- (vii) Annual pay policy statements.
- (viii) Civic matters as detailed in 1.A (i) above.
- (ix) Making of Byelaws for Good Rule and Government and the suppression of nuisance within the remit of this Committee.
- (x) Community Governance Reviews
- (xi) Significant revisions to the Constitution (subject to other Policy Committees being able to make recommendations direct to Council about proposed changes to their Terms of Reference).
- (xii) Changes to the Committee's Terms of Reference.
- (xiii) Other matters under the Committee's jurisdiction which, by virtue of statutory provision, must be determined by full Council.

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3. TO RESOLVE

- (i) New policies or changes in policy within the remit of the Committee which can be accommodated within the Committee's overall allocation of resources.
- (ii) The formation of other subsidiary companies and special purpose vehicles as deemed necessary to support property projects.
- (iii) Decisions on whether or not to proceed with freehold disposals of General Fund assets worth between £250,000 and up to £1 million (the Chief Executive can determine freehold disposals of assets worth less than £250,000 in consultation with Members in accordance with Standing Order 46 of Part B of the Constitution).
- (iv) Decisions on whether or not to proceed with leasehold disposals of General Fund assets for:
 - periods between 16 and 99 years if the annual rental valuation is up to £100,000 plus premium; and
 - periods up to 16 years if the annual rental valuation is more than £100,000

(Authority is delegated to the Chief Executive, in consultation with Members in accordance with Standing Order 46 of Part B of the Constitution, to approve leasehold disposals of General Fund assets of up to 16 years and with an annual rental valuation of up to £100,000).
- (v) The writing off of irrecoverable debts in excess of £10,000 with the exception of a National Non-Domestic Rate liability which is no longer recoverable owing to the business having become Insolvent; the company having dissolved; or the sole trader having been made bankrupt. (**Note:** the writing of off rent arrears is dealt with by the Housing Committee).
- (vi) The seeking of planning permission by, or on behalf of, the Council.
- (vii) Determination of the tax base for Council Tax purposes.
- (ix) Rents and charges for services, accommodation and land.
- (x) Local Land Charges.
- (xi) Street names, house names and street numbering records.
- (xii) Polling District Reviews (*subject to the Electoral Registration Officer having authority to change a polling place, in consultation with Ward Members and Group Leaders, when it would not be practicable to seek Committee / Council approval for such a change in time for an election – Minute 268 (2020/21)*).
- (xiii) Rephasing of budgetary provision within the Council's capital programme to the next or subsequent financial years where this does not increase overall Council borrowing.
- (xiv) Addition of externally funded schemes to the capital programme.

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- (xv) Responses to consultations from the Government, other authorities and external agencies where there is a potentially significant impact upon the delivery of services falling under the remit of the Committee.

4. DELEGATION TO THE CHIEF OFFICER SUB-COMMITTEE

4.1 Definition of Chief Officer

For the purpose of this Sub-Committee's terms of reference, the term 'Chief Officer' covers the posts of:

- Chief Executive
- Deputy Chief Executive
- S151 Officer ('S151 Officer')
- Head of Legal Services & Monitoring Officer

4.2 Terms of Reference

To:

- (i) short list and interview candidates for the post of Chief Executive and to recommend such appointments to the Council
- (ii) interview shortlisted candidates for other Chief Officer posts and to determine such appointments
- (iii) consider disciplinary matters in respect of the Chief Executive and other Chief Officers, including the appointment of independent panels in accordance with Schedule 3 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (Minute 63, 2015/16 - Resources Committee, 30th June 2015 also refers
- (iv) determine discretionary payments to Officers on senior management grades (SM1 and above) in addition to which they are contractually entitled
- (v) consider and determine proposals to grant early retirement with no actuarial reduction in pension to officers on senior management grades (SM1 and above).

4.3 To Recommend (to full Council):

- (i) the appointment of the Chief Executive
- (ii) dismissal of the Chief Executive, Head of Legal Services & Monitoring Officer or S151 Officer following consideration of the advice, views or recommendations of an independent advisory panel (4.5 (iv) below refers) and other matters specified in Schedule 3 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

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4.4 To Resolve:

- (i) the short listing of candidates for the post of Chief Executive
- (ii) appointments to Chief Officer posts (other than the Chief Executive)
- (iii) the appointment of an Independent Investigator to investigate allegations of misconduct against the 'Head of the Authority's paid service (Chief Executive)
- (iv) the appointment of an independent advisory panel in accordance with Schedule 3 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 to consider the findings of formal investigations into misconduct allegations against the 'Head of the Authority's paid service (Chief Executive); Head of Legal and Monitoring Officer; and the S151 Officer
- (v) disciplinary action against the Chief Executive, Head of Legal Services & Monitoring Officer or S151 Officer (other than dismissal) following (except in the case of a decision to suspend him/her) consideration of the advice, views or recommendations of the independent advisory panel referred to in (iv) above
- (vi) appeals from Chief Officers (other than those specified in (iv) above) against disciplinary action taken against them by the Chief Executive
- (vii) discretionary payments to Officers on senior management grades (SM1 and above) in addition to which they are contractually entitled
- (viii) the granting of early retirement with no actuarial reduction in pension to officers on senior management grades (SM1 and above).

5. DELEGATION TO THE INVESTMENT SUB-COMMITTEE

To Resolve:

- (i) Annual strategies for the prudent investment of surplus funds held in the Council's accounts (representing income received in advance of expenditure and cash balances and reserves held for future use) having regard to:
 - both the security and liquidity of investments; and
 - the advice of the Council's treasury consultants

.... before seeking the highest rate of return.
- (ii) Relevant performance indicators to measure the effectiveness of financial investment strategies.
- (iii) Any modifications to investment policy during the course of the year to reflect the availability of funds and/or prevailing economic circumstances following an assessment of investment performance against the indicators referred to in (ii) above.

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- (iv) The following shareholder functions of Council owned holding and property investment companies:
- approving the Memorandum of Articles of Association
 - approving a Shareholder Agreement between the company and the Council (this agreement will capture how the Council, as shareholder, will exercise its control over the Company and the expectations for performance delivery)
 - approving the Business Plan (this will be developed to cover a rolling 5- year period of investment activity which will include an analysis of the market, investment strategy and outlook, target returns in line with the prevailing market conditions and will outline the company's planned operations and financial forecasts - it will be reviewed annually)
 - appointing a Company Secretary and Auditor
 - appointing a Managing Director and Director(s) to the company (they will be members of the Property Board tasked with the day to day management of the business)
 - approving a Resourcing Agreement regarding the company's use, where required, of Council staff and facilities to further its business objectives
 - approving loan draw down facilities for the company and loan agreements, setting out the funding arrangements between the Council and the company
 - reviewing performance reports.

6. DELEGATION TO OFFICERS

1. To the Chief Executive and other MT Members respectively the power to implement Council/Committee policies and deal with the day-to-day management of services relevant to this Committee, including the discharge of all functions of the Council, except for those which are identified above as reserved for determination by the Council, Committee or Sub-Committee.
2. The officers referred to in 1. above have the power in turn to delegate to other officers of their choice, the power to deal on their behalf and in their name with any of the above functions. Such delegation shall be in writing and signed by the relevant Chief Officer and may contain such limitations or be subject to such conditions as that Officer shall decide.

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TANDRIDGE DISTRICT COUNCIL CONSTITUTION

PART F

CODES, SCHEMES AND PROTOCOLS

February 2024

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[Members' Code of Conduct](#) page 7

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PROCEDURE FOR CALL- IN OF POLICY COMMITTEE DECISIONS FOR SCRUTINY BY THE AUDIT & SCRUTINY COMMITTEE

(June 2021)

1. What is call-in?

Call-in is the referral to the Audit & Scrutiny (A&S) Committee of a decision made by a policy committee / sub-committee (defined as such within the constitution) but not yet implemented. Implementation of the decision will then be suspended, pending further consideration.

2. In what circumstances can call-in be exercised?

The process should only be triggered in exceptional circumstances, namely when members of the A&S Committee have evidence to suggest that, in respect of the decision concerned:

- due process was either ignored or not followed correctly (this includes any prescribed processes associated with the matter in question and/or the way in which the matter was dealt with at the meeting of the policy committee / sub-committee);
- the decision was unreasonable in that relevant information was not taken into account and/or too much weight was given to irrelevant information;
- key information has since come to light which warrants reconsideration of the decision;
- the decision was in breach of the law or the Council's constitution.

3. What can't be called in?

- 3.1 A call-in request shall not be effective if the policy committee (or a sub-committee thereof) has determined that the interests of the Council or the District would be prejudiced by a delay in implementing the decision. Any officer seeking to rely on this provision must contact the Chair of the A&S Committee (or in the Chair's absence the Vice-Chair) and the Leader of the Council (or in the Leader's absence the Deputy Leader) to obtain their agreement and explain in the relevant report the justification for such a decision.
- 3.2 If, in exceptional circumstances which could not have reasonably been foreseen, a matter becomes urgent after the date of the committee meeting in question, the Chair of the A&S Committee (or in the Chair's absence the Vice-Chair) and the Leader of the Council (or in the Leader's absence the Deputy Leader) may agree to waive the operation of the call-in procedure and may do so even if the procedure has already been triggered.
- 3.3 Those decisions which constitute recommendations to Council shall not be subject to the call-in procedure; this is because effective scrutiny can take place at Council before such decisions are implemented. Council would have the opportunity of accepting the recommendation from the committee; amending or rejecting it; or referring it back to the committee.
- 3.4 Decisions of the Planning Committee or hearings conducted by a Licensing Sub-Committee, Regulatory Sub-Committee or a Standards Committee panel are also immune to the call-in process.

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4 How does call-in work?

4.1 Subject to the exceptions of section 3 above, details of relevant Committee decisions shall be e-mailed to all Members of the Council within three working days following the meeting. **Any five Members of the A&S Committee** can then, within a further four working days, inform the Chief Executive and the Chair of A&S (or in the Chair's absence the Vice-Chair) that they require an item to be called-in. This will be on the call-in form provided, setting out the criteria in section 2 on which they are relying with a brief explanation as to why the Members concerned consider the criteria to be met. No action will be taken on implementing the decision until a meeting of the A&S Committee has taken place. The timetable would work as follows for a policy committee held on a Thursday:

- (a) policy committee meeting (day 1);
- (b) by the following Tuesday, notification of the committee resolutions would be e-mailed (day 6);
- (c) Members would then have until 12 noon on the Monday following the notification of resolutions to inform the Chief Executive and the Chair of the A&S Committee (or in the Chair's absence the Vice-Chair) that they wish to have a matter called-in (day 12); the matter would then be reported to the next meeting of the A&S Committee or, if considered more expedient by the Chair, a special meeting of the A&S Committee shall be convened for the purpose;
- (d) if the decision of the A&S Committee was to accept the committee decision, then immediate action would be taken to implement it;
- (e) otherwise, the A&S Committee shall either:
 - (i) refer the matter back to the policy committee or sub-committee in question and ask that committee or sub-committee to reconsider its decision; or
 - (ii) refer the matter to Full Council in which case the effect of such a referral will be to change the status of the decision in question from one which the relevant policy committee had resolved be taken to one which it is recommending to Full Council be taken. The subsequent consideration of that recommendation by Full Council shall be subject to the normal rules of debate. For the avoidance of doubt, the Chair of the relevant committee shall be the mover of the recommendation in question; and
 - (iii) in either case, the A&S Committee may make recommendations as to an alternative course of action to be pursued;
- (f) the matter will then be reconsidered at the next ordinary meeting of the policy committee (or sub-committee), or via a report to the next Full Council, as the case may be, unless the matter is sufficiently urgent to require a special or extraordinary meeting;
- (g) the Chair or Vice Chair of the A&S Committee shall have the right to address the relevant meeting of the policy committee / sub-committee or Full Council with reference to (f) above;

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- (h) if the matter is subsequently considered by Full Council, either as a result of a reference pursuant to clause e(ii) or otherwise, the power contained in Standing Order 8(4) to move a motion to remit back to policy committee / sub-committee shall not apply;
- (i) the subsequent decision of the policy committee / sub-committee or the Council upon the matter will not be subject to further call-in or be the subject of a motion to remit under Standing Order 8(4) when being considered within the minutes of the relevant meeting at a subsequent Council meeting.

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MEMBERS' CODE OF CONDUCT

April 2021

Purpose of the Code of Conduct

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

General principles of councillor conduct

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

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

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

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

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

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

- you misuse your position as a councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor

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The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

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

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

Standards of councillor conduct

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

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

General Conduct

1. Respect

As a councillor:

- 1.1 I treat other councillors and members of the public with respect.**
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

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

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

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2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

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

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

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

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

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4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

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

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

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5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

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

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

6. Use of position

As a councillor:

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

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

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others: a. act in accordance with the local authority's requirements; and b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

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

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

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

8. Complying with the Code of Conduct

As a Councillor:

- 8.1 I undertake Code of Conduct training provided by my local authority.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

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

9 Interests

As a councillor:

- 9.1 I register and disclose my interests.**

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

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

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

Annex 1 sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

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10 Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

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

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Annex 1 - Registering interests

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

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

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

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

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it Disclosure of Other Registerable Interests
6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

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Disclosure of Non-Registerable Interests

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

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

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

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

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Table 1: Disclosable Pecuniary Interests

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

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

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

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

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

Table 2: Other Registrable Interests

<p>You have a personal interest in any business of your authority where it relates to or is likely to affect:</p> <ul style="list-style-type: none"> a) any body of which you are in general control or management and to which you are nominated or appointed by your authority b) any body <ul style="list-style-type: none"> (i) exercising functions of a public nature; (ii) any body directed to charitable purposes; or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
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PROTOCOL FOR THE INDEPENDENT PERSON (April 2021)

INTRODUCTION

1. The purpose of this Protocol is to set out the principal ways in which the Council, the Monitoring Officer and the Independent Person will interact in relation to the assessment of an allegation that a Member of the District Council or a Member of Parish Council within the District, has failed to comply with the Council's Code of Conduct.
2. Any reference in this Protocol to the Independent Person applies to however many Independent Persons the Council has and Independent Persons could also include an Independent Person from a neighbouring authority.
3. The Localism Act 2011 requires the Council to appoint at least one Independent Person to assist the Monitoring Officer, as a consultee, during the pre-investigation, investigation, pre-hearing and hearing process.
4. The Council has appointed one Independent Person to act in this role. If required, the Council can request for an Independent Person appointed by another Surrey Authority to act as their Independent Persons.
5. The role of the Independent Person is set down in legislation (section 28(7) of the Localism Act 2011) - 'Arrangements put in place by the Council must include provision for the appointment by the authority of at least one independent person, whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and in any other such circumstances it considers appropriate'.
6. The Independent Person will be considered an office-holder of the Council in accordance with the duty under s28(7) of the Localism Act 2011 and will therefore be entitled to be covered by the Council's indemnity insurance provided they act reasonably and within the terms of this Protocol.
7. The Council has adopted a Code of Conduct for Members and has agreed arrangements for dealing with any allegation that a Member of the District Council or a Member of Parish Council within the District, has failed to comply with the Council's Code of Conduct.

ROLE OF INDEPENDENT PERSON

8. The purpose of the Independent Person's role is to enable the public to have confidence in how the District Council deals with allegations of misconduct.
9. In carrying out the role, the Independent Person will ensure s/he will be available for consultation at various points in the arrangements for dealing with complaints concerning District Councillors and or Parish Councillors.
10. If the Independent Person has or has had a personal relationship with the complainant or the Member who is the subject of the complaint, they should advise the Monitoring Officer at the earliest opportunity and the Monitoring Officer will consider making a request to use the services of an Independent Person from another authority.

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11. The Monitoring Officer function (including the Deputy Monitoring Officer) will review every complaint received and may, at their discretion, consult the Independent Person. If it is the initial view of the Monitoring Officer function that the complaint would not amount to a breach of the Member Code of Conduct and the Monitoring Officer will not progress the matter further.
12. Where an initial fact-finding investigation has been undertaken, a report will be submitted by the Investigator (usually the Deputy Monitoring Officer) to the Monitoring Officer. The Monitoring Officer, having consulted with the Independent Person, will consider and decide whether there is evidence of a failure to comply with the Code of Conduct and, if so, what action should be taken.
13. The Independent Person shall provide an objective and impartial opinion which the Monitoring Officer will consider in making the decision.
14. The Monitoring Officer, having consulted the Independent Person may consider resolution of the complaint by one of the following means:
 - the Member accepting that his/her conduct was unacceptable and offering an apology or other remedial action to the Council
 - referring the matter to the Member's Group Leader
 - the Member being required to attend training
 - the member being required to meet with the Monitoring Officer and/or other Chief Officers
 - such other action as is considered appropriate by the Monitoring Officer and Independent Person
15. Where a complaint is the subject of a Hearings Panel, the Independent Person must attend. After all the evidence has been presented the Committee will seek the views of the Independent Person before determining whether the Member breached the Code of Conduct. The Independent Person does not take part in the decision-making process of the Committee nor do they vote upon whether the complaint is upheld.
16. The Hearings Panel will seek the views of the Independent Person upon any sanction to be imposed.
17. Where the Independent Person is not available to deal with a particular matter or where the Independent Person has a potential conflict of interest, the Council shall appoint another Independent Person who shall act in the particular matter. Such Independent Person may be an Independent Person appointed by another Authority to act as their Independent Person.

RELATIONSHIP WITH THE STANDARDS COMMITTEE

18. The Monitoring Officer is the principal advisor to the Standards Committee supported by the Deputy Monitoring Officer(s) and Officers within Democratic Services.
19. The Independent Person is not a member of the Standards Committee and therefore is not part of the formal business of the meeting and cannot vote on any matters put to the meeting.

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20. The Independent Person shall receive agendas and minutes of all meetings of the Standards Committee and shall be entitled to attend the Committee as an observer.

RIGHT OF ACCESS TO DOCUMENTATION

21. The Independent Person shall have a right of access to such files and other documents as are necessary to fulfil their duties and obligations as set out in this protocol, their role description and the arrangements adopted from time to time by the Council for dealing with standards complaints. The Independent Person shall not have a right to undertake a roving commission. Normally access to files and other documents will be through the Monitoring Officer, Deputy Monitoring Officer or other officer appointed on their behalf.

DUTY TO DECLARE INTEREST

22. The Independent Person shall promptly disclose in writing any actual or potential conflict of interest that they may have in a matter which has been referred to them.

REGISTER OF MEMBERS' INTERESTS AND THE SEVEN PRINCIPLES OF PUBLIC LIFE

23. The Independent Person is not a Member, so they are not required to notify and register any interests in the Register of Members' interests. The Independent Person is however required to abide by the Seven Principles of Public Life ('the Nolan Principles').

PROTECTING THE INDEPENDENCE OF THE INDEPENDENT PERSON

24. No Member or Officer shall do anything which does or is likely to compromise the independence of the Independent Person or to otherwise inappropriately interfere in the discharge of the Independent Person's lawful duties.

MISCELLANEOUS

25. The Monitoring Officer will ensure that the Independent Person is kept up to date with changes to the Code of Conduct, procedures for handling allegations, in legislation, national guidance and/or good practice.
26. A further role of the Independent Person arises from the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended). By amending regulations in 2015, there is a prescribed statutory process for disciplining or dismissing an authority's Head of Paid Service, Monitoring Officer or S151 Officer. A decision to discipline or dismiss must be taken by Full Council which must consider, amongst other things, advice, views or recommendations from an independent panel. That panel must include at least two Independent Persons appointed under Section 28(7) of the Localism Act 2011 by the Council or by another local authority
27. The Independent Person together with the Monitoring Officer will meet at least once a year to discuss Member behaviour in a general context.
28. This Protocol will be kept under review by the Monitoring Officer and amended where necessary, considering legislation, guidance, good practice etc.

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MEMBERS' ALLOWANCES SCHEME FOR 2023/24

The Tandridge District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 2003, hereby makes the following Scheme:

1. This Scheme may be cited as the Tandridge District Council Members' Allowances Scheme, and shall be effective for the 2022/23 Municipal Year.

2. In this Scheme:

"Councillor" means a member of the Tandridge District Council who is a Councillor;

"total estimated allowances" means the aggregate of the amounts estimated by the S151 Officer, at the time when a payment of basic allowance or special responsibility allowance is made, to be payable under this Scheme in relation to the relevant year, and for this purpose any election under paragraph 9 shall be disregarded;

"year" means the 12 months ending with the Annual Meeting of the Council.

3. **Basic Allowance**

Subject to paragraphs 8 and 9, the basic allowance to be paid to each Councillor in 2022/23 shall be **£4446** (in line with the cost of living increase in pay for the Council's staff for this year).

4. **Special Responsibility Allowances**

(1) For each year a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 to this Scheme.

(2) Subject to paragraphs 8 and 9, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.

(3) No such allowance shall be payable if such a payment would be contrary to a provision made by or under any enactment.

5. **Travelling and Subsistence Allowances**

A Councillor may claim travelling and subsistence allowances in accordance with Schedule 2 to this Scheme.

6. **Dependants' Carers' Allowance**

A dependants' carers' allowance may be claimed on the basis of the actual cost incurred supported by receipts.

7. **Co-optees' Allowance**

A member of the public who sits on any committee or sub-committee of the Council (a 'co-optee') may only claim the travelling and subsistence allowances (as detailed in Schedule 2 to this Scheme) and the dependants' carers' allowance as detailed in paragraph 6 above.

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8. Renunciation

A Councillor may, by notice in writing given to the Chief Executive, elect to forego any part of his entitlement to an allowance under this Scheme.

9. Part-year Entitlements

- (1) The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of a year:
 - (a) this scheme is amended, or
 - (b) that Councillor becomes, or ceases to be, a Councillor, or
 - (c) accepts or relinquishes a special responsibility in respect of which a special responsibility is payable.
- (2) If an amendment to this scheme changes the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:
 - (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
 - (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year.
- (3) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- (4) Where this scheme is amended as mentioned in sub-paragraph (2), and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (2)(a), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Councillor subsists bears to the number of days in that period.
- (5) Where a Councillor has during part of, but not throughout, a year such special responsibility as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which s/he has such special responsibilities bears to the number of days in that year.

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- (6) Where this scheme is amended as mentioned in sub-paragraph (2), and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (2)(a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which s/he has such special responsibilities bears to the number of days in that period.

10. **Claims and Payments**

- (1) Claims for travelling and subsistence allowances (as detailed in Schedule 2 to this Scheme) and the dependants' carers' allowance shall be made monthly.
- (2) Subject to paragraph 8 above and sub-paragraph (3) below, basic and special responsibility allowances shall be paid on the 15th day of each month or the nearest working day prior to the 15th if that day falls on a weekend or bank holiday.
- (3) Where a payment of the amount specified in this Scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 9, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which s/he is entitled.

11. **Independent Remuneration Panel**

In accordance with the 2003 Regulations (detailed at the beginning of this Scheme) the Council instituted and considered the recommendations of an independent panel of members of the public before adopting this Scheme of Allowances.

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SCHEDULE 1

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances:

Member	Amount for 2023/24 £
Chair of the Council	3154
Vice-Chair of the Council (one-third of the Chair of Council Allowance)	1052
Leader of the Council	6307
Deputy Leader of the Council (one quarter of the Leader's Allowance)	1577
Chair of Committees - excluding Licensing and Standards	3154 (each)
Vice-Chairs of Committees - excluding Licensing and Standards. Where two Vice-Chairs have been appointed, an allowance is only applicable to '1 st Vice-Chair' position (one-third of the Committee Chairs' Allowance)	1052 (each)
Supplement for Members of the Planning Committee	609 (each)
Leader of the Opposition	3154*

* in the case of two equally sized opposition groups, both of their leaders be entitled to the full allowance.

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SCHEDULE 2
APPROVED DUTIES FOR TRAVELLING ALLOWANCES

Council Meetings

Committee/Sub-Committee/Working Group meetings where:

- the Councillor is a member of the Committee/Sub-Committee/Working Group; or
- if the Councillor is not a member of the Committee/Sub-Committee/Working Group, an agenda item impacts on the Councillor's Ward in particular

Council Agenda Call-Over Meetings (Chair and Vice-Chair of the Council)

Committee Agenda Call-Over Meetings (Committee Chair and Vice-Chair)

Sub-Committee and Working Group Agenda Call-Over Meetings (Chair of the Sub-Committee/Working Group)

Site Meetings approved in advance by the Committee

Staff Selection - Interviews by Chairs of Committees

Surrey County Council Tandridge Local Committee

Meetings of Parish Councils whose areas fall within the Councillor's District Ward

Tandridge Tenants Partnership Group

Tandridge Joint Consultative Meeting

Member Training Sessions

Opening Tenders

Conferences, Seminars organised by other bodies if appointments made by appropriate Committee

Joint meetings of the District Council and the Local Health Authority

Council organised Seminars/Workshops for Members

External Conferences/Seminars/Workshops or similar events, when attendance has been agreed by the appropriate Standing Committee or Chief Executive as relevant to and in the interests of the efficient conduct of Council business

Other pre-arranged meetings convened in liaison with District Council Officers

Meetings of Outside Bodies to which the Councillor has been appointed (by the Council)

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ALLOWANCES TO MEMBERS OF LOCAL AUTHORITIES AND CO-OPTTEES IN RESPECT OF PERFORMANCE OF APPROVED DUTIES, THAT IS, ATTENDANCE AT A MEETING OF THE COUNCIL OR A COUNCIL COMMITTEE OR ANY OTHER DUTY APPROVED BY THE COUNCIL FOR THE PURPOSE OF THE DISCHARGE OF ITS FUNCTIONS.

A. TRAVELLING

From place of residence to place of meeting. Rail fare (reimbursed at second class rate) or the fare of a public service vehicle. Taxi fares may be allowed in emergencies.

Where a Member use his own solo motor cycle, car or bicycle the rates shall not exceed:

	Rate per mile:
Motor-cycles	24p
Cars	45p for the first 10,000 miles and 25p per mile thereafter
Bicycle	20p

(N.B .Irrespective of engine size for both motor-cycles and cars. The above rates represent the approved mileage allowance payments as specified by HM Revenues & Customs)

B. SUBSISTENCE

(a) In the case of absence, not involving an absence overnight from the usual place of residence:-

(i)	Over four hours but not more than 8 hours	£ 6.00
(ii)	Over 8 hours but not more than 12 hours	£12.00
(iii)	Over 12 hours	£19.00

(b) In the case of absence overnight from the usual place of residence - £81.50. In addition for absence overnight in London or for the purposes of attendance at the annual conference of the LGA a supplementary allowance of £21.00 may be claimed.

These rates are deemed to cover a continuous period of absence of 24 hours. They should be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body during the period to which the allowance relates.

Further information, together with details of Councillors' and Co-optees' liabilities for Income Tax and National Insurance, may be obtained from the S151 Officer.

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PROTOCOL FOR MEMBER/OFFICER RELATIONS

April 2021

1. Introduction

- 1.1 This protocol sets out the roles and responsibilities of elected Councillors ('Members') and Council Officers ('Officers') to ensure clarity when carrying out their respective duties.
- 1.2 The overriding principle is for Members and Officers to recognise and respect each other's roles and responsibilities. An ethos of mutual respect, trust and courtesy should underpin relations and be reflected in both in-house and public capacities. Neither Members nor Officers should conduct relations in such a way as to bring the Council into disrepute.
- 1.3 Both Members and Officers are required to observe the 7 'Nolan principles of public life' in their dealings with each other, namely:
- selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership
- 1.4 These principles form the basis of the Members' Code of Conduct and are explained in **Annex 'A'**.
- 1.5 This Protocol should be read and understood alongside relevant legislation, the Members' Code of Conduct, the Officers' Code of Conduct and the Whistleblowing Policy and Guidance. If any questions arise from this Protocol, advice should be sought from the Monitoring Officer.
- 1.6 Given the variety and complexity of relations, this Protocol does not seek to be comprehensive but instead addresses some of the situations which most commonly arise. It is expected that the approach it suggests can be adapted to any situation.

2. Respective roles of elected Members and Officers

- 2.1 As the Council operates a committee system of governance (as opposed to an executive model) decisions cannot be made by individual Members. Decisions must be made in accordance with the Council's Scheme of Delegation (Part E of the Constitution). Specific matters are reserved for determination by Full Council and certain committees; other matters are delegated to Officers. However, upon delegating a matter to an Officer, a committee can require certain Members (e.g. the chair and vice-chair) to be consulted.
- 2.2 Councillors and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. The respective roles of Members and Officers can be summarised as follows:
- 2.2.1 Councillors are responsible to all of the electorate and serve only so long as their term of office lasts.
- 2.2.2 Officers are appointed to serve the Council as a whole and not any political group; their job is to give advice to Councillors and to the authority and to carry out the authority's work under the direction and control of the Council and relevant committees. Officers are employed by the Council and are accountable to it.

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- 2.3 Mutual respect between Councillors and Officers is essential to good local government and an important part of that is an understanding of their respective roles and responsibilities.
- 2.4 Councillors have four main areas of responsibility:
- (i) determining the policies of the authority and giving it political leadership;
 - (ii) monitoring and reviewing performance in implementing policies and delivering services;
 - (iii) representing the authority externally; and
 - (iv) acting as advocates on behalf of ~~their~~ residents and local stakeholders.
- 2.5 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to all Councillors. The principal focus of member decision making is to determine the Council's strategic policies and plans. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that Members sitting in a regulatory capacity will take decisions which affect the rights of individuals and businesses, for example in relation to development management and licensing matters, to which specific codes of practice apply.
- 2.6 Chairs and Vice-Chairs of committees have additional responsibilities. Although they may have different relationships and more regular contact, these Councillors must still respect the impartiality of Officers, must not ask them to undertake work of a party political nature, or to do anything which would prejudice that impartiality.
- 2.7 Members should not seek to give instructions to Officers other than in accordance with the terms of reference of their Committee. Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.8 At some meetings a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chair and Vice-Chairs or Group Leaders. In these circumstances it is the Officer, not the Member, who takes the action and is accountable for it. A Member has no legal power to take decisions, neither should he/ she apply inappropriate pressure on the Officer.
- 2.9 All Councillors have the same rights and obligations in their relationship with Officers and should be treated equally.
- 2.10 Certain Officers, e.g. the Chief Executive, the S151 Officer and the Monitoring Officer have responsibilities in law over and above their obligations to the authority and to individual Councillors. The Chief Executive has statutory responsibility, as head of paid service, for ensuring the proper organisation and management of the Council's staff and has overall responsibility for the direction and management of all Officers. The Monitoring Officer, which is also a statutory role, is responsible for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with.
- 2.11 Councillors must respect these obligations and Officers' impartiality, must not obstruct Officers in the discharge of these responsibilities and must not victimise Officers for discharging these responsibilities. Councillors must not do anything to compromise Officers' impartiality, e.g. by insisting that an Officer change his/ her professional advice to Members.
- 2.12 While there should be a close working relationship between a committee chair and the relevant director and other senior Officers, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question Officers' abilities to deal impartially with other Members, individuals or organisations.

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2.13 Officers are accountable to their line manager, not to individual Members, and while Officers should always seek to assist a Member they must not exceed the bounds of authority they have been given by their managers.

3. **Mutual expectations between Members and Officers**

3.1 Members can expect from Officers:

- (i) a commitment to the authority as a whole, and not to any political group or individual Councillor;
- (ii) a working partnership;
- (iii) an understanding of and support for respective roles, workloads and pressures;
- (iv) timely response to enquiries and complaints in accordance with agreed standards;
- (v) professional advice, not influenced by political views or preference;
- (vi) regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to Councillors' needs, having regard to any individual responsibilities they have and positions they hold;
- (vii) an awareness of and sensitivity to the political environment in which they are working;
- (viii) respect, dignity and courtesy;
- (ix) training and development in order to carry out their roles effectively;
- (x) integrity, mutual support and appropriate confidentiality;
- (xi) not to have personal issues raised with them by Officers outside the agreed procedures;
- (xii) compliance with the relevant code of conduct;
- (xiii) support for the role of Councillors as the local representatives of the Authority.

3.2 Officers can expect from Members:

- (i) a working partnership;
- (ii) an understanding of and support for respective roles, workloads and pressures;
- (iii) an understanding and knowledge of the local area and a willingness to share this with Officers;
- (iv) political leadership and direction;
- (v) respect, dignity and courtesy;
- (vi) integrity, mutual support and appropriate confidentiality;

- (vii) not to be subject to bullying or harassment. Councillors should have regard to the seniority and experience of Officers in determining what are reasonable requests, having regard to the power relationship between Councillors and Officers and the potential vulnerability of Officers, particularly at junior levels;
- (viii) Councillors will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- (ix) compliance with the relevant code of conduct.

3.3 Practical implications of some of the principles set out in paras 3.1 and 3.2 above are set out below:

3.3.1 While Councillors should always act in the public interest, there is nothing preventing them, as politicians, from expressing the values and aspirations of the Group to which they belong.

3.3.2 Councillors and Officers should be courteous to each other at all times even if they disagree strongly with their respective views. Councillors and Officers should not shout or raise their voice in an aggressive or rude manner and should not undermine respect for the other at Council meetings, or in any other forum in which they participate in their capacity as a Member or Council employee, including social media.

3.3.3 A Member shall not raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively in meetings held in public. While it is legitimate for Councillors to express well-founded concern constructively about the way in which a service is run or policy is being implemented by Officers, a personal attack by a Member on an Officer, or on staff generally, at a formal or informal Member meeting will never be acceptable, nor will a personal attack by an Officer on a Member. This would be damaging both to effective working relationships and to the public respect for the Council. In general, staff are unable to defend themselves against criticism in a public forum. Attacking an Officer's conduct in public **can** constitute bullying, as will undue pressure brought by either Officers or Councillors in private.

3.3.4 Councillors and Officers should respect each other's non-working time. While many Officers are willing to be contacted by Members at home outside normal working hours (and vice versa), this step should only be taken in cases of genuine importance **or** urgency or by prior arrangement.

3.3.5 Officers will do their best to give timely responses to Members' enquiries. However, Officers have many pressures on their time and should not have unreasonable requests placed on them. Their work priorities are set and managed by Directors. Councillors should not demand urgent responses to correspondence / calls unless the subject matter is deemed by the Officer to be urgent. If a matter requires urgent attention, Councillors should contact in the first instance either the Officer's manager or a member of the Management Team (MT).

3.3.6 Councillors should not send emails to multiple Officers and Members regarding the same issue. Instead, they should only copy in relevant ward members and Group Leaders when relevant and utilise one point of contact for Officers where possible.

4. Member decision making

- 4.1 Officers have a duty to provide information, advice and recommendations to elected Members. Such information, etc, can be given both formally and informally, but where significant or potentially controversial issues are at stake should be given formally and in writing.
- 4.2 Member decision making is always formal, public and auditable on the basis of written reports and advice from relevant Officers.
- 4.3 It is important that all Members, in exercising their functions as a Councillor, take appropriate legal, financial and professional officer advice, particularly about contractual matters.
- 4.4 Councillors have the ability to agree or reject proposals placed before them by Officers, irrespective of the advice or recommendations made by Officers, so long as they generally act in good faith and exercise reasonableness in decision-making and specifically:
- take into account relevant and dismiss irrelevant matters; and
 - do not come to a conclusion that no reasonable authority would come to.
- 4.5 Officers must therefore be able to report to Councillors as they see fit and without any political pressure.

5. Relationships between Members and Officers

- 5.1 The distinct roles of Councillors and Officers necessarily impose limitations upon behaviour. Close personal relationships between Councillors and Officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular Councillor or Officer may secure advantageous treatment.
- 5.2 Members and Officers should immediately (no later than three working days) inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 5.3 It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. For example, a Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.

6. Access to Officers and information

Support to resolve constituents' issues and queries

- 6.1 Arrangements have been made to provide support for Members in resolving any enquiries they may have or putting them in touch with the relevant Officer. Members should use the following channels as the first point of contact **if they don't already know to whom to direct their enquiry** for casework enquiries on behalf of constituents or requests for purely factual information:
- All Council services except for Planning:
e-mail csteamleaders@tandridge.gov.uk or call **01883 732948**
 - Planning: email planning_applications@tandridge.gov.uk

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- 6.2 Officers will endeavour to resolve Members' enquiries or complaints as quickly as possible. Where, for whatever reason, an enquiry cannot be answered straight away, the responsible Officer should keep the Member informed of the likely timeline or explain why it is not possible or practicable to meet the request. Officers will use out of office messages on email and voicemail to enable Members to redirect enquiries in their absence, as appropriate.

Requests for information

- 6.3 Every Member of each Committee and sub-committee has a right to inspect documents about the business of that committee or sub-committee.
- 6.4 Any Councillor may ask members of MT for factual information about a service, information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members. These requests will be met where the Councillor has a legal right to the information under the common law and is known as the 'Need to Know'. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. A Councillor is likely to have a prima facie 'Need to Know' where they have a legitimate Ward problem and need access to the documents that are relevant to that specific problem.
- 6.5 If that right arises under the Freedom of Information Act (FOIA) or the Environmental Impact Regulations (EIR), the Councillor shall not be required to make a formal FOI request. All such information should be provided within ten working days of the date of receipt of the request. In circumstances where this is not practical, the Officer shall contact the Councillor as soon as possible explaining why not and provide an alternative time scale.
- 6.6 Where the information requested is such that it would be exempt from disclosure under the FOIA or the EIR, that information will be provided if the Councillor has a right to it under the access to information provisions contained in the Local Government Act 1972 or otherwise has a right to that information on the basis of a 'Need to Know'.
- 6.7 Where a Councillor has a financial or personal interest in a matter, the Councillor will only be entitled to the same access as would be the case for a private individual. In these circumstances, the Councillor must make it clear that they are acting in their private capacity and not as a Councillor.
- 6.8 Access to information on the basis of a 'Need to Know' does not exist where the Councillor is considered to be "fishing" for information or seeks access for an ulterior/improper purpose (e.g. for a private purpose). Case law has established that mere idle curiosity as to what is in the documentation will not be sufficient.
- 6.9 Some material (for example if commercially sensitive) may be redacted from information that is disclosed.
- 6.10 There will also be a range of documents which, because of their nature, are not accessible by Councillors (such as the personal records of an individual). Early drafts of Committee reports/ briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.

- 6.11 All information held by the Council, in whatever form, is confidential to the Council unless and until such confidentiality is waived by the Proper Officer and subject to the requirements of the Data Protection Act 1998. Officers and elected Members are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Act and **to familiarise** themselves with their obligations under the Act accordingly. Officers or Members who require advice or assistance in relation to their duties under the Data Protection Act 1998 should take advice from the Monitoring Officer.
- 6.12 Councillors and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, unless required by law to do so.
- 6.13 Where information is requested on behalf of a third party, it will only be provided if:
- a) It is in the public domain and
 - b) It is not barred by the Data Protection Act from being given.
- 6.14 Information given to a Member must only be used for the purpose for which it was requested.
- 6.15 Group Leaders and Councillors who receive advice from Officers marked as confidential must ensure that, if such advice is further shared or disseminated within their groups, their groups understand that the advice is confidential to the Council and not to be disclosed further under any circumstances.
- 6.16 Whilst the term 'Council document' is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Councillor of one political group will not have a 'Need to Know' and therefore, a right to inspect, a document which forms part of the internal workings of another political group.
- 6.17 Disputes as to the validity of a Councillor's request to see a document on a 'Need to Know' basis will be determined by the Monitoring Officer. Officers should seek his/ her advice if in any doubt about the reasonableness of a Member's request.
- 6.18 A Councillor should seek advice from the Monitoring Officer in circumstances where he/ she wishes to have access to documents or information:
- a) Where to do so is likely to be in breach of the Data Protection Act or
 - b) Where the subject matter is one in which he/ she has a personal or prejudicial interest as defined in the Member's Code of Conduct
- 6.19 Any request from a Councillor which is marked confidential will be treated in confidence by Officers and will not be made known to any other Councillor or political group. Officers are also under a duty not to relate any information disclosed privately by a Councillor(s) (e.g. during part II discussions at Committee, informal briefings, private conversations or Group meetings) to another Councillor, Officer or person not already privy to that information.
- 6.20 Members are encouraged to make use of existing sources of information wherever possible and to bear in mind the impact on the effective use of resources of making excessive or repeated requests.
- 6.21 To ensure compliance with General Data Protection Regulations (GDPR), Councillors will only use their Tandridge Council email address for communications on matters relating to their role as Councillors.

Budget preparation

- 6.22 As part of the budgetary process, Officers may be called upon to give advice on budgetary proposals wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the 'normal' rights that any member has to seek advice 'in confidence' from Officers. In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Members. It is appropriate, and indeed, in certain circumstances necessary, if a proposed course of action is considered imprudent as a matter of professional judgement, that Officers should advise the Members of the Authority that this is so.

Committee Briefings

- 6.23 In order for Committee Chairs and/or Vice Chairs to discharge their responsibilities, those Members will be briefed by MT officers on service issues, proposals and policy development. MT Officers may, from time to time, nominate other Officers to attend these meetings. These informal meetings may be on a one-off or regular basis, in accordance with the requirements of the Councillors concerned.
- 6.24 Opposition groups may also have nominated Committee leads and if those leads so request, the relevant members of MT will make themselves available to brief them on service issues on Committee papers once the agenda has been published.

Reports and briefings for Groups

- 6.25 The Leader of the Council, or Leader of any other group represented on the Council, may request the Chief Executive or the relevant MT member, or other designated officer to prepare reports on matters relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential information (e.g. relating to casework or personal details of applicants for services).
- 6.26 If the officer considers that the cost of providing the information under this paragraph is unreasonable, or if the request is unreasonable in other respects, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the groups.
- 6.27 The Leader of the Council or Leader of any other groups may ask the Chief Executive or relevant MT Member, or other designated Officers, to give or arrange a private and confidential briefing for the group. Senior Officers may properly be called upon to support and contribute to such deliberations by groups but must at all times maintain political neutrality. All Officers must, in their dealings with groups and individual Councillors, treat them in a fair and even-handed manner.
- 6.28 Any briefing offered to or requested by a group will be offered to any other groups. Where possible, such briefings should be to all or a combination of groups.
- 6.29 Officers' advice and reports to groups will be limited to a statement of material facts relating to matters of Council business and identification of options and the merits and demerits of such options for the authority. Reports will not deal with any political implications and advice should not include making recommendations to a ~~political~~ group. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings when matters of party business are to be discussed.

- 6.30 The content of informal briefing sessions shall remain confidential as between Officers and the group concerned.
- 6.31 Where Officers provide information and advice to a 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.
- 6.32 Special care needs to be exercised whenever Officers are involved in providing information to a group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Member Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may decline to attend and/or give advice to such meetings.

Meetings with officers

- 6.33 It is generally a more effective use of time for Members wishing to meet with Officers to make an appointment in advance, indicating the broad nature of the matter they wish to discuss, rather than simply to come to the offices without notice.

'News' items

- 6.34 When an event occurs in the District which has or will have a significant impact on the Council or Tandridge residents, the Chief Executive will ensure that the Leaders of all political groups and the relevant Ward Councillors are informed as soon as possible.

Preparation for Committee meetings

- 6.35 Prior to Committee Meetings the appropriate Officers will meet with the Chair and Vice-Chairs (Agenda Run Through) to discuss matters on the agenda, to deal with anything necessary to ensure the smooth running of the meeting and to enable specific issues to be highlighted for which Officers and Members may need to prepare prior to the meeting.

7. Ward Councillors

- 7.1 To enable them to carry out their ward role effectively, Members need to be fully and regularly informed about matters affecting their ward. Members of MT must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.
- 7.2 This requirement is particularly important:
- a) during the formative stages of policy development, where practicable;
 - b) following any specific incident in their ward;
 - c) in relation to significant or sensitive operational matters such as ongoing planning enforcement cases; proposed changes to services sited within their wards; and significant anti-social behaviour issues;
 - d) whenever any form of public consultation exercise is undertaken.
- 7.3 Issues may affect a single ward. Where they have a wider impact, a number of local Ward Members will need to be kept informed.

- 7.4 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward(s) affected should be invited to attend the meeting as a matter of course.
- 7.5 As a matter of courtesy, it is expected that Councillors involved in an issue in another Councillor's ward will speak with the relevant ward member(s) to inform them of their involvement.

8. If things go wrong

Procedure for Officers

- 8.1 From time to time the relationship between Councillors and Officers may break down or become strained.
- 8.2 It will always be preferable to resolve matters informally. Should Officers wish to raise a concern about a Councillor's behaviour in relation to this Protocol, they can either escalate it to their line manager, the relevant MT member or to the Chief Executive, as appropriate to the circumstances. Officers also have recourse to the Council's Whistleblowing Procedure or can refer the matter to the Head of Legal Services & Monitoring Officer if they consider that a Councillor has broken the Code of Conduct.
- 8.3 Having been notified of a concern in this way, the line manager, Chief Executive or MT member will take appropriate action, including approaching the Councillor concerned, and raising the issue with the Group Leader (if applicable) or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.
- 8.4 Group Leaders should promote a positive atmosphere of trust, respect and understanding between Councillors and Officers and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature a Group Leader will actively consider the complaint and seek to achieve a satisfactory outcome. The outcome must be reported to the Officer who notified them of the complaint.

Procedure for Councillors

- 8.5 Where Councillors have concerns about the way in which a service or part of it is performing, as opposed to the conduct of a specific officer, the most appropriate course of action, if the concerns cannot be resolved informally, is for the Member to request the Committee charged with responsibility for that service to consider the matter, using the powers available under the constitution. Alternatively, where it is considered more appropriate, the Chief Executive may, with the agreement of the Chair of the Audit & Scrutiny Committee, refer the matter to that Committee for consideration.
- 8.6 In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an individual Officer, the matter should be raised with the appropriate MT Member in the first instance. Where the Officer concerned is an MT member, the matter should be raised with the Chief Executive. Where the Officer concerned is the Chief Executive, the matter should be raised with the Head of Legal and Monitoring Officer. Where there is a prima facie case for a disciplinary investigation, this will be dealt with in accordance with the Council's disciplinary procedures contained in the staff conditions of service.

- 8.7 In recognising that this Protocol is a guideline document, minor breaches may not involve a sanction against the Member or Officer concerned. However, regular or more serious breaches may involve disciplinary action against the Officer through the Council's internal procedure or against the Member through the Standards Committee.

9. Responsibility for this Protocol

- 9.1 The Head of Legal Services & Monitoring Officer has overall responsibility for this Protocol and will periodically review how it is working.
- 9.2 The Head of Legal Services & Monitoring Officer will report annually to the Standards Committee on matters relating to this Protocol.

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Annex A

The 7 Nolan principles of public life*

Selflessness – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership – Holders of public office should promote and support these principles by leadership and example.

*In 1994, the government established a committee tasked with making recommendations to improve standards of behaviour in public life. The committee was chaired by Lord Nolan and its first report identified “the seven principles of public life” which have since come to be known as the “Nolan principles”.

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ANTI-FRAUD STRATEGY STATEMENT (October 2023)

1.0 Introduction

- 1.1 As with other organisations Tandridge District Council ('TDC') is at risk of losses through fraud, bribery and corruption. The Council recognises that as well as causing financial loss such activities are also detrimental to the provision of services and damaging to the reputation of and confidence in the Council. To safeguard itself the Council is committed to making sure that the opportunity for fraud, bribery and corruption is reduced to the lowest possible risk within existing resources.
- 1.2 TDC therefore advocates **strict adherence** to its anti-fraud, bribery and corruption policy. Whilst individual circumstances of each case will be carefully considered, in most cases there will be a **zero-tolerance** approach to fraud, bribery and corruption in all its forms. TDC will not tolerate fraud, bribery or corruption by its Members, Officers, suppliers, contractors, partners, service users or the public and will take all necessary steps to investigate all allegations of fraud, bribery or corruption and pursue sanctions available in each case, including removal from office, disciplinary action, dismissal, civil action for recovery and/or referral to the Police and/or other agencies. The required ethical standards are included in the Members' Code of Conduct and Employees' Code of Conduct.
- 1.3 The "Section 151 Officer" has a statutory responsibility under section 151 of the Local Government Act 1972 to ensure the proper arrangements for the Council's financial affairs and has developed Financial Regulations, codes of practice and business rules. In addition to direct control, the Section 151 Officer exercises quality control on financial administration through delegation of responsibilities to officers including the Finance Business Partners, officers in Exchequer and Officers in Revenues and Benefits. Transactional and procurement approval is subject to, as a minimum, dual control.
- 1.4 The Head of Legal Services & Monitoring Officer has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council's actions do not give rise to illegality or maladministration. It is therefore essential for Officers to follow the Council's policies and procedures to demonstrate that the Council is acting in an open, transparent and lawful manner.
- 1.5 TDC has a robust framework of procedures and controls which provide the major elements of its anti-fraud and corruption governance arrangements. This Strategy is an integral part of a range of policies and procedures that provide a corporate framework to help counter any fraudulent activity. These have been formulated in line with the appropriate legislative requirements and professional best practice and include:
- Whistleblowing policy
 - Anti-fraud; bribery and corruption policy
 - Code of Corporate Governance
 - The Constitution including Contract Standing Orders and Financial Regulations
 - Employee Handbook
 - Codes of Conduct for Councillors and Officers
 - Anti-Money Laundering Guidelines
 - IT Security Policy

2.0 Objectives

2.1 The objectives of the Strategy are to:

- Ensure that TDC is protected against fraud and loss.
- Protect the TDC's valuable resources by ensuring they are not lost through fraud but are used for improved services to Tandridge residents and visitors.
- Create an "anti-fraud" culture which highlights TDC's zero tolerance of fraud, corruption and theft, which defines roles and responsibilities and actively engages everyone (the public, Councillors, Officers).

2.2 TDC intends to develop its "anti-fraud culture" by:

- Making new Officers aware of their responsibilities as part of the induction process by completing a Workrite fraud online course "Anti Money Laundering and Anti Bribery and Corruption"
- Updating TDC's Anti-Fraud and Whistleblowing policies regularly so that they take account of updated national guidance and advice, and publicising these changes through a Committee report;
- Commissioning Internal Audit to work with managers to ensure new and existing systems, procedures and policy initiatives consider any fraud risks and anti-fraud controls are built in. The Council commits to ensuring that recommendations arising from internal audit reports are addressed.
- Creating an environment that enables the reporting of any genuine suspicions of fraudulent activity. However, TDC will not tolerate malicious or vexatious allegations or those motivated by personal gain and, if proven, disciplinary or legal action may be taken.
- Publicising an annual fraud report to the Audit and Scrutiny Committee.

3.0 Pursue

3.1 TDC will take robust and appropriate action to investigate, punish and recover funds from those who seek to defraud it.

3.2 We will seek the strongest available sanctions against any member of the public, contractor, Member or Officer who commit fraud against TDC, its clients or the public purse. This may include prosecution and additionally for Officers, disciplinary action.

3.3 Where appropriate TDC will also work with other public authorities, including the Police, DWP and our insurance providers. We will share information to prevent, detect and investigate acts of fraud against the public purse.

3.4 TDC will always seek to recover any funds or assets that have been lost due to fraud and will use all means available to do so under its Debt Recovery Strategy and where appropriate using Proceeds of Crime Act legislation.

- 3.5 TDC will seek to publicise the outcomes of such investigations in the annual fraud Report, to provide the public with the assurance that public funds are being protected and to act as a deterrent to those that may consider committing fraud in the future.

4.0 Responsibilities

- 4.1 TDC's expectation is that Councillors and Senior Managers (Extended Management Team) will lead by example and that Officers at all levels will comply with the Constitution, TDC policies, Financial Regulations, Contract Standing Orders and Codes of Conduct.
- 4.2 Senior Managers have a responsibility for ensuring and maintaining adequate system controls within their departments. This includes the responsibility for the prevention and detection of fraud and ensuring that their Officers are aware of their responsibilities in this regard.
- 4.3 The Audit and Scrutiny Committee on behalf of TDC undertakes the following:
- a. Formulate and approve policy documentation in respect of Anti-Fraud and Corruption processes and ensure the adequacy and effectiveness of their application throughout the Authority.
 - b. Review and ensure that adequate arrangements are established and operating to deal with situations of suspected or actual wrongdoing, fraud and corruption.

5.0 Reporting

- 5.1 If Officers believe that someone is committing a fraud or suspects bribery or corrupt practices, these concerns should be raised in the first instance directly with their line manager.
- 5.2 Where line managers are made aware of suspected fraud by Officers, they have responsibilities for passing on those concerns to the Section 151 Officer. Managers should react urgently to evidence of potential fraud or corruption.
- 5.3 Members of the public can report concerns through TDC's complaints procedures or by contacting their elected member, SIAP Internal Auditors or the Local Government Ombudsman.
- 5.4 Reporting is essential to this Strategy and:
- Ensures the consistent treatment of information regarding fraud, bribery and corruption.
 - Facilitates proper investigation by experienced auditors or investigators.
 - Ensures the proper implementation of a fraud response investigation plan.
 - Ensures appropriate employment procedures are followed.
 - Ensures the interests of the people of Tandridge District and the Council are protected.
- 5.5 An annual report will be presented to the Audit and Scrutiny Committee and Members will be made aware of any material fraud or attempted fraud.

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Appendix 1: Definition of terms for the Anti-Fraud Strategy Statement

As per the Fraud Act 2006, fraud is a criminal offence. Fraud is any action taken by an individual, group or organisation which is designed to facilitate dishonest gain at the expense of (or loss to) TDC, the residents of Tandridge or the wider national community and can include:

- **Fraud by False Representation:** Dishonestly making a false representation, and intend by making the representation, to make a gain for themselves or another, or cause a loss or expose another to a risk of loss.
- **Fraud by (wrongly) failing to disclose information:** Dishonestly failing to disclose information which they are under a legal duty to disclose, and intend by failing to disclose the information, to make a gain for themselves or another, or cause a loss or expose another to a risk of loss.
- **Fraud by abuse of position:** Occupying a position in which the post holder is expected to safeguard, or not act against, the financial interests of another person, dishonestly abuse that position, and intend by such abuse, to make a gain for themselves or another, or cause a loss or expose another to a risk of loss.

Theft is stealing any property belonging to TDC or which has been entrusted to it (i.e., client funds), including cash, equipment, vehicles, data. Theft does not necessarily require fraud to be committed. Theft can also include the stealing of property belonging to our staff or members whilst on council premises.

A person is guilty of theft under the Theft Act 1968 if they 'dishonestly appropriate property belonging to another with the intent of permanently depriving the other of it' or they dishonestly retain a wrongful credit. For example, where they do not report and repay an overpayment of salary or advance.

Corruption is defined as an act done with the intent to give some advantage which is inconsistent with a public servant's official duty and the rights of others. In the public sector it can also be defined as the abuse of power by a public official for private gain. Forms of corruption vary but include bribery, extortion, nepotism, cronyism, embezzlement.

Bribery is defined as the offering, giving, soliciting or acceptance of inducements or reward designed to influence official action or decision making. Under the Bribery Act 2010, organisations are expected to implement anti-bribery measures and both organisations and individuals can face significant penalties for failure to meet these requirements.

Money laundering is the process by which the proceeds of crime are changed so that they appear to come from a legitimate source. Legislation concerning money laundering is included within the Proceeds of Crime Act 2002 (the POCA) and Money Laundering Regulations 2007.

A **Whistleblower** is a person who tells someone in authority about alleged improper, unethical, dishonest or illegal conduct, including fraud occurring in any public or private organisation.

The Public Interest Disclosure Act 1998 provides legal recourse for an employee raising the concern should they feel they have been treated unfairly as a result of "whistleblowing".

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Planning Protocol

February 2024

1. Introduction

- 1.1 This Protocol has been prepared to guide Members and Officers in the discharge of the Council's statutory planning functions. It has been produced in accordance with the Planning Advisory Service publication 'Probity in Planning' – December 2019.
- 1.2 Members' role in the planning process is to make decisions openly, impartially, with sound judgement and for justifiable planning reasons. When planning applications are reported to Committee, the report will contain an Officer recommendation as to whether planning permission should be granted or refused. Members are entitled to bring their own judgement to bear on planning applications and to make a decision contrary to an Officer recommendation, but it is important that such decisions are taken on sound planning grounds which will withstand scrutiny at a possible appeal (if planning permission is refused) or if the decision is referred to the Local Government Ombudsman.
- 1.3 Members should bear in mind their overriding duty is to the whole community, not just to the people in their Ward and, taking account of the need to make decisions impartially, they should not favour, or appear to favour any persons, business or locality irrespective of other considerations.
- 1.4 The provisions of this Protocol are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members and Officers making such decisions are held accountable for those decisions. The protocol is also designed to assist Members and Officers in dealing with approaches from property owners.
- 1.5 Central Government has legislated that decisions on planning applications must be taken in committee meetings that are open to the public and Members should always bear in mind that their statements during Planning Committee debates can lead to formal complaints to the Council and sometimes be referred to the Local Government Ombudsman.

2. When this Protocol applies

- 2.1 This Protocol applies to all Member involvement in Planning functions (i.e. whether or not they are Members of the Planning Committee), including not only consideration and determination of applications for planning permission but also planning enforcement action and the formulation and adoption of planning policies.

If you have any queries or concerns about the application of this protocol to your own circumstances, you should seek advice early from the Monitoring Officer or Deputy Monitoring Officer and preferably well before any meeting takes place.

3. Relationship to the Members' Code of Conduct

- 3.1 The Council has adopted a Members Code of Conduct ('Code') which reflects the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 3.2 This Protocol is intended to supplement the Code where Members are involved in the planning process.

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- 3.3 The rules set out in the Code must be applied first and must always be complied with.
- 3.4 Where a Member does not abide by the Code and/or this Protocol when involved in the planning process, it may put the Council at risk of challenge on the legality of any decision made or at risk of a finding of maladministration.
- 3.5 A breach of this Protocol may, in some circumstances, constitute a breach of the Members' Code of Conduct. A complaint would be made to the Council's Monitoring Officer who, in consultation with the Independent Person will determine whether or not there are reasonable grounds for believing there has been such a breach and, if so, whether the complaint warrants reference to the Council's own Standards Committee.

Members should apply common sense in the interpretation of this Protocol.

4. Conduct of Councillors and Officers

- 4.1 The PAS publication 'Probity in Planning' 2019 states: *"Councillors and officers have different but complementary roles within this system, and effective communication and a positive working relationship between officers and councillors is essential to delivering a good planning service."* Both serve the public, but Members are responsible to the electorate, whilst Officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members and therefore formal instructions can only be given to Officers through a decision of the Council or its Committees. A successful relationship between Members and Officers will be based upon mutual trust, understanding and respect of each other's position. The Council has a protocol giving guidance on relationships between Officers and Members.
- 4.2 Planning Officers who are licentiate, associate and chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. In addition, the Council has a Code of Conduct for employees. Members should recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with their professional codes of conduct. As a result, Planning Officers' views and opinions will be presented on the basis of their overriding obligation of professional independence, which may, on occasion, be at odds with the views, opinions or decisions of the Committee or its Members. Members should bear in mind that in assessing planning applications and formulating their recommendations, Officers will have particular regard to the Council's adopted planning policies.
- 4.3 Members should not put pressure on Officers to put forward a particular recommendation. (This does not prevent Members from asking questions or submitting views, which may be incorporated into any Committee report, neither does it prevent Members from 'testing' Officer opinions and the basis of those opinions).
- 4.4 Members should be aware that Planning Officers handling appeals or public inquiries have a duty first and foremost to the tribunal hearing those appeals or public inquiries. Officers have to attest as such in their statements of evidence. This does not mean they cannot represent the Council stating the Council's case. However, they must not include anything in evidence which they do not believe in or can substantiate based on their professional experience.

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- 4.5 Members can express a view on behalf of their constituents to a Planning Officer about the matters to be given weight in the determination of a planning application that has been refused by the Council so that these views can be expressed in the Council's Statement of Case or evidence. Planning Officers have a professional duty to decline to include such views in the Council's evidence if they disagree with such views. In the alternative, Members can use their own (or encourage their residents to use theirs) right to make representation to the Planning Inspectorate about planning matters to be taken into account in the determination of an appeal.
- 4.6 Serving Members who act as agents for people pursuing planning matters within the Council should not be members of the Planning Committee.
- 4.7 A successful relationship between Members and Officers can only be based upon mutual trust and understanding of each other's positions. This relationship and the trust which underpins it must never be abused or compromised.
- 4.8 Members have a right to expect a prompt reply to any matters they wish to raise with Planning Officers whether this is in respect to planning applications, enforcement or the draft Local Plan. All Officers dealing with planning applications, trees and hedgerows and enforcement are provided by the Council with a mobile phone to ensure they can communicate effectively and efficiently with Members of the Council, applicants, agents and the public. A list of these mobile phone numbers will be circulated to Members and updated as necessary. The expectation is that Officers with a mobile phone will be available to answer that phone throughout their working day.

5. Role of the Committee Chair

- 5.1 The role of the Committee Chair is to lead and manage the Planning Committee and in particular:
- to determine the order in which questions may be addressed from the Committee Members following Officer presentations
 - ensuring that the public speaking procedure in section 18 is followed
 - managing the Committee debate about applications, including the order in which Councillors who wish to address the Committee may speak
 - determining when the debate has come to a close and votes should be cast in the order in which the motions were first completed (i.e. where the motion has been moved and seconded by Members of the Planning Committee)
 - ensuring that debate and decisions made are suitably focused on relevant planning considerations.

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6. Role of Members

6.1 Members sitting on the Planning Committee should:

- make planning decisions on applications presented to the Committee openly, impartially, with sound judgement and for sound planning reasons
- consider only development plan policies, supplementary planning documents and material planning considerations (including the National Planning Policy Framework or NPPF) in determining applications
- exercise their responsibilities with regard to the interests of the District as a whole rather than with regard to their particular Ward's interest and issues
- come to meetings with an open mind
- not allow anyone (except Officers, other Committee Members and public speakers when they are addressing the Committee) to communicate with them during the meeting (orally or in writing) as this may give the appearance of bias. For the same reason, it is best to avoid such contact immediately before the meeting starts
- consider the advice that planning, legal or other Officers give the Committee in respect of the recommendation or any proposed amendment to it. Members need to consider "significant" planning considerations in the determination of a planning application having regard to what the Planning Officer's report states is a significant consideration and be prepared to justify their view if different before the Committee
- comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires the Local Planning Authority to make decisions in accordance with the development plan unless there are good planning reasons to come to a different decision based on material planning considerations
- have regard to material planning considerations which can be but are not limited to:
 - Overlooking/loss of privacy
 - Loss of light or overshadowing
 - Right to peaceful enjoyment of property
 - Government policy
 - Previous planning decisions (including appeal decisions)
 - Economic benefits of a proposed development nationally or for the local area
 - Community benefits
- come to their decision only after due consideration of all of the information available to them, including the local information that Members are uniquely placed to access, but always remembering to take decisions on planning grounds alone. If Members feel there is insufficient time to digest new information or that there is insufficient information before them, they should seek an adjournment to address these concerns
- not vote on a proposal unless they have been present to hear the entire debate, including the Officer update and any public speaking

- make sure that if they are proposing, seconding or supporting a decision contrary to the Officer's recommendation or the development plan, they clearly identify and understand the planning reasons leading to this conclusion and that they take into account any advice planning, legal or other Officers give them (they should seek such advice before the Committee meeting including resolutions contrary to the Officer's recommendation, reasons for refusal or draft planning conditions). Their reasons must be given prior to the vote and be recorded. Be aware that they may have to justify the resulting decision by giving evidence in the event of challenge
- avoid requests for Officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties
- not allow anyone (except Officers and other Committee Members) to communicate with them during any site visit (orally or in writing).

6.2 Issues such as loss of view, or negative effect on the value of properties are not material considerations. There is no set list defining material considerations and it is a matter for Members to decide upon in the context of determining a particular planning application having regard to a Planning Officers advice on the matter.

7 Role of Planning Officers

7.1 The role of Planning Officers at Committee is:

- to use professional judgement when recommending decisions on applications and other planning matters
- to provide professional advice to the Committee on planning applications and other matters at any point in the meeting.

8. Discussions with constituents

8.1 It is important that Members should be able to receive the views of their constituents. Accordingly, Members may discuss planning matters with any of their Ward constituents, including those constituents who have made or intend to make an application for planning permission. For the protection of Members it would be prudent for a Member having any such discussion to make a written note of the meeting. If a Member considers that it would be appropriate to have an Officer present when they meet with a constituent, they should contact the Chief Planning Officer to agree the arrangements. If a Member is requested to meet with a constituent to discuss a planning matter, they should make clear that no third party (such as a developer who is not a constituent or a planning agent) can be present. If the constituent advises that they wish a third party to be involved, the Member should advise their constituent that they should use the Pre-Application process. If in the event a constituent does attend the meeting with a third party, the meeting should not proceed further.

8.2 In any discussions with constituents, Members may indicate their view in relation to the matter but should not commit themselves to voting or determining the matter in a particular way.

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- 8.3 In any discussions concerning planning applications (i.e. with constituents) Members should be careful not to convey the impression or to represent that they are doing anything other than expressing their personal views. Notably, Members should be careful to avoid giving the impression that they have authority to speak on behalf of the Council.
- 8.4 Members should inform the Monitoring Officer if they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) whether from a constituent or a third party.

9. Discussions with non-constituents

- 9.1 Members should not have individual discussions with persons (including developers and their planning agent or other representative) who are not constituents of the Ward which they represent save:-
- (a) with constituents of the Ward in which the Member resides
 - (b) with other Members
 - (c) with Officers.
- 9.2 Where a formal meeting would be useful in clarifying the issues, this should be part of a structured arrangement organised and attended by Officers. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the Council to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee or by an Officer under delegated powers.
- 9.3 Members should remember that the formal meeting set out in Para 9.2 is not part of the formal process of debate and determination of any subsequent application, as this will be carried out by the Committee or by an Officer under delegated powers.

10. Frequency of Planning Committee meetings

- 10.1 The Planning Committee will normally meet at least once every calendar month. Additional meetings will be at the discretion of the Chair of the Committee. No meeting will take place in the month of August. Meetings will conclude no later than 11.00pm unless otherwise agreed by Committee Members. Any items on the agenda that have not been considered at that time will be adjourned for consideration at a reconvened meeting.

11. Quorum for the Planning Committee

- 11.1 The quorum for the Planning Committee is defined within Standing Orders. Should the Committee be inquorate, planning applications cannot be determined and should therefore be withdrawn from the agenda and returned to the next Planning Committee meeting.
- 11.2 Where the Planning Committee becomes inquorate, not due to Committee Members being absent but due to Committee Members declaring an interest, the planning application concerned should be deferred to the next Planning Committee meeting to allow each Member to seek advice as to whether their interest of concern is in fact an interest which would prevent them considering and voting upon the planning application. In the event that a Member or Members, on receipt of advice, are comfortable that there is no interest to prevent them considering and voting upon the application, the reasoning for such a position should be so recorded in the minutes of the next Planning Committee meeting.

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- 11.3 In the event of Planning Committee still being inquorate, due to Members declaring an interest, the Committee is deemed to not be able to determine the application, which is then referred to the Chief Planning Officer for a delegated decision.
- 11.4 The Chief Planning Officer will normally attend all Planning Committee meetings, in addition to Planning Officers presenting application reports and recommendations and can choose to introduce a deferral of an application to a subsequent committee, or an additional or alternative recommendation to that proposed by other Planning Officers present, if he deems it expedient to do so and sets out those reasons to the Committee.

12. Substitutions

- 12.1 A political group may vary its representation on the Planning Committee by the temporary substitution of a previously nominated Member in accordance with the deadlines prescribed by the relevant Standing Order. Such temporary substitutes must have received relevant training. The group must give notice in writing to the Planning Committee Clerk as soon as possible. The substitute Member must be a member of the same group at the Planning Committee that he/she is replacing. The arrangement which can be for a particular meeting (not part of a meeting) or for a period of time must be set out in the notice.
- 12.2 Where the meeting is adjourned the substitute arrangement will remain in place when the meeting is re-convened.
- 12.3 A Member substituting shall have the same rights as other Members of the Committee, including the right to vote.
- 12.4 At the end of the period stated in the notice, the substitute Member shall cease to be a Member of the Committee and the original Member will resume his/her representation on the Committee. A notice which has been duly served may be withdrawn at any time prior to the start of the meeting and the arrangements in place before the notice was served shall apply.
- 12.5 The Planning Committee Clerk shall inform the Committee of any such arrangements which are in place for that meeting. Where the arrangement is for a period of time he/she will notify the Committee at subsequent meetings including any reconvened meeting following an adjournment.
- 12.6 The Planning Committee Clerk will ensure that any substitute Member receives a copy of the agenda for the meeting as soon as practicable after service of the notice. The substitute Member should ensure that they have read all relevant reports prior to the meeting.
- 12.7 Any substitute Member who has not previously received training in being a Member of the Planning Committee should contact the Chief Planning Officer to arrange such training prior to attending a Planning Committee meeting.

13. Referring applications to the Planning Committee

- 13.1 All Councillors will receive copies of the weekly list of planning applications validated and proceeding to determination for detailing the reference number, proposal, location, decision, number of objections, and a hyperlink to connect to the relevant part of the Planning Portal to enable Planning Committee Members to view more details about the application.

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13.2 Applications relating to a particular Ward can only go before the Planning Committee (to be 'called in') by the elected Ward Councillors. If an application straddles one or more ward boundaries the application can be called in by any Ward Councillors in the effective wards. The request should be in writing (including by email) and sent to the appropriate Planning Officer and copy in the Chief Planning Officer as soon as possible. The planning grounds on which the call-in is based should be stated as fully as possible. The Ward Councillor calling-in the application is expected to attend the Planning Committee at which the application they referred is to be discussed to address the Committee and explain their views on the planning application and expand on their call-in reasons. By calling-in an application the Ward Councillor is indicating that s/he feel the issues are genuine and require debate at the Planning Committee.

13.3 The Planning Officer and/or Chief Planning Officer shall then mark the record of that application as "Referral to Committee".

13.4 "Call-ins" are of two types:

- i) when a Ward Member would want to have Planning Committee consider the application in the event of an Officer recommendation of refusal because of their awareness of a material consideration that indicates planning permission should be granted; or
- ii) when a Ward Member would want to have Planning Committee consider the application in the event of an Officer recommendation of permission because of their awareness of a material consideration that indicates planning permission should be refused.

In either case, if Ward Members consider there may be circumstances in which an alternative Officer delegated decision may be acceptable (e.g. amendments to a scheme of development imposition of planning conditions), they should still make a "call-in" in writing but indicate to the Chief Planning Officer that they may be minded to change their view subject to further discussion once Officers had come to an initial opinion.

13.5 Councillors must have reasonable and material planning ground(s) upon which to make the request to reverse an Officer's indicated recommendation. All Call-ins will be reviewed. Should the Chief Planning Officer find the planning grounds to be insufficient for the reversal of an Officer's recommendation then the Chief Planning Officer will immediately consult with the Chair, Vice Chair and delegated Planning Officer before presenting in writing to, and subsequently discussing with, the member concerned their recommendation(s) to withdraw their Call-In. The decision for a call-in rests with the Member but no reasonable and sound request for withdrawal shall be refused.

13.6 The agenda for the next appropriate meeting will be amended as soon as possible to reflect those applications that have been 'called-in'. The designated Planning Officer will also inform the Ward Member of the date of the Committee when the application will be heard. The Member making the call-in request will be invited to:

- i) discuss the wording of an alternative resolution for permission/refusal with the Case Officer/another Senior Planning Officer to be forwarded to Democratic Services to ensure the smooth running of Planning Committee proceedings
- ii) discuss the wording of an alternative set of planning conditions/ reasons for refusal with the Case Officer/another Senior Planning Officer to ensure these meet the test of reasonableness and to be forwarded to Democratic Services to ensure the smooth running of Planning Committee proceedings.

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- 13.7 The Chief Planning Officer, in consultation with the Chair and Vice Chair of the Planning Committee, has absolute discretion to refer any otherwise delegated application to the Planning Committee for determination, for example, when such an application raises issues considered to be of District wide importance.
- 13.8 Members of the public and other third parties **cannot** request that an application be referred to the Planning Committee.
- 13.9 The number and nature of delegated applications referred to the Planning Committee will be reviewed on a regular basis.

14 Applications for Consideration at Planning Committee

14.1 The following matters are reserved to the Planning Committee:

- Where the proposal is significant development which has caused substantial local interest and objection
- Where the officer recommendation is for approval contrary to the adopted Development Plan
- Where the application is recommended for approval or refusal, contrary to the reasons for referral submitted by a Member, providing the reasons for referral submitted by a Member are based on sound planning reasons
- Any application for development in which the Council has a significant interest in the proposal or the application relates to Council owned land
- Any application for development submitted by a Member of the senior leadership team or an officer employed within Development Management and Planning Policy or an elected member of the Council or an application submitted within 12 months of their leaving the Council submitted by or on behalf of a Member of the senior leadership team or an officer employed within Development Management and Planning Policy or an elected member of the Council
- Any application for development which as a consequence of the scale of objection or for any other reason the Chief Planning Officer deems it to be appropriate or expedient for the matter to be referred to the Committee

14.2 Applications that are time sensitive, for example Prior Approvals are not usually heard at Committee.

15. Pre-Application discussions and pre-application notifications

15.1 The National Planning Policy Framework recognises the value of and encourages Pre-Application discussions between Local Planning Authorities and developers. The NPPF notes that the more issues that can be resolved at pre-application stage, the greater the benefits, and exhorts Local Planning Authorities to encourage developers to take up any pre-application services offered. The appropriate involvement of Members in the Pre-Application process in accordance with the provisions set out below should enhance its value. As a general principle, Members should, where appropriate, seek to encourage promoters of development schemes to engage in the Pre-Application process.

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- 15.2 Promoters of development schemes wishing to engage Members in Pre-Application discussions will be advised that:-
- (a) for major applications, a presentation to Ward Members and Planning Committee Members (but not excluding any other Council Member wishing to attend) is preferred in the interest of transparency for which an additional pre-application advice fee (to that payable for officer time) will be payable
 - (b) if they wish to secure more limited Member input into the Pre-Application discussions they can request that the Ward members attend a meeting with a Planning Officer present. The decision as to whether or not a Ward Member attends such a meeting rests with the Member. An additional pre-application advice fee (to that payable for Officer time) will be payable
 - (c) although (subject to the Environmental Information Regulations Act and any other relevant legislation) the Council will respect the confidentiality of information which the scheme promoter makes clear is disclosed in confidence, all Council Members will have access to Council files on Pre-Application discussions.
- 15.3 The Planning Department will include new requests for Pre-Application discussions on the weekly list of Planning applications circulated to Members.
- 15.4 If a Member wishes to express their views on a matter which is the subject of Pre-Application discussions, they may set out those views in writing sent to the relevant Planning Officer who will place a copy of the communication from the Member on the Pre-Application file. Members should be aware that such comments may in due course become publicly available. Any such views will not fetter the professional judgement and views of the Planning Officer dealing with the pre-application advice.
- 15.5 Members should not disclose any confidential information or documents held on Pre-Application files other than to another Member or to an officer of the Council.
- 15.6 Officers should always use their best endeavours to make both serving Members of Planning Committee and relevant local ward Members aware of any impending or submitted major planning applications or controversial applications.
- 15.7 Officers should always encourage intending applicants to discuss their proposals with Parish Councils before an application is submitted.
- 16. Agenda and reports**
- 16.1 Officer reports to Committee must be comprehensive and should include the substance of any objections and other responses received to the consultation. Relevant information should include a clear assessment of the development proposals against relevant development plan policies (including Neighbourhood Plans, Supplementary Planning Guidance, relevant parts of the National Planning Policy Framework (NPPF) and other government planning policy guidance) and must include consideration of all material planning considerations, including any local finance considerations (excluding consideration of CIL payments to the Council).
- 16.2 Members may seek clarification from Planning Officers if they do not consider the published Committee papers fulfils the requirements of paragraph 16.1 above sufficiently to undertake their role at the Planning Committee.

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- 16.3 Planning application reports will always include an Officer recommendation for approval or refusal, with a reasoned justification.
- 16.4 Reports should contain succinct and clear technical appraisals (including internal and external expert technical guidance which clearly justify the recommendation. If Members wish to clarify such technical guidance at Planning Committee, they should notify the Chief Planning Officer/ case officer in advance so that the appropriate technical expert can be asked to attend.
- 16.5 If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the Council's statutory duty under S38A of the Planning and Compensation Act 2004 and S70 of the Town and Country Planning Act 1990.
- 16.6 Planning Committee agendas must be published on the Council's website a minimum of 5 clear workings days prior to the Committee meeting.
- 16.7 An update note may also be provided to Members by Officers on the day of the Planning Committee detailing any relevant information including minor changes, variation to conditions or representations received after the publication of the agenda, which will be considered and responded to by Officers in the note. Democratic Services shall circulate the update note electronically and provide paper copies for Members and the public at the meeting. The update note is a public document and will subsequently be uploaded to the Council's website with the agenda pack and minutes.
- 16.8 At Planning Committee, a Planning Officer will present the report and the contents of any update note and will table any relevant consultation responses and representations received after the update note has been published. Public speaking will then take place as set out below.
- 16.9 Following the speakers, the Chair will invite any queries from Members to Officers. In some circumstances it may be appropriate for further responses to be sought from speakers.
- 16.10 The Chair will then facilitate discussion of the application. Members are advised not to duplicate questions to Officers and the Chair may seek to conclude the debate if it is clear that all relevant points have been made (and e.g. to avoid repetition).
- 16.11 Whilst the order of consideration of items at Planning Committee is ultimately a matter for the Chair, planning applications will normally be heard first, followed by other items.

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17. Decision making

17.1 Declaration of Interests

17.1.1 The Council's Monitoring Officer has provided all Councillors with detailed guidance on the Member Code of Conduct and in particular, declaration of interests. This is regularly updated. Members of the Planning Committee must ensure they are familiar with the Code. The requirements must be followed scrupulously, and Members should review their situation regularly. It is the personal responsibility of individual Members to ensure they comply with the Code of Conduct and make all appropriate declarations at Planning Committee meetings. Members should take advice early, from the Monitoring Officer or the Deputy Monitoring Officer, and preferably well before any meeting takes place, if they are in any doubt as to their position.

17.1.2 The Member Code of Conduct sets out detailed requirements for the registration and disclosure of disclosable pecuniary interests. Members should not participate in any decision and should leave the meeting where they have a disclosable pecuniary interest unless they have first obtained a dispensation. In addition, unless they have obtained a dispensation, they should:-

- NOT participate or give the appearance of trying to participate in the making of any decision on the matter by the Council
- NOT get involved in the processing of the application
- NOT use their position to discuss the proposal with Officers or Members when other members of the public would not have the opportunity to do so or in any other way seek or accept any preferential treatment or give the appearance of so doing.

17.1.3 The Member Code of Conduct requires Members to consider whether they have a non-registrable interest or personal interest in any item. Such an interest will arise where the matter may reasonably be regarded as affecting the wellbeing or financial standing of the Member concerned, a member of their family or a person with whom they have a close association to a greater extent than many of the constituents of the ward affected by the application at Planning Committee. Such an interest will also arise where it would be a disclosable pecuniary interest but relates to a member of their family or to a close associate rather than to the Member themselves or to their spouse or partner.

17.1.4 In the event that a Member considers that they have a non-registrable pecuniary interest or personal interest in any matter they should disclose the existence and nature of the interest as requested by the Chair during the course of the meeting but, in any case, no later than the hearing of the specific item to which an interest relates.

17.1.5 A Member who has a personal interest in a planning application must also consider whether that interest also constitutes a prejudicial interest. The test of this is whether it would be reasonable for a member of the public with knowledge of all the relevant facts to consider that the nature of the Member's interest was likely to affect their judgement of the public interest - i.e. affect or influence their voting intentions.

17.1.6 If a Member only has a personal interest to declare, which they do not consider to be prejudicial, they are entitled to remain in the meeting and speak and vote.

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- 17.1.7 If a Member decides that their personal interest is a prejudicial interest, they must declare that fact in the usual way. They should leave the meeting for the discussion regarding that item unless exercising their public speaking rights, after which they should then leave the meeting for the remainder of the consideration of the item.
- 17.1.8 A Member with a disclosable pecuniary interest should, subject to any dispensation, leave the meeting for the discussion regarding that item and not participate in the matter. If there is any doubt, further advice for Members is available in advance of the meeting from Legal Services.
- 17.1.9 The obligation to disclose the existence and nature of an interest applies to **all Councillors attending the Planning Committee meeting, whether sitting as a Member of the Planning Committee or as a Councillor addressing the Planning Committee or sitting in the public gallery**. The responsibility rests with individual Councillors to ensure they indicate to the Chair that they have an interest to declare.
- 17.1.10 Members should carefully consider whether they have a disclosable interest if they have participated in a Parish Council meeting with respect to a particular planning application.

17.2 Predisposition, predetermination or bias

- 17.2.1 To preserve the integrity of Planning Committee decisions, it is vital that Members do not make up their minds before they have all relevant materials and arguments before them at the Committee meeting. Members must retain an open mind at the time the decision is made and not make up their minds or appear to have made up their minds, until they have heard the Officer's presentation and evidence at the Planning Committee when the matter is considered. This is particularly important if a Member is contacted by an external interest or lobby group. If a Member has made up their mind prior to the meeting and is not able to reconsider their previously held view, they will not be able to participate in the determination of the matter because if they did take part in the discussion or vote it would put the Council at risk in a number of ways. Firstly, it would probably, in the view of the Local Government Ombudsman, constitute maladministration. Secondly, the Council could be at risk of legal proceedings on a number of possible grounds, e.g.
- that there was a danger of bias on the part of the Member; and/or
 - predetermination; and/or
 - failure to take into account all of the factors which would enable the proposal to be considered on its merits.
- 17.2.2 Members are entitled to feel predisposed towards a particular decision but must still be able to consider and weigh relevant factors before reaching their final decision. Predetermination arises when Members' minds are closed, or reasonably perceived to be closed, to the consideration and evaluation of the relevant factors. This risks making the whole decision vulnerable to legal challenge. Section 25 of the Localism Act 2011 provides that a Member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. For example, a Member who states "*wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before committee*" has a closed mind. A Member who states "*many people find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area*" does not have a closed mind although they are predisposed towards opposing such applications.

- 17.2.3 Where a Member may have campaigned for or against a proposal, they need to be careful to consider and ensure it is apparent that they have considered all relevant considerations and made their decision in accordance with their statutory duty. Members must be prepared to change their view right up to the point of making the decision. Members can listen to applicants and objectors, and indicate their view, but must not be biased in their consideration of the issues. Members can support or oppose an application and represent the views of their constituents in their role as a Ward Councillor. To do so as a Planning Committee Member MIGHT compromise their role on the Committee and Members are advised to seek advice from the Monitoring Officer or Deputy Monitoring Officer.
- 17.2.4 The fact that Members may have campaigned for or against a proposal will not be taken as proof that they are not open-minded. However, a Member who has expressed particularly extreme views, it will be more difficult in practice to be able to get away from the impression that they would approach the decision with a closed mind. Members of the Planning Committee who have actively engaged with lobby groups on a live planning application will need to seek advice from the Monitoring Officer regarding any perceived pre-determination.
- 17.2.5 Pre-determination does not arise where Members have not expressed a concluded view on a planning application but consider they are still approaching the determination of that application with an open mind.
- 17.2.6 Members on the Planning Committee who also serve on bodies (such as Parish Councils) that are consulted about planning applications need to think carefully about their participation in that consultation process to avoid the impression that they have already made their minds up before the matter arrives at the Planning Committee. Members will be familiar with the fact that, when they receive the consultation on a particular matter, they only receive the proposal and not the full Officer report. It is at the point when the Officer report is submitted to Members that all material considerations are before them. A firm decision before that point is as stated above therefore premature in terms of planning law. This does not prevent a Member from listening to a debate at a Parish Council, so long as the Member does not take part in the debate or express a view during the debate or openly afterwards.
- 17.2.7 Where a Parish Council has a Planning Committee, District Planning Committee Members should avoid joining that Committee. Councillors may also well consider whether it would be preferable to leave the room or simply listen to debate in the Parish Council but express no view during the debate or openly afterwards until the matter comes before the District Planning Committee. Members should be aware of, and have regard to, guidance issued from time to time by the Planning Advisory Service in relation to this issue.
- 17.2.8 Planning Committee Members should confirm whether they have, in Parish or other formal planning situations, considered, evaluated or discussed any planning application that is before the Committee for consideration. In such circumstances, the Member should leave the room while that planning application is being heard.

17.3 Moving the Motion

17.3.1 A motion to resolve the application shall follow substantive debate (proportional to the application). The Chair can move the motion as deemed appropriate or it may come from any member of the Planning Committee.

17.3.2 The Planning Committee has a duty to consider all applications placed before them. There are 3 options available in relation to the decision:

- Resolve as per Officer recommendation
- Alternative motion differing from officer recommendation
- Deferral of decision

17.4 Resolution as per Officer recommendation

17.4.1 In this instance a mover would move the motion and speak to it, this should then be seconded and the seconder would speak to it (or reserve the right to speak). There should then follow the option, if the Chair deems it necessary, for further short debate, which may result in amendments, with the mover having a right to reply before being put to the vote. The Chair may invite Officer comments if further clarifications are required.

17.5 Resolution as per Officer recommendation with amendments

17.5.1 Where the motion under debate is to grant planning permission, a Member may propose an amendment to vary or delete a proposed condition or to add an additional condition. Where the motion under debate is to refuse planning permission, a Member may propose an amendment to vary or delete a ground of refusal or to add an additional ground of refusal. Any Member proposing an amendment will be required to give planning based reasons for the amendment which will be recorded in the minutes of the meeting. 'Negating' amendments i.e. that propose the direct reverse of the motion under consideration, are not in accordance with the rules of debate.

17.6 Refusal of Planning Permission against Officer advice

17.6.1 Where the Planning Committee is minded to refuse planning permission against Officer advice, the Planning Committee is required to give adequate and intelligible reasons on good planning grounds for refusing to grant planning permission and these ground(s) of refusal must be in the minds of Members of the Planning Committee at the point of refusal. This must be clearly articulated by Members for the purposes of the minutes. The precise wording of a reason for refusal, as it would appear on the decision notice, can be delegated to the Planning Officer as part of the resolution in order to expedite the decision. Members should be mindful that the Council is at risk of having costs awarded against it, if, subsequently on appeal, it is unable to justify each ground of refusal and is found to have acted unreasonably.

17.6.2 A motion to refuse permission against officer advice can be put forward by any Member of Planning Committee who should then speak to that motion. This should then be seconded and the seconder should speak to this (or reserve the right to speak). A debate can then follow. The Chair may invite Officer comments if further clarifications are required.

17.6.3 Planning Officer(s) and/or Legal Adviser(s) will have the opportunity to explain the implications of the Planning Committee's proposal to determine the application contrary to the Officer recommendation prior to Members voting on the proposal.

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- 17.6.4 Consideration will need to be given by the Members of the Planning Committee as to whether the decision and the reasons provided for such decision are adequate and capable of being defended at an appeal with the potential for award of costs against the Council or defended if challenged through a judicial review. Members are strongly advised that in these circumstances they seek the advice of the Chief Planning Officer and/or Legal Officer before moving on to a vote.
- 17.6.5 The reasons for any decision which are made contrary to the Planning Officers' recommendation must be fully, formally and expressly recorded in the minutes and a copy placed on file. Committee Members are required to give reasons for a decision when such decision is contrary to the Planning Officers' recommendation. These reasons are likely to be adduced as evidence in the event of an appeal, in a judicial review or other legal proceedings and will be reviewed by such bodies. Therefore, time and care is required to provide robust reasons as appropriate for particular decisions and their context.
- 17.6.6 Given the potential pitfalls relating to "unreasonable" planning decisions set out above, and not wanting to fetter Members' discretion to pursue a particular course of action, it is strongly recommended that any Member pursuing a decision contrary to the Planning Officers' recommendation discusses the matter at the earliest opportunity with the Chief Planning Officer and/or Legal Officer and takes careful account of any guidance they receive.

17.7 Grant of Planning Permission against Officer advice

- 17.7.1 Where the Planning Committee is minded to grant planning permission against Officer advice, the Planning Committee is required to give adequate and intelligible reasons for granting planning permission, as well as considering what conditions should be imposed and the reasons for those conditions. In addition, where the grant of permission would constitute a departure from a policy or policies in the Development Plan, Members will need to identify clear and substantial material considerations that justify departing from the Development Plan. Such reasons will be recorded in the minutes.
- 17.7.2 A motion to grant permission against Officer advice can be put forward by any Member of the Planning Committee who should then speak to that motion. This should then be seconded and the seconder should speak to this (or reserve the right to speak). A debate can then follow. The Chair may invite Officer comments if further clarifications are required.

17.8 Deferral

- 17.8.1 Members should only seek deferral of an application where it is absolutely necessary in order to make a defensible decision. Otherwise, applications should be determined without delay. Deferral will, by its nature, lead to delay and, potentially, a risk of appeal against non-determination. In the absence of clear reasons for deferral, which have a clearly identified concluding point for the decision, it is considered that this risk would increase. Appeals against non-determination remove the decision-making responsibilities from the Council and give them to the Planning Inspectorate, who will act independently of the Council. For the purposes of that process it would still be the case that Members would need to provide a view to be taken into account in the appeal process.

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- 17.8.2 Examples of potential sound reasons for deferral are where material considerations not covered in the Planning Officer report are raised in public speaking, or in questions from Committee Members, or if Members consider Officers have not fully taken account of policy considerations or material considerations, or for a necessary site visit so that Members can consider aspects of a development for themselves.
- 17.8.3 A motion to defer an application can be put forward by any Member of the Planning Committee who should then speak to that motion. This should then be seconded and the seconder should speak to this (or reserve the right to speak). A debate can then follow. The Chair may invite Officer comments if further clarifications are required.

17.9 Voting

- 17.9.1 At the conclusion of the consideration of the motion the Chair will call for a vote. Voting on any motion will be signified by verbally by Members turning on the microphone and stating their vote. In the event of an equality of votes the Chair may exercise a casting or second vote. No record shall be made at the time of voting of the votes of individual Members for the minutes. Immediately after a vote has been taken, by affirmation or a show of hands, a Member may request that his or her vote is recorded in the minutes of the meeting.
- 17.9.2 Members must be present for the entire item, including the Officer's introduction and update; otherwise **they cannot** take part in the debate or vote on that item. This also applies to those applications deferred from a previous meeting, i.e. if a Member was absent from the previous meeting at which an application was debated, but no decision reached and subsequently deferred, that Member cannot take part in the debate or vote on that application at the next meeting.

18. Public Speaking on planning applications

- 18.1 The Council operates a system of limited public speaking at Planning Committee, to allow Members to hear representations from several interested parties before the application is considered. Representations are limited to 3 minutes per speaker with 3 speakers allowed one in favour (e.g. an applicant, agent or supporter); one objector; and the Parish Council. They are taken in the order of objectors and then applicant / agent / supporter. No individual will be allowed to speak in more than one capacity and as set out above; Members of the Committee should not assume one of these roles. In exceptional circumstances for major applications, the Chair may exercise discretion to allow extra speakers and increased time for speaking. Where an application straddles one or more Parish boundaries, each Parish Council will be allowed to speak for 3 minutes.
- 18.2 Each speaker must pre-register with Democratic Services no later than 16.30 on the day before the Planning Committee, with registration opening on the publication of the agenda. Details of how to register to speak will be provided to the applicant and third parties who have made representations on the proposal on the publication of the agenda, including within emails generated to affected parties in advance of the meeting. Speakers are registered on a 'first come first served' basis, that is to say the first speakers to register will be successful. Prospective speakers are expected to adhere to the identified timeframes, and any exceptional circumstances that mean that this has not been possible may be considered by the Chair.
- 18.3 Speakers should arrive for the Planning Committee no later than 15 minutes before the start of the Committee. A speaker arriving after the start of the meeting will not be recorded as present and may not be eligible to speak. Changes to the order of the agenda may be made at the Planning Committee and at the discretion of the Chair.

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- 18.4 Messages, in any form, should never be passed to individual Committee Members, either from other Councillors or from the public. This could be seen as seeking to influence that Member improperly and will create a perception of bias that will be difficult to overcome.

19. Public attendance

- 19.1 The Planning Committee is open for the general public to attend as observers without pre-registering. Public speaking will only be permitted to those pre-registered. The Planning Committee is a formal meeting; any anti-social behaviour may result in the adjournment of the meeting until the situation is rectified. For health and safety reasons the capacity of the venue may be limited, and members of the public asked to wait in another room for a particular application to be heard. Where number limitations are exceeded it may be necessary to refuse entry. This is likely to occur only in very exceptional circumstances.

20. Circulation of additional plans, photos or information at Planning Committee

- 20.1 Requests for the circulation of additional information or photographs directly to the Planning Committee before or during the meeting by the applicant, public or other interest parties will not normally be permitted. The opportunity is provided to all interested parties to submit any comments and additional information to the Planning Team through the publicity processes associated with the application well in advance of the Planning Committee. These representations are placed in the public domain and are summarised and responded to in the report to the Planning Committee. Circulation of additional information during the meeting does not allow sufficient opportunity for its proper consideration and would reduce the transparency of the process.
- 20.2 Exceptions to this may be made in special circumstances and will be at the discretion of the Chair.

21. Chair's Pre-meet briefing (Call-over)

- 21.1 After the publication of the agenda but before the start of the Planning Committee, the Chair will hold a pre-meeting, normally attended only by the Chair, Vice Chair and Officers (Planning/ Legal and Democratic Services), so that Officers can inform the Chair and Vice Chair of any additional matters since publication of the agenda that do not appear in the reports.
- 21.2 Such pre-meetings enable notification of concerns or amendments to any application and enable the Chair and Vice Chair to consider if such amendments constitute a material change, or whether a verbal report from the Officers to the Committee is acceptable.

22. Lobbying of and by Members

- 22.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward Member or to a Member of the Planning Committee. The Nolan Committee's 1997 report stated: *"it is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves"*.

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- 22.2 Lobbying can, however, lead to the impartiality and integrity of a Member being called into question, unless care and common sense is exercised by all the parties involved.
- 22.3 When being lobbied, Councillors and Members of the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.
- 22.4 In such circumstances, Members should consider restricting themselves to giving advice about the process and what can and cannot be taken into account.
- 22.5 Members can raise issues which have been raised by their constituents with Officers.
- 22.6 If a Member does express an opinion to objectors or supporters, it is good practice to make it clear that they will only be in a position to make a final decision after having heard all the relevant arguments and having taken into account all relevant material and planning considerations at Planning Committee.
- 22.7 If any Member, whether or not a Planning Committee member, speaks on behalf of a lobby group at the Planning Committee, they should withdraw from the meeting once the opportunity to make representations has been completed in order to counter any suggestions that Members of the Committee may have been influenced by their continuing presence.
- 22.8 In no circumstances should planning decisions be made on a party-political basis in response to lobbying. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- 22.9 Members should in general avoid organising support for or against a planning application and should not lobby other Councillors.
- 22.10 Members should not put pressure on Officers for a particular recommendation or decision and should not do anything which compromises, or is likely to compromise, the Officer's impartiality or professional integrity.
- 22.11 Members should pass any lobbying correspondence received by them to the Chief Planning Officer at the earliest opportunity and should declare that they have been lobbied about a particular agenda item at the start of the relevant Planning Committee meeting.
- 22.12 Members should not accept gifts or hospitality from any person involved in or affected by a planning proposal.
- 22.13 Members should inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches, including inappropriate offers of gifts or hospitality, who will in turn advise the appropriate Officers to follow the matter up.

23. Review of Decisions

- 23.1 It is good practice for Members to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

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- 23.2 Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.
- 23.3 The outcome of selected appeals against the decisions of the Council will be reported regularly to the Planning Committee when these raise issues of wider importance, particularly interpretation of matters of policy. The outcome of appeals against enforcement cases, and legal proceedings, will also be reported regularly so that the Planning Committee can review the Council's own decision-making processes whether at officer or Member level.
- 23.4 All appeals that result in an award of costs against the Council will be reported to Planning Committee to draw lessons to avoid such awards of costs in the future.

24. Complaints

- 24.1 Complaints relating to planning matters will be dealt with in accordance with the Council's complaints procedures.
- 24.2 So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events. It should be possible for someone not involved in that application to understand what account was taken of any representations received and how these were dealt with and why, what the decision was and why and how it had been reached. This applies to decisions taken by Planning Committee and under delegated powers, and enforcement and development plan matters.
- 24.3 What is most important is to ensure that complaints that become vexatious or are based on other unreasonable grounds are dealt with from the outset giving a full reasoned explanation of a decision taken and why that decision was reasonable.
- 24.4 There may be occasions when Members will want to complain about the conduct or lack of action on the part of a Planning Officer either on their own behalf or that of a constituent. Complaints could arise with respect to Officers in Development Management, Enforcement or Planning Policy. From the Council's perspective, such complaints must be treated impartially and transparently to retain confidence in the standard of the Council's planning service.
- 24.5 Any complaint about a Planning Officer (excluding the Chief Planning Officer) should for the time being be addressed to the Chief Planning Officer who will initiate an investigation into the complaint and respond with findings and what action, if any, has been taken against the Officer.
- 24.6 Any complaint about the Chief Planning Officer should for the time being be addressed to the Chief Executive who will initiate an investigation into the complaint and respond with findings and what action, if any, has been taken against the officer.

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- 24.7 In submitting complaints, Members should include as much information as possible about the basis of the complaint. In the interests of natural justice, such information will need to be disclosed to the planning officer being complained about. What is important is that such information is based on fact about how an officer has conducted himself or herself. Complaints cannot be based on conjecture about what a Planning Officer may have thought or done. Planning decisions are always based on a balancing of development plan policy and material considerations and this is a planning officer's prerogative in making delegated decisions. What also has to be recognised is that all Planning Officers' decision are checked and signed-off by another Planning Officer before being issued, so providing independent scrutiny of each and every delegated decision.
- 24.8 Complaints about Officer delegated decisions should not rely on generalities. Instead, such complaints should detail any procedural, planning policy or material consideration, Any complaint should be raised as soon as possible and if applicable, following the issuing of a planning decision to ensure the timely consideration of the complaint against all relevant facts.
- 24.9 The timescale for determination of complaints are set out below: -
- The receipt of a complaint will be acknowledged within 3 working days, this will include a due date for a fuller response
 - The complaint will be investigated and a more detailed response will be sent to the complainant within 20 working days. Occasionally it may not be possible to conclude an investigation and respond within 20 working days. In these circumstances the investigating manager will inform the complainant of the reasons for the delay and the expected response date.

25. Appeals against planning decisions

- 25.1 Where an appeal arises against a decision to refuse an application, Officers will normally represent the views of the Council at the appeal and other proceedings, together with the Council's technical advisors.
- 25.2 Where Planning Officers may be unable to defend decisions on appeal (due to requirements of the professional conduct rules of the Royal Town Planning Institute) the Planning Committee should be made aware of this before the final vote is taken. In such cases, the Committee shall, on the advice of the Chief Planning Officer, agree to the appointment of planning or other technical, consultants or different planning officers (in finely balanced cases), than those who made the original recommendation to represent the Council at appeal.
- 25.3 Councillors can have an important role to play in appeals and may, within set deadlines, make written representations to the Planning Inspector, and may also appear at informal hearings or as a witness at public local inquiries. In doing so, they should state whether they are acting in their local Councillor capacity or, exceptionally, representing the Council's case.
- 25.4 Members attending or wishing to make representations at appeals will receive support from Planning and Legal Officers. Planning and Legal Officers will advise Members on preparing and delivering evidence. Legal Officers will attend inquiries or assist in preparing representations when legal representation is required.

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- 25.5 Where a Member wishes to support the Council, or an appellant, on any appeal against a Council decision on any planning matter, that Member shall as a matter of courtesy give written notice of his or her intention to the Monitoring Officer; Chief Planning Officer and the appellant. Where the appeal is to be dealt with by written representations this written notice shall be given at, or as soon thereafter, as the appeal is lodged. Where the appeal is to be dealt with by a hearing this written notice shall be given at, or as soon thereafter, the appeal is lodged and accepted as a hearing. Where the appeal is to be dealt with by public inquiry, this written notice shall be given at, or as soon thereafter, the public inquiry procedure is accepted.
- 25.6 In deciding whether to make representations on an appeal Members should consider very carefully beforehand whether there could be any allegation that they are in breach of this Protocol or any other provisions in the Member Code of Conduct.

26 Local Development Plan

- 26.1 The principles set out in this Protocol apply equally to decisions on the Local Development Plan. Whilst it is expected that Members will be fully involved in community engagement and discussions, Members should avoid putting themselves in a position of predetermination.
- 26.2 Preparation of the Local Development Plan differs from the consideration of individual planning applications in that it both relates to the consideration of individual sites and to how sites relate to the needs of the wider area. It is important that even where Members or Officers have a prejudicial interest in relation to a site that they are able to contribute to the work and discussion concerning a wider area. However, whenever the discussion or preparatory work focuses on the comparison of individual sites or could otherwise be seen as impacting on or in some other way relevant to their site, they must exclude themselves from the work and decision making.

27 Training for Councillors

- 27.1 The Council considers that Members of the Planning Committee should undertake training. This opportunity will be offered to all Councillors. No Member appointed to the Planning Committee can sit at a Planning Committee meeting without having undertaken annual training in planning procedures before-hand.
- 27.2 The subject matter for training will cover planning procedures, the development plan and material planning considerations, probity and other subject determined from time to time by Officers in consultation with Members.
- 27.3 Other training will be available in the form of additional sessions, short presentations to the Committee, and the circulation of briefing notes and appeal decisions.

28. Planning applications submitted by sitting or previous Councillors, Parish Councils and Officers

- 28.1 Planning applications submitted by, or on behalf of Councillors, or Officers employed by the Council, or by, or on behalf of a spouse, partner, parent, child or sibling of a Councillor or Officer of the Council, where known, shall be decided by the Planning Committee and not under delegated powers by a Planning Officer. This will also apply where that person is acting as an agent for another party.

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- 28.2 The affected Councillor(s) must declare an interest, and nature of the interest/relationship. The Member shall have the right to address the Committee as the applicant in accordance with the Council's rules on public speaking. Immediately after addressing the Committee, the Member shall leave the Chamber unless he/she has been granted dispensation from the Monitoring Officer and Chief Planning Officer.
- 28.3 Officers **must not** play any part in the processing of an application and any recommendation made to the Planning Committee where they have, or can be perceived to have, a conflict of an interest. Such interests would include financial or professional interests and the interests of family and friends.
- 28.4 The same provisions as in paras 28.1 and 28.2 above shall apply to any Councillor who has within the preceding 12 months stood down from the Council or any previous Officer who has left the Council in the preceding 12 months.
- 28.5 Where a Parish Council submits a planning application, any Members who have had input, been part of any consultations or have been supportive of the application in their role of a Parish Councillor and are also Members of the Planning Committee should declare their interest and withdraw from the District Planning Council meeting. Those Members, can re-join the meeting after the decision has been made by the Committee and can take part in any remaining agenda items.

29. Planning applications submitted by the Council

- 29.1 It is essential that the Council treat applications for its own development (or a development involving the Council and another party) in a similar manner to all other applications, and that is seen to be the case.
- 29.2 All such proposals will be subject to the same administration processes, including consultation, as private applications. Determination shall similarly take into account planning policy, and any other material planning consideration(s).
- 29.3 In order to ensure transparency and openness in dealing with such applications, Council applications (except for discharge of conditions) that involve land owned by the Council and/or where the Council has a financial interest will not be dealt with under delegated powers but will be determined by the Planning Committee.

30. Recording of proceedings of Planning Committee meeting

- 30.1 All Planning Committee meetings shall be webcast by the Council.
- 30.2 Recordings of each meeting will be made by the Council, with the exception of items discussed in "Part 2" i.e. "confidential items". These recordings will be posted on the Council's webpages after the meeting.

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31. Gifts or Hospitality

- 31.1 Members shall not accept gifts or hospitality from developers or from any person involved in or affected by a planning proposal, including pre-application proposals. A gift or hospitality might be considered to influence a Member's judgement and it is important that there can be no justifiable grounds for suggesting a decision either has been, or appears to have been, influenced or biased in any way. The Member Code, of Conduct in any event, requires that a Councillor must within 28 days of receiving any gift or hospitality over the value of £50, provide written notification to the Monitoring Officer of the existence and nature of that gift or hospitality. A gift over £50 will constitute a personal interest and be registerable as such. All details will go on the register of gifts and hospitality, which is open to public inspection and will remain on the register for 3 years. Members must consider whether any gift or hospitality over the value of £50 constitutes a prejudicial interest.

32. Ward Councillors addressing the Planning Committee

- 32.1 If a Ward Councillor wishes to address the Planning Committee about a matter in their ward being considered at the Planning Committee, they should advise the Chair (or Vice Chair in his/her absence) and the Committee Clerk prior to the meeting itself and will be entitled to speak after the public speakers have addressed the Planning Committee and partake in the debate as appropriate but not vote. Ward Councillors should comply with the procedure for declaration of interests if they speak at a Planning Committee meeting in the same way as Members of the Committee. Where the Ward Councillor has a prejudicial interest, they may only address the Planning Committee if they are the applicant or lead objector and must withdraw from the room (or virtual meeting where appropriate) once they have made their representations.

33. Submission of Documentation

- 33.1 Documents must be submitted **at least three clear working days** before the Planning Committee meeting. For example, if the Planning Committee was held on a Wednesday, documents should be received by the Council by 3pm on the previous Friday. Any late documents should not be circulated to the Planning Committee as all parties may not have time to react to the submissions, and members of the Planning Committee may not be able to give proper consideration to the matter. Officers may not be able to provide considered advice on any material considerations arising. This must be made clear to those who intend to speak. Members of the Planning Committee should not read emails or correspondence received after the deadline for submission of documents. The acceptance of circulated material could imply a willingness to take the necessary time to investigate any issues raised and lead to the need to defer the application or risk a complaint about the way the material has been considered. This care needs to be taken to avoid the perception of external influence or bias.

34. Recess

- 34.1 When the Planning Committee meeting lasts longer than 2 hours a minimum 15 minute recess shall be taken at 2-3 hourly intervals.

35. Minutes

- 35.1 Minutes of all Planning Committee meetings will be published on the Council's website. The minutes will not be verbatim and will focus on recording decisions and associated reasons.

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36. Site Visit Procedure

- 36.1 The Chief Planning Officer (or his appointed representative) will oversee the conduct of site visits. The site meeting will start promptly at the time notified to Members and Planning Officers. At the request of the Planning Committee Chair/Vice Chair, the Chief Planning Officer (or his appointed representative) may be invited to describe the proposal to Members. Whilst Planning Committee Members will be expected to be familiar with the Planning Officer's report, plans/drawings may be used where necessary.
- 36.2 The Chief Planning Officer (or his appointed representative) may indicate matters of fact in relation to the proposal and surrounding land which Members can take account of. Members may ask the Chief Planning Officer (or his appointed representative) for factual clarification on any planning matter relating to the proposal or surrounding land, such as distances to adjoining properties or the location of proposed car parking.
- 36.3 At no time during the site visit should Members debate the merits of the planning application. To do so outside of the Planning Committee meeting might imply that Members had made their mind up. If Members want clarification or additional information on any matter of fact during the site visit they should ask for this through the Chief Planning Officer (or his appointed representative). The Chief Planning Officer (or his appointed representative) will then seek that information through the applicant (or his appointed representative) to avoid any opportunity for lobbying Members.
- 36.4 In order to assist Members to retain their objectivity, they should keep together in one group with the Chief Planning Officer (or his appointed representative) and should avoid breaking away into smaller groups. Once a site visit is concluded, Members should leave the site promptly. The Chief Planning Office will suggest a convenient location to reconvene so that Members may ask any questions and request further action or advice before the next Planning Committee
- 36.5 The Chief Planning Officer will keep a record of Members' attendance at the site visit and will pass this information to Democratic Services. The Chief Planning Officer will also prepare a written report on the site visit together with answers to any questions and request for further action before the next Planning Committee. This report will be presented at the next meeting of the Planning Committee scheduled to discuss the particular application.
- 36.6 If a Member finds it necessary to visit a site alone (perhaps because it was not possible to attend the site visit), he or she shall view it from public vantage points only, seek to avoid discussion with interested parties, and, if discussions occur, make it clear that a decision will be taken when it has been discussed by the Committee after the visit.
- 36.7 Following the site visit the application will be discussed at the Planning Committee.

37 Planning Enforcement

- 37.1 The Council has a team of planning enforcement officers tasked with following up complaints of breaches of planning control (alleged unauthorised development and breaches of planning conditions relating to permissions). There is a separate team of trees and hedgerow officers tasked with following up complaints relating to contraventions of Tree Preservation or Hedgerow Orders. These two separate enforcement functions are referred to here collectively as "planning enforcement".

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- 37.2 The decision whether or not to pursue planning enforcement action is discretionary and based on considerations of expediency (the severity of any breach) and what actual planning harm is occurring. That decision is generally delegated to the Principal Planning Enforcement Officer or the Senior Tree Officer. Any final decision to serve an enforcement notice, stop notice, seek an injunction or pursue a prosecution for failure to comply with any notice or injunction has to be agreed by the Chief Planning Officer as there are significant resource implications (both staffing and financial).
- 37.3 While officers must share information with Members on active enforcement investigations, information on complainants cannot be shared in the same way. The Council is under a duty not to disclose the identity of complainants and not to do anything that may result in their identity being disclosed. Disclosure is maladministration and can result in action against the Council by the Ombudsman.
- 37.4 Members may disclose the generality of action being taken by Enforcement Officers with respect to active enforcement complaints with their constituents. However, it may hinder successful action against breaches of planning control if too much information is disclosed. The Chief Planning Officer or other senior officers will always be available to discuss what could or could not be disclosed with Members.
- 37.5 In the event that a Member disagrees with an officer recommendation to take no action with respect to a particular enforcement matter, the Member should as soon as possible, contact the Chief Planning Officer requesting that such a recommendation be reviewed and setting out their reasons for that review.

38. The Local Government Ombudsman

- 38.1 Although the Local Government Ombudsman will not investigate the merits of a particular planning decision they may agree to investigate a planning complaint in relation to the way in which a decision was taken. If it is found injustice has been caused by maladministration in the light of statutory or established Council procedures they will recommend redress, which may take the form of compensation.

39. Appeals to the Secretary of State

- 39.1 An applicant who has been refused planning permission has a right of appeal to the Secretary of State. If an appeal is successful and it is shown that the Council's conduct in dealing with the matter was unreasonable the appellant's costs may be awarded against the Council. Examples of "unreasonable behaviour" are failing to follow the Council's policies; no evidence of significant harm; and giving too much weight to local opposition to proposals.

40. Judicial Review

- 40.1 If objectors are convinced that the Council in determining to grant an application did not observe their statutory duties to carry out all necessary procedures, did not base their decision on the development plan and or did not take into account all relevant representations they may apply for Judicial Review of the decision which might result in the decision being suspended and subsequently quashed. In such circumstances it would be normal for the costs of the applicant to be awarded against the Council.

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41. Powers of the Secretary of State

- 41.1 The Secretary of State possesses a range of powers which could be exercised where the Council appears to make inconsistent decisions or decisions which are seriously in conflict with national and Development Plan Policies. This could involve the greater use of the power to call in applications whereby an application will be determined by the Secretary of State following a Public Inquiry. Where permission has already been granted by the Council, powers exist to revoke or modify permissions or to require discontinuance of a land use which if exercised would give rise to a liability to compensate on the part of the Council.

42. Review

- 42.1 This Protocol will be kept under annual review in order to update changes in law and practice, and to have regard to experience and lessons learned from individual situations.

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Appendix 1

STANDARDS FOR RESPONSE

1. The Council's Customer Services reception is open throughout normal office hours. Customer Services (CS) Officers are trained in dealing with general basic planning enquiries. Where CS Officers are not able to deal with a query, they will refer to the Duty Planning Officer.

2. **The Role of the Duty Officer**

2.1 The Duty Officer is intended to help you by:

- explaining the Council's planning policies
- giving general advice on permitted development rights
- explain which type of application is necessary for a proposal.

2.2 The Duty Officer **will not** be available to:

- give any form of pre-application advice
- discuss the technical merits (principle, design, submitted reports, consultee responses, neighbour comments) of any applications, refusals or appeals
- consider minor amendments to planning permissions
- discuss enforcement enquiries
- grant immunity from enforcement
- carry out searches; such as whether Permitted Development Rights exist for properties, planning history of sites

2.3 The service costs £180 for half an hour meeting by telephone or Microsoft Teams. If you require a follow up summary note, we will charge an additional fee of £70.

2.4 Any advice given by the Duty Officer either orally or in writing, in the course of their duties does not indicate a formal decision of, nor binding on, the Local Planning Authority. Any views or opinions expressed are given in good faith and to the best of their ability and is based on the information and evidence made available to them at the time. The opinions are therefore without prejudice to the formal consideration of any planning application.

3. **Processing planning applications**

3.1 Planning Officers are required to:

- Keep the statutory register of applications maintained on our Planning Portal website up to date with information placed in the register within five working days.
- Acknowledge in writing the receipt of all applications within 3 working days.

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- Advise in writing if an application is incomplete or invalid within 10 working days.
- Allow at least 21 days for anyone to make representations on an application in which they have an interest and consider late representations up and till the point that a report is prepared. If significant changes are made to the application, neighbours will be contacted again and given a further 14 days to comment.
- Acknowledge any written representations made on proposals within 3 working days, and subsequently advise those who have made such representations of the eventual decision within 10 working days of it being issued.
- Place copies of valid applications in the statutory register within 3 working days of it being validated.
- Ensure that sites of planning proposals are visited by the Planning Officer within 2 weeks of the receipt of the valid application.
- Determine at least 80% of all planning applications within 8 weeks.
- Forward decision notices on determined applications within 3 working days.
- Notify applicants in writing where it is not possible to give a decision within 8 weeks of receipt and notify the outcome to those making representations.
- Issue decision letters on matters required to discharge planning conditions within two months. Compliance with conditions may require approval prior to commencement of work or during or at completion. The purification of conditions is becoming increasingly complex often requiring consultation with other parties. Failure to comply with conditions can result in a breach of planning control and can have serious consequences.
- Advise the applicant to submit a new planning application when amendments are proposed that significantly alter the proposed development.
- Advise the applicant of appeal rights if the Council does not determine the application within statutory or agreed timescales, refuses the application, or imposes conditions on any permission granted.
- Act proactively to reduce the likelihood of breaches occurring.
- Approach and address alleged breaches of control with an open mind.
- Acknowledge all complaints within 3 working days.
- Inspect alleged breaches of control within 15 working days.
- Notify complainants of the decision to authorise formal enforcement action or that there is no breach within 10 working days

3.2 Letters of representation will be made available on the Council's website and will be summarised in any report and taken into account when a decision is made.

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- 3.3 Planning Officers will give consideration to all comments received. However, in respect of applications that are considered by Committee, comments received after the Committee report has been prepared will not be included as part of the report. Such comments will be reported as a supplementary report or orally to the Committee by Officers if they raise new matters not already addressed in the Officer's report. Individuals should be aware that comments received in respect of a planning application and most other planning matters will be in the public domain.
- 3.4 Voicemail facilities are available for applicants, third parties, members of the public to leave messages for Officers. Such messages will be responded to no later than the end of the next working day. Where Officers are expected to be absent from the office, the voicemail message will be amended accordingly.
- 3.5 Telephone messages will not be "recorded in writing" and entered upon a planning application file. The reason for this is because it is important that the person making the telephone call should have their views truly represented and, quite often, the omission of one word can make quite a difference. The Council cannot accept responsibility for any omissions and errors and therefore all people who make contact by telephone will be advised that they should confirm their views by letter, email or via the Council's web site.
- 3.6 E-mail communications will be dealt with on the same basis as paper letters as stated above. 'Out of office' messages will be kept updated.

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