



# GREAT YARMOUTH BOROUGH COUNCIL

## Council

**Date:** Thursday, 13 April 2023

**Time:** 19:00

**Venue:** Council Chamber

**Address:** Town Hall, Hall Plain, Great Yarmouth, NR30 2QF

### AGENDA

#### Open to Public and Press

#### **1 APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

#### **2 DECLARATIONS OF INTEREST**

You have a Disclosable Pecuniary Interest in a matter to be discussed if it relates to something on your Register of Interests form. You must declare the interest and leave the room while the matter is dealt with.

You have a Personal Interest in a matter to be discussed if it affects

- your well being or financial position
- that of your family or close friends
- that of a club or society in which you have a management role
- that of another public body of which you are a member to a greater extent than others in your ward.

You must declare a personal interest but can speak and vote on the matter.

Whenever you declare an interest you must say why the interest arises, so that it can be included in the minutes.

**3      NEW CONSTITUTION FOR THE EXECUTIVE MODEL OF GOVERNANCE      3 - 275**

Report attached.

**4      PENSION ADMISSION AND POOLING      276 - 277**

Report attached.

**5      EXCLUSION OF PUBLIC**

In the event of the Committee wishing to exclude the public from the meeting, the following resolution will be moved:-

"That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part I of Schedule 12(A) of the said Act."

**Subject: New Constitution for the Executive Model of Governance**

**Report to: Council - Thursday 13 April 2023**

**Report by: Monitoring Officer**

#### **SUBJECT MATTER**

**To propose to Members a Constitution for the executive model of governance, for approval in readiness for adoption at Annual Meeting of Council in May 2023.**

#### **RECOMMENDATION**

That Council approve the form of the Constitution as appended, to be taken forward for formal adoption and effect as from the Annual Meeting of Council in May 2023.

### **1. Background and Context**

- 1.1. At Annual Meeting in May 2022 Council resolved to change to an executive model of governance (the Cabinet-Leader system) to be effective from Annual Meeting in May 2023. Council also agreed that a programme of preparatory work should take place in the intervening period, including changes to the Council's Constitution.
- 1.2. Following consultation workshops with Members and Officers, a new Constitution has been prepared which supports the new system. In addition to incorporating structures and procedures to support the Cabinet system, the new Constitution has been revised and updated in various other respects. However, some sections remain largely unchanged from the existing Constitution.
- 1.3. The new Constitution consists of 48 articles and is divided into four parts:
  - i) Key explanations
  - ii) Responsibility for Functions
  - iii) Rules of Procedure
  - iv) Regulations, Codes and Protocols

### **2. Key Information**

#### **2.1 Unchanged Content includes:**

- Members' and Officers' Codes of Conduct (Articles 43 and 44)
- The overview of roles and functions of Members (Article 2)
- The roles of Committee Chairs, of Political Group Leaders (Article 2) and of the Mayor and Deputy Mayor (Article 7)

- Citizens' Rights (Article 4)
- The appointment of Members to Outside Bodies (Article 26)
- Meeting procedure rules, including rules for the attendance and exclusion of the public at meetings (Part 3 – Articles 26 and 27)
- Members rights to information (Article 28)
- Principles of decision-making (Article 5)
- Joint Arrangements (Article 20)

## 2.2 New Content

The primary sections of new content relate to those mechanisms and procedures specific to the Cabinet system:

- The role of the Executive (Article 8)
- Local Choice Functions (Article 19)
- Terms of reference of Cabinet, Leader and Cabinet members (Article 8)
- Process for appointing Leader and other Cabinet members (Article 8)
- The Cabinet Notice (Forward Plan) (Article 8)
- Definition of Key Decision and supporting guidance (Article 8)
- Urgency and exceptions to Key Decision requirements (Article 8)
- Scrutiny Committee terms of reference and procedures including call-in (Article 16)
- Pre-scrutiny of Key Decisions (Article 16)
- Select Committees (Article 11)

There is other new content including:

- the creation of two new Employment Sub-Committees which are legally required to deal with matters pertaining to statutory Chief Officers (Article 14)
- information relating to the Councillor Call for Action (Article 17)
- an application form for Members' dispensations (Appendix 1)

## 2.3 Revised/Updated Content

- There has been a restructure of Senior Management roles and this is reflected in the new Management Chart (page 16). The title "Strategic Director" has been replaced by "Executive Director". There are no "Directors" other than the Director of Operations whose authorities extend only to the Council's company, GYS Ltd.
- Committee terms of reference for regulatory committees remain largely unchanged but have been revised and improved for clarity and completeness (Articles 13 and 15)
- The Executive and Non-Executive Schemes of Delegation are now more specific, although general terms of delegation for Executive Directors and Heads of Service remain in place (Articles 21 to 23)
- The Proper Officer provisions have been revised and are also more specific than the version in the previous Constitution (Article 24)
- The Contract Standing Orders have been updated to address legislative change and revised to improve clarity (Article 42)

- The Gift and Hospitality provisions (Article 45) have been revised to include reference to the Bribery Act 2010 (Article 45)

#### 2.4 Content Removed includes:

- The Corporate Code of Governance, which will now be published as a stand-alone document
- The Risk Matrix, which is a tool for officers to aid in the procurement planning process will now be available on the intranet

### 3. Adoption

3.1 The new Constitution is recommended for adoption at the Council's Annual Meeting in May 2023. It is proposed that it comes into effect on that day, following formal adoption. This shall enable Councillors and Officers time to familiarise themselves with the new provisions.

3.2 Following approval of the form of the Constitution under this report, the document shall be finalised prior to it being published on the Council's website. This includes any formatting, stylistic or minor technical amendments.

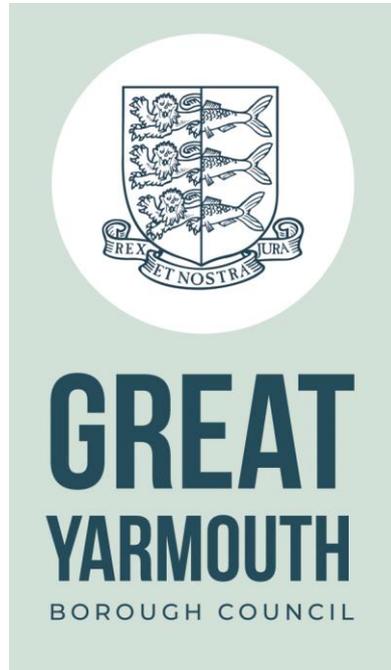
### 4. Legal Implications

4.1 The Council is required to maintain and publish a Constitution in accordance with Section 9P of the Local Government Act 2000. The document sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

4.2 The new Constitution contains certain statutory requirements which must be adhered to specifically under an executive model of governance, these include requirements for the publication and recording of certain decisions, and provision for the role of Scrutiny Committee.

*Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?*

Area for consideration	Comment
Monitoring Officer Consultation:	Monitoring Officer's report
Section 151 Officer Consultation:	Yes
Existing Council Policies:	Constitution
Financial Implications (inc VAT and tax):	None
Legal Implications (including human rights):	Included in report
Risk Implications:	Officers will need to transition effectively to new procedures, failure to do so may cause procedural breach.



# **[Draft]** Constitution

Approved by the Council

**[INSERT DATE]**

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## **INTRODUCTION**

### **The Constitution**

The Council will exercise all of its powers and duties in accordance with the law and this Constitution. The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that it is efficient, transparent and accountable to local people.

This Constitution, and all of its appendices, is the Constitution of Great Yarmouth Borough Council.

The Constitution is divided into the following sections:

#### **Part 1 – Key Explanations**

Setting out general information about the content of the Constitution, the decision-making processes, how key parts of the Council operate, the key duties of elected Members and information about rights of public participation.

#### **Part 2 – Responsibility for Functions**

Setting out how decisions are made, explanation of executive and non-executive functions including the responsibilities and terms of reference of full Council, Cabinet, Scrutiny and other Council Committees.

#### **Part 3 – Rules of Procedure**

Setting out detailed procedure rules (also called standing orders) including rules for the operation of meetings, including meetings of full Council, Cabinet, Scrutiny and other Council Committees. This Part also explains the public Petition Scheme.

#### **Part 4 – Codes and Protocols**

Explaining how Members and Officers must conduct themselves according to the various codes of conduct and protocols, such as the Access to Information Rules and the use of resources and gifts and hospitality. This Part also includes the Members' Allowances Scheme setting out details of the allowances that Members are entitled to claim.

# PART ONE

# KEY EXPLANATIONS

## **Article 1 – The Constitution**

### **1.1 Purpose of the Constitution**

The purpose of the Constitution is to:

- a) enable the Council to provide an efficient, effective and clear form of leadership to the community;
- b) set out a clear framework for governance which will underpin the Council's decision making and enable it to deliver its objectives for the Borough in a planned and transparent way, in partnership working with citizens, businesses and other organisations, to balance interests within the community to achieve the best outcomes for all, and to support the active involvement of citizens in the Council's decision-making by being open and clear about the processes involved;
- c) help Members represent their constituents more effectively;
- d) enable decisions to be taken efficiently, effectively and without delay;
- e) ensure that the decision-makers are clearly and publicly accountable and that the reasons for their decisions are explained in full;
- f) ensure that no one involved in the making of a decision can take part in the process for reviewing or scrutinising that decision;
- g) provide the right framework and mechanisms for ensuring that the services provided by the Council are those required by the community, and that the delivery of those services is regularly reviewed and improved; and
- h) set out the respective responsibilities of Members and Officers of the Council and how they work together.

### **1.2 Monitoring and Review**

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

It is part of the Monitoring Officer's role to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out above. In undertaking this task, the Monitoring Officer may:

1. observe meetings of different parts of the Member and Officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised by Members, Officers, the public, and other relevant stakeholders; and
4. compare Council practices with those in other comparable authorities, or national examples of best practice.

The Monitoring Officer is responsible for maintaining an up-to-date Constitution and will ensure that a copy of the Constitution is available to each Member either via the Council's website and that it is accessible for public inspection at Council offices and by electronic means.

Significant or substantive changes to the Constitution will only be approved by the Council after consideration of the proposal by the Monitoring Officer.

The Monitoring Officer is authorised to make minor and/or consequential amendments to the Constitution for the purpose of keeping it up-to-date, clarifying its content or interpretation, correcting any errors or omissions, updating it in accordance with changes in legislation, or with changes in the management structure or committees of the Council, or otherwise giving effect to the intentions of the Council.

### **1.3 Suspension, interpretation and Publication**

The Rules of Procedure set out in Part 3 may be suspended by the Council to the extent permitted within those Rules and the law.

A motion to suspend any of those Rules will not be moved without notice unless at least one half of the whole number of elected Members are present when the decision to do so is taken. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out within this section.

The ruling of the Mayor (or other Chair) as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting. Such interpretation will have regard to the purposes of this Constitution contained within this section and where possible, advice should be taken from the Monitoring Officer.

Unless expressly provided otherwise, lists set out within the Constitution which are introduced with the words including, include, in particular, or for example, are to be treated as illustrative and not exhaustive.

### **1.4 Finance, Contracts and Legal Matters**

The management of the Council's financial affairs is conducted in accordance with the Constitution and Financial Regulations and Contract Standing Orders (see Part 4). If there is any conflict between these Rules and Part 3 of the Constitution, the provisions in the Part 3 of the Constitution will prevail.

Every contract made by the Council will comply with the Financial Regulations and Contract Standing Orders (see Part 4).

The Monitoring Officer (and any person authorised by them) is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or to protect the Council's interests. In addition, Executive Directors are authorised to institute legal proceedings in respect of matters falling within their areas of responsibility provided that they consult the Monitoring Officer before instituting such proceedings.

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by them, unless any enactment otherwise authorises or requires, or full Council has given requisite authority to some other person. Where legal proceedings are for the prosecution of an offence, the Monitoring

Officer or any person authorised by them may sign any documents necessary for those proceedings.

The Common Seal of the Council will be kept in a safe place in the custody of the Corporate Services Manager. The Common Seal will be affixed to those documents which, in the opinion of the Monitoring Officer, are required to be sealed. The affixing of the Common Seal will be attested by the Chief Executive, or by an Executive Director. Any reference in this Constitution to the Common Seal should also be taken to include its electronic equivalent.

## Article 2 – Members of the Council

### 2.1 Members (Councillors)

The Council comprises 39 Members (otherwise called **Councillors**) with an election of the whole Council taking place once every four years. One or more Members will be elected by the voters of each Ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.

Members are democratically accountable to the citizens of their Wards. Whilst their overriding duty is to the whole community they also have a special duty to all their constituents, including those who did not vote for them.

Members, once elected, are required to agree to comply with the Members' Code of Conduct to ensure high standards during their tenure as an elected Member, and to take due account of the Protocol on Member/Officer relations, both of which are set out in Part 4 of this Constitution.

The whole 39 Members meet together as a full Council at meetings which are normally open to the public. At such meetings, Members determine certain of the Council's strategic policies and set the Budget and level of Council Tax each year. The Council appoints the Executive Leader (**Leader**) and various committees and holds them to account.

### 2.2 Eligibility

Only registered voters of the Borough, or those living or working there, will be eligible to hold the office of elected Member (Councillor). They must be British or a citizen of the Commonwealth or a citizen of the Republic of Ireland. They may also be eligible as a citizen of the European Union, however the criteria have changed now that the UK has left the European Union. Please check on the [gov.uk website for advice about EU citizens' candidacy rights](#) in local elections.

They must be at least 18 years old<sup>1</sup>.

### 2.3 Election and Terms of Office

Elections of all Members for all the wards of the Borough shall be held on the ordinary day of election of councillors in 2023 and every fourth year after 2023.

The term of office of all Members elected in accordance with the above paragraph shall be four years starting on the fourth day after the ordinary day of election; and they shall retire together on the fourth day after the ordinary day of election of Members. The newly elected Members shall come into office on the day on which their predecessors retire.

### 2.4 Transitional Arrangements

Unless they resign or become disqualified, the Mayor and Deputy Mayor of the Council remain in those posts until their successors are appointed at the Annual Meeting of the Council even if, in an election year, they are not re-elected at that election.

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<sup>1</sup> [Sections 79-80 Local Government Act 1972](#)

Where a member holds another post described in this Constitution and they are re-elected at an election, they continue in that post until the Annual Meeting of the Council immediately following that election. If they are not re-elected then the post is vacant until a replacement is appointed.

## **2.5 Roles and Functions of all Members (Councillors)**

All Members will:

- a) collectively through the full Council meetings be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- b) represent their communities and ensure that their communities' views are brought into the Council's decision-making process (i.e., become the advocate of, and for, all the constituents in the Ward they represent);
- c) to champion the causes which are best related to the interests and sustainability of the community and campaign for improvement in the quality of life of the community in terms of diversity, safety, wellbeing, economy, and environment;
- d) effectively represent the interests of their Ward and of their individual constituents;
- e) to participate constructively in the good government of the area;
- f) respond to enquiries and representations from all their constituents fairly and impartially;
- g) be involved in the Council's decision-making process;
- h) to act as a champion of the Council for specific issues when required;
- a) be available to represent the Council on other bodies including external organisations;
- b) work in conjunction with the Council and partners on the various partnership bodies;
- c) maintain, at all times, the highest standards of conduct and ethics;
- d) to contribute actively to the formation and scrutiny of the Council's priorities, policies, budget, strategies, and service delivery;
- e) to assist, as they are able, the Mayor in the civic life of the Borough; and
- f) hold the Cabinet to account as either a member of full Council or as a member of the Scrutiny Committee.

## **2.6 Key Tasks (in order of priority)**

1. To fulfil the statutory and locally determined requirements of an elected Member of a local authority and the Council itself, including compliance with all relevant codes of conduct and participation in those decisions and activities reserved to the full Council (e.g., setting budget, overall priorities, and strategy).
2. To participate effectively as a Member of any Committee, Working Group etc. to which the Member is appointed.

3. To participate in the activities of any Outside Body to which the Member is appointed, providing two-way communication between organisations, and to develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community's needs and aspirations in respect of that body's role and function.
4. To participate, as appointed, in the scrutiny of the services and policies of the Council and their effectiveness in meeting the strategic objectives of the Council and the needs of its citizens.
5. To participate in consultative processes with the community and other organisations.
6. To act as a consultee on matters within their Ward.
7. To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties and constraints and to develop and maintain good working relationships with relevant Officers of the Council.
8. To participate fully in Member training and development programmes, especially those relating to statutory requirements.
9. To develop and maintain a working knowledge of the organisations, services, activities, and other factors which impact upon the community's well-being and identity.
10. To promote and explain the work of the Council in their communities, including liaison with Parish Councils.
11. To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the government of the area.
12. To participate in the activities of any political group of which the Member is a member.

## **2.7 Rights and Duties**

Members will have such rights of access to such documents, information, and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law. These rights are set out in the Access to Information Rules (see Part 4).

Members will not make public any information which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than Members or others entitled to know it. For these purposes, 'Confidential' and 'Exempt' information are defined in the Access to Information Rules (see Part 4).

## **2.8 Allowances**

Members are entitled to receive allowances in accordance with the Members' Allowances Scheme (see Part 4).

## **2.9 Committee Chair**

The Chair of a Committee is responsible for the effective management of the Committee's business. In addition to the specific duties below, this involves:

- a) ensuring the overall effectiveness of the Committee, including agenda planning;

- b) maintaining a public image that the work of the Committee is effectively managed; and
- c) ensuring that Committee members are fully involved in the deliberations of the Committee.

Specific duties of Chairs include:

- a) to have a working knowledge of the Council's relevant policies and strategies and ensure they are sufficiently and effectively briefed on matters coming before the relevant Committee;
- b) to chair meetings of the relevant Committee in accordance with the principles of decision-making in the Constitution, and with regard to any other statutory, constitutional or procedural requirements;
- c) to present to the Cabinet and Council any reports of the relevant Committee;
- d) to act where appropriate, (and if required) as an external spokesperson and representative of the relevant Committee;
- e) to monitor progress in respect of any work programmes or performance targets for the relevant Committee, and report as necessary;
- f) where specified by the Constitution, to act as a consultee for any functions of the relevant Committee which have been delegated to Officers;
- g) to liaise with the Chair of other committees, as necessary, to ensure the proper coordination of Council business;
- h) to ensure appropriate expert and specialist advice is made available to the relevant Committee;
- i) to consider requests for items to be considered in cases of special urgency;
- j) to determine arrangements for special meetings of the relevant Committee;
- k) to ensure Committee Members benefit from appropriate training and development to deal effectively with the Committee's business; and
- l) to carry out the roles, functions and duties identified above for all Members.

## **2.10 Political Group Leaders**

Two or more Members may form a political group under the Local Government (Committees and Political Groups) Regulations 1990 and appoint a leader of that group. The wishes of the group are taken to be those expressed by its leader.

The Council recognises the key leadership role played by the leaders of all groups on the Council, and the importance of their commitment to cross-party working.

In recognising this role, the Council will ensure that group leaders have access to appropriate support and advice from Officers in accordance with the Protocol for Member/Officer Relations (see Part 4).

Specific duties of group leaders include:

- a) to provide leadership to their party group;
- b) to ensure their group contributes effectively, positively, and constructively to the Council's activities;
- c) to instil a sense of responsibility and accountability amongst members of their group;
- d) to assist in ensuring appropriate standards and levels of attendance are maintained and, in this respect, to act as the first point of reference for their group;
- e) to act as the principal political spokesperson for their group;
- f) to represent their group as required, including as a consultee;
- g) to nominate members of their group to serve on committees, working parties, panels and Outside Bodies in accordance with the political balance rule;
- h) to act as a consultee if consultation with group leaders is required on any matter;
- i) to encourage a culture of learning and development among Members, including the active participation of their group in briefings, seminars and training events, and to liaise with the Officers in respect of specific needs of members of their group; and
- j) to carry out the roles, functions and duties identified above for all Members.

## **Article 3 – Officers**

### **3.1 The Council’s Staff**

The Council employs staff (called **Officers**) to give advice, implement the decisions made by the Members, and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol governs the relationships between Officers and Members (see Part 4).

The most senior Officer is the Chief Executive who is also the Council’s statutory Head of Paid Service and has responsibility for determining the management and Officer structure for delivering Council functions and policies within available resources. Other senior managers lead different parts of the Council’s services.

The Monitoring Officer<sup>2</sup> and the Chief Finance Officer<sup>3</sup> have specific duties to ensure that the Council operates within the law and uses resources wisely. The Council provides the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

The Protocol for Member/Officer Relations guides Members and Officers in their relations with one another to ensure the smooth running of the Council (see Part 4).

Officers comply with the Officers’ Code of Conduct (see Part 4).

The functions and responsibilities which the Council has given to the senior Officers are listed in the Non-Executive and Executive Officer Schemes of Delegation (see Part 2).

The recruitment, selection, discipline and dismissal of Officers is done in accordance with the Officer Employment Procedure Rules (see Part 4).

### **3.2 Senior Management Structure**

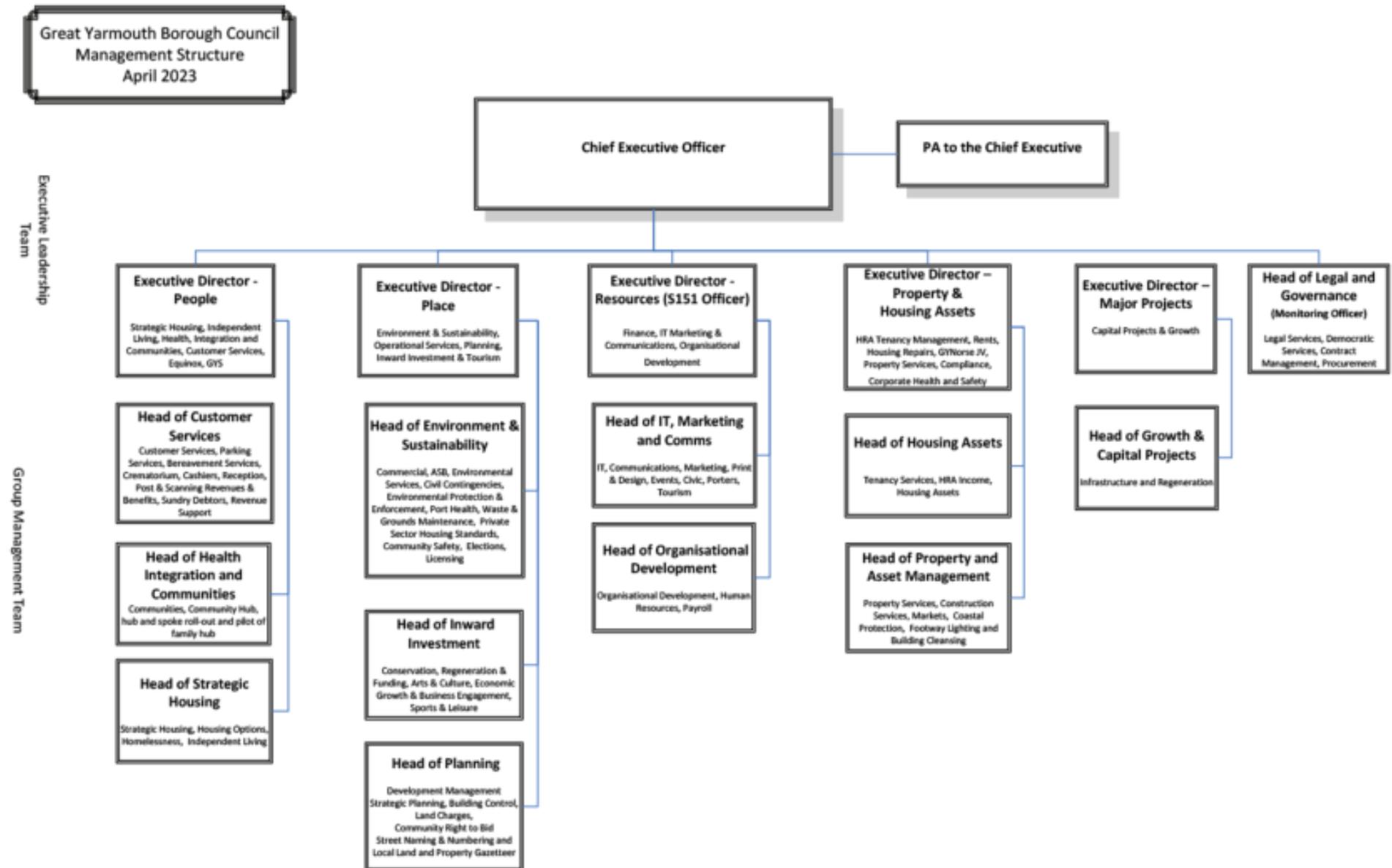
The Head of Paid Service is responsible for determining and publishing a description of the overall organisation of the Council, showing the management structure and deployment of Officers (see below).

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<sup>2</sup> Section 5 Local Government and Housing Act 1989

<sup>3</sup> Section 151 Local Government Act 1972

# MANAGEMENT STRUCTURE



## Article 4 – Citizens and the Council

### 4.1 Citizens' rights

Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. Advice on an individual's legal rights in connection with Council processes can be obtained from the Council or other organisations such as local Citizens' Advice or those which are registered with Your Norfolk Advice Network. Where citizens use specific Council services, for example Council tenants, they may have additional rights. These are not, however, covered in the Constitution.

All meetings of the Council, Cabinet, Scrutiny Committee, Regulatory Committees and other Committees, unless dealing with personal or confidential information, or information otherwise exempt from disclosure for reasons set out in legislation, are open to citizens. Copies of agendas for all such meetings are available in the public seating area of the meeting rooms or alternatively from the Corporate Services Section.

Citizens of the Borough have the following rights:

- a) **voting and petitions** – citizens on the electoral roll for the Borough have the right to vote in, and sign a petition to request a referendum to replace the Council's political management model<sup>4</sup> (or on any matter within the Council's purview);
- b) **information** – citizens have the right to:
  - i) attend meetings of the Council, Cabinet, Scrutiny Committee, Regulatory Committees and other Committees, except where confidential or exempt information is likely to be disclosed, and the meeting or part of the meeting, whichever is appropriate, is held in private;
  - ii) see and inspect reports and background papers, and any records of decisions made by the Council, Cabinet, Scrutiny Committee, Regulatory Committees and other Committees;
  - iii) inspect the Council's accounts and make their views known to the external auditor;<sup>5</sup>
  - iv) find out from the Cabinet Notice (Forward Plan) what major decisions will be taken and when by Cabinet and Officers;
  - v) access other information as set out in the Access to Information Rules (see Part 4);
- c) **participation** – citizens have the right to:
  - i) ask questions at meetings of the Council and the Cabinet;
  - ii) contribute to the discussions of Scrutiny Committee and investigations by Select Committees at the discretion of the Chair of the meeting;

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<sup>4</sup> See the Local Authorities (Referendums)(Petitions)(England) Regulations 2011

<sup>5</sup> Sections 25 to 28 Local Audit and Accountability Act 2014

- iii) initiate a Community Right to Buy, Community Right to Build, Community Right to Bid, Community Right to Challenge or participate in Neighbourhood Planning, as identified by the Localism Act 2011 (see Part 4);
- d) **comments and complaints** – citizens have the right to make comments and/or complaints to:
  - i) the Council under its Comments, Compliments and Complaints Scheme;
  - ii) the Local Government and Social Care Ombudsman, if they are dissatisfied with the outcome of their complaint to the Council (this action can only be pursued after first using the Council’s Corporate Complaints Procedure);
  - iii) the Housing Ombudsman, if they are dissatisfied with the outcome of their complaint to the Council (this action can only be pursued after first using the Council’s Corporate Complaints Procedure);
  - iv) the Monitoring Officer, about alleged breaches of the Members’ Code of Conduct; and
- e) **petitions** - citizens have the right to submit petitions, or support petitions, which are then considered in accordance with the Council’s Petitions Scheme (see Part 3).

The Council welcomes participation by its citizens in its work.

Citizens must not be violent, abusive, or threatening to Members or Officers. Citizens must not wilfully harm things owned by or within the care of the Council, nor harm or put at the risk of harm Members or Officers. Anyone causing a disturbance at a meeting will be removed from that meeting.

# PART TWO

# RESPONSIBILITY FOR

# FUNCTIONS

## **PART 2 - RESPONSIBILITY FOR FUNCTIONS**

### **Article 5 – Decision Making**

#### **5.1 Responsibility for Decision Making**

The Council will issue and keep up-to-date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions.

#### **5.2 Principles of Decision Making**

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

- a) to provide high quality services to meet the community's needs which are cost effective and offer best value;
- b) proportionality, that is, the action will be proportionate to the desired outcome;
- c) due consultation and the taking of advice from Officers;
- d) respect for human rights;
- e) a presumption in favour of openness;
- f) clarity of aims and desired outcomes; and
- g) an explanation of all the options considered and full reasons for the eventual decision.

The Council, Cabinet, Committees and Officers will follow their relevant procedure rules, the schemes of delegation, and the principles set out in this section when taking decisions.

#### **5.3 Executive and Non-Executive Functions**

Decisions taken by the Council are divided by law into two types: Executive and Non-Executive.

Executive decisions relate to all of the Council's functions that are not the responsibility of full Council or its Committees. They include those Local Choice functions identified below as the responsibility of the Executive. Executive decisions are taken by the Leader, Cabinet, Cabinet committees, or Officers acting under delegated authority in accordance with, and in order to implement, the Budget and Policy Framework.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent regulations give effect to section 13 of the Local Government Act 2000 by specifying:

- a) which functions are not the responsibility of the Executive;
- b) those functions which may (but need not) be the responsibility of the Executive (known as Local Choice functions, where the Council has the discretion to determine whether the function will be undertaken by the Executive or reserved to full Council); and
- c) which functions are to some extent the responsibility of the Executive,

all other functions not so specified are the responsibility of the Executive.

Non-Executive functions are powers and duties that under statute are not the responsibility of the Leader or Cabinet. The power to exercise non-Executive functions is either reserved to full Council or delegated by full Council to Committees or Officers, as set out below.

#### **5.4 Decision-Making Arrangements**

This Part sets out the functions and decision-making arrangements for full Council, Cabinet, Committees, and Officers, makes clear how these distinctions are given effect, and sets out the Local Choice functions by identifying:

- a) the responsibilities of full Council and its Committees;
- b) the responsibilities of the Cabinet and its Committees;
- c) those functions which are not the responsibility of the Executive to a specified extent;  
and
- d) those functions which are delegated to an Officer.

## Article 6 – Full Council

### 6.1 Meetings of full Council

All Members meet together a number of times each year as full Council. There are four types of full Council meeting:

- a) annual meeting;
- b) Budget meeting;
- c) ordinary meetings; and
- d) Extraordinary Meetings.

Only the Council exercises the following functions:

- a) appointing the Mayor and Deputy Mayor of the Council, Chair of the Scrutiny Committee and other Committees;
- b) appointing and removing the Leader;
- c) adopting or amending the Budget and Policy Framework following recommendation from Cabinet, other than minor amendment to policies (see Part 2);
- d) agreeing or amending the composition, terms of reference and the size of Committees other than those established by Cabinet;
- e) determining whether Local Choice functions should be reserved to the Council or exercised by the Cabinet or Officers acting under delegated powers;
- f) taking decisions in respect of Non-Executive functions that have not been delegated to Committees, Sub-Committees or Officers;
- g) (subject to the urgency procedure below) making decisions about any Cabinet proposal that is contrary to the Policy Framework or not wholly in accordance with the Budget;
- h) confirming the appointment or dismissal of the Head of Paid Service, Monitoring Officer, and the Chief Finance Officer;
- i) confirming the appointment of the Independent Person(s) (see this Part 2 and Part 4);
- j) adopting the Members' Allowance Scheme and amending the same (see Part 4);
- k) making a request for single Member electoral Wards to the Local Government Boundary Commission;
- l) exercising functions relating to Community Governance under the Local Government and Public Involvement in Health Act 2007 including making an order giving effect to the recommendations made in a Community Governance Review;
- m) adopting, revoking, or amending the Council's policies, plans and strategies as set out in Article 9, which includes the following:

- i) Local Plan, Neighbourhood Plan, and other Documents which together comprise the Development Plan;
  - ii) policies made under the Gambling Act;
  - iii) Capital Programme; and
  - iv) approval of the Council's corporate plan;
- n) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation including byelaws or personal bills;
- o) exercising functions under any of the "relevant statutory provisions" of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer;
- p) exercising all functions relation to elections and powers in respect of holding elections, including:
- i) resolving to change a scheme for elections;
  - ii) appointing the Returning Officer and Electoral Registration Officer;
  - iii) assigning Officers in relation to requisitions of the registration Officer;
  - iv) exercising the power to dissolve small parish councils;
  - v) exercising the power to make orders for grouping parishes, dissolving groups and separating parishes from groups;
  - vi) exercising the duty to divide the constituency into polling districts and the power to divide electoral Wards into polling districts at local government elections;
  - vii) paying expenses properly incurred by electoral registration Officers;
  - viii) filling vacancies in the event of insufficient nominations;
  - ix) declaring vacancies in office in certain cases;
  - x) giving notice of a casual vacancy;
  - xi) making temporary appointments to parish councils;
  - xii) submitting proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000;
  - xiii) exercising certain functions under the Local Government and Public Involvement in Health Act 2007 relating to consultation on changes of scheme of elections, change of name of electoral area, publicity, notice to Electoral Commission, and the power to alter years of ordinary elections of parish councillors;
- q) adopting and amending Rules of Procedure and Financial Regulations;

- r) exercising the functions relating to pensions;
- s) approving the Council's statement of accounts, income and expenditure and balance sheet or record of payments and receipts (as the case may be);
- t) exercising the power to make Standing Orders, including the power to make Standing Orders as to contracts;
- u) receiving Ombudsman reports where there has been a finding of maladministration with injustice and the report has been rejected;
- v) receiving statutory Officer reports of the Monitoring Officer, Section 151 Officer, Head of Paid Service and External Auditor's public interest reports;
- w) conferring the title of Honorary Freeman and Honorary Alderman and other civic matters;
- x) approving the Annual Pay Policy Statement;
- y) changing the name of the area or the name of a parish and granting freedom to the Borough;
- z) making significant changes to the Council's Constitution other than minor and consequential changes which are delegated to the Monitoring Officer;
- aa) appointing representatives to joint authorities, joint committees and other Outside Bodies unless the appointment or nomination is an Executive function or has been delegated by the Council;
- bb) considering reports from Cabinet, Committees, Sub-Committees, or any other body constituted by the Council;
- cc) receiving the decisions of Cabinet, Committees and Sub-Committees acting under delegated powers for question and comment;
- dd) making recommendations to the Secretary of State on district boundaries, Ward boundaries, electoral divisions, Ward or polling districts;
- ee) considering and debating public petitions submitted under the Petitions Scheme (see Part 3);
- ff) approving Housing Land Transfers (see Article 9.3);
- gg) determining the terms and conditions on which staff hold office (including procedures for their dismissal), unless otherwise delegated to a Committee or Officer;
- hh) appointing officers for particular purposes (appointment of Proper Officers);
- ii) agreeing any payments or providing other benefits in cases of maladministration, etc;
- jj) adopting the Members' Code of Conduct and the Protocol for Member/Officer Relations;

- kk) exercising any function under a local Act other than a function specified in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- ll) appointing review boards under regulations made under section 34(4) (determination of claims and reviews) of the Social Security Act 1998; and
- mm) exercising any other function which must, by law, be exercised by the full Council;.

The Council discharges these functions either itself or through Committees and Officers.

## **Article 7 – The Mayor**

### **7.1 Role and Function of the Mayor and Deputy Mayor**

The Mayor and Deputy Mayor will be elected annually.

The Mayor, and in their absence, the Deputy Mayor, also acts as Chair of full Council.

The Mayor, and in their absence, the Deputy Mayor, have the following roles and functions:

- a) a ceremonial role; and
- b) a procedural role,

set out in more detail below.

The Mayor's and Deputy Mayor's ceremonial responsibilities are:

- a) to represent the whole Borough during their term of office;
- b) to promote public involvement in the Council's activities;
- c) as the first citizen of the Borough of Great Yarmouth, to perform an ambassadorial role both inside and outside the Borough;
- d) to attend such civic and ceremonial functions as the Council or they determine appropriate;
- e) to promote the Borough of Great Yarmouth in a positive manner; and
- f) to act as a link between the Council and various groups and organisations.

The Mayor's and Deputy Mayor's procedural responsibilities are:

- a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution, when necessary;
- b) to preside over meetings of the Council so that its business can be carried out efficiently, paying due regard to the rights of Members and the interests of the community;
- c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community; and
- d) to be the conscience of the Council (moral sense of right and wrong).

## Article 8 – The Executive

### 8.1 The Cabinet

The Council operates an Executive form of governance. This means that full Council appoints an Executive Leader (**Leader**). The statutory framework governing executive arrangements in local authorities permits the Leader to appoint between two and nine other Members who, together with the Leader, form the Cabinet.

The Cabinet is the part of the Council that is responsible for most day-to-day decisions and carries out all of the Council's functions that are not the responsibility of any other part of the Council, whether by law or under this Constitution.

When major decisions are to be discussed or made, these are published in the Cabinet Notice (Forward Plan) in so far as they can be anticipated. If these major decisions are to be discussed with Officers at a meeting of the Cabinet, this will generally be open for the public to attend except where exempt or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and Budget. If it wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to full Council to decide.

### 8.2 Terms of Reference

Except where the law otherwise provides, it is at the Leader's discretion to determine how decision-making in relation to Executive functions will be exercised.

The Leader may discharge any Executive functions personally or may arrange for the discharge of those functions by the Cabinet as a whole, by one or more other Cabinet members (who then become known as 'Portfolio Holders' for their designated remit), by a Committee of the Cabinet, by an Officer, or jointly with other bodies. In particular, the Leader may:

- a) allocate areas of responsibility to those Members or bodies;
- b) arrange for the discharge of Executive functions by themselves, the Cabinet collectively, Cabinet Committees, individual Cabinet Members or Officers; or
- c) determine the membership of Cabinet Committees.

As a general rule, matters of corporate policy and high-level strategic matters will be determined by the Cabinet collectively and operational service matters will be determined by the Chief Executive (or relevant Executive Director) in consultation with the Leader and/or relevant Cabinet Member (Portfolio Holder), where appropriate. Where there is doubt, the Chief Executive will decide.

The Cabinet undertakes all Executive functions (except those delegated under arrangements described in Part 2), including:

- a) proposing plans and strategies to the Council to approve and adopt, including the overall Budget, the Policy Framework, changes to the Constitution and arrangements for the good governance of the Council;
- b) publishing in the Cabinet Notice (Forward Plan) all decisions by Cabinet and Key Decisions to be made by Officers;

- c) establishing Committees to discharge specific Executive functions, or establishing working groups or panels to review or advise on specific issues;
- d) representing the Council locally, nationally and internationally;
- e) attending meetings of the Scrutiny Committee as and when required to do so;
- f) agreeing (where required in accordance with policy) the acquisition and disposal of property and the management of the Council's land holdings (other than Housing Land Transfers);
- g) undertaking decisions in respect of the Council acting in its capacity as shareholder or member of Council owned companies;
- h) exercising the powers and duties of the Council in respect of its statutory functions (apart from those reserved to full Council);
- i) discharging the functions of the Council acting in its capacity as the waste collection authority;
- j) agreeing protocols for consultation and relations with Outside Bodies;
- k) exercising the Executive's Local Choice functions listed in Part 2;
- l) establishing appropriate arrangements for the delivery of cross-cutting/cross departmental functions; and
- m) receiving reports and recommendations from the Scrutiny Committee and Select Committees.

### **8.3 Cabinet Notice (Forward Plan)**

There is a statutory requirement to publish the intention to take any Key Decision at least 28 clear days in advance of it being taken, except in cases of general exception or special urgency.

There is also a requirement to publish at least 28 clear days in advance if any meeting, or part thereof, is likely to involve the consideration in private of a Key Decision or any other Executive decision even if not a Key Decision. Both these requirements are achieved through the Forward Plan (otherwise described as the Cabinet Notice). The detail which must be included in the Cabinet Notice, as prescribed by legislation, is set out in Article 30.10.

To enable effective pre-decision scrutiny and ensure decisions are not delayed unnecessarily by the pre-decision scrutiny process, the time periods and process for pre-decision scrutiny set out below must be followed for all Key Decisions (subject to any application of the general exception or where an urgent decision is required – see below).

In addition to enabling the pre-decision process, the Cabinet Notice enables Members, members of the public, and the Scrutiny Committee to consider which items they wish to examine and consider in good time before they are determined.

The Cabinet Notice is updated and published as a minimum monthly and covers all decisions proposed to be made by the Cabinet and Key Decisions made by Officers acting under delegated authority. However, not all decisions will be known in advance and so notice of all decisions may

not be included on the Cabinet Notice, therefore the Cabinet Notice will be updated accordingly, as soon as such decisions become known. All notice must comply with the Access to Information Rules.

## 8.4 Key Decisions

Key Decisions are decisions made by the Executive that meet the definition of 'Key Decision' set out below. Non-Executive decisions (i.e., those made by a non-Executive decision-making body such as the Development Management Committee or full Council) are not, by law, regarded as Key Decisions.

A 'Key Decision' means an Executive decision that is likely to:

- a) result in the Council incurring expenditure or making savings of £250k or more (calculated on a whole life basis);
- or**
- b) be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.

A decision maker may only take a Key Decision in accordance with the requirements of the Council's Rules of Procedure (see Part 3) and the Access to Information Rules (see Part 4).

Expenditure on a whole life basis means considering all costs associated with the proposed decision across the entire period the Council will potentially be liable for such expenditure. For example, in the context of a contractual commitment this may include the price, running costs, maintenance, consumables, spares and disposal costs, and any optional extension periods should be factored in to the calculation.

If a decision will result in the Council incurring expenditure or making a saving above the relevant financial threshold (contained in part a) of the above definition) then that decision will be classed as a 'Key Decision' and it is not necessary for the decision maker to go on to consider whether the decision is 'significant'.

In considering whether a decision is likely to be 'significant', the decision-maker should first consider the potential impacts and whether this will affect two or more Wards within the Borough. If the decision will impact on/effect two or more Wards within the Borough, the question will then arise as to whether this impact/effect is significant.

It will be a judgement call as to what may be significant, but the assessment is not only looking at what might be a detrimental impact but also whether it could have a positive impact – either could be significant in this context – and render the decision a Key Decision as a result.

A significant impact on one Ward will not fall within the definition of Key Decision (unless it meets the financial threshold). However, it should be acknowledged that certain decisions which directly relate to only one Ward, e.g., decisions regarding the physical location of a new development, may have an impact on adjoining Wards and could, therefore, be categorised as Key Decisions.

The following should be considered relevant in deciding the significance of an Executive decision (this list is non-exhaustive):

- a) the effect on businesses and communities;

- b) the expectation of the public and Members as to whether the decision should be taken by the Cabinet;
- c) the anticipated interest(s) of the public and of Members;
- d) the effect on other Council services and functions;
- e) the effect on social, economic, and environmental factors; and
- f) whether the decision will have an impact on those with protected characteristics (age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity).

All Key Decisions proposed to be taken by the Cabinet shall be subject to pre-decision scrutiny by the Scrutiny Committee unless the Scrutiny Committee has previously agreed that the decision does not need to be considered. The pre-decision scrutiny procedure is set out in Part 2.

Where a Cabinet decision has been made and:

- a) was not treated as being a Key Decision; and
- b) the Scrutiny Committee is of the opinion that the decision should have been treated as a Key Decision,

the Scrutiny Committee may require Cabinet to report to full Council within such reasonable period as the Committee may specify, including within that report details of the:

- a) decision and the reasons for the decision; and
- b) reasons Cabinet is of the opinion that the decision was not a Key Decision.

## **8.5 General Exception Decisions and Urgent Decisions**

Sometimes it is impracticable to include the intention to make a Key Decision on the Cabinet Notice (Forward Plan), but there is still time to give advance public notice. Such a decision may still be made in accordance with the general exception procedure. The general exception procedure applies if the following three conditions are fulfilled:

- a) the Monitoring Officer must inform (by written notice) the Chair of the Scrutiny Committee, or if there is no such person, each member of that Committee, of the matter about which the decision is to be made;
- b) a copy of such notice must be placed on the website and made available for public inspection at Town Hall; and
- c) five clear days must have elapsed, not counting the day upon which the copy notice was given.

As soon as practicable, the Monitoring Officer will make available a notice setting out the reasons why it was impracticable for notice of the intended decision to appear in the Cabinet Notice and to publish that notice on the website.

Sometimes even reduced public notice cannot be given and decisions need to be made urgently outside the usual process, i.e., reducing the pre-decision notification time. Urgency in these cases is defined as cases where the Council will be significantly disadvantaged by a delay or must respond urgently to external risks. Where these provisions are used, clear explanations and reasons to fully justify why it was necessary to treat the decision as urgent must be made in the written reports recording and explaining the decision.

In accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, if less than five clear days' notice of a Key Decision has to be given, or if an item has not appeared in the Cabinet Notice (Forward Plan) and a decision needs to be taken before the next edition of the Cabinet Notice is published, then the agreement of the Chair of the Scrutiny Committee (or, in their absence, the Deputy Chair or, in their absence, the Mayor or, in their absence, the Deputy Mayor) that the making of the decision is urgent and cannot reasonably be deferred must be obtained in writing before the decision can be made. The views of the Chair of the Scrutiny Committee (Mayor or Deputy Mayor, as the case may be) must be included in the relevant report alongside the explanation as to why the matter is urgent, why it cannot await the next edition of the Cabinet Notice, and why it missed the last edition of the Cabinet Notice.

In either case, the Chair of Scrutiny Committee must report on such consultations/agreements at the next meeting of the Scrutiny Committee.

Following the taking of an urgent decision, the Leader will provide a full report to the next available Council meeting.

## **8.6 Cabinet Proceedings**

Proceedings of the Cabinet take place in accordance with the Council's Rules of Procedure set out in Part 3.

Cabinet meetings are held at a time and place determined by the Cabinet. Cabinet meetings are held in public unless the law requires otherwise, or where lawfully allowed to hold a meeting (or part of a meeting) in private.

Cabinet meeting agendas are determined by the Leader, in consultation with relevant Chief Officers (which includes the Head of Paid Service, Executive Directors, the Monitoring Officer, and the Chief Finance Officer). Items will only be placed on the agenda if they have appeared on the Cabinet Notice (Forward Plan) unless, in exceptional circumstances, the general exception or special urgency provisions apply.

If the Cabinet comprises between six and ten Members, including the Leader, the quorum for Cabinet meetings shall be four voting Members. If the Cabinet comprises fewer than six Members, including the Leader, the quorum for Cabinet meetings shall be three voting Members. Voting is by a show of hands. A simple majority prevails and in the event of a tied vote the Chair may exercise a second or casting vote.

Members of the public have the right to ask questions at each ordinary Cabinet meeting.

Members of the Council may ask questions about Budget and policy at a strategic level and will be given an opportunity to speak on each item before the vote is taken.

## 8.7 Leader

The Leader of the Executive (the Leader) is a Member elected at the first Annual Meeting of the full Council after election and holds office until the day of the Annual Meeting of the full Council after their next election unless, at an earlier date:

- a) they resign from office;
- b) they are disqualified from office;
- c) the expiry of their fixed term, i.e., the date of the post-election Annual Meeting that follows four years after their election as Leader; or
- d) they are removed from office by full Council resolution.

If the Council passes a resolution to remove the Leader, a new Leader is elected either at the meeting at which the Leader is removed from office or at a subsequent meeting.

If a vacancy in the office of Leader arises for the reasons set out at a) or b) above, a new Leader shall be elected at the next scheduled meeting of full Council or at an Extraordinary Meeting of the Council.

The Leader, or when absent, the Deputy Leader, will Chair Cabinet meetings. Otherwise, members present will elect a chair for that meeting.

## 8.8 Deputy Leader

The Leader must appoint at least one of the Cabinet Members as Deputy Leader<sup>6</sup>, who holds office until the end of the Leader's term of office, unless at an earlier date they:

- a) resign as Deputy Leader;
- b) they are disqualified from office;
- c) cease to be a Member; or
- d) are removed from office by the Leader.

Where a vacancy occurs, the Leader must appoint another Deputy Leader.

In the absence of the Leader, the Deputy Leader exercises the Leader's powers in respect of portfolio responsibilities, but not the functions conferred by statute solely on the Leader, such as appointing or removing Cabinet Members.

When the Leader ceases to be Leader, the Deputy Leader reverts to being an ordinary member of Cabinet, rather than stepping up for the interregnum before a new Leader is elected by full Council.

If, for any reason, both the Leader and Deputy Leader are unable to act, or both offices become vacant, the Cabinet must act in the Leader's place or arrange for another Cabinet Member to act in their place until the Mayor can call a meeting of full Council to elect a new Leader.

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<sup>6</sup> Sch.3 para.8 Local Government and Public Involvement in Health Act 2007

## 8.9 Other Cabinet Members

Cabinet Members shall be appointed by the Leader from among the Members. Cabinet Members shall hold office until the commencement of the next following Annual Meeting of the full Council unless or until:

- a) they resign from office;
- b) they are disqualified from office;
- c) they are no longer a Member; or
- d) the expiry date of their term of office (i.e., at the date of the Annual Meeting of the full Council in any year) save that the Leader may remove a Cabinet Member from office at an earlier date.

No substitution arrangements will apply to the Cabinet, and neither the Mayor nor Deputy Mayor may be appointed to the Cabinet.

## 8.10 Role of Cabinet Members (Portfolio Holders)

Cabinet Members will undertake the following roles which are in addition to the general role of Member set out in this Constitution:

- a) promote the objectives and values of the Council;
- b) ensure that new policies are developed and presented to the Cabinet within the overall strategic approach of the council after full consultation with external stakeholders, (where appropriate), the Scrutiny Committee and fellow Cabinet Members;
- c) liaise with the Executive Leadership Team on the need to develop policy issues and the timing thereof;
- d) contribute to the effective decision making of the Cabinet;
- e) act as a public spokesperson for the Council within agreed parameters, the portfolio area of responsibility, and in accordance with the Code of Recommended Practice on Local Authority Publicity;
- f) assist in promoting reports produced by Officers to the Cabinet and to attend Scrutiny Committee, as required, to answer questions from Members and the public, to report and comment on items which concern the relevant Cabinet Member or when an item is called-in;
- g) serve on Working Groups and best value service review panels when areas within the Cabinet Member's remit are under review;
- h) respond on behalf of the Council to relevant consultation documents after consulting with Scrutiny Committee wherever appropriate;
- i) aid the Council in pursuing its defined community leadership role; and
- j) respond to recommendations from the Scrutiny Committee.

## 8.11 Cabinet Portfolios

Cabinet portfolio holders and their areas of responsibility shall be decided by the Leader.

## **Article 9 – Budget and Policy Framework Rules**

### **9.1 Policy Framework**

The Council has a list of plans and strategies that are relevant to its functions, known as a Policy Framework. This is required by law to be decided by full Council, usually on the recommendation of the Cabinet. The Policy Framework includes:

- a) Local Plans, Neighbourhood Plans and other Development Plan documents;
- b) Corporate Plan;
- c) Housing Investment Plan and HRA Business Plan;
- d) Financial Strategy, Plans and Policies;
- e) Asset Management Strategy;
- f) Economic Growth Strategy;
- g) Housing Strategy;
- h) Setting Tax base and discounts;
- i) Capital Programme;
- j) Treasury Management Policy Statement;
- k) Food Enforcement Service Plan;
- l) Licensing Policy;
- m) Gambling Policy;
- n) Fees and Charges Policy;

### **9.2 Budget**

The Budget is the identification and allocation of financial resources by full Council, including:

- a) the allocation of financial resources to different services and projects;
- b) proposed contingency funds;
- c) setting the Council Tax;
- d) control of the Council's capital expenditure;
- e) control of the Council's borrowing requirement;
- f) setting virement limits;
- g) treasury management;

- h) agreement of the capital programme and the Medium-Term Financial Strategy; and
- i) any limitations to, conditions on, or rules governing the management of budgets, virement between budgets, treatment of underspends, windfall income or reserves contained within the Financial Regulations.

### **9.3 Housing Land Transfer**

Housing Land Transfer means:

- a) the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993; or
- b) the disposal of land used for residential purposes where approval is required under sections 32, 43 and 106A and Schedule 3A of the Housing Act 1985.

### **9.4 Process for Developing the Policy Framework**

The Cabinet will publicise, by including in the Cabinet Notice (Forward Plan) and any other appropriate means, a timetable for making proposals to full Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework and any arrangements for consultation after publication of those initial proposals.

At least every five years a draft Corporate Plan will be prepared, setting out the overall strategic direction of the Council including its vision, priorities, and values. The plan guides everything the Council will do for the Borough, its citizens, and visitors for the period. It therefore acts as the overarching Policy Framework of the Council.

The draft Corporate Plan is drawn up in line with the Council's Medium-Term Financial Strategy and in parallel with the development of the draft Budget for the period to ensure the necessary resources are in place for its delivery.

The draft Corporate Plan will be subject to discussion with the Scrutiny Committee, before being submitted, along with the comments and recommendations of the Scrutiny Committee, to Cabinet for consideration. Cabinet will then present the draft Corporate Plan to full Council for approval, along with the draft Budget for the coming year.

The draft Corporate Plan is underpinned by an Annual Action Plan, which is drawn up on a yearly basis and sets out in more detail how the Council's vision and priorities will be delivered. The Annual Action Plan contains more specific targets and actions that will come together to deliver the Corporate Plan.

Progress against targets is monitored and reviewed regularly through the Council's performance management framework. Progress on delivering the Annual Action Plan is formally reported every six months to the Executive Leadership Team and Cabinet, and annually to the full Council and Scrutiny Committee. It is through the review of the Annual Action Plan that delivery of the Corporate Plan is monitored. The Council also publishes an overall performance review as part of its statement of the accounts.

The Corporate Plan links closely to the Council's risk management strategy and corporate risk register. The Council has a comprehensive approach to risk management which ensures that all strategic risks are appropriately identified, managed, and mitigated against.

## 9.5 Consideration by Cabinet/Council

In time for the annual Budget meeting of the financial year, the Cabinet will receive:

- a) the draft Corporate Plan together with the views of the Scrutiny Committee; and
- b) a report from the Chief Finance Officer setting out a statement of the likely:
  - i) Budget out-turn for the year;
  - ii) a forecast of the Budget requirement and resources for the forthcoming year; and
  - iii) any recommendations with regard to the management of the Council's financial affairs.

The Cabinet will undertake the statutory consultation on the Budget with the business community, together with such other consultation as they see fit.

The Cabinet may make recommendations to Council about the Council's resources and expenditure, and recommend measures to be taken to ensure a balanced Budget in the forthcoming year, or may leave it to the Council to determine on the basis of the report from the Chief Finance Officer.

The Cabinet will, if necessary, amend the draft Corporate Plan, which will form the Council's overarching Policy Framework.

The Council will consider the draft Policy Framework and may adopt, amend, add to, or refer all or part back to the Cabinet for further consideration, or indicate that it wishes to substitute its own proposals in their place.

If it accepts the recommendation of the Cabinet without amendment or is formally setting the Budget or Council Tax levels for a financial year, full Council may make a decision that has immediate effect. Otherwise, it may only make an in-principle decision.

An in-principle decision in relation to the Budget, Plan or strategy will automatically become effective after the expiry of five working days beginning on the day after the date when the Leader is informed of full Council's objections unless, within that five day working period, the Leader informs the Monitoring Officer in writing that they object to the decision becoming effective and provides reasons why. The Leader may also decide to call a special meeting of the Cabinet to discuss the issue.

Upon receiving written notification from the Leader, the Monitoring Officer will arrange to call a full Council meeting within a further seven working days. Full Council will reconsider its decision and the Leader's written submissions and may:

- a) approve the Cabinet recommendation; or
- b) approve a different decision that does not accord with the recommendations of the Cabinet.

The decision shall then be made public and implemented immediately.

## **9.6 Decisions Outside the Budget and Policy Framework**

Cabinet functions are undertaken either by the Cabinet acting collectively or are delegated to Officers. Subject to the virement and the urgency provisions below, the Leader, Cabinet or those acting under delegated arrangements may only take decisions that are in line with the Budget and Policy Framework.

The Cabinet will meet to take decisions collectively on the basis of reports and recommendations prepared by Officers who will ensure that the Monitoring Officer and Chief Finance Officer are consulted, as required. The Monitoring Officer and Chief Finance Officer will advise the Chief Executive and subsequently the Cabinet of any matter which appears to be contrary to or not in accordance with the Budget and Policy Framework.

If the Leader, Cabinet, or those acting under delegated arrangements wish to make a decision that is contrary to the Budget or Policy Framework, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer. If the advice of either of those Officers is that the decision would not be in line with the Budget and/or Policy Framework then, unless any of the exceptions set out below apply, the decision must be referred to full Council.

Decisions relating to Executive functions can only be undertaken within the approved Budget and Policy Framework unless:

- a) the Cabinet is approving annual plans or strategies which operate to a different cycle and timescale and are being updated and submitted following consultation;
- b) immediate action is needed to comply with the law, ministerial or equivalent direction, or government guidance; or
- c) action is needed urgently and the Chair of Scrutiny Committee agrees and also agrees that it is not practicable to convene a quorate meeting of the Council.

## **9.7 Urgent Decisions Outside the Budget or Policy Framework**

The Leader, Cabinet or those acting under delegated arrangements may take an urgent decision that is contrary to the Budget or Policy Framework if:

- a) it is not practical to convene a quorate meeting of the full Council; and
- b) the Chair of Scrutiny Committee has given a written statement agreeing that the decision needs to be made as a matter of urgency.

The record of the urgent decision must include:

- a) the reasons why it is not practical to convene a quorate meeting of full Council; and
- b) the Chair of Scrutiny Committee's consent to the decision being taken as a matter of urgency.

In the absence of the Chair of Scrutiny Committee, the consent of the Deputy Chair of Scrutiny Committee, or in their absence, the Mayor, or in their absence, the Mayor, should be obtained. If the Mayor is also absent, such consent should be obtained from the Deputy Mayor of the Council. The decision cannot otherwise be taken, and delay will result until full Council makes the determination.

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

If any Member is concerned that an employee has taken, or proposes to take, a decision or action contrary to the Budget and Policy Framework, the matter must be referred in the first instance to the Chief Executive to deal with as a matter of management and discipline. If the Member's concern persists, the matter should be referred to the Chair of Scrutiny Committee to discuss with the Chief Executive and, if necessary, the Monitoring Officer.

## **9.8 Virement**

Detailed provisions concerning virement across budget heads are set out in the Council's Financial Regulations (see Part 4).

## **9.9 In-year changes to the Policy Framework**

No changes to any policy or strategy which make up the Policy Framework may be made by the Leader, Cabinet, or those acting under delegated authority, except changes which:

- a) will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; or
- b) are necessary to ensure compliance with the law, ministerial direction, or government guidance; or
- c) in respect of a policy that would normally be agreed annually by full Council following consultation, the existing policy document is silent on the matter under consideration.

A plan or strategy within the Policy Framework may be amended by the relevant Executive Director where it is considered, in the opinion of the Monitoring Officer and the Chief Executive (after consultation with the Leader and relevant Cabinet Member), not to be contrary to the principles of the Plan or strategy and can be contained within the approved Budget. Such an amendment does not require the approval of full Council.

## **Article 10 – Terms of Reference of Committees and Boards**

### **10.1 Appointment of Committees/Terms of Office**

Legislation excludes specific issues from being Executive decisions, including the Council's overall Budget and Policy Framework, quasi-judicial matters (such as planning and licensing applications) and issues related to staffing, audit, and standards. The Council has established the following Regulatory Committees and panels to deal with these areas:

- a) Audit, Risk and Standards Committee;
- b) Standards Sub-Committee;
- c) Licensing Committee;
- d) Licensing Sub-Committee;
- e) Employment Committee;
- f) Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee;
- g) Employment (Chief Officers) Appeals Sub-Committee;
- h) Development Management Committee; and
- i) Scrutiny Committee.

Full Council determines the number of Committees and their terms of reference, full Council also allocates the number of places on each Committee to each political group. The political groups then nominate the Members to serve on Committees or Sub-Committees.

The quorum for a meeting of a Committee or Sub-Committee is one third of the whole number of members of that body, with the exceptions of:

- a) Cabinet, which requires four voting members unless the Cabinet comprises fewer than six Members, including the Leader, in which case the quorum shall be three voting members;
- b) Audit, Risk and Standards Committee which requires four voting members to be present to be quorate; and
- c) Standards Sub-Committee and Licensing Sub-Committee which each require three voting members to be present to be quorate.

Members, once confirmed as members of a Committee or Sub-Committee, continue to hold office until they:

- a) resign;
- b) are disqualified from office;
- c) cease to be Members (unless re-elected for a further term); or
- d) are removed from membership by the Council or their political group.

Once established, Committees continue in office until the Council either:

- a) appoints a successor Committee; or
- b) resolves the Committee ceases.

## **10.2 Regulatory Committees acting as Tribunals**

Where a Regulatory Committee, or an Officer exercising delegated powers, is acting as a tribunal, or in a quasi-judicial manner, or is determining/considering the civil rights or obligations or the criminal responsibility of any person, then a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights will be followed.

## **10.3 Access to Information**

The Access to Information Rules apply to Regulatory Committees, save as may be varied by the provisions of the Licensing Act 2003 and the Gambling Act 2005.

## **10.4 Revenue Expenditure**

Each Committee shall monitor performance against approved estimates of revenue expenditure and income for services falling within its remit and monitor service performance against agreed targets.

## **Article 11 – Select Committees**

### **11.1 Roles of Select Committees**

From time to time the Council, Cabinet or Scrutiny Committee may appoint Select Committees or Working Parties. Select Committees can also review and make recommendations in relation to matters which are not the direct responsibility of the Council but affect the economic, environmental or social wellbeing of the area.

### **11.2 Establishment of Select Committees**

All requests to set up Sub-Committees, Select Committees, Member-led groups or panels, shall be assessed by the Executive Directors and the resource implications of supporting its work be reported back to Council, Cabinet, or Scrutiny Committee, as appropriate, to decide whether to proceed with the request.

## **Article 12 – Audit, Risk and Standards Committee**

### **12.1 Membership**

Membership of the Audit, Risk and Standards Committee shall comprise seven Members appointed by the full Council under the Political Balance Rule.

### **12.2 Terms of Reference for the Audit, Risk and Standards Committee**

The purpose of the Audit, Risk and Standards Committee is to monitor governance, risk management and internal control, to ensure these are efficient and effective. This is achieved through key items considered by the Committee in relation to internal audit, external audit, key finance items, governance reviews, and risk management reporting.

Within the policies laid down by the Council and within the Corporate Plan, the Audit Risk and Standards Committee shall exercise the following powers of the Council:

1. to consider and approve annually the Internal Audit Strategic and Annual Plans, and to monitor subsequent performance against these plans;
2. to consider a report from internal audit on management progress made in the implementation of agreed recommendations;
3. to consider and approve the Head of Internal Audit's annual report and opinion, and summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance, risk management and control arrangements;
4. to satisfy itself that the system of internal control has operated effectively throughout the year;
5. to consider and approve the appointment of the External Auditor;
6. to consider the audit plans of the External Audit Auditor and the subsequent reports and letters, including the Annual Letters and reports;
7. to comment on the scope and depth of Internal and External Audit work in addressing the Council's significant risks and reviewing the Council's programme and processes for achieving value for money;
8. to review and approve the Annual Statement of Accounts and the Annual Governance Statement, specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council;
9. to monitor the effective development and operation of Risk Management in the Council through considering the Risk Management Framework and the Corporate Risk Register;
10. monitoring Council policies on whistle-blowing, the anti-fraud and corruption strategy, and the Council's complaints process;
11. to consider the extent of the Council's compliance with its own and other published financial standards and controls;

12. to commission ad-hoc work from Internal and External Audit;
13. to review any issue referred to it by the Cabinet, Chief Executive, an Executive Director, or any Council body;
14. to hold annual private discussions with the Head of Internal Audit and the External Auditor to review working relationships with auditees, etc;
15. to assess the Committee's own effectiveness on an annual basis;
16. to oversee the handling of complaints and Ombudsman investigations;
17. to act as a point of strategic leadership and support regarding Business Continuity and receive recommendations and assessments from the Business Continuity Workgroup;
18. jointly with the Standards Sub-Committee, to maintain an overview of the Council's constitution, in particular with respect to the risk management and financial control environment; and
19. to promotion and maintain high standards of conduct within the Council.

### **12.3 Referral powers**

The Audit, Risk and Standards Committee shall make recommendations for due consideration on all matters described in Article 12.2.

All such recommendations shall be made to the Cabinet and Chief Finance Officer

### **12.4 Accountability arrangements**

To ensure the Audit, Risk and Standards Committee remains accountable, it shall:

1. report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and Internal and External Audit functions; and
2. report to full Council on the Committee's performance in relation to the terms of reference and effectiveness of the Committee in meeting its purpose.

### **12.5 Standards Sub-Committee**

The Council will establish a Standards Sub-Committee as a Sub-Committee of the Audit, Risk and Standards Committee. The Standards Sub-Committee shall comprise three Members of the Audit, Risk and Standards Committee.

An Independent Person is appointed by the full Council to act as an impartial adviser on Members' Code of Conduct complaints (see Part 4).

The Standards Sub-Committee shall make decisions where decisions fall outside of the scheme of delegation in respect of the following:

1. promoting and maintaining high standards of conduct by Members and co-opted members;

2. assisting Members and co-opted members of the Council to observe the Members' Code of Conduct;
3. advising the Council on the adoption or revision of the Members' Code of Conduct;
4. monitoring the operation of the Members' Code of Conduct;
5. dealing with complaints of breaches of the Members' Code of Conduct in accordance with the Council's agreed policy arrangements set (including consideration of reports into alleged breaches of the Members' Code of Conduct);
6. the exercise of 1 to 5 above in relation to the Parish Councils in the Borough and the members of those Parish Councils;
7. deciding on matters referred to it by Cabinet;
8. deciding matters relating to conduct, ethics and propriety referred to it by the Monitoring Officer;
9. deciding on particular matters relating to Members' allowances referred to it;
10. deciding on particular matters relating to the Register of Members' Interests referred to it;
11. hearing and determining standards complaints made against Members and the Council's co-opted Members in accordance with the Council's policies (see Part 4); and
12. imposing such sanctions as it thinks fit in relation to matters found to be breaches of the Members' Code of Conduct.

## Article 13 – Licensing Committee

### 13.1 Membership

The Licensing Committee shall comprise 13 Members appointed by Council under the Political Balance Rule.

The Licensing Committee’s purpose is to develop and adopt policies in accordance with the Council’s strategies. The Licensing Committee shall perform the licensing, gambling, registration and public safety functions of Great Yarmouth Borough Council.

All Members of the Licensing Committee must undertake mandatory training to ensure they are suitably prepared to effectively discharge the role of Licensing Committee member.

The Licensing Committee may establish a Sub-Committee to discharge the Licensing Committee’s functions in relation to certain applications and determinations, as referenced in the tables below.

Decision making where decisions fall outside the scheme of delegation: delegation arrangements for the Council’s responsibilities under the Licensing Act 2003 and the Gambling Act 2005 are set out below.

Within the policies laid down by the Council and within the Corporate Plan, the Licensing Committee shall exercise the following powers of the Council:

### 13.2 Licensing Act 2003

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for personal licence		If a police objection made	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 licence/club registration Certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police representation	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police representation	All other cases
Application for Interim Authorities		If a police representation	All other cases

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Application to review premises licence/club premises Registration		All cases	
Decision on whether an objection or complaint is irrelevant, frivolous, vexatious, etc			All cases, initially with discretion to refer to Sub-Committee
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a police representation to a temporary event notices		All cases	
Application of special policy relating to cumulative impact	All cases		

**13.3 Town Police Clauses Act 1847 as extended by section 171 of the Public Health Act 1875 and section 15 of the Transport Act 1985, and the Local Government (Miscellaneous Provisions) Act 1976**

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Power to license hackney carriages and private hire vehicles.			Head of Environment and Sustainability
Power to license drivers of hackney carriages and private hire vehicles.			Head of Environment and Sustainability
Power to license operators of hackney carriages and private hire vehicles.			Head of Environment and Sustainability
Setting of hackney carriage fares.	X		
Designation and/or amendment of hackney carriage ranks.	X		
Review against any existing licence for vehicles, operators and drivers of hackney carriages and private hire vehicles.		All cases	
Refusal of any licence for vehicles, operators and drivers of hackney carriages and private hire vehicles.		All cases save for: (a) revocation or refusal to renew Hackney Carriage or Private Hire drivers licenses which the Head of service may	

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
		do in the interest of public safety; and/or  (b) where there is an objection which cannot be resolved to his proposal to grant or renew a licence; and/or  (c) where the Head of Service declines to exercise their delegated authority.	

### 13.4 Gambling Act 2005

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE/ SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy to permit casino	X		
Fee Setting - when appropriate			X (with Committee approval)
Application for a premises licence – new casino, if applicable	X	X (first stage)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Gambling Commission	Where no representations received from the Gambling Commission

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>LICENSING COMMITTEE/ SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

### 13.5 Delegation to Officers

The Head of Environment and Sustainability and anyone who has written authority from them to act can discharge any function allocated to the Licensing Committee in relation to matters within their terms of appointment, or which fall within their Service Plans, or within the service and responsibilities which are from time to time allocated to them except:

- a) where they are minded to:
  - i) refuse to grant a licence; or
  - ii) revoke a licence; or
  - iii) refuse to renew a licence (save for revocation of or refusal to renew Hackney Carriage or Private Hire drivers' licences which the Licensing and Elections Manager may do in the interest of public safety); and/or

- b) where there is an objection which cannot be resolved to their proposal to grant or renew a licence; and/or
- c) where the Head of Environment and Sustainability declines to exercise their delegated authority.

The Chair (or other person presiding at the meeting) shall determine (on the advice of Officers, if necessary) procedure and rules of debate at the meeting provided that in doing so they take into account the Council's Rules of Procedure (see Part 3), as appropriate.

### **13.6 Licensing Sub-Committee**

The Licensing Sub-Committee shall comprise five Members drawn from Members of the Licensing Committee.

The Sub-Committee's purpose is to discharge the Licensing Committee's functions in relation to certain applications and determinations, as referenced in the tables above.

## **Article 14 – Employment Committee**

### **14.1 Membership**

The Employment Committee shall comprise seven Members appointed by the Council under the Political Balance Rule including at least one Cabinet Member.

The terms and conditions of Officers are set nationally by the National Joint Council for Local Government Services (NJC) (known as the 'Green Book'). If the Council wishes to change terms and conditions this can be done following consultation with Officers and relevant unions.

Additionally, there are conditions of service handbooks for Chief Officers and Chief Executives set by the Joint Negotiating Committee (JNC). The Employment Committee and its Sub-Committees are concerned only with employment matters of Chief Officers.

Subject to these paragraphs concerning the Employment Committee and its Sub-Committees, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the Head of Paid Service or by an Officer nominated by the Head of Paid Service.

The Employment Committee shall be responsible only for:

1. subject to any approvals required by the full Council (see below and also the Employment Procedure Rules), the appointment of the Head of Paid Service, Statutory and Non-Statutory Chief Officers (all as defined in the Local Government and Housing Act 1989), this power includes the establishment of ad hoc Appointment Panels to carry out this function;
2. taking disciplinary action in respect of Non-Statutory Chief Officers of the Council in accordance with the procedure required by the Officer Employment Procedure Rules;
3. designating an Officer as Head of Paid Service (subject to approval by the full Council) and to allocate staff and resources to that Officer;
4. designating an Officer as the Monitoring Officer (subject to approval by the full Council) and to allocate staff and resources to that Officer;
5. making arrangements for the proper administration of the Council's financial affairs including recommending to the full Council the appointment of the Chief Finance Officer.

### **14.2 Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee**

The Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee shall comprise three Members of the Employment Committee including at least one Member of the Cabinet.

The Sub-Committee is responsible for taking investigative and disciplinary action in respect of the Head of Paid Service, the s151 Officer and the Monitoring Officer, following procedures in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (amending the Local Authorities (Standing Orders) (England) Regulations 2001 and read in conjunction with the Joint Negotiating Committee (**JNC**) for Chief Executives Handbook. The Sub-Committee has an important role in deciding whether any allegations against the Chief Executive

or other statutory Chief Officers meet a 'threshold test' which justifies further investigation, and then considering the report of an Independent Investigator.

### **14.3 Employment Appeals Sub-Committee**

The Employment Appeals Sub-Committee shall comprise no more than three Members of the Employment Committee. The Members of the Sub-Committee must not be members of the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee. The Sub-Committee must be politically balanced.

The Sub-Committee has a more limited role than the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee.

The Employment Appeals Sub-Committee's purpose is to hear appeals relating to staffing matters involving Statutory and Non-Statutory Chief Officers where such appeals are being made against disciplinary sanctions short of dismissal imposed by:

1. the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee (in the case of Statutory Chief Officers); and
2. the Executive Leadership Team (in the case of Non-Statutory Chief Officers),

and to take a decision either to: i) confirm the sanction; ii) impose no sanction; or iii) impose a lesser sanction.

When considering such appeals, the Sub-Committee will:

1. consider the report of any Independent Investigator and any other relevant information considered by the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee, or other party which has previously heard the case;
2. listen to the Officer state their case;
3. conduct any further investigation it considers necessary to reach a decision, which may involve directing any Independent Investigator to undertake further investigation and reporting; and
4. take a decision either to confirm the action or to impose no sanction or a lesser sanction,

and the decision of the Employment Appeals Sub-Committee will be final.

### **14.4 Independent Persons Panel**

Where the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee is considering the dismissal of a Statutory Chief Officer, an Independent Persons Panel (**Panel**) is to be established under the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) (**2001 Regulations**) to act in an advisory capacity.

For these purposes, a Statutory Chief Officer means the Head of Paid Service, the Chief Finance Officer and Monitoring Officer. The Panel is constituted as an advisory Committee under section 102(4) of the Local Government Act 1972 comprising solely of non-elected members.

The Panel shall consist of at least two Independent Persons falling within the definition of Independent Persons for the purposes of the section 28(7) of the Localism Act 2011. Such Independent Persons shall be appointed by the Council to carry out the function of the Panel referred to in the 2001 Regulations and advise the Council on matters relating to the dismissal of relevant Officers, including any recommendation from the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee to dismiss an Officer.

The Panel must be established no less than 20 working days before its report is submitted. A meeting of the Panel cannot proceed unless a minimum of two Independent Persons are present.

Following any disciplinary hearing the outcome of which is a proposal to dismiss, the Panel's views must be reflected specifically in a report to full Council setting out the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee's recommendations. The full Council shall have regard to the recommendations of the Panel in reaching its decision on the matter.

## **Article 15 – Development Management Committee**

### **15.1 Membership**

The Development Management Committee shall comprise 13 Members appointed by the Council under the Political Balance Rule. The Committee shall develop and adopt policies directions and orders (save for those which may have budgetary implications which shall be referred to Cabinet, or the adoption of Local Plans, Neighbourhood Plans and other Development Plan documents which are reserved to the Council) in accordance with the Council's strategies and perform all the planning and highway functions of the Council.

All Members of the Development Management Committee must undertake mandatory training to ensure they are suitably prepared to effectively discharge the role of Development Management Committee member.

### **15.2 Terms of Reference**

The Development Management Committee shall be responsible for decision making where decisions fall outside the scheme of delegation in respect of the following:

1. Building Control matters;
2. determination of planning applications;
3. the removal of permitted development rights through an Article 4 Direction;
4. functions of the Council relating to complaints regarding high hedges contained in part 8 of the Anti-Social Behaviour Act 2003; and
5. Assets of Community Value.

### **15.3 Delegation to Officers**

The Head of Planning and anyone who has written authority from them to act can discharge any function allocated to the Development Management Committee except:

- a) where the proposal is for the residential development of a site of one hectare or more, unless the proposal involves the development of 25 or less dwelling units; and/or
- b) where the proposal requires the submission of an environmental statement; and/or
- c) where the proposal involves the mining or working of minerals or relates to waste disposal; and/or
- d) where the Head of Planning declines to exercise their delegated authority; and/or
- e) where a review is requested in relation to an Asset of Community Value nomination, this will be carried out by the Executive Director with responsibility for Customer Services; and/or
- f) Connected Applications (as defined below); and/or
- g) where a decision proposed is contrary to the policy framework; and/or

- h) where at least one Member requests it to be considered at Development Management Committee, in writing, within 14 days of a planning application being validated, for proper planning reasons and with the written agreement of the Head of Planning and the Chair of the Development Management Committee

The Chair (or other person presiding at the meeting) shall determine (on the advice of Officers, if necessary) procedure and rules of debate at the meeting provided that in doing so they take into account the Council's Rules of Procedure, as appropriate.

#### **15.4 Connected Applications**

For the purposes of the above delegation, a Connected Application is a planning application which:

- a) is made by the Council or its wholly or partly owned companies;
- b) is made by an Officer or their immediate family;
- c) is made by a Member or their immediate family;
- d) relates to land owned by any of the persons listed in a) to c) above,

but excludes all applications made by any of the above in respect of consent for prohibited works to trees protected by a Tree Preservation Order (**TPO**) or when the submission is a notice of intent to undertake works to trees within a Conservation Area.

#### **15.5 TPOs and works to trees within Conservation Areas as Connected Applications**

When applications made by Connected Persons seek consent for prohibited works to trees protected by a TPO, or when the submission is a notice of intent to undertake works to trees within a Conservation Area, the Committee delegates authority to determine such applications to the Head of Planning provided that such applications shall only be approved if they are supported by the Council's Tree Officer.

## **Article 16 – Scrutiny Committee**

### **16.1 Membership**

The Scrutiny Committee consists of 13 Members. All Members except members of the Cabinet may be members of the Scrutiny Committee. However, no Member may be involved in scrutinising a decision with which they will be or have been directly involved.

In exceptional circumstances, the Scrutiny Committee shall be entitled to recommend to the Council the appointment of a co-optee where particular skills or knowledge are justified.

All Members of the Committee shall:

- a) participate in the work of the Scrutiny Committee in ways that contribute to the Council's corporate objectives;
- b) seek to strengthen the Council through non-partisan participation in the Scrutiny Committee; and
- c) undertake mandatory training to ensure they are suitably prepared to effectively discharge the scrutiny and review role.

The Chair of the Scrutiny Committee shall be appointed by the Council. Where one group has majority control of the Council, the Chair will be drawn from a Member of a minority group (which includes Members who are Independents) with the Vice-Chair of the Committee being drawn from any member of the Committee.

The Chair of the Committee will undertake the following roles:

- a) chair meetings of the Scrutiny Committee and promote the development and exercise of the scrutiny function according to the Council's Constitution;
- b) ensure that the work of the Scrutiny Committee contributes to the Council's corporate objectives;
- c) liaise with the Chief Executive and the Executive Directors to ensure that the workload of the Scrutiny Committee is managed effectively to enable it to carry out its role of:
  - i) reviewing the formulation of policy development; and
  - ii) advising the Cabinet of areas of potential improvements;
- d) liaise with Cabinet Members as appropriate;
- e) contribute to the training and development of Members engaged in the overview and scrutiny role;
- f) approve any report that the Committee may wish to submit to Cabinet; and
- g) be the spokesperson for the Committee within the terms of the Code of Recommended Practice on Local Authority Publicity.

## 16.2 Terms of Reference

In respect of Policy development and overview, the Scrutiny Committee may:

- a) assist the Council and the Cabinet in the development of the Budget and Policy Framework by in-depth analysis of policy issues;
- b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- d) question Cabinet Members and Chief Officers about their views on issues and proposals affecting the area;
- e) liaise with other organisations operating in the area, whether national, regional, or local, to ensure that the interests of local people are enhanced by collaborative working;
- f) hold enquiries and investigate the available options for future direction in policy development;
- g) appoint advisors and assessors to assist in the process;
- h) conduct site visits, carry out public surveys, hold public meetings, commission research and do all other things that are reasonably considered necessary to perform the deliberations; and
- i) invite witnesses to attend to address the Committee on any matter under consideration and pay any advisor, assessors and witnesses a reasonable fee and expenses for so doing.

## 16.3 Role of Scrutiny Committee

Scrutiny is a key democratic mechanism for holding public-service decision-makers and providers to account as well as facilitating the improvement of public services within the Borough. Effective scrutiny enhances accountability, ensures transparency of decision-making, contributes to service improvement, and acts as a 'check and balance' on decision-makers.

Scrutiny should be carried out in a proactive and constructive way and contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants, visitors, and businesses.

The Council has agreed that the scrutiny function should be exercised by the Scrutiny Committee. In summary, this Committee is required to maintain an overview of the discharge of the Council's Executive function and has the right to:

- a) scrutinise any Executive decision made by the Cabinet or by Officers (acting under delegated powers);
- b) scrutinise any Key Decisions the Cabinet or Officers (acting under delegated powers) are proposing to make (i.e., undertake pre-decision scrutiny); or

- c) review the Council's policy-making or decision-making processes.

The Scrutiny Committee also undertakes a key role in the overview and development of Council policy and discharges a number of functions to support and assist the Council with this, as set out below. The Cabinet and full Council may consult the Scrutiny Committee on all matters relating to policy development.

The Scrutiny Committee may undertake pre-decision scrutiny of any proposed Cabinet Key Decision. The Committee can also 'call-in' certain decisions that have been made by the Cabinet but which have not yet been implemented. This enables the Committee to consider whether the decisions taken (or to be taken) by Cabinet are appropriate. Pre-decision scrutiny ensures that the Committee's views are considered by Cabinet at the relevant meeting to inform its decision making. Following a decision being called-in the Scrutiny Committee may recommend that Cabinet reconsiders that decision. The Scrutiny Committee acts as a 'critical friend' to decision makers and, as part of this role, may be consulted by Cabinet or the Council on forthcoming decisions.

All Key Decisions proposed to be taken by the Cabinet or by Officers (acting under delegated powers) are subject to pre-decision scrutiny by the Scrutiny Committee unless the Scrutiny Committee has previously agreed that the decision does not need to be considered.

The Scrutiny Committee can also review any relevant matter after the event or ask a relevant Sub-Committee to do so.

Some decisions are not subject to review by the Scrutiny Committee, these are:

- a) decisions of the Development Management Committee on specific applications and cases where applicants have a right of appeal;
- b) decisions of the Licensing Committee on specific applications and cases where applicants have a right of appeal; and
- c) individual cases dealt with by the Standards Sub-Committee.

#### **16.4 Scope:**

In respect of Scrutiny, the Scrutiny Committee may:

- a) consider and either endorse or make recommendations on Key Decisions to be taken by the Leader, a Cabinet Member, the Cabinet or Officers;
- b) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions, ensuring they are made in accordance with the Constitution and policies laid down by the Council and within the Corporate Plan;
- c) review and scrutinise the decisions and performance of the Cabinet and Officers both in relation to individual decisions and over time;
- d) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- e) require Cabinet members and Officers to attend and answer questions about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- f) exercise the right to call-in, for reconsideration, decisions made by Cabinet or an Officer but not yet implemented;
- g) make reports and/or recommendations to the Council and/or Cabinet and/or joint committees in connection with the discharge of any functions;
- h) review and scrutinise the performance of other public bodies in the Borough by inviting reports and requesting them to address the Committee and local people about their activities and performance;
- i) question and gather evidence from any person (with their consent);
- j) consider requests from any elected or co-opted member for an item relevant to the functions of the Committee to be considered at the next available meeting;
- k) consider a Councillor Call for Action on matters relevant to the Committee; and
- l) perform scrutiny functions relating to crime and disorder and to scrutinise the Community Safety Partnership<sup>7</sup>.

## **16.5 Annual report**

The Scrutiny Committee will report annually to the Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

## **16.6 Proceedings of the Scrutiny Committee**

Meetings of the Scrutiny Committee shall be held in accordance with the approved timetable of meetings. Additional meetings may be called from time to time as and when appropriate, and in particular where such meetings may be required to undertake pre-decision scrutiny in order to fit in to the proposed decision-making timetable. Such additional meetings shall be convened by the Head of Legal & Governance, following consultation with the Chair of the Committee. The Chair of the Committee, any three members of the Committee, or the Monitoring Officer may convene a meeting if they consider it necessary or appropriate.

## **16.7 Work Programme**

The Scrutiny Committee will be responsible for setting its own work programme on the advice of the Chief Executive and the Executive Directors, and in doing so it shall take into account wishes of Members on the Committee who are not members of the largest political group on the Council.

## **16.8 Agenda Items**

Any member of the Scrutiny Committee may request that an item relevant to the functions of the Committee be included on the agenda of the next available meeting. On receipt of such a request, the Monitoring Officer will ensure that the request is included on the next available agenda, provided that it is received at least 10 clear working days prior to the date of the meeting.

Apart from the Chair, no Member of the Committee may place more than one item of business on the agenda for any one meeting.

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<sup>7</sup> s.19 Police and Justice Act 2006 and Crime and Disorder (Overview and Scrutiny) Regulations 2009

Any Member may request to the Monitoring Officer that an item relevant to the functions of the Committee be included on the agenda of the next available meeting. Whether such items will be included on the agenda of the next available meeting will be subject to the Committee's work programme.

The Chief Executive and the Monitoring Officer have delegated powers to place items on the agenda. The agenda for the meeting will give the name of the Member who asked for the item to be considered and that Member will be invited to attend the meeting when the item is to be considered.

### **16.9 Scrutiny Officer**

The Council may designate one of its Officers as Scrutiny Officer to undertake the following functions:

- a) to promote the role of the Scrutiny Committee;
- b) to provide support to the Scrutiny Committee and the Members of the Scrutiny Committee; and
- c) to provide support and guidance to all Members, including Cabinet Members, and Officers in relation to the functions of the Scrutiny Committee.

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

### **16.10 Pre-Decision Scrutiny**

All Key Decisions to be taken by the Leader, a Cabinet member, the Cabinet, or Officers shall be subject to the pre-decision scrutiny process unless the Scrutiny Committee has previously agreed that the decision does not need to be considered.

Pre-decision scrutiny provides the Scrutiny Committee and Members the opportunity to provide their views on proposed Key Decisions in advance of the decision being taken to assist and inform the Cabinet or relevant Officer in its decision-making process.

Pre-decision scrutiny does not replace decision-making. It is not intended to blur the lines of accountability, which will always rest with the Executive.

Pre-decision scrutiny is not the same as general service or policy development / formulation. Separate to pre-decision scrutiny there are occasions where scrutiny may already be involved at an earlier point in the development of policy or service proposals.

Decisions which have been the subject of pre-decision scrutiny by the Scrutiny Committee may still be called in – the pre-decision scrutiny process does not remove the right to call in any Key Decision made by Cabinet or an Officer.

The Scrutiny Committee shall make such arrangements as may be required to enable it to consider and discuss all proposed Key Decisions prior to the decisions being taken.

There is a presumption that a single meeting of the Committee will be sufficient to formulate views on the proposed Key Decision, although circumstances may permit more time and additional meetings of the Committee to be held to further consider the proposed decision.

Following the Committee's consideration of any proposed Key Decision, the views of the Committee shall be presented to the relevant decision maker (i.e., Cabinet or Officer) in advance of the decision being taken. The Committee's views will be presented by way of written report (in accordance with the timescales set out below) prior to the relevant Cabinet meeting, a copy of any written report submitted to Cabinet shall also be provided to the relevant Officer(s) within the same time frame.

Where the proposed Key Decision is one that will be made by Cabinet, the Chair (or in their absence, the Vice-Chair) of the Scrutiny Committee may attend the relevant Cabinet meeting to present the Committee's views verbally, in which case the relevant Officer(s) shall be invited to attend the relevant Cabinet meeting. The range of possible outcomes may include support for a decision, a different view on the way forward, the flagging up of concerns, or a view that the decision should be deferred pending further work.

Decisions which are subject to pre-decision scrutiny will not necessarily be changed or withdrawn, rather the process provides the opportunity for those decisions to be more informed.

### **16.11 The Pre-Decision Scrutiny Procedure**

The procedure for pre-decision scrutiny is as follows:

- a) subject to item p) below all Key Decisions shall be considered by the Scrutiny Committee in advance of the decision being taken;
- b) the Cabinet is required to produce and keep up to date a Cabinet Notice (Forward Plan) and timetable for Cabinet decisions (or those taken by individual decision makers with delegated authority) and intentions for consultation;
- c) all Key Decisions must be included on the Cabinet Notice (Forward Plan) a minimum of 28 clear days in advance of the decision being taken (subject to any application of the general exception or where an urgent decision must be taken);
- d) reports prepared in respect of all future Key Decisions must be forwarded to the Corporate Services Manager no later than seven days following publication of the relevant Cabinet Notice (Forward Plan) detailing the decisions to which the reports relate;
- e) the Corporate Services Manager shall forward all reports received in respect of Key Decisions to the Chair of the Scrutiny Committee within one working day of the report being received and consideration of the decision will be included as an item on the Scrutiny Committee's agenda;
- f) a meeting of the Scrutiny Committee to consider the Key Decision shall be convened no later than seven days following inclusion of the decision as an item on the Scrutiny Committee's agenda (pursuant to the above paragraph);
- g) it may be necessary to arrange additional meetings of the Scrutiny Committee to ensure workloads can be managed accordingly and to fit with the Council's decision-making timetables;
- h) the relevant Cabinet member and/or relevant Officer(s), as requested by the Scrutiny Committee, shall attend the relevant Committee meeting to present the report, provide clarity, and answer any questions posed by Scrutiny Committee members;

- i) Scrutiny Committee meetings undertaking pre-decision scrutiny will be open to the public (unless any exemptions apply or the meeting includes discussion of confidential information), and the Committee may invite stakeholder input to assist them in formulating a view on any proposed decision;
- j) no later than seven days following the Scrutiny Committee's consideration of any proposed Key Decision, the views of the Committee shall be presented by way of written minutes, of the relevant meeting to the relevant decision maker (i.e., Cabinet or Officer), a copy of any written minutes submitted to Cabinet (or a Cabinet member) shall also be provided to the relevant Officer(s) within the same time frame;
- k) where the proposed Key Decision is one that will be made by Cabinet, the Chair (or in their absence, the Vice-Chair) of the Scrutiny Committee may attend the relevant Cabinet meeting to present the Committee's views verbally, in which case the relevant Officer(s) shall be invited to attend the relevant Cabinet meeting;
- l) the range of possible outcomes of the Scrutiny Committee following the pre-decision scrutiny process may include:
  - i) support for a decision;
  - ii) a different view on the way forward;
  - iii) raising concerns in relation to the proposed decision; and/or
  - iv) a view that the decision should be deferred pending further work;
- m) the relevant decision maker will be required to provide feedback to the Scrutiny Committee, which shall include an explanation of any rejection of its views;
- n) the Scrutiny Committee's minutes detailing the Committee's views shall be appended to the report to be submitted to Cabinet and, where appropriate, the report should include a section referencing the outcome from the Scrutiny Committee meeting, demonstrating how the views of the Scrutiny Committee have been addressed;
- o) following consideration of the Scrutiny Committee's views on the Key Decision, the relevant decision maker (i.e., Cabinet or Officer) may choose not to take forward the Key Decision and (in the case of Cabinet) consider it at the relevant meeting;
- p) the Chair of the Scrutiny Committee may determine that a Key Decision shall not be subject to pre-decision scrutiny if:
  - i) Scrutiny Committee has already considered the matter;
  - ii) if pre-decision scrutiny would result in an urgent decision being delayed and such delay is likely to be detrimental to the Council; or
  - iii) there is a legal or constitutional reason why pre-decision scrutiny should not be undertaken.

## **16.12 Reports from Scrutiny Committee**

In addition to reporting on decisions which are subject to pre-decision scrutiny, the Committee may form recommendations on proposals for development of Council policy or decisions which are called in. Once it has formed such recommendations, the Scrutiny Committee will prepare a formal report and submit it to the Head of Legal & Governance for consideration by the Cabinet.

The Cabinet shall consider the report of Scrutiny Committee as soon as practicable after it has been submitted. If for any reason, the Cabinet does not consider the report within 8 weeks, then the matter will be referred to full Council for review and consideration at the next Ordinary meeting of the Council. In such cases, the Council shall consider the report and make a recommendation to Cabinet.

Aside from any reports submitted as part of the pre-decision scrutiny process, only one report per month may be submitted by the Scrutiny Committee to Cabinet unless Cabinet agrees to receive further reports.

The Scrutiny Committee will, in any event, have access to the Cabinet Notice (Forward Plan) and timetable for Cabinet decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Scrutiny Committee following consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any Key Decision.

## **16.13 Members and Officers Giving Account**

Within the scope of their terms of reference, the Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role it may require the Leader, any other member of the Cabinet, the Head of the Paid Service and/or Executive Directors and Heads of Services to attend before it to explain in relation to matters within their remit:

- a) any particular decision or series of decisions;
- b) the extent to which the actions taken implement Council policy;
- c) the impact of any decisions on the performance of a Council service,

and it is the duty of those persons to attend if so required.

Where any Member or Officer is required to attend the Scrutiny Committee under this provision, the Chair of the Committee will inform the Head of Paid Service the Executive Directors. The Executive Directors shall inform the Member or Officer in writing giving at least five clear working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to give account and whether any papers are required to be produced for the Committee.

Where the account to be given to Committee will require the production of a report, then a Member or Officer concerned will be given ten clear working days' notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Member is unable to attend on the required date, the Scrutiny Committee shall, in consultation with the Member, arrange an alternative date for attendance.

Where, in exceptional circumstances, an Officer is unable to attend on the required date, the Head of the Paid Service shall in consultation with the Scrutiny Committee arrange an alternative Officer or an alternative date for attendance.

### **16.14 Guide for People Attending Scrutiny Committee Meetings**

From time to time, the Scrutiny Committee may decide to ask people to assist in its work. Council employees, representatives of organisations and individuals can be asked to come to a meeting to give their views, share their expertise and answer questions. People outside the Council who are invited will be advised that, although taking part in scrutiny can be demanding, it is a vital part of local democracy and an important service to the community.

For anybody being asked to assist the Scrutiny Committee with its work the protocol set out in the paragraphs below will be followed.

- a) The Scrutiny Committee will identify the subject area to be considered and identify people who might assist with this work. The Committee will agree the issues to be explored with the people invited to assist.
- b) The Monitoring Officer will agree a set of questions with the Chair, Vice-Chair or other Member/s nominated by the Committee. The questions should be focused on matters of fact and/or explanation.
- c) The Monitoring Officer will send an invitation to people invited to attend giving as much notice as possible and no less than 14 days. The invitation will set out the purpose of the review, the areas the Committee would like to explore and, if applicable, the agreed list of questions.
- d) Everyone attending to assist Scrutiny Committee will be treated with courtesy and respect at all times. Every effort will be made to ensure that the items are heard at an agreed time.
- e) The Committee will follow the agreed questions that should be focused on matters of fact and/or explanation. Supplementary questions will be limited to points of clarification.
- f) When employees have been invited they will be asked only about matters of fact and will not be asked to express a personal opinion. Policy issues are matters for Members.

The letter of invitation and the Chair's introduction will make it clear to everyone attending to assist the Committee that they should tell the Chair if they are asked a question that they feel is unfair, that they are not the right person to answer it, that they would like more time to think about it and ask someone else's advice.

### **16.15 Confidentiality**

The Scrutiny Committee meets in public, unless there are very exceptional circumstances.

Therefore, there might be members of the public in the meeting, as well as journalists who can report anything that is said in public during a Committee meeting. The written reports and minutes are also public documents, which any member of the public is entitled to read.

If there is any reason why someone would like to give their views in private, or would want a written statement to be confidential, they should tell the Monitoring Officer when accepting the invitation.

### **16.16 After the Meeting**

Everyone who assisted the Committee will be sent a copy of the minutes of the meeting.

If the process ends in a report, which could go to the Cabinet or to the Council for a decision on further action, people who have assisted the Committee will be advised when the report is posted on the Council website and, if requested, provided with a paper copy.

### **16.17 Expenses**

The Council will reimburse reasonable expenses incurred by anyone invited to attend such as travel costs and, in some cases, child or other carer's costs. The Monitoring Officer will include details of expenses in the letter of invitation.

## Article 17 – Councillor Call for Action

### 17.1 Purpose

The Councillor Call for Action (**CCfA**) enables any Member to refer to the Scrutiny Committee any local government matter relevant to the Committee. It is intended to enhance the Council's scrutiny arrangements and provide a formal mechanism to enable Members to seek positive outcomes for the citizens they represent, provided all other means of resolution have been exhausted.

A Member can refer a matter even if no citizen has asked them to consider it.

A CCfA will be included on the Scrutiny Committee's agenda if the Chair is satisfied that:

- a) the Member has made all reasonable efforts to resolve the matter via liaison with Officers and/or relevant partner agencies; and
- b) the issue of concern relates to the discharge of a Council function (including where this is undertaken with partners and other service providers); and
- c) the issue of concern has a demonstrable impact on all or part of the Member's Ward; and
- d) the CCfA does not relate to:
  - i) individual complaints concerning personal grievances or commercial issues, for which the Council's complaints procedure should be followed;
  - ii) matters that have a statutory appeals process, e.g., planning and licensing;
  - iii) applications, Council Tax queries, housing benefits complaints, issues under dispute in a court of law, etc;
  - iv) matters where there is a statutory right of review or appeal (not including the right to complain to the Ombudsman), e.g., a matter relating to a housing benefit appeal;
  - v) matters that are vexatious, discriminatory or unreasonable;
  - vi) matters of wider Council policy, i.e., if an issue affects more than one Ward it may be appropriate to refer it to the Scrutiny Committee for consideration of its wider strategic or policy implications, rather than focusing on one particular Ward; and
  - vii) questioning Cabinet decisions that have been taken but not yet implemented, for which the Call-In procedure may be used.

Having considered a CCfA, the Scrutiny Committee may take one or more of the following actions:

- a) ask for further information to be brought to a future meeting;
- b) require the attendance of Cabinet Members or Senior Officers to attend a future meeting to answer questions;
- c) set up a Select Committee to undertake an in-depth review;

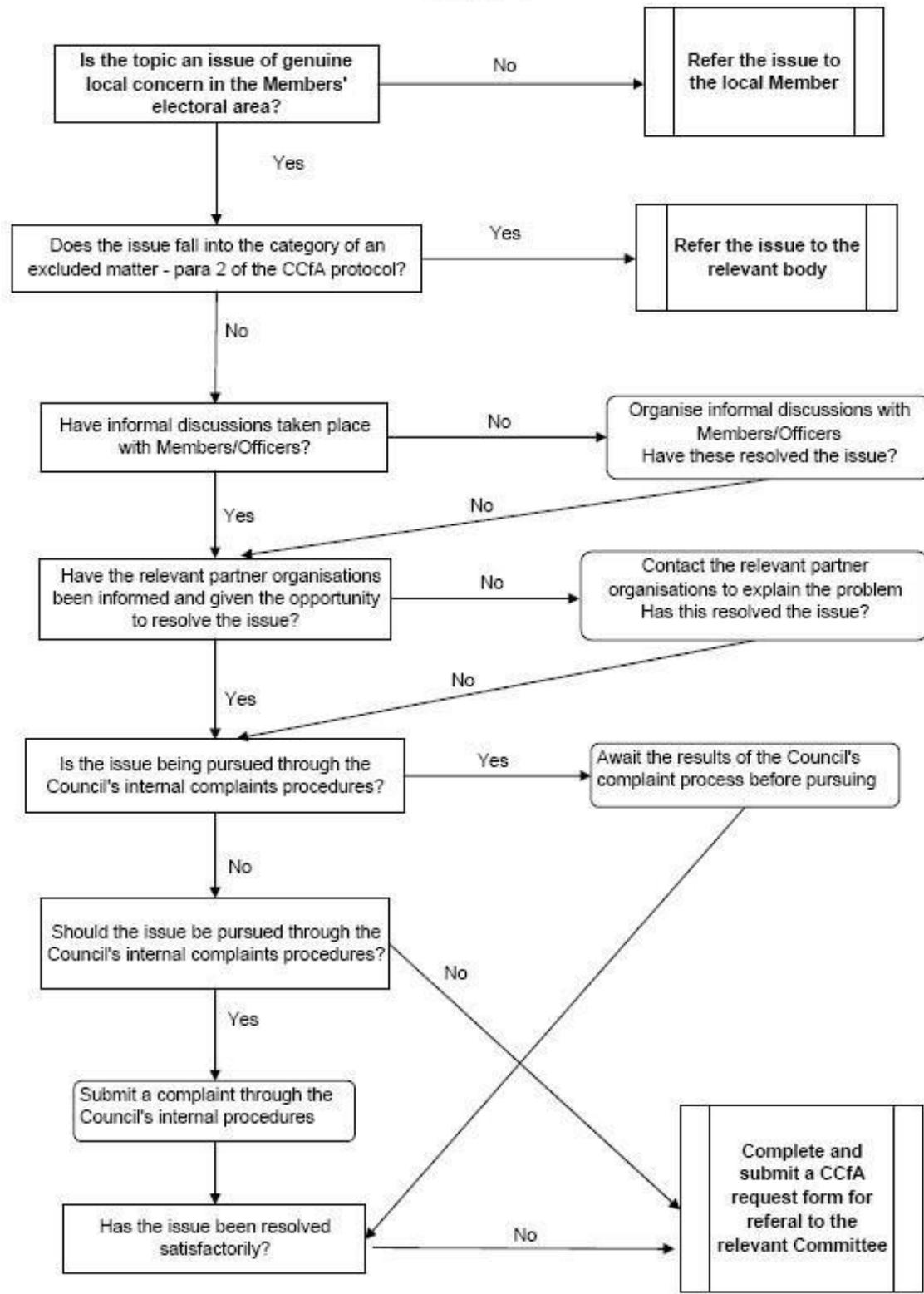
- d) make a report or recommendations to full Council, the Cabinet, or partner agency and:
  - i) publish that report;
  - ii) request full Council or Cabinet to consider and respond to the report, setting out what action it proposes to take and to publish its response; and
  - iii) request a partner agency to have regard to the report when exercising its functions.

If the Scrutiny Committee decides to take any action then it will inform the Member who raised the CCfA and provide them with a copy of any report or recommendations made in relation to the CCfA, together with any response received from full Council, the Cabinet, or a partner agency.

If the Scrutiny Committee decides not to consider a CCfA, or on consideration decides no further action is necessary, it will inform the Member who raised the CCfA and explain the reasons why.

The flowchart below will assist in deciding whether an issue is ready for referral to a Scrutiny Committee as a CCfA.

## CCfA



## **Article 18 – Call-In**

### **18.1 Procedure**

When a decision is made by the Cabinet, or a Key Decision is made by an Officer with delegated authority from the Cabinet, the decision will be sent to all Members and shall be available at the main offices of the Council within five working days of being made.

That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.

During that period, the Monitoring Officer shall call-in a decision for scrutiny by the Scrutiny Committee if so requested in writing by three Members of the Scrutiny Committee.

The request for a call-in must contain in writing the detailed reasons why the decision has been called-in.

A matter may not be called-in if the decision is urgent and any delay would prejudice the interests of the Council or the public in the opinion of the Monitoring Officer, or the decision is required urgently due in response to external risks. Decisions which have been the subject of pre-decision scrutiny may still be called in – the pre-decision scrutiny process does not remove the right to call in a decision made by Cabinet or a Key Decision made by an Officer.

The Members requesting a call-in must attend and address the Scrutiny Committee, called for that purpose, in order for the matter to be considered by the Committee.

The Monitoring Officer shall then notify the Cabinet or the decision-maker of the call-in, and shall call a meeting of the Scrutiny Committee on such date as they may determine, where possible after consultation with the Chair of the Committee. The Scrutiny Committee shall use its reasonable endeavours to ensure such meeting takes place within five clear working days of the decision to call-in and in any event no later than 10 clear working days of the decision to call in.

If, at the meeting, Scrutiny Committee does not refer the matter back to the decision-maker or to full Council, the decision shall take effect from the date of the Scrutiny Committee. If Scrutiny Committee does not meet within 10 clear working days from the decision to call-in, the decision shall take effect on the expiry of 10 clear working days after the decision to call-in.

If, having considered the decision, Scrutiny Committee is still concerned about it, then it may refer it back to the decision-maker for reconsideration, setting out in writing the nature of its concerns or it may refer the matter to full Council. If referred to the decision-maker, they shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it. If the matter is referred to full Council then full Council shall meet within 10 clear working days of the matter being referred to them to consider the issue.

If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if full Council does object, it will refer the decision back to the decision-maker, together with its views on the decision. The decision-maker shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it.

If full Council does not meet within 10 clear working days, or if it does but does not refer the decision back to the decision-maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

Once a decision-maker has reconsidered the matter following call-in, no further call-in of that matter will be allowed.

Call-in may be abridged or disapplied by a decision of Cabinet, if to do so is necessary to safeguard the interests of the Council or of the public, or as a response to external risks where the Council must act urgently. In any such case, reasons for the disapplication will be discussed with the Chair (or in their absence the Vice-Chair) of the Scrutiny Committee and the reasons for disapplying call-in will be stated at the top of the report and further explained – with the views of the Chair (or Vice-Chair, as the case may be) of the Scrutiny Committee – in the body of the report. In such cases, whilst the actual decision cannot be called-in, the Scrutiny Committee may ask to consider the circumstances and provide recommendations if they so wish.

Certain matters are excluded from the Call-In process, these are, any matter:

- a) relating to a planning decision;
- b) relating to a licensing decision;
- c) relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment; and
- d) which is vexatious, discriminatory or not reasonably to be included in the agenda for, or to be discussed at, a meeting of the Scrutiny Committee.

## Article 19 – Local Choice Functions

### 19.1 Statutory Basis

Local Choice functions are set out in Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. These functions may be, but need not be, the responsibility of the Executive. It is up to full Council to decide.

Having regard to government guidance, full Council has decided that Local Choice functions will be Executive or Non-Executive as set out in the table below:

LOCAL CHOICE FUNCTION	STATUS OF FUNCTION	DELEGATION TO OFFICERS	DELEGATION TO NON-EXECUTIVE COMMITTEES
Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.	Executive	Executive Directors	N/a
The determination of appeals against any decision made by or on behalf of the authority (other than those reserved to a Non-Executive committee)	Executive	All Executive Directors in relation to decisions taken in their Directorate	N/a
The appointment of review boards under regulations under section 34(4) of the Social Security Act 1998 (determination of claims and reviews)	Executive	Executive Directors	N/a
The making of appointments (appointment of members by relevant councils) under Sch.2 Paras.2-4 to the Police Act 1996 (police authorities established under section 3)	Executive	N/a	N/a
The conducting of best value reviews in accordance with the provisions of any order under section 5 of the Local Government Act 1999 (best value reviews)	Executive	All Executive Directors in relation to decisions taken in their Directorate	N/a
Any function relating to contaminated land.	Executive	Executive Directors	N/a
The discharge of any function relating to the control of pollution or the management of air quality	Executive	Executive Directors	N/a
The service of an abatement notice in respect of a statutory nuisance	Executive	Executive Directors	N/a
The passing of a resolution that Schedule 2 to the Noise and Statutory	Executive	Executive Directors	N/a

LOCAL CHOICE FUNCTION	STATUS OF FUNCTION	DELEGATION TO OFFICERS	DELEGATION TO NON-EXECUTIVE COMMITTEES
Nuisance Act 1993 should apply in the authority's area			
The inspection of the authority's area to detect any statutory nuisance	Executive	Executive Directors	N/a
The investigation of any complaint as to the existence of a statutory nuisance	Executive	Executive Directors	N/a
The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land	Executive	Executive Directors	N/a
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions Act 1976	Executive	Executive Directors	N/a
<p>The appointment (and revocation of appointment) of any individual -</p> <p>(a) to any office other than an office in which they are employed by the authority</p> <p>(b) to any body other than:</p> <p style="padding-left: 20px;">(i) the authority;</p> <p style="padding-left: 20px;">(ii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body</p>	Executive and Non-Executive	N/a	<p>The Leader where the appointment relates to Executive powers.</p> <p>The Council where the appointment relates to Non- Executive functions</p>
The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	Executive	All Executive Directors in relation to decisions taken in their Directorate	N/a

## **Article 20 – Joint Arrangements**

### **20.1 Joint Arrangements**

The Council has made joint arrangements with one or more other local authorities under section 101(5) of the Local Government Act 1972 for the exercise of certain of its functions. These arrangements are described below.

### **20.2 Joint Committees**

The Council also appoints with those other authorities Joint Committees to exercise these functions. The membership, terms of reference and functions of these Joint Committees and the rules governing the conduct and proceedings of their meetings are also described below.

### **20.3 Delegation of responsibility for off-street penalty charge processing and appeals**

The arrangements with the Borough Council of King's Lynn and West Norfolk in respect of the civil enforcement of parking contraventions involves the delegation of responsibility for off-street penalty charge processing and appeals (Traffic Management Act 2004) to the Borough Council of King's Lynn and West Norfolk.

### **20.4 Description of Joint Arrangements**

The Council has established the joint arrangements described below and for this purpose has joined in appointing the following Joint Committees:

- a) Norfolk Joint Museums Committee; and
- b) Norfolk Records Committee,

each of which exercise functions of the Council under Section 101(5) of the Local Government Act 1972.

The membership, terms of reference and functions of the Joint Committees and the rules governing the conduct and proceedings of their meetings and the public's right of access to these meetings are set out below.

### **20.5 Norfolk Joint Museums Committee**

#### **Membership**

Norfolk County Council, Breckland District Council, Broadland District Council, Great Yarmouth Borough Council, King's Lynn and West Norfolk Borough Council, North Norfolk District Council, Norwich City Council, South Norfolk District Council.

The County Council appoints 9 members, Norwich City Council 3 members and the remaining councils 1 member each.

This Committee has also established Area Committees for Breckland, Great Yarmouth, King's Lynn and West Norfolk, North Norfolk and Norwich.

The Chair and Vice-Chair of the Norfolk Joint Museums Committee shall be ex-officio, non-voting members of the Area Committees. The Chair and Vice-Chairs of the Area Committees must be voting members of the Norfolk Joint Museums Committee.

## Terms of Reference

The Norfolk Joint Museums Committee is responsible for:

- a) the effective operation of the Norfolk Museums Service;
- b) advising all the participating councils on the strategic framework for museums in Norfolk;
- c) agreeing policies for the Norfolk Museums Service in accordance with national and local guidelines; and
- d) agreeing an annual budget for the Museums Service.

The Area Committees are each responsible for:

- a) advising the Joint Committee on museums issues within their area;
- b) agreeing and reviewing on a regular basis a museums strategy for their area;
- c) developing and agreeing a yearly action plan; and
- d) advising on the terms of any service level agreement with the Norfolk Museums Service for the provision of museums services within their area.

## Functions

The Joint Museums Committee exercises the functions of the participating local authorities under Section 12 of the Public Libraries and Museums Act 1964 with regard to the provision and maintenance of museums and art galleries in their areas, except to the extent specifically provided for in the current agreement constituting the Committee dated 6 January 1999.

## Rules governing the conduct and proceedings of meetings

The conduct and proceedings of meetings of the Joint Museums Committee are governed by the rules relating to meetings of Norfolk County Council Committees.

The standing orders of the relevant District Council apply to meetings of the Area Committees.

## Rules relating to access to meetings

The right of the public to attend meetings of the Norfolk Joint Museums Committee are set out in paragraph 2 of the Access to Information Procedure Rules of Norfolk County Council.

## **20.6 Norfolk Records Committee**

### **Membership**

Norfolk County Council, Breckland District Council, Broadland District Council, Great Yarmouth Borough Council, King's Lynn and West Norfolk Borough Council, North Norfolk District Council, Norwich City Council, South Norfolk District Council.

The County Council and the City Council appoint 3 members each and the remaining District Councils 1 member each. There are also non-voting members as follows:

- Custos Rotolorum;
- a representative of the Bishop of Norwich;
- a representative of the Norfolk Records Society; and
- 3 co-opted members.

### **Terms of Reference**

The Norfolk Records Committee has the responsibility for carrying out the functions of the participating local authorities under the Local Government (Records) Act 1962 and for the control of the Norfolk Records Office with a view to ensuring as far as possible that:

- a) storage and maintenance facilities are provided to it for archives relating to or deriving from the areas of the participating local authorities; and
- b) there is at the Record Office an adequate means of reference to the archives and facilities are provided for the public to inspect and take copies of deposited documents.

### **Functions**

The Norfolk Records Committee exercises functions of the participating local authorities under the Local Government (Records) Act 1962.

### **Rules governing the conduct and proceedings of meetings**

The conduct and proceedings of meetings of the Norfolk Records Committee are governed by the rules relating to the meetings of Norfolk County Council Committees.

### **Rules relating to access to meetings**

The rights of the public to attend meetings of the Norfolk Records Committee are set out in paragraph 2 of the Access to Information Procedure Rules of Norfolk County Council.

## Article 21 – Officer Schemes of Delegation

### 21.1 Non-Executive Scheme of Officer Delegation

Under Section 101 of the Local Government Act 1972 the Council has delegated to Committees and Officers the exercise of a range of functions set out in the table below (as referred to in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended (**Regulations**)), which are not the responsibility of the Executive.

Directors and Heads of Service may, in turn, delegate specifically named powers to more junior Officers, or escalate the making of those decisions to the relevant Executive Director, but must ensure that such delegations are documented and signed by both Officers, who shall each retain a copy and provide a copy to be held by the Corporate Services Manager. The Monitoring Officer shall regularly review such delegations to ensure they remain appropriate. Such delegations must be commensurate with seniority and experience.

Any manager may exercise any power delegated to an Officer for whom they have supervisory responsibility. Any Non-Executive function may be exercised by the Chief Executive notwithstanding its delegation to another Executive Director.

Certain Non-Executive decisions taken by Officers must be recorded and published, in accordance with the rules for Recording and Publishing Officer Decisions (see Part 2).

An Officer shall not have the power to exercise any functions or take any decisions:

- a) where the Council or relevant Committee or Sub-Committee has resolved to suspend the relevant delegated power;
- b) where expenditure over £100,000 is committed (this limitation does not apply to the Financial Sign-Off Limits);
- c) outside or contrary to the Council's budget and policy framework;
- d) where the Council's Head of Paid Service or Monitoring Officer has formally notified the Officer concerned that the delegated function should not be exercised;
- e) any matter expressly reserved to the Cabinet within its terms of reference or otherwise, by standing orders or Financial Regulations, or withdrawn from delegation by this scheme or by the Leader or Cabinet; or
- f) where there is a conflict of interest or where any code of conduct for Council employees in force from time to time prevents the exercise of such a function by that Officer.

The numbers in table column 1 refer to the numbering used in the Regulations. Titles in italics in column 3 indicate full delegation to the named Officer. Where only Council or a Committee name is shown this indicates no delegations to Officers. Statutory references are as amended and replaced from time to time.

Where a particular post is referred to in this Constitution and the post is either abolished or the title changed, the Officer who takes over responsibility for the function in question shall be the appropriate Officer to act in accordance with the Constitution.

## 21.2 Functions relating to town and country planning and development

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
1. Power to determine application for planning permission.	Sections 59A(1)(b), 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
3. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
4. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
5. Duties relating to the making of determinations of planning applications.	Sections 69, 69A, 92 and 96A of the Town and Country Planning Act 1990 and Parts 2-6 and 8 of the Town and Country Planning Development Management Procedure) (England) Order 2015 and directions made thereunder	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	The Town and Country Planning (General Permitted Development) (England) Order 2015 and directions made thereunder	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
8. Power to enter into agreement regulating development or use of land and to modify such agreements.	Sections 106 and, 106A of the Town and Country Planning Act 1990 and section 7(4) of the Growth and Infrastructure Act 2013	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
9. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191, 192 and 193 of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
10. Power to serve a completion notice.	Section 94 of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
11. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 2007	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
12. Power to authorise entry onto land.	Sections 196A, B and C of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
13. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
18A. Power to issue a temporary stop notice.	Section 171E of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
15. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
16. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
17. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
19. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
20. Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
21. Duties relating to applications for listed building consent	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990; regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990; and paragraphs 8, 15 and 26 of Department for Communities and Local Government Circular 01/01	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
22. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
23. Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
24. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
25. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
		<i>Head of Planning</i>
29A. Power to authorise stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
26. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
27. Duty to enter land in Part 2 of the brownfield land register.	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>
28. Responsibility for functions under the Building Acts insofar as such functions do not relate to health and safety matters.	Building Control Act 1966, Building Act 1984, Building Safety Act 2022 and any Regulations and orders made thereunder	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>

### **21.3 Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)**

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960	<i>Head of Environment and Sustainability</i>
2. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976;  (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government	LICENSING COMMITTEE  <i>Head of Environment and Sustainability</i>

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
	(Miscellaneous Provisions) Act 1976	
3. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
4. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
5. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006	<i>Head of Environment and Sustainability</i>
6. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(e) of the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006	<i>Head of Environment and Sustainability</i>
7. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006	<i>Head of Environment and Sustainability</i>
8. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006	<i>Head of Environment and Sustainability</i>
9. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act 2005	<i>Head of Environment and Sustainability</i>

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
	(Commencement No. 6 and Transitional Provisions) Order 2006	
10. Power to issue cinema and cinema club licences.	Section 1 of the Cinemas Act 1985	<i>Head of Environment and Sustainability</i>
11. Power to issue entertainments licences.	The Licensing Act 2003	<i>Head of Environment and Sustainability</i>
12. Any function of a licensing authority	Licensing Act 2003 and any regulations or orders made under that Act	Adoption of Policy – COUNCIL  Determination of contested applications – LICENSING COMMITTEE  <i>Uncontested applications – Head of Environment and Sustainability</i>
13. Powers and functions relating to late night levy requirements.	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and regulations made thereunder	COUNCIL  See para. 1.4 of Home Office <u>guidance</u>
14. Any function of a licensing authority	Gambling Act 2005 and any regulations or orders made under that Act	LICENSING COMMITTEE  <i>Head of Environment and Sustainability</i>
15. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3	LICENSING COMMITTEE  <i>Head of Environment and Sustainability</i>
16. Power to license performances of hypnotism.	The Hypnotism Act 1952	LICENSING COMMITTEE  <i>Head of Environment and Sustainability</i>
17. Power to register premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982	LICENSING COMMITTEE  <i>Head of Environment and Sustainability</i>
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907	LICENSING COMMITTEE  <i>Head of Environment and Sustainability</i>
19. Power to license street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982	LICENSING COMMITTEE  <i>Head of Environment and Sustainability</i>

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
20. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18, 22, and 23 of the Game Act 1831; section 27 of the Local Government Act 1874; and the Regulatory Reform (Game) (England and Wales) Order 2007	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
21. Power to register and licence premises for the preparation of food	Section 19 of the Food Safety Act 1990	<i>Head of Environment and Sustainability</i>
22. Power to license scrap Metal Dealers.	Section 1 of the Scrap Metal Dealers Act 2013	<i>Head of Environment and Sustainability</i>
23. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds	The Safety Sports Grounds Act 1975	<i>Head of Environment and Sustainability</i>
24. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987	<i>Head of Environment and Sustainability</i>
25. Power to grant or renew a licence for a licensable activity (selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs or keeping or training animals for exhibition).	Regulation 4 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
26. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
27. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
28. Power to Licence Slaughtermen	Schedule 1 of the Welfare of Animals (Slaughter or Killing) Regulations 1995	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
29. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
30. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993	<i>Head of Environment and Sustainability</i>
31. Power to register motor salvage operators.	Scrap Metal Dealers Act 2013	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>

#### 21.4 Functions relating to health and safety at work

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
Functions under any of the "relevant statutory provisions", to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974	<i>Head of Environment and Sustainability</i>

#### 21.5 Functions relating to elections

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
1. Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983	COUNCIL
2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983	COUNCIL <i>Licensing and Electoral Services Manager</i>
3. Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972	COUNCIL
4. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972	COUNCIL

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
5. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983	COUNCIL
6. Duty to divide constituency into polling districts.	Sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983	COUNCIL <i>Returning Officer - in the event it is necessary to do so where there would be insufficient time to follow the usual process of undertaking consultation and gaining Council approval.</i>
7. Power to divide electoral wards into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983	COUNCIL
8. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983	COUNCIL
9. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983	COUNCIL
10. Power to fill vacancies in the event of insufficient nominations at an ordinary election of parish councillors.	Section 21 of the Representation of the People Act 1985	COUNCIL
11. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972	COUNCIL Proper Officers
12. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972	COUNCIL Returning Officer
13. Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972	COUNCIL
14. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000	COUNCIL

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
15. Duty to consult on change of scheme for elections.	Sections 33(2), 38 (2) and 40(2) of the Local Government and Public Involvement in Health Act 2007	COUNCIL
16. Duties relating to publicity.	Sections 35, 41 and 52 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
17. Duties relating to notice to Electoral Commission.	Sections 36 and 42 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
18. Power to alter years of ordinary elections of parish councillors.	Section 53 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
19. Functions relating to change of name of electoral area.	Section 59 of the Local Government and Public Involvement in Health Act 2007	COUNCIL

## 21.6 Functions relating to name and status of areas and individuals

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
1. Power to change the name of the council.	Section 74 of the Local Government Act 1972	COUNCIL
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972	COUNCIL
3. Power to confer title of honorary alderman or to admit an honorary freeman.	Section 249 of the Local Government Act 1972	COUNCIL
4. Power to petition for a charter to confer borough status.	Section 245B of the Local Government Act 1972	COUNCIL

## 21.7 Functions relating to community governance

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
1. Duties relating to community governance reviews.	Section 79 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
2. Functions relating to community governance petitions.	Sections 80, 83 to 85 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
3. Functions relating to terms of reference of review.	Sections 81(4) to (6) of the Local Government and Public Involvement in Health Act 2007	COUNCIL
4. Power to undertake a community governance review.	Section 82 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
5. Functions relating to making of recommendations.	Sections 87 to 92 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
6. Duties when undertaking review.	Section 93 to 95 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
7. Duty to publicise outcome of review.	Section 96 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the Local Government and Public Involvement in Health Act 2007	COUNCIL
9. Power to make agreements about incidental matters.	Section 99 of the Local Government and Public Involvement in Health Act 2007	COUNCIL

## 21.8 Power to make, amend, revoke, re-enact or enforce byelaws

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
Power to make, amend, revoke, re-enact or enforce byelaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978	COUNCIL

## 21.9 Functions relating to smoke-free premises, etc

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
1. Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the Health Act 2006	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
2. Power to authorise officers.	Section 10(5) of, and paragraph 1 of Schedule 2 to, the Health Act 2006	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
3. Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006 and the Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007	LICENSING COMMITTEE <i>Head of Environment and Sustainability</i>
4. Power to transfer enforcement functions to another enforcement authority.	Smoke-free (Premises and Enforcement) Regulations 2006	Head of Service

## 21.10 Power to promote or oppose local or personal Bills

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
Power to promote or oppose local or personal Bills	Section 239 of the Local Government Act 1972	COUNCIL

## 21.11 Functions relating to pensions etc.

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
Functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972 (c. 11)	COUNCIL

## 21.12 Miscellaneous functions

### 21.12.1 Part I: functions relating to public rights of way

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
1. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
2. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1985	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
3. Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.	Section 257 of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
4. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>

### 21.12.2 Part II: other miscellaneous functions

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
1. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972	COUNCIL
2. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	Section 112 of the Local Government Act 1972	EMPLOYMENT COMMITTEE (for Chief Executive, Chief Finance Officer & Monitoring Officer) (may be subject to approval by COUNCIL) <i>Head of Paid Service (for all others)</i>
3. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972	COUNCIL
4. Duty to make arrangements for proper administration of financial affairs etc.	Section 151 of the Local Government Act 1972	COUNCIL <i>Executive Director - Resources</i>
5. Power to appoint officers for particular purposes	Section 270(3) of the Local Government Act 1972	COUNCIL

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
(appointment of proper officers).		
6. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989	EMPLOYMENT COMMITTEE (subject to approval by COUNCIL)
7. Duty to designate officer as the monitoring officer, and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989	EMPLOYMENT COMMITTEE (subject to approval by COUNCIL)
7A. Duty to provide staff, etc to person nominated by monitoring officer.	Sections 82A(4) and (5) of the Local Government Act 2000	COUNCIL <i>Chief Executive</i>
8. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 2015/234	COUNCIL
9. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
10. Powers relating to the preservation of trees.	Part VII of the Town and Country Planning (Tree Preservation) (England) Regulations 2012	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
10A. Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
11. Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000	COUNCIL
12. Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>
13. Power to protect unclaimed registered common land and unclaimed town or	Section 45(2)(a) of the Commons Act 2006	DEVELOPMENT MANAGEMENT COMMITTEE <i>Head of Planning</i>

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
village greens against unlawful interference.		
14. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Section 45(2)(b) of the Commons Act 2006	DEVELOPMENT MANAGEMENT COMMITTEE  <i>Head of Planning</i>

## **Article 22 – Executive Scheme of Officer Delegation**

### **22.1 Introduction, general principles and interpretation**

Certain types of decision must by law be delegated to an Officer rather than being determined by Members, e.g., the appointment and dismissal of Officers below Executive Director level; the discharge of Returning Officer duties in elections; and Proper Officer functions. Other Council functions must by law be determined by Members and not Officers, e.g., setting the Budget and adopting the plans or strategies constituting the Council's Policy Framework. For the majority of functions, it is a matter of local choice for the Council whether they are exercised by Members or delegated to Officers.

This scheme delegates powers and duties in relation to Executive functions that are the responsibility of Leader and Cabinet Members under section 9E of the Local Government Act 2000. The scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation within those descriptions and all powers and duties incidental to that legislation.

Where functions that are the responsibility of the Leader are delegated through Cabinet Members to Officers or other structures outside the Cabinet, the Leader will nevertheless remain accountable to the Council for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way the function is carried out, although the specific decision is the responsibility of the Officer or other delegated body.

The Leader may make ad-hoc variations in relation to the scheme. Any variation affecting the generality of any delegation shall be made in writing and sent to the Monitoring Officer. The variation shall be effective from the date the written notice is received by the Monitoring Officer.

The scheme does not delegate to Officers the following:

- a) any matter expressly reserved to the Cabinet within its terms of reference or otherwise, by standing orders, Financial Regulations, or withdrawn from delegation by this scheme or by the Leader or Cabinet;
- b) the making of an order for the compulsory acquisition of land;
- c) the acquisition of land in advance of requirements;
- d) the adoption, amendment (other than minor amendments) or delegation of any strategic plan or policy;
- e) where that decision involves the Council incurring expenditure of £100k or more (calculated on a whole life basis) unless expressed stated otherwise in this Constitution or in accordance with a policy or express delegation;
- f) to respond to planning consultations by government departments or statutory undertakers where objection or adverse comment is proposed to be made, unless in consultation with the relevant Cabinet Member; or
- g) the taking of decisions in contravention of any existing Council policy.

All delegated functions are deemed to be exercised on behalf of and in the name of the Council.

Certain Executive decisions taken by Officers must be recorded and published, in accordance with the rules for Recording and Publishing Officer Decisions (see Part 2).

## **22.2 General (Executive) Delegation to Officers**

Chief Officers and their direct reports (including any persons appointed on an interim basis to such posts) are authorised within their areas of responsibility, subject to the following conditions:

- a) the Chief Executive will maintain and publish a list of services for which each Executive Director, Director is responsible, and in relation to which they have delegated powers under this scheme - the Chief Executive has authority to amend that list and this scheme, to reflect operational necessity and in order to deliver continually improving services;
- b) powers shall be exercised in accordance with the law, the Council's Rules of Procedure, Financial Regulations, Contract Standing Orders, and any policies relevant to the functions delegated;
- c) each Executive Director and Head of Service is also authorised as follows:
  - i) the appointment and dismissal of staff within these services, with the exclusion of the Statutory Officers;
  - ii) the procurement of works, supplies and services within the financial and contract framework of the Council's Constitution;
  - iii) all decisions and the implementation of all steps necessary for those functions within the framework of plans and budgets approved by the Council;
  - iv) the exercise of all other functions incidental, ancillary or conducive to the carrying out of the main service functions for which they are responsible;
  - v) the authorisation of named Officers under any statutory or regulatory provision to enable those Officers to exercise specific functions (by way of example only, to enter onto and inspect land, to acquire information or to conduct covert surveillance, to issue fixed penalty notices); and
  - vi) the signing and service of any notices, counter notices, or the making of any formal notifications for the purposes of the functions for which they are responsible;
- d) the above delegations apply not only to functions delegated directly by the Council but to functions delegated via Committees, Sub-Committees or Joint Committees of the Council and other local authorities or public bodies;
- e) the scheme of delegation may be amended or varied in general or in particular in whole or in part by the delegating body;

## **22.3 Emergency Powers of Chief Executive Officer**

There shall be delegated to the Chief Executive, or in their absence any other Chief Officer, the exercise of any power or function of the Council which in law is capable of delegation:

- i) in an emergency threatening life, limb, or substantial damage to property within the district; or
  - ii) in a situation of urgency where a decision is required that was not foreseeable and which may enable the Council to avert or mitigate a financial or reputational loss or take advantage of a potential financial or reputational benefit;
- a) in each case the Chief Executive or Chief Officer shall consult with the Leader or their Deputy (unless they cannot be contacted after all reasonable efforts have been made);
  - b) the exercise of such delegated power shall be confined to the minimum necessary to deal with the emergency and shall be reported to the next meeting of the Cabinet or Council whichever shall be first;

## 22.4 The Designation of Chief Officers

- a) the full Council will engage persons for the following posts, who will be designated Chief Officers:
  - i) Head of Paid Service;
  - ii) Executive Directors;
  - iii) Monitoring Officer;
  - iv) Chief Finance Officer,

the Corporate Services Manager will act as a Deputy Monitoring Officer;
- b) the Council will designate the posts of Head of Paid Service, Monitoring Officer and Section 151 Officer as follows:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Head of Legal and Governance	Monitoring Officer
Executive Director Resources	Section 151 Officer

## 22.5 Post Delegation Matters

- a) once a Member-level decision has been taken, the implementation of that decision should be delegated to Officers, so that multiple Member decisions are not required in respect of the same matter;

- b) the fact that a function is delegated to an Officer does not prevent that Officer from referring any decision to the Cabinet at their discretion, especially if the decision is controversial or of strategic importance;
- c) when exercising delegated powers, Officers should consider referring a decision to Cabinet where the decision:
  - i) involves significant expenditure to the service budget, or wider Council budget;
  - ii) affects the reputation or carries a significant risk for the service and/or Council;
  - iii) is significant with regard to one or more Wards; or
  - iv) impacts reputationally or financially on service users, partner organisations or committees outside the Council.

## **22.6 Powers of Executive to withdraw delegation**

The Leader or the relevant Cabinet Member may direct that a delegated Executive power should not be exercised by an Officer but should instead be referred to the Cabinet. Such direction should be exercised in consultation with the relevant Executive Director.

## **22.7 Informative reports of Chief Officers**

- a) Chief Officers have responsibility to report to full Council, Cabinet, Cabinet Member, the appropriate Committee or relevant local Members (and following this the relevant Parish/Town Council) matters that are of a political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position.
- b) Officers authorised to exercise delegated powers are required to keep Members properly informed of activity arising within the scope of their delegations and to ensure a proper record of such activity is kept and available for inspection in accordance with the law and relevant legislation.

## **22.8 Interpretation**

- a) 'Function' is construed broadly and includes the doing of anything that is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.
- b) Executive Directors take decisions as relate to their role and responsibilities including signing off expenditure in accordance with the Financial Sign-Off Limits.

## **22.9 Onward Delegation**

- a) An Executive Director is not required to exercise all delegations personally and may authorise Officers of suitable experience and seniority to exercise delegated powers, either generally or specifically, on their behalf, by providing an authority in writing which is signed by both officers. Executive Directors must each maintain copies of all such authorisations, and provide a copy to the Corporate Services Manager as part of a comprehensive scheme of delegation within their own Directorate;

## **22.10 Delegation of Financial Matters**

- a) Officers exercising delegated powers related to financial matters (such as raising invoices, writing-off debts, paying invoices or disposing of assets) shall be aware at all times of:
  - i) the statutory responsibility of the Executive Directors under the Local Government Act 1972;
  - ii) the need to comply with the Financial Regulations and Contract Standing Orders (see Part 4); and
  - iii) all of the instructions and guidance issued by the Executive Directors,and shall seek the advice of Executive Directors, as necessary.

## **22.11 Continuity of Delegations**

- a) If the office of any employee of the Council is vacant, or the employee is absent or otherwise unable to act, their powers shall be exercisable by the Chief Executive or those Senior Officers nominated by the Chief Executive in writing;
- b) Any post specifically referred to below shall be deemed to include any successor post, or a post that includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded or discharging the functions of the post on an interim basis;

## **22.12 Heads of Service**

The following Heads of Service shall be appointed:

- a) Head of Customer Services;
- b) Head of Environment and Sustainability;
- c) Head of Growth and Capital Projects;
- d) Head of Health Integration and Communities;
- e) Head of Housing Assets;
- f) Head of Inward Investment;
- g) Head of IT, Marketing and Comms;
- h) Head of Legal & Governance;
- i) Head of Organisational Development;
- j) Head of Planning;
- k) Head of Property and Asset Management; and
- l) Head of Strategic Housing.



## Article 23 – Specific Officer Delegations

### 23.1 Functions and Responsibilities

The Officer delegations (below) set out the Officers empowered to undertake the specified Executive decisions or actions on behalf of the Council:

Post	Summary of Functions and Areas of Responsibility
<b>Chief Executive (Head of Paid Service)</b>	<p>The Chief Executive will determine and publicise a description of the overall service management, which is appended to the Constitution, and subject to review on at least an annual basis.</p> <p>The Chief Executive holds the statutory designation of Head of Paid Service and, in addition to those functions listed below, is responsible for the following functions:</p> <ul style="list-style-type: none"> <li>(a) overall corporate management and operational responsibility for all Officers (including overall management responsibility for all Officers);</li> <li>(b) together with the Monitoring Officer and Section 151 Officer, provision of professional advice to all parties in the decision-making process and responsibility for a system of record keeping for all the Council's decisions;</li> <li>(c) representing the Council on partnership and external bodies (as required by statute or the Council) with particular responsibility for Performance Management and Localism;</li> <li>(d) reviewing the staffing structure, capacity, skills and performance of the council to ensure that they match the needs of the community, financial constraints, strategic priorities and statutory obligations;</li> <li>(e) determining the management structure and the deployment of staff;</li> <li>(f) ensuring:             <ul style="list-style-type: none"> <li>(i) human resource management complies with current council policy and standards;</li> <li>(ii) propriety and observance of codes of conduct by all council staff;</li> <li>(iii) compliance with and observance of all established council policies;</li> </ul> </li> <li>(g) having all the powers of any other Officer in the event of their absence or inability to act, except insofar as the exercise of such powers is by law limited to a specific post holder, e.g., the Chief Executive may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant;</li> <li>(h) reporting to full Council on the manner in which the discharge of the council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.</li> <li>(i) to do or authorise to be done any act or thing necessary to effect any decision of the Council, the Cabinet or any Committee, Sub-Committee or joint committee of the Council;</li> </ul>

Post	Summary of Functions and Areas of Responsibility
	<ul style="list-style-type: none"> <li>(j) to do or authorise to be done any act in pursuance of the Council's overall policies and programmes;</li> <li>(k) fostering a culture that demonstrates a positive outlook and continuous improvement;</li> <li>(l) managing the interface between elected members and Officers to ensure effective delivery of the Vision and Corporate Plan;</li> <li>(m) leading the medium-term budget strategy, change management and overall council performance;</li> <li>(n) providing leadership in relation to the overall strategic direction, policies and priorities of the Cabinet, including the overall corporate revenue and capital budget strategy and ensuring that appropriate systems are in place to assure the performance management of the Council;</li> <li>(o) overseeing the implementation of the council's policies and developing mechanisms to enable priorities to be set and choices to be exercised by elected members in the allocation of finance and other resources;</li> <li>(p) ensuring strategically led improvements in the quality and efficiency of service delivery and devising and maintaining systems to deliver good governance, including performance management, risk management and ethics/probity structures;</li> <li>(q) ensuring a sound strategic framework exists so that council policy is informed, helped and clarified, giving such policies a clear strategic direction, supported by realistic action plans;</li> <li>(r) working with elected members to build and develop strong relationships with existing and potential key partners (local, regional and national) across all sectors to develop effective partnership working and collaboration for the benefit of the local community;</li> <li>(s) providing professional advice to all parties in the decision-making process;</li> <li>(t) maintaining a system of record keeping for all the Council's decisions, together with the Monitoring Officer;</li> <li>(u) authorising urgent action between Cabinet meetings where necessary, in consultation with the Monitoring Officer, Chief Finance Officer, political groups, the Leader and/or relevant Cabinet members, and ensuring the Chair of the Scrutiny Committee is (where practicable) notified before the decision is made and then notified once the decision has been made;</li> <li>(v) taking any action necessary during any gaps in governance that arise, such as the period during a year of elections to the Council between the day 4 days after the date of the elections and the date of Annual Council;</li> <li>(w) arranging for the Council to be represented on partnership and external bodies as required by statute or the Council;</li> </ul>

Post	Summary of Functions and Areas of Responsibility
	<ul style="list-style-type: none"> <li>(x) ensuring that the council communicates with those who receive its services, its partners in service delivery and its various communities, explaining, interpreting, listening and consulting in a wide ranging and effective way;</li> <li>(y) leading and managing Emergency Management, including incurring expenditure in the event of a civil emergency;</li> <li>(z) during the period between the date of retirement of Members following council elections and the next Annual Meeting of the council, where a matter requires a decision (whether an Executive or a Non-Executive function), having consulted with the Leader-elect (when notified in writing) and such members of the council as they consider appropriate, make the decision and authorise on an exceptional basis the relevant action; and</li> <li>(aa) overseeing the operations of all Council wholly owned companies and joint venture companies.</li> </ul>
<b>Executive Director – Major Projects</b>	The Executive Director – Major Projects is responsible for all functions relating to Capital Projects and Growth.
<b>Executive Director - People</b>	<p>The Executive Director – People is responsible for all functions relating to:</p> <ul style="list-style-type: none"> <li>(a) Strategic Housing;</li> <li>(b) Independent Living;</li> <li>(c) Health;</li> <li>(d) All functions relating to the administration and management of revenues and benefits;</li> <li>(e) Communities;</li> <li>(f) Customer Services;</li> <li>(g) Equinox; and</li> <li>(h) GYS.</li> </ul>
<b>Executive Director - Place</b>	<p>The Executive Director – Place is responsible for all functions relating to:</p> <ul style="list-style-type: none"> <li>(a) Environment &amp; Sustainability;</li> <li>(b) Operational Services;</li> <li>(c) Planning;</li> <li>(d) Inward Investment &amp; Tourism; and</li> <li>(e) All functions relating to elections.</li> </ul>
<b>Executive Director –</b>	The Executive Director – Property & Housing Assets is responsible for all functions relating to:

Post	Summary of Functions and Areas of Responsibility
<b>Property and Housing Assets</b>	<ul style="list-style-type: none"> <li>(a) HRA Tenancy Management;</li> <li>(b) Income;</li> <li>(c) Housing Repairs;</li> <li>(d) GYNorse JV;</li> <li>(e) Property Services;</li> <li>(f) Compliance; and</li> <li>(g) Corporate Health and Safety.</li> </ul>
<b>Executive Director - Resources (Section 151 Officer)</b>	<p>The Executive Director - Resources is responsible for the financial affairs of the Council in accordance with s.151 of the Local Government Act 1972, ensuring lawfulness and financial prudence of decision-making, including:</p> <ul style="list-style-type: none"> <li>(a) ensuring the proper administration of the council's financial affairs and that appropriate financial practices and procedures are in place to meet these requirements;</li> <li>(b) all functions relating to local government finance and local taxation;</li> <li>(c) after consulting with the Chief Executive and the Monitoring Officer, reporting to Council (or the Cabinet in relation to an Executive function) and the council's external auditor if any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully;</li> <li>(d) ensuring responses to Technical consultation papers are delegated to the relevant Technical Officer;</li> <li>(e) administration of the financial affairs of the council, including the provision of an Internal Audit function;</li> <li>(f) delivering a balanced budget and sustainable Medium Term Financial Strategy for the council, including reporting to the council at its annual Budget meeting on the robustness of the estimates and the adequacy of the reserves;</li> <li>(g) monitoring the Council's financial performance and advising the council of the robustness of its budgets and the adequacy of its reserves, promoting the development of improved financial practices, procedures, controls and business processes, to ensure the services enabled and delivered by the council continue to be affordable;</li> <li>(h) ensuring all reports submitted to members for consideration meet the required quality of accuracy and assessment of the financial issues to be considered;</li> <li>(i) contributing to the corporate management of the Council, in particular through the provision of professional financial advice;</li> <li>(j) providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy</li> </ul>

Post	Summary of Functions and Areas of Responsibility
	<p>framework issues to all Members and supporting and advising Members and Officers in their respective roles;</p> <ul style="list-style-type: none"> <li>(k) giving financial information to the media and members of the public and the community;</li> <li>(l) all functions relating to the appointment of staff and of human resources services, learning and union and employee relations;</li> <li>(m) all functions relating to the making and renewing of insurance arrangements;</li> <li>(n) all functions relating to legal services, member services and the democratic process of the Council;</li> <li>(o) all functions connected with the civic and ceremonial functions of the city, the Mayoralty and other offices of dignity;</li> <li>(p) all functions relating to twinning;</li> <li>(q) all functions connected with public procurement and contract award, management and termination;</li> <li>(r) administer any charities for which the council or its Officers are trustees;</li> <li>(s) IT, Marketing &amp; Communications; and</li> <li>(t) Organisational Development.</li> </ul>
<b>Head of Customer Services</b>	<p>The Head of Customer Services has the following responsibilities:</p> <ul style="list-style-type: none"> <li>(a) Customer Services;</li> <li>(b) Parking Services;</li> <li>(c) Bereavement Services;</li> <li>(d) Cemeteries;</li> <li>(e) Crematorium;</li> <li>(f) Cashiers;</li> <li>(g) Reception;</li> <li>(h) Post &amp; Scanning;</li> <li>(i) Revenues &amp; Benefits;</li> <li>(j) Sundry Debtors; and</li> <li>(k) Revenue Support.</li> </ul>

Post	Summary of Functions and Areas of Responsibility
<b>Head of Environment &amp; Sustainability</b>	<p>The Head of Environment &amp; Sustainability has the following responsibilities:</p> <ul style="list-style-type: none"> <li>(a) Commercial;</li> <li>(b) ASB;</li> <li>(c) Environmental Services;</li> <li>(d) Civil Contingencies;</li> <li>(e) Environmental Protection &amp; Enforcement;</li> <li>(f) Port Health;</li> <li>(g) Waste &amp; Grounds Maintenance;</li> <li>(h) Private Sector Housing Standards;</li> <li>(i) Community Safety;</li> <li>(j) Elections; and</li> <li>(k) Licensing.</li> </ul>
<b>Head of Growth &amp; Capital Projects</b>	<p>The Head of Growth &amp; Capital Projects is responsible for Infrastructure and Regeneration.</p>
<b>Head of Health Integration and Communities</b>	<p>The Head of Health Integration and Communities has the following responsibilities:</p> <ul style="list-style-type: none"> <li>(a) Communities;</li> <li>(b) Community Hub;</li> <li>(c) Hub and Spoke Roll Out;</li> <li>(d) Pilot of Family Hub; and</li> <li>(e) Health inequalities.</li> </ul>
<b>Head of Housing Assets</b>	<p>The Head of Housing Assets has the following responsibilities:</p> <ul style="list-style-type: none"> <li>(a) Tenancy Services;</li> <li>(b) HRA Income; and</li> <li>(c) Housing Assets.</li> </ul>
<b>Head of Inward Investment</b>	<p>The Head of Inward Investment has the following responsibilities:</p> <ul style="list-style-type: none"> <li>(a) Conservation;</li> <li>(b) Regeneration &amp; Funding;</li> </ul>

Post	Summary of Functions and Areas of Responsibility
	<ul style="list-style-type: none"> <li>(c) Arts &amp; Culture;</li> <li>(d) Economic Growth &amp; Business Engagement; and</li> <li>(e) Sports and Leisure.</li> </ul>
<b>Head of IT, Marketing and Comms</b>	<p>The Head of IT, Marketing and Communications has the following responsibilities:</p> <ul style="list-style-type: none"> <li>(a) IT;</li> <li>(b) Communications;</li> <li>(c) Marketing;</li> <li>(d) Print &amp; Design;</li> <li>(e) Events;</li> <li>(f) Civic;</li> <li>(g) Porters; and</li> <li>(h) Tourism.</li> </ul>
<b>Head of Legal and Governance (Monitoring Officer)</b>	<p>The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.</p> <p>The Monitoring Officer will discharge their functions in accordance with the Council's protocol and undertakes the responsibilities defined in law and the Constitution, including:</p> <ul style="list-style-type: none"> <li>(a) acting as the council's chief legal and governance advisor to ensure it operates lawfully and within the agreed Constitution;</li> <li>(b) maintaining and revising an up-to-date version of the Constitution and ensuring it is widely available for consultation by members, staff and the public.</li> <li>(c) ensuring lawfulness and fairness of decision making. After consulting with the Chief Executive and Section 151 Officer, the Monitoring Officer will report to Council (or the Cabinet in relation to an Executive function) if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered and appropriate advice taken;</li> <li>(d) contributing to the promotion and maintenance of high standards of conduct through provision of support to the Standards Sub-Committee;</li> <li>(e) receiving and acting on decisions of the Standards Sub-Committee;</li> <li>(f) working with the Council's appointed Independent Person to promote and maintain high standards of conduct and ethical behaviour;</li> </ul>

Post	Summary of Functions and Areas of Responsibility
	<ul style="list-style-type: none"> <li>(g) ensuring that Council decisions and relevant Officer reports and background papers are made publicly available as soon as possible;</li> <li>(h) ensuring that all reports submitted to members for consideration meet the required quality of accuracy and assessment of the legal issues to be considered;</li> <li>(i) conducting investigations or arranging for investigations to be conducted where appropriate into ethics and standards matters and potential breaches of the Members' Code of Conduct and make reports or recommendations in respect of them to the Standards Sub-Committee;</li> <li>(j) dealing with requests for dispensations relating to Disclosable Pecuniary Interests;</li> <li>(k) advising whether Cabinet decisions are within the budget and policy framework;</li> <li>(l) providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members;</li> <li>(m) to appoint from time to time and in consultation with the Chief Executive independent members to the Standards Sub-Committee;</li> <li>(n) contributing to the promotion and maintenance of high standards of conduct through provisions of support to the Standards Sub-Committee;</li> <li>(o) ensuring that Council, Cabinet and Committee Decisions, together with the reasons for those decisions and relevant Officer reports and background papers, are made publicly available as soon as possible; and</li> <li>(p) oversee the provision of Legal, Governance and Democratic Services, contract management and procurement on behalf of the Council.</li> </ul>
<b>Head of Organisational Development</b>	<p>The Head of Organisational Development has the following responsibilities:</p> <ul style="list-style-type: none"> <li>(a) Organisational Development;</li> <li>(b) Human Resources; and</li> <li>(l) Payroll.</li> </ul>
<b>Head of Planning</b>	<p>The Head of Planning has the following responsibilities:</p> <ul style="list-style-type: none"> <li>(a) Development Management;</li> <li>(b) Strategic Planning;</li> <li>(c) Building Control;</li> <li>(d) Land Charges;</li> <li>(e) Community Right to Bid;</li> </ul>

Post	Summary of Functions and Areas of Responsibility
	(f) Street Naming and Numbering; and (f) Local Land and Property Gazetteer.
<b>Head of Property and Asset Management</b>	The Head of Property and Asset Management has the following responsibilities: (a) Property Services; (b) Construction Services; (c) Markets; (d) Coastal Protection; (e) Footway Lighting; and (f) Building Cleansing.
<b>Head of Strategic Housing</b>	The Head of Strategic Housing has the following responsibilities: (a) Strategic Housing; (b) Housing Options; (c) Homelessness; and (d) Independent Living.

### 23.2 Duty to Provide Sufficient Resources to the Monitoring Officer and Section 151 Officer

The Council will provide the Monitoring Officer and Section 151 Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## Article 24 – Statutory and Proper Officers

### 24.1 The Designation of Proper Officers

Local Government legislation from time to time requires local authorities to appoint **Proper Officers** for specific purposes. The Chief Executive, Monitoring Officer and Executive Director – Resources (Section 151 Officer) are all designated by the Council as such Proper Officers.

The Council designates Proper Officers to carry out functions allocated by law. Power to appoint Proper Officers is delegated to the Chief Executive, following consultation with the Monitoring Officer, unless legislation requires the appointment to be made by full Council.

The Chief Executive and each Executive Director shall be authorised to act as the Proper Officer for the statutory responsibilities that fall within their areas of responsibility set out below:

Purpose of appointment	Proper Officer
Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the council	Monitoring Officer
Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the council	Section 151 Officer

#### PUBLIC HEALTH ACT 1936

Section	Purpose	Proper Officer
85(2)	Serving a notice requiring action to deal with verminous people and things	Head Environment and Sustainability

#### LOCAL GOVERNMENT ACT 1972

Section	Purpose	Proper Officer
83	Witness and receive declarations of Members' acceptance of office	Monitoring Officer
84	Receive written notice of Members' resignation from office	Monitoring Officer
88(2)	Convene Council meeting for election to vacant office of Chair	Monitoring Officer
89(1)(B)	Receive notice of casual vacancy from two local government electors	Returning Officer
100B(2)	Decide on the exclusion of reports and agendas from public inspection	Monitoring Officer
100B(7)(c)	Decide whether copy documents supplied to Members should also be supplied to the press	Monitoring Officer

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
100C(2)	Produce a written summary of proceedings taken by a committee in private	Monitoring Officer
100D(1)(a)	Compile a list of background papers to a committee report.	Officer in whose name the report is written
100D(5)(a)	Identify background papers that disclose facts or matters on which a report is based	Officer in whose name the report is written
100F(2)	Identify which documents contain exempt information not open to inspection by Members	Monitoring Officer
115(2)	Receive from Officers any money and property committed to their charge in connection with their office	Section 151 Officer
146(1)	Sign the statutory declaration to enable the transfer of securities in the event of a change in the name or status of the council	Section 151 Officer
151	Responsibility for the administration of the council's financial affairs.	Section 151 Officer
191(2)	Receive applications from Ordnance Survey for assistance in surveying disputed boundaries.	Head of Planning
210(6)-(7)	Exercise residual functions relating to charities.	Head of Paid Service
225(1)	Receive and retain documents deposited with the council	Head of Paid Service
229(5)	Certify, for the purpose of any legal proceedings, that a document is a photographic copy of the original	Monitoring Officer Head of Paid Service
234(1)	Sign public notices, orders and other documents on behalf of the council	Monitoring Officer (generally) and the Officers listed in the scheme of delegation within their area of responsibility
238	Certification of copy bylaws	Monitoring Officer
248(2)	Maintaining the roll of persons admitted to the freedom of the town	Monitoring Officer
Sch.12 Para.4(2)(b)	Sign and send to all Members of the council the summons to attend meetings of the council	Monitoring Officer
Sch.12 Para 4(3)	Receive written notice from a Member of the address to which a summons to the meeting is to be sent	Monitoring Officer

Section	Purpose	Proper Officer
Sch.14, Para 25	Certifying copy resolutions of the council passed before 1975 disapplying public health statutes	Monitoring Officer
Schedule 29, Para.4	Undertake duties at council elections which, under the Representation of the People Acts, are required to be undertaken not by the Returning Officer but by the Proper Officer	Chief Executive
Sch.29 Para.4(1)(b)	Adaptation, modification and amendment of enactments	Monitoring Officer

#### LOCAL GOVERNMENT ACT 1974

Section	Purpose	Proper Officer
30(5)	Give public notice of receipt of Local Government Ombudsman's report	Chief Executive

#### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Section	Purpose	Officer
41	Certifying copy resolutions and minutes of proceedings	Monitoring Officer

#### REPRESENTATION OF THE PEOPLE ACT 1983

Section	Purpose	Proper Officer
8	Electoral Registration Officer	Chief Executive
35	Returning Officer	Chief Executive
67(7)(b)	Receive declarations and give public notice of election agents' appointments	Chief Executive
81, 82 and 89	Appropriate Officer for the election of Members	Chief Executive
82(4)	Receive declarations and give public notice of election agents' or candidates' election expenses	Chief Executive
131	Providing accommodation for holding election count	Chief Executive

**PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
48 (as amended by the Health and Social Care Act 2008)	Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately	Head of Environment and Sustainability
59	Authentication of documents	Head of Environment and Sustainability

**PUBLIC HEALTH (INFECTIOUS DISEASES) REGULATIONS 1988**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
6	Reporting of infectious diseases to the Chief Medical Officer	Head of Environment and Sustainability
8	Submission of weekly or quarterly returns to the Registrar General	Head of Environment and Sustainability
10	Arrangements for immunisation and vaccination	Head of Environment and Sustainability
Sch.3 and 4	Reporting and issuing notices to prevent the spread of infection	Head of Environment and Sustainability

**LOCAL GOVERNMENT FINANCE ACT 1988**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
114, 115 and 115B	Responsibility for Chief Finance Officer reports	Section 151 Officer
116(1)	Notify the external auditor of a meeting (and decisions made at such a meeting) to consider a report from the Chief Finance Officer (under section 114 and 115 above)	Section 151 Officer

**LOCAL GOVERNMENT AND HOUSING ACT 1989**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
2(4)	Hold the council's list of politically restricted posts	Monitoring Officer in conjunction with Head of Organisational Development
3A	Determine applications for exemption from political restriction or for designation of posts as politically restricted	Monitoring Officer in conjunction with Head

Section	Purpose	Proper Officer
		of Organisational Development
4	Designation as Head of Paid Service	Chief Executive
5(1)	Designation as Monitoring Officer	Head of Legal and Governance
15-17	Undertake all matters relating to the formal establishment of political groups within the membership of the council, and give effect to the wishes of political groups in making appointments of members to committees	Monitoring Officer
19(1) and (4)	Receipt of notice of direct and indirect pecuniary interests	Monitoring Officer

#### THE LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990

Regulation	Purpose	Proper Officer
8(1), 8(5), 9(b), 10, 13(1), 14, 15 and 17	Notifications to and by the Proper Officer Give effect to the wishes of political groups in making appointments of members to committees	Monitoring Officer

#### CRIME AND DISORDER ACT 1998, SECTION 115

#### CRIME AND DISORDER (FORMULATION AND IMPLEMENTATION OF STRATEGY) REGULATIONS 2007

Regulation	Purpose	Proper Officer
4(3)	Primary Designated Officer for information sharing	Executive Director Place

#### LOCAL GOVERNMENT ACT 2000 SECTIONS 9G, 9GA AND 22

#### LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

Regulation	Purpose	Proper Officer
7	Exclusion of whole or part of any reports to the Cabinet or Cabinet Member where they relate only to items during which the meeting is likely not to be open to the public	Monitoring Officer
10	Inform the relevant Select Committee Chair or the Committee Members by notice in writing of decisions to be made, where it has been impracticable to comply with the publicity	Monitoring Officer

Regulation	Purpose	Proper Officer
	requirements (in the Cabinet Notice) and make available for public inspection notices relating to this	
12	Produce a written statement of Cabinet decisions made at meetings	Monitoring Officer
13	Produce a written statement of decisions made by individual Cabinet Members	Monitoring Officer
14	Make a copy of written statements of Cabinet and Cabinet Member and Officer executive decisions and associated reports available for inspection by the public	Monitoring Officer
15 and 2	Make available for inspection a list of background papers	Monitoring Officer
16(5)	Determine whether certain documents contain exempt information	Monitoring Officer
16(7)	Determine whether certain documents contain advice provided by a political adviser or assistant	Monitoring Officer
20	Determine whether documents contain confidential information, exempt information or the advice of a political adviser or assistant	Monitoring Officer

LOCAL GOVERNMENT ACT 2000, SECTION 34

LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) REGULATIONS 2011

Regulation	Purpose	Proper Officer
4-5	Publish the verification number of local government electors for the purpose of petitions under the Local Government Act 2000	Electoral Registration Officer

REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000

THE REGULATION OF INVESTIGATORY POWERS (PRESCRIPTION OF OFFICES, RANKS AND POSITIONS) ORDER 2000

Section	Purpose	Proper Officer
21, 22, 27, 28 and 29	The Senior Responsible Officer for RIPA	Monitoring Officer

REGULATION OF INVESTIGATORY POWERS ACT 2000, SS.22(2)(B) AND 25(2)

THE REGULATION OF INVESTIGATORY POWERS (COMMUNICATIONS DATA) ORDER 2010

THE REGULATION OF INVESTIGATORY POWERS (COVERT SURVEILLANCE AND PROPERTY INTERFERENCE: CODE OF PRACTICE) ORDER 2010

THE REGULATION OF INVESTIGATORY POWERS (COVERT HUMAN INTELLIGENCE SOURCES: CODE OF PRACTICE) ORDER 2010

Regulation	Purpose	Proper Officer
-	Designated Senior Responsible Officer	Monitoring Officer

FREEDOM OF INFORMATION ACT 2000

Section	Purpose	Proper Officer
36	Qualified person to confirm or deny whether disclosure of information is likely to prejudice the effective conduct of public affairs	Monitoring Officer

THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001

Regulation	Purpose	Proper Officer
Sch.1, Pt.II, Paras 5-6	Notifications to the Cabinet concerning appointments and dismissals	Head of Paid Service

LOCAL GOVERNMENT ACT 2003

Section	Purpose	Proper Officer
25	When the annual budget report is considered by Cabinet or by the Council, the Chief Finance Officer must make a report on the robustness of the estimates made in determining the budget requirement and on the adequacy of the proposed level of financial reserves	Section 151 Officer

MONEY LAUNDERING REGULATIONS 2003

Regulation	Purpose	Proper Officer
7(1)(a)	Nominated Officer to receive disclosures	Section 151 Officer

## LOCALISM ACT 2011

Section	Purpose	Proper Officer
29	Establish, maintain and publish a Register of Members' Interests	Monitoring Officer
33(1)	Receiving applications for dispensations	Monitoring Officer
33(2)	Grant dispensations to Members to speak only or to speak and vote on matters where they have a Disclosable Pecuniary Interest	Monitoring Officer

## THE LOCAL ELECTIONS (PRINCIPAL AREAS)(ENGLAND AND WALES) RULES 2006

Regulation	Purpose	Proper Officer
54	Registration Officer for the retention and destruction of documents following an election	Returning Officer

## THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

Regulation	Purpose	Proper Officer
2, 7, 10, 12, 13-16, 20	Functions relating to the recording and publication of information relating to Executive decisions	Monitoring Officer
12-13	Grant dispensations in respect of conflicts of interest declared by an Executive member making a decision, or declared by an Executive member consulted by a member or Officer taking such a decision	Monitoring Officer

## DATA PROTECTION ACT 2018

Section	Purpose	Proper Officer
69, 70 and 71	The designated Data Protection Officer to discharge functions associated with the Data Protection Act 2018	Senior Information Governance Lead

In the event of the Chief Executive being unavailable to deal with matters for which they have been designated the Proper Officer, another Executive Director may be authorised by them to act as Proper Officer in their absence.

In the event of any other designated Officer being unable to fulfil their duties as Proper Officer, their deputy shall be authorised to undertake such duties instead.

Notwithstanding the above, any Proper Officer authority may be exercised in the name of the designated Proper Officer by any other senior Officer authorised in writing to do so by the relevant Proper Officer. All such authorisations will be deposited with the Monitoring Officer.



## Article 25 – Recording and Publishing Decisions

### 25.1 Recording and Publishing Officer Decisions

This protocol sets out the procedural framework to decision making and establishes a system to document decisions taken by Officers under delegated authority.

### 25.2 Types of Officer decisions

An **‘Executive decision’** is one made in connection with the discharge of a function which is the responsibility of the Leader and Cabinet and which has been delegated to Officers.

A **‘Non-Executive decision’** is one made in connection with the discharge of a function that is the responsibility of full Council and its Committees and which has been delegated to Officers.

The significance of decisions taken under delegated powers will vary, and Officers authorised to make delegated decisions need to exercise judgment in determining whether decisions are significant enough to require formal recording and publishing.

Although administrative and operational decisions are not required to be formally reported, they must be recorded within the service area so as to provide an audit trail.

Key Decisions, Material Decisions, Significant Decisions and Urgent Decisions are defined below:

#### 25.2.1 **Key Decisions** are Executive decisions that are ‘significant’:

- (a) in relation to the budget for the service or function in question, i.e., if they result in the Council incurring expenditure or making savings of £250k or more (calculated on a whole life basis); or
- (b) in terms of the effect on communities living or working in an area comprising two or more electoral Wards.

Further detail regarding the criteria which a decision maker must have regard when considering whether a decision is a ‘Key Decision’ is set out within Part 2.

#### 25.2.2 **Material Decisions** are Executive decisions (other than purely operational or administrative in nature) taken by Officers under powers delegated by a specific resolution of the Cabinet/Cabinet Member or under the Scheme of Delegation:

- (a) that are contentious, controversial, or politically sensitive; or
- (b) where there is likely to be a strong public interest; or
- (c) where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or
- (d) raise new issues of policy.

#### 25.2.3 **Significant Decisions** are Non-Executive decisions (other than purely operational or administrative in nature) taken by Officers under powers delegated by a specific resolution of full Council, a Committee or under the scheme of

delegation and having wide public impact/interest; where the effect of the decision:

- (a) is to grant a permission or licence; or
- (b) affects the legal rights of an individual; or
- (c) is to award a contract or incur expenditure which 'materially' affects the Council's financial position.

25.2.4 **Urgent Decisions** are decisions made in circumstances where:

- (a) a decision is required by statute or otherwise within a specified timescale; or
- (b) any delay likely to be caused by not making the decision would seriously prejudice the Council's or the public's interests; or
- (c) any delay likely to be caused by not making the decision would be likely to expose the Council, its Members or the public to a significant level of risk, loss, damage or disadvantage.

25.2.5 Officers do not have authority to make Key Decisions except where:

- (a) they are specifically authorised by the Leader, Cabinet, or any Committee of the Cabinet; or
- (b) the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.

All Key Decisions proposed to be made by Officers will be subject to pre-decision scrutiny by the Scrutiny Committee prior to the decision being taken unless the Scrutiny Committee has previously agreed that the decision does not need to be considered. The pre-decision scrutiny procedure is set out in Part 2.

Any decision-maker **may**, rather than taking a decision delegated to it, refer the decision upwards (escalate) to the delegating body where:

- (a) the decision has a particular significance of importance which makes it appropriate to be escalated;
- (b) the decision involves a point of exceptional political controversy;
- (c) the decision is the subject of particular public interest or scrutiny;
- (d) where representations have been made to, and accepted by, the decision taker that it should so be escalated; or
- (e) it appears in the public interest to do so.

### 25.3 Financial Sign-Off Limits

The following financial sign-off limits are used for operational services for the day-to-day management of internal financial procedures, for example, raising of purchase orders and payment of invoices within previously approved budgets.

	<b>Limit 1</b> As determined by the Chief Finance Officer from time to time	<b>Limit 2</b> As determined by the Chief Finance Officer from time to time	<b>Limit 3</b> As determined by the Chief Finance Officer from time to time	<b>Limit 4</b> Managers that report direct to a Head of Service	<b>Limit 5</b> Heads of Service	<b>Limit 6</b> Executive Leadership Team
<b>Purchasing Goods/Services</b>						
Official Orders	£5,000	£25,000	£50,000	£100,000	£1,000,000	Over £1,000,000
<b>Accounts Payable</b>						
Invoices	£5,000	£25,000	£50,000	£100,000	£1,000,000	Over £1,000,000
Petty Cash	£20	£20	£20	£20	£150	-----
<b>Accounts Receivable</b>						
Invoices	£1,000	£5,000	£7,500	£10,000	£25,000	>£25,000
Credit Notes	£1,000	£5,000	£7,500	£10,000	£25,000	>£25,000
<b>Refunds/Write Offs</b>						
Refunds	£1,000	£5,000	£10,000	£15,000	£50,000	***
<b>***Refunds above £50k should be checked with S151 Officer</b>						
Write Offs	<10K Officer delegation in line with policy					

The deputy Section 151 Officer has an agreed limit of £500,000 on official orders and invoices.

### 25.4 Exceptions to recording and publishing requirements

The following types of Officer decision must be formally recorded and published subject to the exceptions set out:

Type of Officer Decision	Exception
<b>Key Decisions</b> <ul style="list-style-type: none"> <li>Executive decisions that are:           <ul style="list-style-type: none"> <li>likely to result in the Council incurring expenditure or making savings of £250k or more (calculated on a whole life basis); or</li> <li>are significant in terms of the effect on communities living or working in two or more electoral Wards</li> </ul> </li> </ul>	Officers are only to take Key Decisions where: <ol style="list-style-type: none"> <li>specifically authorised by the Leader or Cabinet; or</li> <li>where the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.</li> </ol>

Type of Officer Decision	Exception
<p><b>Material Decisions</b></p> <p>Executive decisions under powers delegated by a specific resolution of the Cabinet/Cabinet Member or under the scheme of delegation:</p> <ul style="list-style-type: none"> <li>• that are contentious, controversial or politically sensitive; or</li> <li>• where there is likely to be a strong public interest; or</li> <li>• where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or</li> <li>• that raise new issues of policy.</li> </ul>	<p>Does not apply:</p> <ul style="list-style-type: none"> <li>(i) to routine operational, organisational or administrative decisions;</li> <li>(ii) where the expenditure or saving has already been approved by Cabinet or Cabinet Member and the decision has been published;</li> <li>(iii) Confidential or Exempt Information; or</li> <li>(iv) where the expenditure or saving is already recorded and published under separate statutory requirements.</li> </ul>
<p><b>Significant Decisions</b></p> <p>Non-Executive decisions under powers delegated by a specific resolution of full Council, a Committee or under the scheme of delegation and having wide public impact/interest; where the effect of the decision:</p> <ul style="list-style-type: none"> <li>• is to grant a permission or licence;</li> <li>• affects the legal rights of an individual;</li> <li>• is to award a contract or incur expenditure which 'materially' affects the Council's financial position;</li> </ul>	<p>Does not apply:</p> <ul style="list-style-type: none"> <li>(i) to routine operational, organisational or administrative decisions;</li> <li>(ii) Confidential or Exempt information;</li> <li>(iii) where the date, details of and reasons for the decision are already required to be produced under a statutory requirement;</li> <li>(iv) if only the rights of an individual or business are affected, unless there is a wider public impact/ interest in the action.</li> </ul>

## 25.5 Publication

As soon as reasonably practicable after an Officer has made a Key, Material or Significant Decision, they must produce a written statement, available for inspection at Town Hall and published on the Council's website, that includes details of:

- (a) the decision and the date on which it was made;
- (b) the reasons for it;
- (c) any alternative options considered and rejected;

- (d) any conflicts of interests declared by any Cabinet member consulted by the Officer and any dispensations granted by the Chief Executive in respect of any declared conflict;
- (e) the report considered by the decision-maker; and
- (f) any background documents disclosing facts or matters on which the decision was based and which were relied on to a material extent in making the decision.

The decision record must be kept for inspection for 6 years and the background papers for 4 years.

## **25.6 The process**

Before taking any decision, the authorised Officer must consider the principles of decision making set out in Part 2.

Details of all proposed Key Decisions must be published at least 28 clear days before the decision is made (unless the general exceptions procedure or special urgency procedure is applicable) via the Cabinet Notice (Forward Plan).

Where an Officer makes an urgent Key Decision they must comply with the legal requirements set out in the Access to Information Rules (see Part 4).

## **25.7 Pre-Decision Scrutiny**

All Key Decisions proposed to be made by Officers will be subject to pre-decision scrutiny by the Scrutiny Committee prior to the decision being taken unless the Scrutiny Committee has previously agreed that the decision does not need to be considered. The pre-decision scrutiny procedure is set out in Part 2.

## **25.8 Call-In**

Key Decisions made by Officers are subject to call-in by Scrutiny Committee and cannot be implemented until either the call-in period has expired or the Scrutiny Committee has made a decision regarding the call-in. The Call-in procedure is set out in Part 2.

Although the formal call-in process only applies to those Officer decisions which are Key Decisions, Scrutiny Committee can call an Officer to account over any decision made.

## **25.9 Recording and publishing the decision**

The Officer decisions for publication (listed above) are recorded in the same manner as Cabinet decisions. The Officer must provide Democratic Services with a completed Officer Decision Record (available on the Council's intranet site) within two clear days of the date of taking the decision. Any such forms must be copied to the relevant Executive Director. The Decision Record will be accompanied by any relevant background papers and, where appropriate (for example, in respect of a controversial or complex matter), a full report (based on the Cabinet report template).

Democratic Services will maintain a record of all Officer decisions referred for publication, including any report upon which each decision was made and background papers. Subject to any exemption from publication, they will ensure that this decision is available for public inspection via the website, at the Town Hall, or by post if requested and on receipt of any payment for copying and postage.

A written record of such decisions must be available for public inspection for at least 6 years and the background papers for at least 4 years.

### **25.10 Consultation with Members**

Officers to whom specific decision-making powers have been delegated following a Cabinet decision subject to consultation with Cabinet Members, will ensure that such consultation takes place prior to making the decision.

Officers acting within the remit of their general delegated powers within the Constitution will ensure that they identify issues upon which Members should be consulted and will ensure that appropriate consultation takes place.

# PART THREE - RULES OF PROCEDURE

## **PART 3 – RULES OF PROCEDURE**

### **Article 26 – Rules of Procedure**

The Council's Rules of Procedure shall apply to Cabinet, Committee and Sub-Committee meetings in so far as they may be relevant to those decision-making bodies.

#### **26.1 Annual Meetings**

- 26.1.1 In a year when there is an ordinary election of Members, the Annual Meeting will take place within 26 days of the retirement of the outgoing Members. In any other year, the Annual Meeting will take place in May, on a date to be fixed by the Council.
- 26.1.2 In the period after ordinary Council elections and before the Annual Meeting, any Member who holds office within the Council immediately prior to the election and is re-elected, shall continue in that office until the date of the Annual Meeting.
- 26.1.3 The Annual Meeting will:
- (a) elect a person to preside if the Mayor or Deputy Mayor is not present;
  - (b) elect the Mayor;
  - (c) elect the Deputy Mayor;
  - (d) approve the minutes of the last meeting;
  - (e) receive any announcements from the Mayor and/or Head of Paid Service;
  - (f) elect the Leader and Deputy Leader;
  - (g) appoint a Scrutiny Committee, a Standards Sub-Committee and other Committees that the Council considers appropriate;
  - (h) agree the scheme of delegation (as set out in Part 2);
  - (i) approve a programme of ordinary meetings of the Council for the year;
  - (j) consider any business set out in the notice convening the meeting; and
  - (k) formally adopt the Members' Allowances Scheme.

#### **26.2 Appointment of Members to Committees and Outside Bodies**

The Council supports and encourages participation by Members in the activities of outside organisations which further the Council's policies and priorities.

- 26.2.1 At the Annual Meeting, the Council will:
- (a) decide which Committees to establish for the municipal year;
  - (b) decide the size and terms of reference for those Committees;

- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) receive nominations of Members to serve on each Committee and Outside Body; and
- (e) appoint to those Committees and Outside Bodies except where appointment to those bodies has been delegated by the Council.

For the purposes of this Constitution reference to an **Outside Body** means:

- (f) a formally constituted entity; and
- (g) one which the Council may provide with funding from time to time.

The Council may make appointments other than to formally designated Outside Bodies.

### **26.3 Ordinary Meetings**

26.3.1 Ordinary Meetings will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary Meetings will:

- (a) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Mayor, Leader, Chairs of the Committees, or the Head of Paid Service;
- (e) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (f) deal with any business from the last Council meeting;
- (g) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (h) consider motions;
- (i) consider any other business specified in the summons to the meeting including consideration of proposals from the Committees in relation to the Council's Budget and Policy Framework; and
- (j) receive any reports on current issues from the Cabinet, the Council's Committees, Select Committees, Joint Committees, panels or Officers.

### **26.4 Budget Meetings**

26.4.1 The meeting convened to consider the Budget shall follow the procedure set out in paragraphs 26.3.1(a) to 26.3.1(d) above only, but in addition shall receive any

questions from, and provide answers to, the public, and consider proposals from the Cabinet in relation to the Council's Budget and Policy Framework.

- 26.4.2 A meeting will be held in February each year to determine the Council's Budget. The business to be considered at the Budget meeting in February shall be limited to the Budget, subject to the Chair having discretion to accept additional items other than those relating to the Budget, but only in exceptional or urgent circumstances.
- 26.4.3 Any vote (including procedural and on amendments) relating to Budget setting and Council Tax decisions made by full Council must be undertaken by a named vote.
- 26.4.4 Section 106 of the Local Government Finance Act 1992 bars a Member from voting on the Council's budget if they have an outstanding Council Tax debt of over two months. If section 106 applies to any Member present at any meeting at which relevant budgetary matters are discussed, the Member must disclose that section 106 applies to them and may not vote. Failure to comply with this requirement is a criminal offence.

## **26.5 Extraordinary Meetings**

### **26.5.1 Calling Extraordinary Meetings**

Those listed below may request the Corporate Services Manager to call an Extraordinary Meeting of the full Council:

- (a) the Council by resolution;
  - (b) the Mayor/Chair;
  - (c) the Monitoring Officer; or
  - (d) any five Members of the Council if they have signed a requisition presented to the Mayor and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- 26.5.2 The business to be transacted at an Extraordinary Meeting shall be restricted to the matters for which the meeting was called as set out in the summons/agenda, and no other business shall be considered.
- 26.5.3 The Mayor may amend the order of business on the agenda, and at the meeting, as they see fit.
- 26.5.4 There are also special meetings of the Council that may be convened for a specific statutory purpose (such as, for example, the appointment of honorary aldermen and honorary alderwomen).

#### 26.5.5 Business

In the case of Extraordinary Meetings, however called, the Corporate Services Manager shall set out the business to be considered and no business other than that set out in the summons shall be considered at the meeting.

### **26.6 Substitute Members of Committees and Sub-Committees**

#### 26.6.1 Number

For each Committee or Sub-Committee, substitutes nominated from each political group (maximum of 2), at the discretion of each group, may become members of that Committee for the duration of that Committee meeting, provided that the substitute Member has received the necessary training where appropriate.

#### 26.6.2 Powers and duties

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

#### 26.6.3 Substitution

Substitute Members may attend meetings in that capacity only:

- (a) to take the place of the ordinary Member for whom they are the designated substitute;
- (b) where the ordinary Member will be absent for the whole of the meeting; and
- (c) after notifying the Corporate Services Manager on the day of the meeting of the intended substitution.

### **26.7 Time and Place of Meetings**

The time and place of meetings will be determined by the Corporate Services Manager and notified in the summons.

### **26.8 Notice of and Summons to Meetings**

The Corporate Services Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules (Part 4). At least five clear days before a meeting, the Corporate Services Manager will send a summons by post, or email where appropriate, to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

### **26.9 Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Cabinet, Committee and Sub-Committee meetings, references to the Mayor include the Chair of Committees and Sub-Committees.

## **26.10 Quorum**

- 26.10.1 Subject to any specific quorum requirements for decision making bodies of the Council provided elsewhere in this constitution, the quorum of a meeting of the Council will be one third of the whole number of Members.
- 26.10.2 During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If they does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

## **26.11 Duration of Meetings**

- 26.11.1 There is an expectation that all Council meetings will last a maximum of two hours. Meeting agendas shall be planned accordingly to ensure that, so far as possible, all meetings of the Council will be conducted in two hours or less.
- 26.11.2 After two hours have passed since the start of a Council meeting, or at a convenient point before, unless the majority of Members present vote for the meeting to continue, the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If the Chair does not fix a time and date, the remaining business will be considered at the next meeting.
- 26.11.3 If the majority of Members present at the meeting vote for the meeting to continue pursuant to the above paragraph, the meeting may only continue for a maximum of 30 additional minutes before the meeting must be immediately adjourned. Any remaining business will be considered at a time and date fixed by the Chair. If the Chair does not fix a time and date, the remaining business will be considered at the next meeting.

## **26.12 Questions by the Public**

### **26.12.1 General**

Members of the public may ask questions of Chairs of the Ordinary Meetings of the full Council during the period of Public Question Time.

### **26.12.2 Order of Questions**

Questions will be asked in the order they were received, except that the Mayor may group together similar questions.

### **26.12.3 Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Corporate Services Manager no later than midday seven working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member to whom it is to be put.

#### 26.12.4 Number of questions

At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of one organisation. The total number of questions to be dealt with at any Ordinary Meeting of Council will be limited to five.

#### 26.12.5 Scope of questions

The Corporate Services Manager or Monitoring Officer may reject a question if it or answering it:

- (a) is not about a matter for which the Council has a responsibility, or which affects the Borough;
- (b) is defamatory, frivolous, or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (d) is likely to require the disclosure of Confidential or Exempt Information.

#### 26.12.6 Record of questions

- (a) The Corporate Services Manager will enter each question on to the Council's website and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.
- (b) Copies of all questions will be circulated to all Members and will be made available to the public via the Council's website.

#### 26.12.7 Asking the question at the meeting

The Mayor will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### 26.12.8 Supplemental question

- (a) A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to their original question.
- (b) A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds listed in paragraph 26.12.5, above.

#### 26.12.9 Written answers

Any questions which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member, to whom the question was to be put, will be dealt with by a written answer.

#### 26.12.10 Reference of a question to the Cabinet or a Committee

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet, to a Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

### **26.13 Questions by Members**

#### 26.13.1 On reports of a Committee

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

#### 26.13.2 Questions on Notice at full Council and Cabinet

Subject to Article 26.13.3, a Member may ask:

- (a) the Leader;
- (b) a Cabinet Member;
- (c) the Mayor; or
- (d) the Chair of any Committee or Sub-Committee,

a question on any matter in relation to which the Council has powers or duties or which affects the Borough of Great Yarmouth.

#### 26.13.3 Questions on notice at Committees or Sub-Committees

A Member of a Committee or Sub-Committee may ask the Chair of the relevant Committee a question on any matter in relation to which the Council has powers or duties or which affect the Borough of Great Yarmouth and which falls within the terms of reference of that Committee or Sub-Committee.

#### 26.13.4 Notice of questions

A Member may only ask a question under Article 26.13.2 or Article 26.13.3 if either:

- (a) they have given at least ten working days' notice in writing before the day of the meeting of the question to the Corporate Services Manager; or
- (b) the question relates to urgent matters and:
- (c) they have the consent of the Mayor to whom the question is to be put; and

- (d) the content of the question is given to the Corporate Services Manager by 11am on the day of the meeting.

(The person to whom the question is put may waive these requirements.)

#### 26.13.5 Response

**An answer may take the form of:**

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner with the minutes of the meeting at which the question has been asked.

#### 26.13.6 Supplementary question

A Member asking a question under Article 26.13.2 or Article 26.13.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

### **26.14 Petitions Scheme**

26.14.1 Any person qualified to ask a question as set-out in these rules, may present a petition to a meeting of the Council.

26.14.2 A petition may only be presented if the wording of the petition has been received in writing or by email by the Corporate Services Manager at least five clear working days before the Council meeting.

26.14.3 No petition may be presented which:

- (a) is not about a matter:
  - (i) for which the Council has a responsibility; or
  - (ii) which particularly affects the Borough;
- (b) contains intemperate, inflammatory, abusive or provocative language;
- (c) is defamatory, frivolous, vexatious, discriminatory or otherwise offensive;
- (d) contains false statements;
- (e) does not relate to a subject matter which is within the direct control of the Council, e.g., a request to lobby central government;
- (f) discloses Confidential or Exempt Information, including information protected by a court order or government department;

- (g) discloses material that is commercially sensitive;
- (h) names individuals, or provides information where they may be easily identified, e.g., individual Officers of public bodies, or makes criminal accusations;
- (i) contains advertising statements;
- (j) refers to an issue which is currently the subject of a formal Council complaint, local Ombudsman complaint or any legal proceedings;
- (k) is directed to an individual or small group;
- (l) is likely to cause a breach of the peace;
- (m) concerns planning applications, or any licence, notice or order issued, served or made by the Council; or
- (n) is substantially the same as a petition which has been presented to a meeting of the Council in the previous six months.

26.14.4 When considering whether a petition is vexatious, the Council will use as a starting point the guidance under the Freedom of Information Act 2000, which states:

*“Deciding whether a Freedom of Information request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.”*

26.14.5 No petitioner shall present more than one petition in any six-month period.

26.14.6 The number of signatories to a petition must be at least twenty.

26.14.7 If a petition contains at least 450 signatures, the relevant Senior Officer will give evidence at a public meeting of the Council’s relevant Committee. The senior staff that can be called to give evidence are the Leader, Executive Directors, and Heads of Service.

26.14.8 If a petition contains more than 900 signatures it will be debated by the full Council unless it is a petition asking for a Senior Council Officer to give evidence at a public meeting. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser or those nominated by the petition organiser will be given a total of ten minutes to present the petition at the relevant meeting and the petition will then be discussed by Members for a maximum of 20 minutes. The Council will decide how to respond to the petition at that meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter for example by a relevant Committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on the Council’s website.

- 26.14.9 Petitions shall be presented in the order in which the Corporate Services Manager receives notice of them provided that not more than two petitions shall be presented at any one Council meeting.
- 26.14.10 When a petition is received that relates to a local matter (particularly affecting specific electoral Wards), a copy of the petition will be sent to each relevant Member at the same time as acknowledging receipt of the petition to the petition organiser.
- 26.14.11 In presenting a petition the petitioner shall say nothing which would be in breach of the restrictions in these rules.
- 26.14.12 Following discussion of the petition, the relevant Cabinet Member or their nominee will have up to five minutes to respond.
- 26.14.13 The Corporate Services Manager may with the consent of the petitioner arrange for the petition to be presented direct to the Cabinet or relevant Committee.

## **26.15 Motions on Notice**

### 26.15.1 Notice

Except for motions which can be moved without notice under Article 26.15.4, written notice of every motion, signed by at least five Members, must be delivered to the Corporate Services Manager not later than ten working days before the date of the meeting. These will be entered on the Council's website.

### 26.15.2 Motion set out in Agenda

- (a) Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states in writing that they propose to move it to a later meeting or withdraw it.
- (b) If a motion, notice of which is set out in the summons, is not moved it shall, unless postponed by consent of the Council be treated as abandoned and shall not be moved without fresh notice.
- (c) Motions for which notice has been given shall be dealt with at the first available Council meeting.
- (d) The Monitoring Officer may reject a Motion if they feel that the Motion is not within scope of motions as defined within Article 26.15.3.
- (e) The Monitoring Officer and Section 151 Officer may reject a motion that impacts on the Policy and Budget Framework of the Council and require that a report from an Officer be prepared before the matter can go forward to Council for consideration.
- (f) If the subject matter of any motion of which notice has been duly given comes within the province of the Cabinet, any Sub-Committee, Committee or Committees, it shall, upon being moved and seconded, stand referred

without discussion to the Cabinet, such Sub-Committee, Committee or Committees as the Council may determine for consideration and report.

- (g) Motions on notice shall be heard towards the end of the Council meeting, just before **Any Other Business**.
- (h) Discussion on any single motion, including amendments thereto, proposal and summing up shall be restricted to 30 minutes, after which the Mayor/Chair shall move to a vote.
- (i) Any speech in support of or against a motion on notice or in support of or against an amendment thereto shall be restricted to 3 minutes (with the length of speech proposing the original motion and right to sum up remaining at 5 minutes).
- (j) Any motion which is moved at a full Council meeting that would have the effect of materially increasing the expenditure of any service or would involve capital expenditure, or requires consideration against statutory obligations (including, but not limited to, an equality impact assessment or crime and disorder implications) shall, unless that motion has been previously considered by the Cabinet, stand adjourned without discussion to the next Ordinary Meeting of the Council, and Cabinet shall consider whether it desires to report thereon back to full Council.

#### 26.15.3 Scope

Motions must be about matters for which the Council has a responsibility, or which affect the Borough of Great Yarmouth.

#### 26.15.4 Motions which may be moved without notice

The following motions may be moved without notice:

- (a) to appoint a chair of the meeting at which the motion is moved;
- (b) those in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion (complex variations to be made in writing and a copy given to the Mayor and Corporate Services Manager prior to the meeting);
- (i) to proceed to the next business;

- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Rule of Procedure;
- (n) to exclude the public and press in accordance with the Access to Information Rules (see Part 4);
- (o) to not hear further a Member named under Article 26.30.3 or to exclude them from the meeting under Article 26.30.4; and
- (p) to give the consent of the Council where such consent is required by this Constitution.

## **26.16 Rules of debate**

### **26.16.1 No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### **26.16.2 Right to require motion in writing**

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to them before it is discussed.

### **26.16.3 Secunder's speech**

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

### **26.16.4 Content and length of speeches**

- (a) Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- (b) Any speech in support of or against a motion on notice or in support of or against an amendment thereto shall be restricted to 3 minutes (with the length of speech proposing the original motion and right to sum up remaining at 5 minutes).
- (c) No speech may exceed five minutes without the consent of the Council.

## **26.17 When a Member may speak again**

### **26.17.1 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:**

- (a) to speak once on an amendment moved by another Member;

- (b) to move a further amendment if the motion has been amended since they last spoke;
- (c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

## **26.18 Amendments to motions**

26.18.1 An amendment to a motion must be relevant to the motion and will either be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words (but not whole sentences);
- (c) to leave out words (but not whole sentences) and insert or add words (but not whole sentences); or
- (d) to insert or add words (but not whole sentences),

provided that the effect of 26.18.1(a) to 26.18.1(d) is not to negate the motion, substantially change or replace the motion, or bring a new subject matter before Council. (NB – a Member may not move as an amendment the insertion or deletion of the word “not”).

26.18.2 Save for Budget meetings and the exceptions in Article 26.18.3, amendments to recommendations or motions set out in the agenda for a meeting shall only be put forward if they have been delivered in writing to Democratic Services by noon on the day preceding the meeting (or 9 am on the day preceding the meeting in the case of the Annual Meeting) for the purpose of checking compliance with Article 26.18.1. If the Monitoring Officer finds the proposed amendment does not comply with Article 26.18.1 the amendment shall not be put forward.

26.18.3 The exceptions to paragraph 26.18.2 are:

- (a) technical amendments may be moved to correct arithmetical, factual, or grammatical errors or to improve the clarity of a motion or recommendation; and
- (b) where the Monitoring Officer finds an amendment to be compliant with Article 26.18.1 the Mayor shall have discretion to permit late amendments from Members when satisfied that the need for the amendment could not have been anticipated before the deadline. The Mayor should also be satisfied that advance notice of such amendments was given as soon as reasonably practical, and not left to the day of the meeting unless this was unavoidable.

- 26.18.4 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 26.18.5 If an amendment is not carried, other amendments to the original motion may be moved.
- 26.18.6 Not more than one amendment may be made to a motion by any one Member.
- 26.18.7 If an amendment is carried, the motion as amended takes the place of the original motion. The amended motion becomes the substantive motion to which any further amendments are moved.
- 26.18.8 After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments or, if there are none, put it to the vote.

### **26.19 Alteration of motion**

- 26.19.1 A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 26.19.2 A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 26.19.3 Only alterations which could be made as an amendment may be made.

### **26.20 Withdrawal of motion**

A Member may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it, unless permission to withdraw the motion is refused.

### **26.21 Right of reply**

- 26.21.1 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 26.21.2 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on it.
- 26.21.3 The mover of the amendment has no right of reply to the debate on their amendment.

### **26.22 Motions which may be moved during debate**

- 26.22.1 When a motion is under debate, no other motion may be moved except the following procedural motions:
- (a) to withdraw a motion;

- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Member named under Article 26.30.3 or to exclude them from the meeting under Article 26.30.4.

### **26.23 Closure motions**

- 26.23.1 A Member may move, without comment, the following motions at the end of a speech of another Member:
- (a) to proceed to the next business;
  - (b) that the question be now put;
  - (c) to adjourn a debate; or
  - (d) to adjourn a meeting.
- 26.23.2 If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 26.23.3 If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed, they will give the mover of the original motion a right of reply before putting their motion to the vote.
- 26.23.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **26.24 Point of order**

- 26.24.1 A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of the Council's Rules of Procedure or the law. The Member must indicate the relevant rule or law, and the way in which they consider it has been broken. The ruling of the Mayor on the matter will be final.

## **26.25 Personal explanation**

- 26.25.1 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

## **26.26 Previous Decisions and Motions**

- 26.26.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion or amendment is signed by at least sixteen Members.

- 26.26.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of the Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 24 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment until a period of six months has elapsed from the day on which the motion or amendment is dealt with.

## **26.27 Voting**

- 26.27.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

- 26.27.2 Chair's casting vote

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

- 26.27.3 Voting method

The Mayor will take the vote by show of hands, electronic means, or if there is no dissent, by the affirmation of the meeting.

- 26.27.4 Recorded vote by demand

If 16 Members present at the meeting demand it, the names for and against the motion or amendment or those abstaining from voting will be taken down in writing and entered into the minutes.

#### 26.27.5 Right to require individual vote to be recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### 26.27.6 Mandatory recorded vote at Council Budget Meetings

Immediately after any vote is taken at a Budget Meeting there will be a recorded vote in the minutes of the proceedings of that meeting, recording the names of the persons who cast a vote for the decision, or against the decision, or who abstained from voting.

#### 26.27.7 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one of those nominated persons, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. If the deadlock is still not broken, then the position will be decided by the drawing of lots.

### 26.28 Minutes

#### 26.28.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### 26.28.2 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

#### 26.28.3 Record of attendance

A record of the Members attending the meeting will be recorded in the minutes.

### 26.29 Exclusion of public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules of this Constitution or Articles 26.31.1 or 26.31.2 (Disturbance by Public).

### 26.30 Member's Conduct

#### 26.30.1 Standing to speak

When a Member speaks at full Council they must stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a

Member is speaking unless they wish to make a Point of Order or a point of personal explanation.

**26.30.2 Chair standing**

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

**26.30.3 Member not to be heard further**

If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may rule that the Member be not heard further.

**26.30.4 Member to leave the meeting**

If the Member continues to behave improperly after such a ruling is made by the Mayor, the Mayor may rule that the Member leave the meeting.

**26.30.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as they think necessary.

**26.31 Disturbance by Public**

**26.31.1 Removal of a member of the public**

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

**26.31.2 Clearance of part of the meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

**26.32 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

**26.33 Suspension and Amendment of Rules of Procedure**

**26.33.1 Suspension**

- (a) All of these Rules of Procedure except Articles 26.1.1 and 26.27.2 may be suspended during a meeting of the Council either by motion on notice or, if at least one half of the whole number of Members are present at the relevant meeting, without notice.

- (b) The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Part 2. As a maximum, suspension can only be for the duration of the meeting.

#### 26.33.2 Amendment

Any motion to add to, vary or revoke the Council's Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next Ordinary Meeting of the Council.

## **Article 27 – Development Management Committee**

### **27.1 Order of Meeting Procedure**

- 27.1.1 The Chair of the Development Management Committee may, at their discretion, allow the order of the agenda to be changed so that those applications where due notice has been given that the applicant, agent, supporters, objectors, and any interested party, Parish Council and other bodies (where appropriate) wish to speak may be heard first.
- 27.1.2 Due notice of a request to speak shall be submitted in writing to the Head of Planning two days prior to the day of the Development Management Committee meeting.
- 27.1.3 In consultation with the Head of Planning, the Chair will decide on which applications public speaking will be allowed.
- 27.1.4 Three minutes only (or five minutes on major applications at the discretion of the Chair) will be allowed to:
- (a) objectors together;
  - (b) an agent or applicant;
  - (c) supporters together;
  - (d) to a representative from the Parish Council; and
  - (e) Ward Councillors.
- 27.1.5 The order of presentation at Committee will be:
- (a) Planning Officer presentation, with any technical questions from Members;
  - (b) agents, applicant and supporters, with any technical questions from Members;
  - (c) objectors and interested parties, with any technical questions from Members;
  - (d) Parish Council representatives, Ward Councillors and others, with any technical questions from Members; followed by
  - (e) Committee debate and decision.

### **27.2 Protocols**

- 27.2.1 A Member of the Development Management Committee must not participate in the decision and/or vote if they have not been present for the whole item. This is an administrative law rule particularly applicable to planning (and licensing). If a Member has not heard all of the evidence (for example, because they have been out of the room for a short time), then they must not participate in the decision

because their judgement of the merits is potentially skewed – they will not have heard all of the evidence and representations.

- 27.2.2 It is critical that Development Management Committee Members observe the rule set out in Article 27.2.1, above. Failure to adhere to the rule in Article 27.2.1 may result in legal challenge and the decision of the Committee being overturned.
- 27.2.3 If a Member of Development Management Committee wishes to speak on an item in their capacity as Ward Member, they should not attend the meeting, but may substitute themselves for the whole meeting should they wish. When speaking as Ward Members, Members should seat themselves apart from the decision-making Members of Committee and speak from the same lectern as other public speakers.

**PART FOUR -  
REGULATIONS (INCLUDING  
FINANCIAL PROCEDURES,  
CONTRACT STANDING  
ORDERS AND EMPLOYMENT  
PROCEDURE RULES, CODES  
AND PROTOCOLS)**

## Article 28 Access to Information Rules

### 28.1 Scope

- 28.1.1 These rules apply to all formal meetings of the Council, Cabinet, Scrutiny Committee, Regulatory Committees, other Committees, and any Sub-Committees, panels and joint committees (together called meetings).
- 28.1.2 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or provided by law.

### 28.2 Members' Rights to Information

- 28.2.1 These rights of a Member are additional to any other right they may have.
- 28.2.2 Members possess certain rights conferred by law, e.g., they are entitled to attend Council, or Committee and Sub-Committee meetings without hindrance, and if they can show a "need to know" in relation to a particular item of business.
- 28.2.3 A Member may attend any meeting but, unless appointed to the Committee, Sub-Committee, group or forum or as a substitute Member, shall not vote and, save as provided in Part 3 of this constitution, may only speak with the permission of the Chair.
- 28.2.4 A Member who is the subject of a Code of Conduct complaint may only attend the Standards Sub-Committee meeting when the complaint against them is being considered if either the Monitoring Officer or the Committee agrees to their attendance at the relevant meeting.
- 28.2.5 The rights of Members to documents emanate from statute and common law.
- 28.2.6 Case law on the subject highlights two themes which are often in conflict, namely, the corporate responsibilities and duties of Members to the Council as a whole and the duties and responsibilities of Members as representatives of a wider range of community interests which they are elected to represent.

### 28.3 The statutory position

- 28.3.1 Section 100F of the Local Government Act 1972 (as amended) (**1972 Act**) provides additional statutory rights for Members in respect of documents in the possession or under the control of the Council which contain material relevant to business to be transacted at a meeting of the Council, a Committee or Sub-Committee of the Council. Subject to certain exceptions, any such documents shall be open to inspection by any Member.
- 28.3.2 Unless a particular Member can establish a "need to know" at common law then, under section 100F of the 1972 Act, the Proper Officer of the Council is entitled to withhold access if the document falls within the categories of exempt information contained within Schedule 12A of the 1972 Act or Confidential Information (as defined in Part 4). However, under the Local Government (Access to Information) (Variation) Order 2006, the document will still be open to inspection by Members if it contains:

- (a) information relating to the financial or business affairs of any particular person (including the Council holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
- (b) information which reveals that the Council proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) to make an order or direction under any enactment.

28.3.3 Rules of Procedure provide that requests for information should normally be made to the Proper Officer of the Council. However, it is not unusual for Members to approach the relevant Officer directly, only having recourse to the Proper Officer or the Chief Executive if there is a need to clarify the particular rights of access in relation to the material concerned.

28.3.4 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (**2012 Regulations**) apply to local authorities in England that operate Executive arrangements under Part 1A Local Government Act 2000, as amended by section 21 and Schedule 2 of the Localism Act 2011. The 2012 Regulations:

- (a) clarify and extend the circumstances in which Executive decisions are public. There is a presumption that a meeting will be open to the public unless the nature of the business being transacted would result in Confidential Information being disclosed;
- (b) make provision for the publicity that must be given before a Key Decision is taken by the Executive and for the inclusion of prescribed information in a written statement of the Executive decision; and
- (c) set out additional rights of Members generally, and Members of the Scrutiny Committee in particular, to access documents, as well as general provisions relating to information that is exempt from disclosure (including advice from a political adviser).

## 28.4 All Members

28.4.1 Regulation 16 of the 2012 Regulations contains rights for any Member to access documents that:

- (a) are in the possession or under the control of the Executive; and
- (b) contain material relating to any business to be transacted at a public meeting.

28.4.2 Any such document must be available for inspection for at least five clear days before the relevant meeting, except that:

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available in relation to that item, must be available for inspection when the item is added to the agenda.

28.4.3 Any document which:

- (a) is in the possession or under the control of the Executive; and
- (b) contains material relating to:
  - (i) any business transacted at a private meeting;
  - (ii) any decision made by an individual Member in accordance with Executive arrangements; or
  - (iii) any decision made by an Officer in accordance with Executive arrangements,

must be available for inspection by any Member when the meeting concludes or, where an Executive decision is made by an individual Member or an Officer, immediately after the decision is made. Any such document must be available for such inspection, in any event, within 24 hours of the conclusion of the relevant meeting or the decision being made.

28.4.4 Articles 28.4.1, 28.4.2 and 28.4.3, above, do not apply if it appears to the Proper Officer of the Council that a document discloses exempt information. However, the document will still be open to inspection if it contains information:

- (a) relating to the financial or business affairs of any person (including the authority holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (b) which reveals that the authority proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) to make an order or direction under any enactment.

28.4.5 All agendas, reports and other documents and proceedings of Committees and Sub-Committees shall be treated as confidential and shall not be disclosed unless and until they become public in the ordinary course of the Council's business.

## **28.5 Scrutiny Committee Members**

28.5.1 Regulation 17 of the 2012 Regulations provides additional rights of access for Members of the Scrutiny Committee who are entitled to a copy of any document which:

- (a) is in the possession or under the control of the Executive; and
- (b) contains material relating to:
  - (i) any business that has been transacted at a meeting of a decision-making body of the Council;
  - (ii) any decision that has been made by an individual Member of the Executive; or
  - (iii) any decision that has been made by an Officer in accordance with Executive arrangements.

28.5.2 Subject to Article 28.5.3, below, where a Member of the Scrutiny Committee requests a document falling within the scope of Article 28.5.1, above, the Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.

28.5.3 No Member of the Scrutiny Committee is entitled to a copy:

- (a) of any document or part of a document that contains Exempt or Confidential Information unless that information is relevant to:
  - (i) an action or decision that that Member is reviewing or scrutinising; or
  - (ii) any review contained in any programme of work of a Committee or Sub-Committee of such a Committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

28.5.4 Where the Executive determines that a Member of the Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out within Article 28.5.3, above, it must provide the Scrutiny Committee with a written statement setting out its reasons for that decision.

## 28.6 FOIA and EIRs

28.6.1 Members can, like a member of the general public, make requests under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Information Commissioner's Office provides two very helpful publications regarding such requests:

- (a) the Guide to Freedom of Information,<sup>8</sup> and
- (b) the Guide to the Environmental Information Regulations<sup>9</sup>.

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<sup>8</sup> [Guide to freedom of information | ICO](#)

<sup>9</sup> [Guide to the Environmental Information Regulations | ICO](#)

## 28.7 Local authority accounts

- 28.7.1 The Local Audit and Accountability Act 2014 and the Accounts and Audit Regulations 2015 provide a right to inspect, question and make objections to the Council's auditor, take copies of statements of accounts and auditors' reports. However, such rights are restricted to prevent access to documents containing personal information relating to staff. These rights are explained fully in the National Audit Office guidance.<sup>10</sup>
- 28.7.2 In addition, section 228(3) of the 1972 Act provides that “[t]he accounts of a local authority and of any proper officer of a local authority shall be open to the inspection of any member of the authority, and any such member may make a copy of or extract from the accounts”.

## 28.8 The common law ‘need to know’

- 28.8.1 In principle, a Member has a right to inspect documents addressed to the Council upon the basis that a Member is under a duty to keep themselves informed of Council business which relates to their role as an elected representative and which they have a "need to know". Accordingly, if the motive for seeking access to a document is improper or ulterior then access can be quite properly barred. So too, a Member does not have a "roving commission" to examine Council paperwork, a mere curiosity or wish to see such paperwork is not sufficient.<sup>11</sup> In practice this means that if a Member is a Member of a Committee then they have the right to inspect documents relating to the business of that Committee, if not a Member of that Committee, then the Member must show cause why the sight of such documents is necessary to perform their duties.
- 28.8.2 The entitlement of a Committee Member to have access to relevant documents at the particular Committee is stronger than that of a non-Member but, as indicated, it is not an absolute right and improper or ulterior motives would be a bar to access.
- 28.8.3 A Member of a Committee is normally entitled to see documents relating to the work of a Sub-Committee of that Committee, or if the Member is a Member of another Committee the administration of which relates to the activities of the relevant Sub-Committee.

## 28.9 Notice of Meetings

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Town Hall, Hall Quay, Great Yarmouth and on its website.

## 28.10 Key Decisions

- 28.10.1 Regulation 9 of the 2012 Regulations requires that at least 28 clear days before a Key Decision is made, the Cabinet Notice (Forward Plan) must be made available for inspection by the public (at the designated Council office and on the Council website) and contain the following information:

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<sup>10</sup> [Local authority accounts: A guide to your rights \(nao.org.uk\)](#)

<sup>11</sup> *R v Southwold Corp Ex p. Wrightson* (1907) 5 LGR 888

- (a) that a Key Decision is to be made on behalf of the Council;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name, position and, where the decision maker is a decision-making body, its name and a list of its Members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents the decision-maker is likely to consider, including what other documents may be submitted to the decision-maker;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker;
- (h) the procedure for requesting details of documents; and
- (i) whether the public are likely to be excluded from the meeting at which the matter is to be discussed, or whether papers relating to the matter may be excluded from publication.

28.10.2 Except in cases of urgency, where the publication of the intention to make a Key Decision is impracticable, that decision may only be made:

- (a) where the Proper Officer has informed the Chair of the Scrutiny Committee or, in their absence, each Member of the Scrutiny Committee by notice in writing, of the matter about which the decision is to be made and setting out the reasons why publication is impracticable;
- (b) where the Proper Officer has made available for inspection and published on the website a copy of the notice given under 28.10.2(a); and
- (c) after five clear days have elapsed following the day on which the Proper Officer made available the notice pursuant to 28.10.2(b).

28.10.3 If the Scrutiny Committee considers that a decision taken should have been treated as a Key Decision but was not, it may require the Leader to report to full Council within a specified reasonable time, giving details of the decision, the reasons for it, who made it and why it was not considered to be a Key Decision.

28.10.4 Urgent Key Decisions may be taken on less than five clear days' notice if the agreement of the Chair of Scrutiny Committee (or, in their absence, the Deputy Chair of Scrutiny Committee or, in their absence, the Mayor or, in their absence, the Deputy Mayor) has been obtained in writing before the decision is made stating that the making of the decision is urgent and cannot reasonably be deferred. The views of the Chair of the Scrutiny Committee (Deputy Chair of Scrutiny Committee, Mayor or Deputy Mayor, as the case may be) must be included in the relevant report alongside the explanation as to why the matter is

urgent, why it cannot await the next edition of the Cabinet Notice, and why it missed the last edition of the Cabinet Notice.

- 28.10.5 In accordance with Regulation 19 of the 2012 Regulations, the Leader will submit an annual report to full Council containing particulars of all Key Decisions taken as urgent since the last annual report.

### **28.11 Access to agendas and reports before meetings**

- 28.11.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting.
- 28.11.2 If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.
- 28.11.3 Where reports are prepared after the summons has been sent out, the Corporate Services Manager shall make each such report available to the public as soon as the report is completed and sent to Members.

### **28.12 Background Papers**

- 28.12.1 The Reporting Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:
- (a) disclose any facts or matters on which the report or an important part of the report is based; and
  - (b) which have been relied on to a material extent in preparing the report,
- but does not include published works or those which disclose Exempt or Confidential Information and, in respect of reports to Cabinet, the advice of a political adviser.
- 28.12.2 The Council will make one copy of each of the documents on the list of background papers available for public inspection for four years after the date of the meeting to which the papers relate.

### **28.13 Supply of copies**

The Council will supply copies of:

- 28.13.1 any agenda and reports which are open to public inspection;
- 28.13.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 28.13.3 if the Corporate Services Manager thinks fit, copies of any other documents supplied to Members in connection with an item to any person on payment of a charge for postage and any other costs.

## **28.14 Access to minutes etc. after meetings**

The Council will make available copies of the following for six years after a meeting or the taking of a decision:

- 28.14.1 the minutes of the meeting and/or records of the decision taken, together with the reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which discloses Exempt or Confidential Information;
- 28.14.2 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 28.14.3 the agenda for the meeting; and
- 28.14.4 reports relating to items when the meeting was open to the public.

## **28.15 Public Rights to Attend Meetings and Inspect Documents**

- 28.15.1 Members of the public may attend all meetings subject only to the exceptions in these rules.
- 28.15.2 A written summary of the public's rights to attend meetings and to inspect copy documents must be kept and be available to the public at the Town Hall, Hall Quay, Great Yarmouth.

## **28.16 Exclusion of the Public**

- 28.16.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that Exempt or Confidential Information would be disclosed.
- 28.16.2 Where a meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention on Human Rights establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified within Article 6.
- 28.16.3 If permitted under any enactment or If the Corporate Services Manager thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which the meeting is likely not to be open to the public.
- 28.16.4 Where the whole or any part of a report for a public meeting or as part of a decision is not available for inspection by the public:
  - (a) every copy of the whole report or the part of the report, as the case may be, must be marked "not for publication"; and
  - (b) there must be stated on every copy of the whole or the part of the report:
    - (i) that it contains Exempt or Confidential Information; and
    - (ii) if relevant, a description of the Exempt Information by reference to the categories in Schedule 12A to the 1972 Act, by virtue of which

the decision-making body discharging the function is likely to exclude the public during the item to which the report relates.

## 28.17 Exempt Information

28.17.1 **Exempt Information** means information falling within the following nine categories:

- (a) information relating to any individual;
- (b) information which is likely to reveal the identity of an individual;
- (c) information relating to the financial or business affairs of any particular person (including the authority holding that information), unless it is required that the information be registered under the Companies Acts,<sup>12</sup> the Friendly Societies Act 1974, the Friendly Societies Act 1992, the Co-operative and Community Benefit Societies Act 2014, the Building Societies Act 1986 or Charities Act 2011;
- (d) information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council;
- (e) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- (f) information which reveals that the Council proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) to make an order or direction under any enactment; or
- (g) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- (h) information which is subject to any obligation of confidentiality; or
- (i) information which relates in any way to matters concerning national security.

28.17.2 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.

28.17.3 Information that falls within Articles 28.17.1(a) - 28.17.1(g) 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. This requires the Council to make a judgment about the public

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<sup>12</sup> As defined by section 2 of the Companies Act 2006

interest. Where the balance between disclosure and withholding the information is seen as equal, the information must be disclosed.

- 28.17.4 A practice of applying "exempt" status to a report without reasons being set out and consideration of the public interest is not acceptable.

## **28.18 Private Meetings of the Cabinet**

- 28.18.1 Private Meetings of the Cabinet means those meetings where one or more of the reports on the agenda includes Exempt or Confidential Information and, as such, the public may (or must) be excluded from the relevant meeting (or part thereof).
- 28.18.2 The public must be excluded from Cabinet meetings whenever it is likely in view of the nature of the business to be transacted that Confidential Information would be disclosed. For the purposes of this paragraph, **Confidential Information** means information given to the Council by a Government Department on terms which forbid its public disclosure, or information which cannot be publicly disclosed by court order.
- 28.18.3 At least 28 clear days before a private meeting of the Cabinet a notice of the intention to hold part or all of the meeting in private must be included in the Cabinet Notice (Forward Plan), published on the Council's website and be available for inspection at the Town Hall.
- 28.18.4 The notice included in the Cabinet Notice (Forward Plan) must state the reasons for the meeting to be held in private and advise that any representations about why the meeting should be open to the public must be received at least 10 clear days before the meeting (so these can be considered by the Monitoring Officer and responded to accordingly).
- 28.18.5 At least 5 clear days before any private meeting, a notice of the intention to hold part or all of the meeting in private must be included in the agenda published on the Council's website and be available for inspection. This notice is in addition to the notice which must have already been published pursuant to Article 28.18.3, above.
- 28.18.6 The notice in the agenda, referred to in Article 28.18.5 above, must:
- (a) state the reasons for the meeting to be held in private;
  - (b) provide details of any representations received about why the meeting should be open to the public;
  - (c) include a statement of the Council's response to any such representations.

## **28.19 Urgent decisions in private meetings**

- 28.19.1 Where the date by which a private meeting must be held makes compliance with the notice periods above impracticable, the meeting may only be held in private where agreement has been obtained in writing from the Chair of the Scrutiny Committee or, in their absence, the Deputy Chair of the Scrutiny Committee or, in their absence, the Mayor or, in their absence, the Deputy Mayor, that the meeting is urgent and cannot reasonably be deferred.

- 28.19.2 As soon as reasonably practicable after such agreement pursuant to Article 28.19.1, above, has been obtained, a further notice must be published on the agenda on the Council's website and be available for inspection, setting out the reasons why the meeting is urgent and cannot reasonably be deferred.
- 28.19.3 If the matter contains Confidential or Exempt Information, then the item will not be made available to the public. However, the Corporate Services Manager will be required to ensure that a separate public report and minute is produced containing all information that is not Confidential or Exempt.
- 28.19.4 If an item is later added to the agenda, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the report author shall make each such report available to the public as soon as the report is completed.
- 28.19.5 In the case of items or reports that fail to meet the deadline of publication five clear days before the relevant meeting, the report will only be included on the agenda for that meeting where the Monitoring Officer is satisfied that:
- (a) the item/report is genuinely urgent and cannot wait until a later meeting;  
and
  - (b) the report author will be responsible for including those reasons in the report.

## Article 29 – Financial Regulations

### 29.1 Status of the Financial Regulations

- 29.1.1 The Financial Regulations (**Regulations**) provide the governance framework for managing the Council's financial affairs and are part of the Constitution. They apply to every Member and employee of the Council and anyone acting on its behalf.
- 29.1.2 The Regulations identify the financial responsibilities of the Council, its Members, the Head of Paid Service (Chief Executive), the Monitoring Officer and the Chief Finance Officer. The Regulations seek to ensure that the Council conducts its affairs in a way that complies with specific statutory provisions, generally accepted accounting policies and professional good practice.
- 29.1.3 All Members and employees have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of those resources is legal, is properly authorised, provides value for money and achieves best value. In doing so, proper consideration must be given at all times to matters of probity and propriety in managing the assets, income and expenditure of the Council.
- 29.1.4 By virtue of section 151 of the Local Government Act 1972, the Chief Finance Officer is the Responsible Financial Officer under regulation 2(2)(a) of the Accounts and Audit Regulations 2015. They are responsible for setting the financial management standards, monitoring compliance with them, maintaining a continuous review of the Regulations and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Regulations to the Council and/or to the Cabinet and portfolio holders.
- 29.1.5 The Chief Finance Officer is responsible for issuing advice and guidance on the application of the Regulations which Members, employees and others acting on behalf of the Council are required to follow. The Chief Finance Officer must also ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local performance indicators.
- 29.1.6 The Chief Finance Officer can allow exceptions to these regulations if they consider that the interests of the Council would be best served if the Regulations were not applied. The Chief Finance Officer must keep a written record of any such exceptions and submit an annual report to full Council summarising their decisions.
- 29.1.7 The Executive Leadership Team (**ELT**) is comprised of the Head of Paid Service, Executive Directors, and the Monitoring Officer, as identified in the Constitution. Members of the ELT may act as or on behalf of a Head of Service in accordance with the Regulations in the absence of any Head of Service, or on any other matter relating to the effective operation of the Council's business.
- 29.1.8 Breaches of the Regulations shall be investigated in accordance with the procedures laid down in the local disciplinary procedures.

- 29.1.9 Executive Directors are responsible for promoting the financial management standards set by the Chief Finance Officer and monitoring adherence to the relevant standards and practices, liaising as necessary with the Chief Finance Officer. Executive Directors are responsible for promoting sound financial practices in relation to the standards, performance, and development of staff in their departments.
- 29.1.10 Executive Directors should ensure that records and assets are properly maintained (by appropriately qualified persons) and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of a disaster or system failure, are in place. Assets should be acquired and disposed of in accordance with the Council's Asset Management Policy, the Acquisitions and Disposals Policy (where applicable) and any Asset Management Plan.

## **29.2 Financial management**

Financial management covers all financial accountabilities in relation to the running of the Council, including the Budget and Policy Framework.

## **29.3 The Cabinet**

- 29.3.1 The Cabinet is responsible for proposing the financial Policy Framework and Budget to full Council, and for discharging Executive functions in accordance with the Policy Framework and Budget.
- 29.3.2 Executive decisions can be delegated to a Committee of Cabinet members, an employee, or a joint committee.

## **Article 30 – The Statutory Officers**

### **30.1 Head of Paid Service**

- 30.1.1 The Head of Paid Service for the purposes of the Local Government and Housing Act 1989 is responsible for the corporate and overall strategic management of the Council as a whole. The Head of Paid Service must report to and provide information for the Council, the Cabinet, the Scrutiny Committee and other Committees.
- 30.1.2 The Head of Paid Service is responsible for establishing a framework for management direction, style, and standards, and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Council's decisions.

### **30.2 The Monitoring Officer**

- 30.2.1 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Sub-Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to full Council and/or to the Cabinet.
- 30.2.2 The Monitoring Officer is responsible for advising all Members and employees about who has authority to take a particular decision, and for ensuring that procedures for recording and reporting all decisions are operating effectively.
- 30.2.3 The Monitoring Officer (together with the Chief Finance Officer) is responsible for advising the Cabinet or full Council on whether a decision is likely to be considered contrary to, or not wholly in accordance with, the Budget. Actions that may be 'contrary to the Budget' include:
- (a) initiating a new policy;
  - (b) committing expenditure in future years to above the Budget level;
  - (c) incurring interdepartmental transfers above virement limits; or
  - (d) causing the total net expenditure financed from Council Tax, grants and corporately held reserves to increase or to increase by more than a specified amount beyond the approved Budget.

### **30.3 The Chief Finance Officer**

- 30.3.1 As noted above, the Chief Finance Officer undertakes the duties of the Responsible Financial Officer and has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
- (a) section 151 of the Local Government Act 1972;
  - (b) the Local Government Finance Act 1988;

- (c) the Local Government and Housing Act 1989; and
- (d) the Accounts and Audit Regulations 2015 (as updated and amended from time to time).

30.3.2 The Chief Finance Officer is responsible for:

- (a) the proper administration of the Council's financial affairs;
- (b) setting and monitoring compliance with financial management standards;
- (c) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- (d) providing financial information;
- (e) preparing the revenue budget and capital programme; and
- (f) treasury management and banking.

30.3.3 Section 114 of the Local Government Finance Act 1988 (**LGFA 1988**) requires the Chief Finance Officer to report to the Council, the Cabinet, and external auditor if the Council or one of its employees:

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

30.3.4 The Chief Finance Officer must also make a report under section 114 of the LGFA 1988 if it appears that the expenditure of the Council (including expenditure it is proposing to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to meet that expenditure.

30.3.5 In addition to the above, section 114 of the LGFA 1988 requires:

- (a) the Chief Finance Officer to nominate a properly qualified member of staff to deputise should the Chief Finance Officer be unable to perform the duties under section 114 LGFA 1988 owing to absence or illness; and
- (b) the Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under section 114 of the LGFA 1988.

## **Article 31 – Other Management Team Roles**

### **31.1 Executive Directors**

31.1.1 Executive Directors are responsible for:

- (a) oversight and accountability of the service areas within their directorate;

- (b) providing strategic leadership;

## **31.2 Heads of Service**

31.2.1 Heads of Service (or a member of the Executive Leadership Team acting on their behalf) are responsible for:

- (a) ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer; and
- (b) signing contracts on behalf of the Council (other than those under the Council's seal).

31.2.2 It is the responsibility of Heads of Service to consult with the Chief Finance Officer and seek relevant approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

## Article 32 – Other financial accountabilities

### 32.1 Scheme of Virement

- 32.1.1 The Chief Finance Officer is responsible for agreeing procedures for virement of expenditure between budget headings. The Chief Finance Officer may approve technical virements to make Budget transfers where there is no underlying change in the Budget intention.
- 32.1.2 Any variation to this scheme of virement requires the approval of the full Council.
- 32.1.3 The Cabinet (on the advice of the Chief Finance Officer) is responsible for determining the use of balances to fund expenditure not covered elsewhere in the Budget.
- 32.1.4 The Chief Finance Officer is responsible for approving any virements of revenue Budgets where it is for the release of earmarked sums from contingency provisions.
- 32.1.5 The Head of Paid Service or the Chief Finance Officer (in consultation with the Leader or the Cabinet Member for Resources) may exercise the virement powers of the Cabinet where a matter is urgent.
- 32.1.6 Fortuitous savings, or additional income, cannot be used for revenue virement purposes. These must be reported to the Cabinet for consideration of how these additional monies are to be used. Fortuitous savings are deemed to be savings not already assumed in the Budget.
- 32.1.7 Virements are not permitted between General Fund and Housing Revenue Account services and are also not permitted from staffing budgets to any other budget head except with the express approval of the Chief Finance Officer.
- 32.1.8 The virement limits are as outlined below and should be in consultation with the Chief Finance Officer and apply to revenue, capital, and reserves:

Amount	Responsibility for Approval
Up to (and including) £10,000 (within budget/service headings of responsibility)	Heads of Service
Up to and including £50,000 (within and between service headings)	Chief Executive, Executive Directors, and Chief Finance Officer
£50,000 to £100,000	Executive Leadership Team
Over £100,000	Cabinet

- (a) The following outline the guidelines within which the virements can be carried out:
- (i) virements should not be between financial years (see also treatment of year-end balances);
  - (ii) virement requests should specify the reason and purpose;

- (iii) where virement is between services the impact on delivery of service plans must be taken into account;
- (iv) virement from employee budgets is allowed only for similar purposes, for example, overtime and employment of agency staffing or external contractors to deliver the service; and
- (v) no virement shall be undertaken for utilising additional income for expenditure purposes without the consent of the Chief Finance Officer.

## **32.2 Earmarked Reserves**

32.2.1 The Cabinet is responsible for approving any new earmarked reserves.

32.2.2 The Chief Finance Officer is responsible for approving the release of earmarked reserves where utilised in line with the intentions of reserve when created.

## **32.3 Guarantees**

The Cabinet is responsible for approving any financial guarantees provided by the Council to third parties. The Chief Finance Officer is authorised to provide financial guarantees in relation to any entities wholly-owned by the Council.

## **32.4 Treatment of year-end balances**

32.4.1 The rules below cover arrangements for transfer of resources between accounting years, i.e., a carry-forward. For the purposes of this scheme, a Budget heading is considered to be a detailed budget head within the same or different Chartered Institute of Public Finance and Accountancy (**CIPFA**) standard classification heading of a service plan budget. The Chief Finance Officer is responsible for agreeing procedures for carrying forward under and overspendings on budget headings.

32.4.2 When considering any applications for carry forward of unspent (revenue) budgets, the Chief Finance Officer will consider the overall budget position of the Council.

32.4.3 The Chief Finance Officer will administer the scheme of carry-forward of underspends for consideration by the Cabinet and report on under-spend on service budgets carried forward to the Cabinet.

## **32.5 Accounting policies**

32.5.1 The Chief Finance Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

32.5.2 In order to select suitable accounting policies and to ensure that they are applied consistently, the policies will be reviewed annually. The accounting policies are set out in the annual statement of accounts, which is prepared at 31 March each year, and covers such items as:

- (a) separate accounts for capital and revenue transactions;

- (b) the basis on which debtors and creditors at year end are included in the accounts;
- (c) details on substantial provisions and reserves;
- (d) fixed assets;
- (e) depreciation;
- (f) capital charges;
- (g) work in progress;
- (h) stocks and stores;
- (i) accounting for value added tax;
- (j) government grants;
- (k) leasing; and
- (l) pensions.

32.5.3 It is the responsibility of Executive Directors and Heads of Service to adhere to the accounting policies and guidelines approved by the Chief Finance Officer.

## **32.6 Accounting records and returns**

32.6.1 The Chief Finance Officer is responsible for determining the accounting procedures and records for the Council. Where these are maintained outside the finance department, the Chief Finance Officer must be consulted by the Heads of Service concerned.

32.6.2 The Chief Finance Officer must arrange for the compilation of all accounts and accounting records under their direction.

32.6.3 The Chief Finance Officer must comply with the following principles when allocating accounting duties:

- (a) separating the duties of:
  - (i) providing information about sums due to or from the Council; and
  - (ii) calculating, checking, and recording these sums from the duty of collecting or disbursing them; and
- (b) ensuring that employees with the duty of examining or checking the accounts of cash transactions are not themselves engaged in these transactions.

32.6.4 The Chief Finance Officer must ensure that all claims for funds including grants are made by the due date.

- 32.6.5 The Chief Finance Officer must ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention schedules.
- 32.6.6 Executive Directors and Heads of Service shall consult and obtain the approval of the Chief Finance Officer before making any changes to accounting records and procedures, and shall comply with the principles set out in Article 32.6.3 when allocating accounting duties.
- 32.6.7 Executive Director and Heads of Service shall maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements. They shall supply information required promptly to enable the annual statement of accounts to be completed in accordance with the guidelines issued by the Chief Finance Officer.

### **32.7 The annual statement of accounts**

The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom based on International Financial Reporting Standards. The Audit, Risk and Standards Committee is responsible for approving the annual statement of accounts.

- 32.7.1 It is the responsibility of the Chief Finance Officer to sign and date the annual statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March.
- 32.7.2 The Chief Finance Officer shall draw up a timetable for final accounts and advise staff and external auditors accordingly.
- 32.7.3 Executive Directors and Heads of Service shall comply with accounting guidance provided by the Chief Finance Officer and to supply the Chief Finance Officer with information consistent with the manner and timescale requested.

## **Article 33 – Financial planning**

### **33.1 Performance Plans**

- 33.1.1 Each local authority has a statutory responsibility to publish various performance plans, including crime reduction strategies, asset management plan, housing strategy, housing business plan etc. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.
- 33.1.2 The Chief Finance Officer shall advise on and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- 33.1.3 The Head of Paid Service shall contribute to the development of corporate and service targets and objectives and performance information, and will ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- 33.1.4 Executive Directors and Heads of Service will contribute to the development of performance plans in line with statutory requirements and contribute to the development of corporate and service targets and objectives and performance information.
- 33.1.5 Executive Directors and Heads of Service will also ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met and that information is provided to the Chief Finance Officer promptly and accurately to ensure that reporting and auditing targets are complied with.

### **33.2 Budgeting**

Full Council is responsible for agreeing the Policy Framework and Budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

- 33.2.1 the Corporate Plan;
- 33.2.2 the Budget;
- 33.2.3 the Capital Programme.

### **33.3 Policy framework**

The Head of Paid Service is responsible for proposing a Corporate Plan to the Leader and the Cabinet for consideration before its submission to the full Council for approval. The Corporate Plan sets out how the Council will achieve its organisational objectives and can be multi-year.

### **33.4 Budget format**

The general format of the Budget will be proposed by the Leader or Cabinet on the advice of the Chief Finance Officer and approved by the full Council. The draft Budget should

include allocation to different services and projects, proposed taxation levels and contingency funds, where appropriate.

### **33.5 Revenue budget preparation**

- 33.5.1 The Chief Finance Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a Medium-Term Financial Plan on a minimum of three-yearly rolling basis are prepared for consideration by the Leader and the Cabinet, before submission to the full Council. The Cabinet shall, after considering the effect on the Council's finances and any directives from central government, submit to the full Council:
- (a) recommended budgetary requirements;
  - (b) recommended revenue estimates (incorporating any amendments);
  - (c) a report thereon;
  - (d) the Council Tax base for the year;
  - (e) a recommendation as to the Council Tax to be levied for the following financial year; and
  - (f) the calculation of the non-domestic rating income.
- 33.5.2 The Council may amend the Budget or ask the Cabinet to reconsider it before approving it.
- 33.5.3 The Cabinet is responsible for issuing guidance on the general content of the Budget in consultation with the Chief Finance Officer as soon as possible following approval by the full Council.
- 33.5.4 It is the responsibility of the Head of Paid Service and Executive Directors to ensure that Budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet and the Chief Finance Officer.

### **33.6 Preparation of the capital programme**

- 33.6.1 Capital expenditure is expenditure which is used to acquire or enhance fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 33.6.2 Approval by full Council of the capital budget and service plans shall confer authority upon Executive Directors and Heads of Service to incur capital expenditure during the year on any item included therein, provided that the Council's funding allocation for that scheme is not exceeded.
- 33.6.3 In respect of Capital Programmes:
- (a) the Chief Finance Officer is responsible for:

- (i) determining the definition of **capital** having regard to government regulations and accounting requirements;
  - (ii) ensuring that a three year Capital Programme is prepared on an annual basis for consideration by the Cabinet before submission to the full Council;
  - (iii) preparing capital estimates jointly with the Executive Leadership Team and reporting them to Cabinet for approval (the Cabinet will make recommendations on the capital budget and on any associated financing requirements to the full Council);
  - (iv) obtaining Cabinet approval where an Executive Director or Head of Service proposes to bid for or exercise additional borrowing approval not anticipated in the Capital Programme (this is because the extra borrowing may create future commitments to financing costs);
  - (v) preparing and submitting reports to Cabinet on the projected income, expenditure and resources compared with the approved estimates; and
  - (vi) providing guidance concerning capital schemes and controls, for example, on project appraisal techniques;
- (b) Executive Directors and Heads of Service are responsible for:
- (i) complying with guidance concerning capital schemes and controls issued by the Chief Finance Officer;
  - (ii) ensuring that all capital proposals submitted for inclusion in the budget have undergone a project appraisal in accordance with the Council's Capital Strategy and any guidance issued by the Chief Finance Officer;
  - (iii) in consultation with the Chief Finance Officer, preparing and submitting to Cabinet project appraisals for all schemes costing £250,000 or more before expenditure is committed, notwithstanding the scheme has been included in the capital budget and appropriate service plan, such project appraisals to include:
    - (A) the capital and revenue forecasts phased over the life of the development;
    - (B) any available plans or drawings;
    - (C) the amount of any estimates or tender; and
    - (D) any necessary approvals by government departments;
  - (iv) preparing quarterly reports reviewing the Capital Programme provisions for their services which should include estimated final

costs of schemes in the approved Capital Programme for submission to the Chief Finance Officer;

- (v) ensuring that adequate records are maintained for all capital contracts;
- (vi) proceeding with projects only when there is adequate provision in the Capital Programme;
- (vii) notwithstanding the authority conferred by Article 33.6.2, Cabinet may require a specific item to be spent only after further consultation with them, such budget will be known as a starred (“\*”) item;
- (viii) seeking the approval of Cabinet to make any grant which has not been specifically identified in the course of constructing the agreed capital budget, with the exception of private sector renewal grants and disabled facility grants;
- (ix) seeking the approval of Cabinet and the Chief Finance Officer prior to expending sums in addition to the Council’s funding allocation, such as Capital grants or other contributions from partners to a scheme, on any scheme included in the approved budget;
- (x) reporting to Cabinet for information where the effect of those additional sums referred to in Article 33.6.3(b)(viii) is to alter the phasing of the capital programme (if the effect is to alter the phasing of the Council’s own financial input, the matter must be approved by the Chief Finance Officer);
- (xi) making each capital budget head held on the Council’s Financial Management System the responsibility of a specified Officer, this shall be notified to the Chief Finance Officer who shall allocate budgets, approved by full Council, to those specified Officers;
- (xii) making adequate arrangements for ensuring (as far as possible) that expenditure during any financial year on items within the capital budget or supplementary budget which are under their control do not exceed the amount approved;
- (xiii) preparing and submitting reports, jointly with the Chief Finance Officer, to Cabinet on any variation in project costs greater than the approved amount;
- (xiv) ensuring that capital expenditure for which there is no provision in the capital budget approved by the full Council is not incurred without the full Council, on the recommendation of Cabinet approving a supplementary budget, except in an extreme emergency (in this case the Executive Director concerned must report on the matter to the next meeting of the Cabinet);
- (xv) providing reasons for the carry forward of any capital budget to the Chief Finance Officer and where applicable Cabinet;

- (xvi) complying with the Council's procurement policy and regulations concerning the tendering processes to be undertaken in the acquisition of goods and services and the appointment of contractors, as set out in the Council's standing orders relating to contracts for the supply of works, goods or services;
- (xvii) preparing and submitting reports to Cabinet, jointly with the Chief Finance Officer, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the 3% or such other specified amount determined from time to time by Cabinet; and
- (xviii) ensuring that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Chief Finance Officer and, if applicable, approval of the scheme through the Capital Programme.

## Article 34 - Monitoring and control of the revenue budget and capital programme

### 34.1 General principles

- 34.1.1 The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. The Chief Finance Officer must monitor and control expenditure and income against budget allocations and report to the Cabinet on the overall position on a regular basis.
- 34.1.2 To facilitate the effective monitoring and control of the revenue budget and capital programme:
- (a) the Chief Finance Officer is responsible for:
    - (i) establishing an appropriate framework of budgetary management and control that ensures that:
      - (A) budget management is exercised within the approved annual cash budget limits unless the full Council agrees otherwise;
      - (B) each budget manager has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
      - (C) expenditure is committed only against an approved budget head;
      - (D) all Officers responsible for committing expenditure comply with relevant guidance, and the Financial Regulations; and
      - (E) each cost centre has a single named manager, determined by an Executive Director or relevant Head of Service (as a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commit expenditure);
    - (ii) preparing and submitting reports on the Council's projected income and expenditure compared with the budget on a regular basis;
  - (b) the Head of Paid Service is responsible for:
    - (i) controlling income and expenditure and monitoring performance, taking account of financial information provided by the Chief Finance Officer;
    - (ii) reporting on variances within service areas and taking any action necessary to avoid exceeding the Budget allocation and alerting the Chief Finance Officer to any problems.
  - (c) it is the responsibility of Executive Directors and Head of Services to:

- (i) ensure that an accountable budget manager is identified for each item of income and expenditure under the control of an Executive Director or Head of Service (as a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure);
- (ii) ensure that spending remains within the service's overall budget, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast;
- (iii) in each December, recommend fees and charges for the following financial year to the Cabinet together with an estimate of the amount to be included in the budget as a result of those fees and charges being implemented. This need not be done if fees and charges are raised in line with the amount recommended by the Chief Finance Officer;
- (iv) ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively;
- (v) submit reports to the Cabinet and to the full Council, in consultation with the Chief Finance Officer, where it appears that the amount of any item of approved revenue expenditure is likely to be exceeded or the amount of any item of approved income may not be reached;
- (vi) to ensure compliance with the scheme of virement;
- (vii) to agree with an Executive Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Head of Service's level of service activity.

34.1.3 Executive Directors may use income received in addition to that anticipated in the revenue budget approved by the full Council to finance additional expenditure after either seeking the approval of:

- (a) only the Chief Finance Officer if the additional income (sponsorship, grants, or gifts) is given to the Council for a specific project or area of activity and does not result in the Council incurring additional unbudgeted net cost;

or

- (b) both the Chief Finance Officer and Cabinet where there is additional unbudgeted net cost.

34.1.4 Executive Directors and Heads of Service must seek prior approval by the full Council or the Cabinet (as appropriate) for new proposals, of whatever amount, that:

- (a) creates financial commitments in future years;

- (b) changes existing policies, initiates new policies, or ceases existing policies; or
- (c) materially extends or reduces the Council's services.

## **34.2 Medium Term**

34.2.1 Medium term planning involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Council is always preparing for events in advance.

34.2.2 To ensure effective medium-term planning:

- (a) the Chief Finance Officer is responsible for:
  - (i) preparing and submitting reports on budget prospects to both the Executive Leadership Team and Cabinet, including resource constraints set by the central government, such reports should take account of medium-term prospects, where appropriate;
  - (ii) determining the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the full Council, and after consultation with Cabinet, Executive Directors and Heads of Service;
  - (iii) preparing and submitting reports to Cabinet on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied;
  - (iv) advising on the medium-term implications of spending decisions;
  - (v) encouraging the best use of resources and value for money by working with Executive Directors and Heads of Service to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning; and
  - (vi) advising the full council on Cabinet's proposals in accordance with their responsibilities under section 151 of the Local Government Act 1972;
- (b) Executive Directors and Heads of Service are responsible for:
  - (i) preparing estimates of income and expenditure, in consultation with the Chief Finance Office, to be submitted to the Cabinet;
  - (ii) preparing budgets that are consistent with any relevant cash limits, within the Council's annual budget cycle and within guidelines issued by Cabinet, the format should be prescribed by the Chief

Finance Officer in accordance with any general directions of the full Council;

- (iii) integrating financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures;
- (iv) in consultation with the Chief Finance Officer and in accordance with the laid-down guidance and timetable, preparing detailed draft revenue budgets for consideration by Cabinet, and when drawing up such budgets have regard to:
  - (A) spending patterns and pressures revealed through the budget monitoring process;
  - (B) legal requirements;
  - (C) policy requirements as defined by the full Council in the approved policy framework; and
  - (D) initiatives already under way.

### **34.3 Resource allocation**

34.3.1 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

34.3.2 To ensure the proper allocation of resources:

- (a) it is the responsibility of the Chief Finance Officer to:
  - (i) develop and maintain a resource allocation process that ensures due consideration of the Council's Policy Framework;
  - (ii) advise on methods available for the funding of resources, such as grants from central government, borrowing requirements and leasing; and
  - (iii) assist in the allocation of resources to budget managers;
- (b) Executive Directors and Heads of Service must:
  - (i) work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way; and
  - (ii) identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## **34.4 Maintenance of reserves**

34.4.1 The Council must decide the level of general reserves it wishes to maintain before it can decide the level of Council Tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

34.4.2 To ensure the proper maintenance of reserves:

- (a) the Chief Finance Officer shall:
  - (i) advise the Cabinet on prudent levels of reserves for the Council taking into account the advice of the external auditor in this matter; and
  - (ii) report annually to the full Council as part of setting the Budget;
- (b) Executive Directors shall ensure that resources are used only for the purposes for which they were intended.

## **Article 35 – Risk Management and control of resources**

### **35.1 General principles**

- 35.1.1 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 organisational well-being of the undertaking. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- 35.1.2 It is the overall responsibility of the Audit, Risk and Standards Committee to approve the Council's risk management strategy, and to promote a culture of risk management awareness throughout the Council.

### **35.2 Risk management**

- 35.2.1 To ensure appropriate management of risk:
- (a) the Chief Executive shall:
    - (i) prepare and promote the Council's risk management strategy; and
    - (ii) develop risk management controls in conjunction with Executive Directors;
  - (b) The Audit, Risk and Standards Committee shall:
    - (i) review the Council's risk management strategy; and
    - (ii) review the effectiveness of risk management;
  - (c) The Chief Finance Officer shall:
    - (i) ensure that proper insurance exists where appropriate, through external insurance and the internal insurance fund;
    - (ii) include all appropriate employees of the Council in a suitable fidelity guarantee insurance;
    - (iii) decide whether insurable risks up to the value of £10,000 should be borne by external insurance or the internal fund; and
    - (iv) only accept additional risks in excess of £10,000 for internal funding after seeking the approval of the Audit, Risk and Standards Committee;

- (v) prepare the Council's risk management strategy and promote it throughout the Council;
  - (vi) advise the Cabinet on proper insurance cover;
  - (vii) negotiate all claims in consultation with other Officers, where necessary, and approve payments from the internal insurance fund;
  - (viii) review at least annually all insurances in consultation with Executive Directors; and
  - (ix) where appropriate, make ex gratia payments for claims against the Council in respect of non-personal injury up to the amount of £1,000;
- (d) Heads of Services shall:
- (i) notify the Chief Finance Officer immediately of any loss, liability or damage that may lead to a claim against the Council, and provide promptly any information or explanation required by the Chief Finance Officer or the Council's insurers;
  - (ii) take responsibility for risk management, having regard to advice from the Chief Finance Officer and other specialists (e.g., crime prevention, fire prevention, internal audit, health and safety);
  - (iii) ensure that there are regular reviews of risk within their departments, including inspections of all assets at frequencies appropriate to the potential risks relating to those assets;
  - (iv) notify the Chief Finance Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances;
  - (v) consult the Chief Finance Officer and the Monitoring Officer on the terms of any indemnity that the Council is requested to give; and
  - (vi) ensure that employees, or anyone covered by the Council's insurances, do not admit liability, or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

### **35.3 Internal controls**

35.3.1 The term 'internal controls' refers to the systems of control devised by management to help ensure that the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded. The Council also requires internal controls to identify, meet and monitor compliance with its statutory obligations.

35.3.2 To ensure the implementation and maintenance of internal controls:

- (a) the Chief Finance Officer shall advise on effective systems of internal controls and ensure such arrangements:
  - (i) comply with all applicable statutes and regulations, and other relevant statements of best practice; and
  - (ii) ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use;
- (b) Heads of Service shall:
  - (i) manage processes to check that established controls are being adhered to and to evaluate their effectiveness in order to be confident in the proper use of resources, achievement of objectives and management of risks;
  - (ii) review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Chief Finance Officer;
  - (iii) remove controls that are unnecessary or not cost or risk effective, for example, because of duplication; and
  - (iv) ensure staff have a clear understanding of the consequences of lack of control.

## Article 36 – Audit requirements

### 36.1 Internal audit

- 36.1.1 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “*make arrangements for the proper administration of their financial affairs*”.
- 36.1.2 The Local Audit and Accountability Act 2014 sets out the arrangements for the audit and accountability of local authorities.
- 36.1.3 The Accounts and Audit Regulations 2015 (**2015 Regulations**) set out detailed rules about preparation, approval and publication of the Annual Statement of Accounts, and about arrangements for local electors and other interested persons to exercise their rights of inspection, objection and to question the local auditor. The 2015 Regulations require every local authority to undertake an adequate and effective internal audit of its accounting records and of its system of internal control. More specifically, regulation 3 of the 2015 Regulations requires that the Council must ensure that it has a sound system of internal control which:
- (a) facilitates the effective exercise of its functions and the achievement of its aims and objectives;
  - (b) ensures that the financial and operational management of the Council is effective; and
  - (c) includes effective arrangements for the management of risk.
- 36.1.4 Internal audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.
- 36.1.5 To facilitate the proper operation and maintenance of the Council’s internal audit function:
- (a) the Chief Finance Officer shall ensure internal auditors have the authority to:
    - (i) access Council premises at reasonable times;
    - (ii) access all assets, records, documents, correspondence, and control systems;
    - (iii) receive any information and explanation considered necessary concerning any matter under consideration;
    - (iv) require any employee of the Council to account for cash, stores, or any other Council asset under their control;
    - (v) access records belonging to third parties, such as contractors, when required;

- (vi) directly access the Head of Paid Service, Cabinet and the Audit, Risk and Standards Committee;
  - (vii) approve the strategic and annual audit plans prepared by the Head of Internal Audit, which take account of the characteristics and relative risks of the activities involved; and
  - (viii) ensure that effective procedures are in place to investigate promptly any fraud or irregularity.
- (b) Executive Directors and Heads of Service shall:
- (i) ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work;
  - (ii) ensure that auditors are provided with any information and explanations that they seek in the course of their work;
  - (iii) consider and respond promptly to recommendations in audit reports;
  - (iv) ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner;
  - (v) notify the Chief Finance Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Head of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration; and
  - (vi) ensure 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.

## 36.2 External audit

36.2.1 The Local Audit and Accountability Act 2014 (**2014 Act**) sets out the arrangements for the audit and accountability of local public bodies. The Council is required to appoint an external auditor in accordance with section 7 of the 2014 Act. The external auditor has rights of access to all documents and information necessary for audit purposes.

36.2.2 To facilitate the proper operation and maintenance of the Council's external audit function:

- (a) The Chief Finance Officer is responsible for:
  - (i) ensuring that external auditors are given access at all reasonable times to Council premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work;

- (ii) ensuring there is effective liaison between external and internal audit; and
  - (iii) working with the external auditor and advising the Cabinet, full Council, Audit, Risk and Standards Committee, Executive Directors and Heads of Service on their responsibilities in relation to external audit;
- (b) Executive Directors and Heads of Service are responsible for:
- (i) 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
  - (ii) ensuring that all records and systems are up to date and available for inspection.

36.2.3 In addition to the requirements in respect of internal and external audit set out above, the Council may, from time to time, be subject to audit, inspection or investigation by external bodies who may have either statutory or other legal rights of access.

## Article 37 – Preventing fraud and corruption

### 37.1 General principles

- 37.1.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Council's expectation of propriety and accountability is that Members and employees at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. The Council also expects that individuals and organisations (e.g., suppliers, contractors, service providers) with whom it comes into contact with will act towards the Council with integrity and without thought or actions involving fraud and corruption.
- 37.1.2 To facilitate the prevention of fraud and corruption:
- (a) the Chief Finance Officer is responsible for:
    - (i) the development and maintenance of an anti-fraud and anti-corruption policy; and
    - (ii) ensuring that all suspected irregularities are reported to the Head of Internal Audit, the Head of Paid Service, and, where the Head of Paid Service considers it appropriate, the Audit, Risk and Standards Committee.
  - (b) the Head of Paid Service is responsible for maintaining the internal control systems and ensuring that the Council's resources are properly applied in the manner and on the activities intended, including the prevention and detection of fraud and other illegal acts.
  - (c) Heads of Service are responsible for:
    - (i) ensuring that all suspected irregularities are reported to the Chief Finance Officer;
    - (ii) instigating the Council's local disciplinary procedures where the outcome of an audit or other investigation indicates improper behaviour;
    - (iii) ensuring that where financial impropriety is discovered, the Chief Finance Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place;
    - (iv) maintaining a departmental register of interests; and
    - (v) maintaining adequate and effective internal control arrangements.

## Article 38 – Assets, stocks and intellectual property

### 38.1 Assets

38.1.1 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management. Acquisitions and disposals of assets should be undertaken in accordance with the Acquisitions and Disposals Policy (in the case of land transactions) and any Asset Management Plan and follow the more detailed procedures contained within the Council's Contract Standing Orders (see below).

38.1.2 To ensure the proper management and safeguarding of assets:

- (a) the Chief Finance Officer is responsible for:
  - (i) ensuring that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000. The function of the asset register is to provide the Council with information about fixed assets so that they are:
    - (A) safeguarded;
    - (B) used efficiently and effectively; and
    - (C) adequately maintained;
  - (ii) receiving the information required for accounting, costing and financial records from each Head of Service; and
  - (iii) ensuring that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the SORP) (CIPFA/LASAAC).
- (b) Executive Directors and Heads of Service have the following responsibilities:
  - (i) the appropriate Head of Service shall maintain a record in a form approved by the Chief Finance Officer for all plant and machinery and moveable assets currently owned or used by the Council (any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use);
  - (ii) maintaining inventories which record an adequate description of furniture, fittings, equipment, plant and machinery under their control, in doing so they should:

- (A) carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly;
  - (B) identify with security markings attractive and portable items such as computers, cameras and video recorders so it is clear and obvious such items belong to the Council; and
  - (C) make sure that property is only used in the course of the Council's business, unless the Executive Director concerned has given permission otherwise.
- (iii) 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 the Head of Service in consultation with the Chief Finance Officer, has been established as appropriate, which will include appropriate insurance cover;
  - (iv) ensuring the proper security of all buildings and other assets under their control;
  - (v) where land or buildings are surplus to requirements, and where the Acquisition and Disposal Policy requires it, a recommendation for sale should be the subject of a report by the Executive Director or Head of Service concerned to the Cabinet which shall make a recommendation on the asset's future to full Council;
  - (vi) passing title deeds to the Monitoring Officer/Head of Legal and Governance who is responsible for custody of all title deeds;
  - (vii) ensuring that no Council asset is subject to personal use by an employee without proper authority;
  - (viii) ensuring the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council;
  - (ix) ensuring that the department maintains a register (inventory) of moveable assets in accordance with arrangements defined by the Chief Finance Officer;
  - (x) ensuring that assets are identified, their location recorded and that they are appropriately marked and insured;
  - (xi) consulting the Head of Internal Audit in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;
  - (xii) ensuring cash holdings on premises are kept to a minimum and securely at all times;

- (xiii) ensuring that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Chief Finance Officer as soon as possible;
- (xiv) recording all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Chief Finance Officer, the Cabinet agrees otherwise;
- (xv) arranging for the valuation of assets for accounting purposes to meet requirements specified by the Chief Finance Officer; and
- (xvi) ensuring that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.

## **38.2 Stocks**

38.2.1 Executive Directors and Heads of Service are responsible for making arrangements for the care and custody of stocks and stores in their department. In doing so they should:

- (a) ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check (all discrepancies should be investigated and pursued to a satisfactory conclusion);
- (b) investigate and remove from the Council's records (i.e., write off) discrepancies as necessary after consultation with the Chief Finance Officer, or to obtain the Cabinet's approval if they are in excess of £10,000;
- (c) authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Chief Finance Officer, the Cabinet decides otherwise in a particular case;
- (d) seek the approval of the Chief Finance Officer prior to the write-off of redundant stocks and equipment:
  - (i) in excess of a £1,000 for any individual item; or
  - (ii) £5,000 for any group of items; and
- (e) supply the Chief Finance Officer with certificates of stock held at the end of each financial year, together with such returns as may be required by the Chief Finance Officer to complete the accounts of the Council.

### **38.3 Intellectual property**

- 38.3.1 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various pieces of legislation cover different types of intellectual property.
- 38.3.2 Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.
- 38.3.3 In relation to intellectual property:
- (a) the Chief Finance Officer is responsible for developing and disseminating good practice through the Council's intellectual property procedures;
  - (b) Heads of Service are responsible for implementing and maintaining sufficient controls to ensure that staff:
    - (i) do not carry out private work in Council time; and
    - (ii) are aware of an employer's rights with regard to intellectual property.

### **38.4 Asset Disposal**

- 38.4.1 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Council.
- 38.4.2 To facilitate the proper management and conduct of asset disposal:
- (a) the Chief Finance Officer is responsible for:
    - (i) issuing guidelines representing best practice for disposal of assets (other than property for which the Head of Paid Service shall be responsible); and
    - (ii) ensuring appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate;
  - (b) the Head of Paid Service is responsible for issuing guidelines representing best practice for disposal and/or acquisition of property, in accordance with the Council's Asset Management Plan and Acquisitions and Disposals Policy;
  - (c) Executive Directors and Heads of Service are responsible for:
    - (i) seeking advice from the appropriate Executive Director on the disposal of surplus or obsolete property, materials, stores, or equipment; and

- (ii) ensuring that income received for the disposal of an asset is properly banked and coded.

## Article 39 – Treasury management, investments, borrowing and petty cash

### 39.1 Treasury management and banking

- 39.1.1 The Council's borrowings and investments must comply with:
- (a) CIPFA's Treasury Management in the Public Services: Code of Practice (**Code of Practice**);
  - (b) any relevant statutory guidance; and
  - (c) the Council's Treasury Management Policy Statement.
- 39.1.2 The Cabinet is responsible for approving the Treasury Management Policy Statement. The Chief Finance Officer has delegated responsibility for implementing and monitoring the statement.
- 39.1.3 The Council is responsible for approving a Treasury Management Strategy for the coming financial year at or before the start of each financial year. The strategy is proposed by the Cabinet on the advice of the Chief Finance Officer.
- 39.1.4 All Executive decisions on borrowing, investment or financing shall be delegated to the Chief Finance Officer, who is required to act in accordance with the Code of Practice. Should the Chief Finance Officer wish to depart in any material respect from the main principles of the Code of Practice, the reasons should in the first instance be disclosed in a report to the Cabinet.
- 39.1.5 The Chief Finance Officer is responsible for reporting to the Cabinet and full Council on the activities of the treasury management operation and on the exercise of their delegated treasury management powers. These reports will include an annual report on treasury management for presentation to the full Council by 31 July of the succeeding financial year and a mid-year review.
- 39.1.6 The Chief Finance Officer shall at least every five years review the Council's banking arrangements.
- 39.1.7 Cheques and other payment forms shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.
- 39.1.8 Cheques and transfers between bank accounts may only be signed by those Officers so authorised.
- 39.1.9 Paragraphs 39.1.6, 39.1.7 and 39.1.8, above shall also apply to any other instructions for sums to be paid out of any of the Council's bank or other accounts.
- 39.1.10 The Chief Finance Officer is responsible for the opening and closing of bank accounts in the name of the Council.
- 39.1.11 All cheques drawn on the Council's main bank accounts shall bear the handwritten signature of the Head of Paid Service or Chief Finance Officer, or

such other employee as may be authorised from time to time under the scheme of delegation of the Council.

- 39.1.12 All cheques not exceeding £5,000 shall bear the handwritten signature of one of the authorised signatories.
- 39.1.13 All cheques drawn for an amount in excess of £5,000 but not exceeding £100,000 shall bear the handwritten signatures of any two of the authorised signatories.
- 39.1.14 Cheques over £100,000 shall bear the handwritten signature of the Head of Paid Service or Chief Finance Officer and the handwritten signature of one other authorised signatory.
- 39.1.15 A payment using Faster Payments or the Clearing House Automatic Payments System (**CHAPS**) via the electronic processing system, may only be made after the details input into the electronic processing system have been checked, signed, dated and timed by one authorised Officer and subsequently approved upon the electronic processing system by another authorised Officer.
- 39.1.16 If the electronic processing system is not used, a CHAPS payment may be made by transmitting a facsimile instruction to the Council's bankers, only after that instruction has been signed by two different authorised signatories.
- 39.1.17 The Chief Finance Officer shall be authorised to incur an overdraft at the Council's bank not exceeding a figure as may be determined by the Cabinet.

## **39.2 Investments and borrowing**

39.2.1 In respect of investments and borrowing:

**(a)** The Chief Finance Officer is responsible for:

- (i) ensuring that all investments of money are made in the name of the Council or in the name of nominees approved by the Cabinet;
- (ii) 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 their custody;
- (iii) effecting all borrowing in the name of the Council; and
- (iv) acting as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council;

**(b)** Executive Directors and Heads of Service are responsible for:

- (i) ensuring loans are not made available to third parties; and
- (ii) that interests are not acquired in companies, joint ventures or other enterprises,

without the approval of the Cabinet, following consultation with the Chief Finance Officer;

### **39.3 Funds held for third parties**

39.3.1 In respect of funds held for third parties:

- (a) the Chief Finance Officer is responsible for:
  - (i) arranging for their secure administration, and to maintain written records of all transactions; and
  - (ii) ensuring that trust funds are operated within any relevant legislation and the specific requirements for each trust;
- (b) Executive Directors and Heads of Service are responsible for:
  - (i) arranging for all funds received in trust and/or on behalf of third parties to be notified to the Chief Finance Officer in order that the Chief Finance Officer may make suitable arrangements for those funds to be held, on account, in the name of the Council, unless otherwise agreed by the Chief Finance Officer; and
  - (ii) ensuring that when acting as trustees by virtue of their official position shall deposit any sums relating to any third party with the Chief Finance Officer and request any payment from such funds via the Chief Finance Officer.

### **39.4 Petty cash accounts**

39.4.1 In respect of Petty cash accounts:

- (a) the Chief Finance Officer is responsible for:
  - (i) authorising the provision of such petty cash accounts to meet minor expenditure on behalf of the Council as are considered appropriate and to prescribe rules for operating these accounts;
  - (ii) determining the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances;
- (b) Executive Directors and Heads of Service are responsible for ensuring that employees operating a petty cash account:
  - (i) only use such accounts to defray minor items of expenditure, which should not exceed the amount prescribed from time to time by the Chief Finance Officer;
  - (ii) obtain and retain vouchers to support each payment from the account and, where appropriate an official value added tax invoice must be obtained;

- (iii) make adequate arrangements for the safe custody of the cash and vouchers;
  - (iv) produce upon demand by the Chief Finance Officer cash and all vouchers to the total value of the amount issued;
  - (v) record transactions promptly;
  - (vi) reconcile and balance the account at least monthly – reconciliation sheets to be signed and retained by the account holder;
  - (vii) provide the Chief Finance Officer with a certificate of the value of the account held at 31 March each year;
  - (viii) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made. Income received on behalf of the Council must not be paid into the account but banked or paid to the Council; and
  - (ix) on leaving the Council's employment or otherwise ceasing to be entitled to hold a petty cash account, an employee shall account to the Head of Service concerned for the amount advanced to them.
- (c) The maximum amount which shall be payable from petty cash accounts will be £20 unless agreed by the Chief Finance Officer.

## Article 40 - Staffing

### 40.1 Staffing

40.1.1 In respect of staffing:

- (a) the Head of Paid Service is responsible for:
  - (i) providing overall management; and
  - (ii) ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a post;
- (b) the Chief Finance Officer is responsible for:
  - (i) producing an annual staffing budget in liaison with Executive Directors and Heads of Service; and
  - (ii) ensuring that budget provision exists for all existing employees, vacant posts approved to be filled during the financial year and any approved new positions to be filled during the financial year;
- (c) Executive Directors and Heads of Service are responsible for:
  - (i) monitoring staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff;
  - (ii) ensuring that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided; and
  - (iii) ensuring that the Chief Finance Officer is immediately informed if the staffing budget is likely to be materially over or under-budget (for these purposes materially means the lower of £10,000 or 10% of the budget).

## **Article 41 – Financial systems, income and expenditure and payments**

### **41.1 Financial systems and procedures**

- 41.1.1 Sound systems and procedures are essential to an effective framework of financial accountability and control. The Chief Finance Officer has a professional responsibility to ensure that all the Council's financial systems are sound and properly administered and they should therefore be notified of any new developments and changes.
- 41.1.2 To ensure the implementation and maintenance of sound financial systems:
- (a) the Head of Paid Service is responsible for ensuring that staff receive relevant financial training that has been approved by the Chief Finance Officer;
  - (b) the Chief Finance Officer is responsible for:
    - (i) the operation of the Council's accounting systems, the form of accounts and the supporting financial records;
    - (ii) approving any changes to existing financial systems and to approve any new systems before they are introduced;
    - (iii) making arrangements for the proper administration of the Council's financial affairs, including:
      - (A) issuing advice, guidance and procedures for Officers and others acting on the Council's behalf;
      - (B) determining the accounting systems, form of accounts and supporting financial records;
      - (C) establishing arrangements for audit of the Council's financial affairs;
      - (D) approving any new financial systems to be introduced;
      - (E) approving any changes to be made to existing financial systems; and
    - (iv) approving relevant financial training to be delivered to staff;
  - (c) Executive Directors and Heads of Service are responsible for:
    - (i) ensuring that accounting records are properly maintained and held securely;
    - (ii) ensuring vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Chief Finance Officer;

- (iii) ensuring that a complete audit trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained;
- (iv) to incorporate appropriate controls to ensure that, where relevant:
  - (A) all input is genuine, complete, accurate, timely and not previously processed;
  - (B) all processing is carried out in an accurate, complete and timely manner; and
  - (C) output from the system is complete, accurate and timely;
- (v) ensuring that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice;
- (vi) ensuring there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption;
- (vii) ensuring that systems are documented and staff trained in operations;
- (viii) consulting with the Chief Finance Officer before changing any existing system or introducing new systems;
- (ix) establishing a scheme of delegation identifying Officers authorised to act upon the Executive Director's or Head of Service's behalf in respect of payments, income collection, and placing orders, including variations, and showing the limits of their authority;
- (x) supplying lists of authorised Officers, with specimen signatures and delegated limits, to the Chief Finance Officer for approval, together with any subsequent variations;
- (xi) ensuring that effective contingency arrangements, including back-up procedures, exist for computer systems (wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building);
- (xii) ensuring that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under data protection and freedom of information legislation;
- (xiii) ensuring that relevant standards and guidelines for computer systems issued by Executive Directors or Heads of Service are observed;

- (xiv) ensuring that computer equipment and software are protected from loss and damage through theft, vandalism, etc;
- (xv) complying with the Copyright, Designs and Patents Act 1988 and subsequent legislation and, in particular, to ensure that:
  - (A) only software legally acquired and installed by the Council is used on Council computers;
  - (B) staff are aware of relevant legislative provisions; and
  - (C) when developing systems, due regard is given to the issue of intellectual property rights.

## **41.2 Income and expenditure**

41.2.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cashflow and also avoids the time and cost of administering debts.

41.2.2 In respect of income and expenditure:

- (a) the Chief Finance Officer is responsible for:
  - (i) agreeing arrangements for the collection of all income due to the Council and approving the procedures, systems and documentation for its collection;
  - (ii) approving, or to order and supply to Services, all receipt forms, books or tickets and similar items and to satisfy themselves regarding the arrangements for their control;
  - (iii) approving all debts to be written off in consultation with the relevant Executive Director or Head of Service of £7,501 up to the approved limit of £10,000 for each individual debt;
  - (iv) delegating authority for all debts to be written off to the Head of Customer Services and the Revenues & Benefits Service Manager up to the approved limit of £7,500 for each individual debt;
- (b) Executive Directors and Heads of Service are responsible for:
  - (i) establishing a charging policy for the supply of goods or services, including the appropriate charging of value added tax, and to review it regularly, in line with corporate policies;
  - (ii) separating the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable;

- (iii) establishing and initiating appropriate recovery procedures in consultation with the Chief Finance Officer, including legal action where necessary, for debts that are not paid promptly;
- (iv) issuing official receipts or maintaining other documentation for income collection;
- (v) ensuring that at least two employees are present when incoming post is opened so that money received by post is properly identified and recorded;
- (vi) holding securely receipts, tickets and other records of income for the appropriate period;
- (vii) locking away all income to safeguard against loss or theft, and to ensure the security of cash handling;
- (viii) ensuring that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received, appropriate details should be recorded on paying-in slips to provide an audit trail;
- (ix) ensuring that income is not used to cash personal cheques or other payments;
- (x) supplying the Chief Finance Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Chief Finance Officer to record correctly the sums due to the Council and to ensure accounts are sent out promptly (income due to the Council should not generally be demanded by means other than the raising of accounts; Heads of Service have a responsibility to assist the Chief Finance Officer in collecting debts that they have originated, providing any further information requested by the debtor, and pursuing the matter on the Council's behalf);
- (xi) ensuring that levels of cash held in secure safes on premises under their control do not exceed the approved level set by the Chief Finance Officer;
- (xii) keeping a record of every transfer of money between employees of the Council (the receiving Officer must sign for the transfer and the transferor must retain a copy);
- (xiii) recommending to the Chief Finance Officer all debts to be written off and to keep a record of all sums written off up to the approved limit (£10,000 as detailed in 41.2.2(a)(iii) above);
- (xiv) ensuring that, once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off (a credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt);

- (xv) obtaining the approval of the Chief Finance Officer when writing off debts in excess of £10,000;
- (xvi) notifying the Chief Finance Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer and in any event, not later than 30 April; and
- (xvii) ensuring appropriate accounting adjustments are made following write-off action.

### **41.3 Ordering and paying for work, goods and services**

- 41.3.1 Public money should be spent with demonstrable probity and in accordance with the Council's policies. The Council has a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's Contract Standing Orders.
- 41.3.2 Every Member and employee of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.
- 41.3.3 Official orders must be in a form approved by the Chief Finance Officer. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Chief Finance Officer. Standard terms and conditions must not be varied without the approval of the Chief Finance Officer.
- 41.3.4 Apart from petty cash, the normal method of payment from the Council shall be by cheque or other instrument or approved method, drawn on the Council's bank account by the Chief Finance Officer. The use of direct debit shall require the prior agreement of the Chief Finance Officer.
- 41.3.5 No purchase order shall be raised unless there is a budget approved.
- 41.3.6 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.
- 41.3.7 Official orders must be approved only by those Officers authorised by the Chief Finance Officer in accordance with the Financial Sign-Off Limits set by the Chief Finance Officer subject to a maximum limit of £1,000,000. A list of Officers authorised by the Chief Finance Officer to approve such orders are set out within the Financial Sign-Off Limits table in Article 1.1 as may be amended by the Chief Finance Officer from time to time.
- 41.3.8 In respect of ordering and paying for work, goods and services:
  - (a) the Chief Finance Officer has the following responsibilities:

- (i) approving the form of official orders and, in conjunction with the Chief Finance Officer, the associated terms and conditions;
  - (ii) making payments from the Council's funds on the authorisation of the Head of Service (or by other Officer's under delegated powers awarded by an Executive Director or Head of Service) ensuring that the expenditure has been duly incurred in accordance with the Financial Regulations;
  - (iii) making payments, whether or not provision exists within the budget, where the payment is specifically required by statute or is made under a court order;
  - (iv) making payments to contractors on the certificate of the appropriate Head of Service (or by other Officer's under delegated powers awarded by an Executive Director or Head of Service) which must include details of the value of work, retention money, amounts previously certified and amounts now certified;
  - (v) providing advice and encouragement on making payments by the most economical means;
  - (vi) ensuring that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports;
- (b) the Executive Directors and Heads of Service are responsible for:
- (i) ensuring that unique pre-numbered official orders (as generated from the electronic purchase ordering system) are used for all goods and services, other than the exceptions specified in paragraph 41.3.3, above;
  - (ii) ensuring that orders are only used for goods and services provided to the Council (individuals must not use official orders to obtain goods or services for their private use);
  - (iii) ensuring that only those staff authorised by them sign orders and maintaining an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority (the authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary; best value principles should underpin the Council's approach to procurement - value for money should always be achieved);
  - (iv) ensuring that goods and services are checked on receipt to verify that they are in accordance with the order, this check should be carried out by a different Officer from the person who authorised the order;

- (v) ensuring that payment is not made unless a proper value added tax invoice addressed to the Council has been received, checked, coded and certified for payment, confirming:
  - (A) receipt of goods or services;
  - (B) that the invoice is addressed in the name of the Council and has not previously been paid;
  - (C) that expenditure has been properly incurred and is within budget provision;
  - (D) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
  - (E) correct accounting treatment of tax;
  - (F) that the invoice is correctly coded;
  - (G) that discounts have been taken where available;
  - (H) that appropriate entries will be made in accounting records;
- (vi) ensuring that two authorised members of staff are involved in the ordering, receiving and payment process (if possible, a different Officer from the person who signed the order, and in every case, a different Officer from the person checking a written invoice, should authorise the invoice);
- (vii) ensuring that the service maintains and reviews periodically a list of staff approved to authorise invoices (names of authorising Officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Chief Finance Officer for approval);
- (viii) ensuring that payments are not made on a photocopied or faxed invoice, statement, or other document other than the formal invoice (any instances of these being rendered should be reported to the Chief Finance Officer);
- (ix) ensuring that the service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, in line with best value principles and the Council's Contract Standing Orders;
- (x) utilising any central purchasing procedures available in putting purchases, where appropriate, out to competitive quotation or tender, which should comply with the Contract Standing Orders and will cover:
  - (A) authorised Officers and the extent of their authority;
  - (B) advertisement for tenders;

- (C) procedure for creating, maintaining and revising a standard list of contractors;
  - (D) selection of tenderers;
  - (E) compliance with UK and, if applicable, EU legislation and regulations;
  - (F) procedures for the submission, receipt, opening and recording of tenders;
  - (G) the circumstances where financial or technical evaluation is necessary;
  - (H) procedures for negotiation;
  - (I) acceptance of tenders;
  - (J) the form of contract documentation;
  - (K) cancellation clauses in the event of corruption or bribery;
  - (L) contract records;
- (xi) ensuring that employees are aware of the national code of conduct for local government employees;
  - (xii) ensuring that loans, leasing or rental arrangements are not entered into without prior agreement from the Chief Finance Officer (this is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained);
  - (xiii) notifying the Chief Finance Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined annually by the Chief Finance Officer and, in any case, not later than 30 April;
  - (xiv) with regard to contracts for construction and alterations to buildings and for civil engineering works, documenting and agreeing with the Chief Finance Officer, the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status;
  - (xv) notifying the Chief Finance Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision; and

- (xvi) ensuring that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

#### **41.4 Payments to employees and Members**

41.4.1 Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council, and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the full Council.

41.4.2 In respect of payments to employees and Members:

- (a) the Chief Finance Officer is responsible for approving the system of:
  - (i) payments of salaries and wages to all staff, including payments for overtime; and
  - (ii) for payment of allowances to Members;
- (b) the Head of Paid Service is responsible for:
  - (i) arranging and controlling the secure and reliable payment of salaries, wages, or other emoluments to existing and former employees, in accordance with procedures prescribed by them with the approval of the Chief Finance Officer on the due date;
  - (ii) recording and making arrangements for the accurate and timely payment of tax, superannuation and other deductions;
  - (iii) making arrangements for payment of all travel and subsistence claims or financial loss allowance;
  - (iv) making arrangements for paying Members' travel or other allowances upon receiving the prescribed form, duly completed and authorised;
  - (v) providing advice and encouragement to secure payment of salaries and wages by the most economical means;
  - (vi) ensuring that there are adequate arrangements for administering superannuation matters on a day-to-day basis;
  - (vii) ensuring that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule;
- (c) Executive Directors and Heads of Service are responsible for:

- (i) ensuring appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available;
- (ii) notifying the Chief Finance Officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Chief Finance Officer;
- (iii) ensuring that adequate and effective systems and procedures are operated, so that:
  - (A) payments are only authorised to bona fide employees;
  - (B) payments are only made where there is a valid entitlement;
  - (C) conditions and contracts of employment are correctly applied;
  - (D) employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness;
- (iv) sending an up-to-date list of the names of Officers authorised to sign records to the Chief Finance Officer, together with specimen signatures, who shall make available to the Chief Finance Officer copies of those signatures of officers authorised to sign timesheets and claims;
- (v) ensuring that payroll transactions are processed only through the payroll system. Executive Directors should give careful consideration to the employment status of individuals employed on a self-employed, consultant or subcontract basis and undertake the relevant IR35 checks. HM Revenue and Customs applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Chief Finance Officer;
- (vi) certifying travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Chief Finance Officer is informed where appropriate;
- (vii) ensuring that claims for expenses and travel allowances are made in a timely manner and not more than two months from the date they were incurred. Claims made after this period will only be paid in exceptional circumstances at the discretion of the relevant Head of Service (value added tax receipts for petrol in respect of car mileage claims must be attached and of sufficient value to cover the total number of miles being claimed);

- (viii) ensuring that the Chief Finance Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system; and
- (d) Members are responsible for submitting claims for any Member expenses and travel allowances on a monthly basis and, in any event, within one month of the year end.

## **41.5 Taxation**

41.5.1 Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all Officers to be aware of their role.

41.5.2 In respect of taxation:

- (a) the Chief Finance Officer is responsible for:
  - (i) advising of the Head of Paid Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council;
  - (ii) maintaining the Council's tax records, making all tax payments, receiving tax credits, and submitting tax returns by their due date;
  - (iii) completing a monthly return of value added tax and outputs to HM Revenue and Customs;
  - (iv) providing details to HM Revenue and Customs regarding the construction industry tax deduction scheme;
- (b) Executive Directors and Heads of Service is responsible for:
  - (i) ensuring that the correct value added tax liability is attached to all income due and that all recoverable value added tax complies with HM Revenue and Customs regulations;
  - (ii) ensuring that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements; and
  - (iii) ensuring that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

## **41.6 Trading accounts/business units**

41.6.1 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units, if applicable.

## 41.7 Partnerships

- 41.7.1 The Cabinet can delegate functions, including those relating to partnerships, in accordance with the scheme of delegation set out in the Constitution. Where functions are delegated, the Cabinet remains accountable for those functions to the Council.
- 41.7.2 In respect of any actual or proposed partnership arrangements:
- (a) the Chief Finance Officer is responsible for:
    - (i) ensuring that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory, including the verification of third party identities;
    - (ii) considering the overall corporate governance arrangements and legal issues when arranging contracts with external bodies and ensure that the risks have been fully appraised before agreements are entered into with external bodies;
    - (iii) advising on effective controls that will ensure that resources are not wasted;
    - (iv) advising on the key elements of funding a project, including:
      - (A) scheme appraisal for financial viability in both the current and future years;
      - (B) risk appraisal and management;
      - (C) resourcing, including taxation issues;
      - (D) audit, security and control requirements;
      - (E) carry-forward arrangements;
  - (b) the Head of Paid Service is responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies and partnerships;
  - (c) Executive Directors and Heads of Service are responsible for:
    - (i) obtaining the approval of the Executive Leadership Team and the Cabinet before entering into any negotiations which may lead to partnership working by the Council either as lead partner or participant;
    - (ii) ensuring that, before entering into agreements with external bodies, financial and risk management appraisals have been prepared for the Chief Finance Officer and that the impact on the Council's budget is clearly identified;

- (iii) ensuring that such agreements and arrangements do not impact adversely upon Council services;
- (iv) ensuring that all agreements and arrangements are properly documented; and
- (v) providing appropriate information to the Chief Finance Officer to enable a note to be entered into the Council's statement of accounts concerning material items.

## **41.8 External funding**

- 41.8.1 External funding is potentially a very important source of income for the Council. However, such, funding comes with the need to adhere to funding conditions which must be carefully considered to ensure that they are compatible with the aims and objectives of the Council.
- 41.8.2 The Chief Finance Officer must be informed of all external funding applied for by spending departments prior to such bids being submitted to the funding body.
- 41.8.3 In relation to external funding;
- (a) the Chief Finance Officer is responsible for:
    - (i) ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts;
    - (ii) ensuring that match-funding requirements are considered prior to entering into funding agreements and the future revenue budgets reflect these requirements;
    - (iii) ensuring audit requirements are met;
    - (iv) ensuring that claims for funds are made by the due date;
  - (b) Executive Directors and Heads of Service are responsible for:
    - (i) ensuring that all information to support claims for funds are made by the due date; and
    - (ii) ensuring that projects progress in accordance with the relevant agreed project plan and that all project expenditure is properly incurred and recorded.

## **41.9 Work for third parties**

- 41.9.1 Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise.
- 41.9.2 To ensure that arrangements are in place which minimise the risks associated with work undertaken for third parties, and that any such work is intra vires:

- (a) the Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies unless this is delegated to an Officer;
- (b) the Chief Finance Officer is responsible for:
  - (i) issuing guidance with regard to the financial aspects of third party contracts; and
  - (ii) developing and approving procedures for the maintenance of the contract register;
- (c) Heads of Service are responsible for:
  - (i) ensuring that the approval of the Executive Leadership Team is obtained before any negotiations are concluded to work for third parties;
  - (ii) maintaining a register of all contracts entered into with third parties in accordance with procedures specified by the Chief Finance Officer;
  - (iii) ensuring that appropriate insurance arrangements are made in accordance with the requirements of the Chief Finance Officer;
  - (iv) ensuring that the Council is not put at risk from any bad debts;
  - (v) ensuring that no contract is subsidised by the Council;
  - (vi) ensuring that, wherever possible, payment is received in advance of the delivery of the service;
  - (vii) ensuring that the service/unit has the appropriate expertise to undertake the contract;
  - (viii) ensuring that such contracts do not impact adversely upon the services provided for the Council;
  - (ix) ensuring that all contracts are properly documented; and
  - (x) providing appropriate information to the Chief Finance Officer to enable a note to be entered into the annual statement of accounts.

## **41.10 Contract procedures**

- 41.10.1 The Contract Standing Orders (which include procurement procedures (see below)) set out the rules which are designed to ensure that all contracts for works, services and supplies (goods and services) are entered into by the Council in a manner which secures the best possible value for money and is demonstrably free from impropriety.

## **41.11 Review of the regulations**

- 41.11.1 The Constitutional Working Party shall review the Financial Regulations periodically and recommend any amendments to Cabinet or full Council, as appropriate.

## Article 42 – Contract Standing Orders

### SECTION 1 – Context

#### 1. Purpose

- (a) These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972. They form part of the Council's Constitution and are, in effect, the instructions of the Council, to Officers and elected members for entering into contracts on behalf of the Council. They do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out the minimum requirements to be followed.
- (b) The Council is a contracting authority for the purposes of public procurement law and is legally bound to comply with certain practices and procedures in the award, management and variation of contracts.
- (c) The overall purpose of these Contract Standing Orders is threefold:
  - (i) to ensure probity, transparency and equality in the procurement of works, goods and services.
  - (ii) to ensure the Council gets best value from its procurements.
  - (iii) to protect those involved in the procurement process.
- (d) The Contract Standing Orders should be read in conjunction with other parts of the Constitution including the Financial Procedure Rules and the scheme of delegation, and with the Council's Procurement Strategy, which sets out principles to be considered at the outset of the procurement process and should guide the design of a specification, and in some cases, the applicable contract terms.
- (e) The Contract Standing Orders aim to promote the highest standards of probity, integrity and impartiality using the key procurement principles of transparency, equal treatment, non-discrimination and proportionality. They thereby offer the best justification against allegations of purchases having been made fraudulently or incorrectly; and safeguard the Council's reputation from the implication of dishonesty and corruption.
- (f) If it comes to notice of an Officer that there has been non-compliance with these Contract Standing Orders in respect of any contract which s/he is responsible as the Officer of the procuring section, s/he shall without delay notify the Monitoring Officer who shall take such action as deemed necessary.

#### 2. Scope

- (a) These Contract Standing Orders apply to all contracts for goods, services, works, concessions and capital projects undertaken by or on behalf of the Council with the exception of:
  - (i) the acquisition of any interest in land or property;
  - (ii) the lending or borrowing of money;

- (iii) employment of an individual employee;
  - (iv) the disposal of property (including any interest in land);
  - (v) the provision of specific types of legal advice, for example, in relation to litigation (the provisions of Regulation 10 of the Public Contracts Regulations 2015 should be checked carefully to ascertain the applicability of this exception); and
  - (vi) the awarding of grants (see below for Grant Procedures).
- (b) For the purposes of this document a contract is defined as any circumstance where goods, services or works are acquired, and there is an understanding by both parties that payment will be made in exchange for this.
- (c) The scope of the procurement process is from the identification of a requirement through to the completion of any arrangement to fulfil that requirement, including the management of that arrangement and potentially the disposal of any products of the arrangement that are not required.

### 3. **Authorities and controls**

- (a) Procurement Authority is delegated by the Council to the Heads of Service who may (so far as any financial threshold in this Constitution permits) delegate to officers who need to carry out procurement in the course of their normal duties. The Executive Leadership Team (ELT) take a strategic role in procurement and are responsible for receiving reports and responding to audit requirements.
- (b) The role of Executive Directors and the Monitoring Officer is to responsibly consider and approve or otherwise situations detailed in these Contract Standing Orders where there is an increased risk to the Council, including circumstances where there is insufficient competition and where the value/risk of a contract is assessed as high.
- (c) The role of Heads of Service is to ensure that the both the spirit and the letter of the Contract Standing Orders are complied with. Heads of Service must involve an Executive Director and take advice from the Procurement Service and if necessary, the Legal Service, where a purchase is complex, requires special terms of contract, or a contract extension, even when the requirement is within the buyer's delegated procurement authority.
- (d) Procurement Authority is defined as the limit that the Budget Holder can spend within their Budget Authority with a single supplier. No commitment to purchase, contract, lease, hire, or rent goods, services or works on behalf of the Council can be made without appropriate budget authority and delegated procurement authority.
- (e) Budget Authority rests with the Budget Holder. All expenditure must have prior budgetary approval. A budget is approved when the Budget Holder has received approval through the budget process for the annual budget. However, the Budget Holder must follow the Council's standards for specific goods and services. For certain categories of expenditure technical experts, governance boards or teams are responsible for specifying products and services, e.g., IT & stationery, and approval must be sought from these experts to procure alternative goods and services, or to use alternative sources of supply.

- (f) Budget Authority permits the Budget Holder to authorise, sign or issue purchase orders or contracts, or make any other form of commitment to suppliers within the limits of their delegated authority and with due regard to these Contract Standing Orders.
- (g) Refer to Section 12 - Procurement Authority Thresholds.

#### 4. **Segregation of duties**

- (a) The activities relating to the contracting and procurement processes are segregated between the following phases:
  - (i) Purchase Order;
  - (ii) Commitment (contract signatory) / Authorisation;
  - (iii) Receipt;
  - (iv) Payment;
- (b) Segregation of duties must exist between raising Purchase Orders and commitment of expenditure and also receipt and payment.

#### 5. **Officer conduct**

##### (a) **Conflict of interests of officers**

Officers employed by the Council must comply with Article 44.10 within the Council's "Officer Code of Conduct", relating to conflicts of interest.

##### (b) **Ethical procurement**

Procurement should only be undertaken by officers adhering to the strictest professional standards. The Council recognises the Chartered Institute of Procurement & Supply (CIPS) Code of Conduct as the appropriate standard.

##### (c) **Officers responsible for purchasing must:**

- (i) comply with these Contract Standing Orders and all relevant policies for the purchase of goods or services or order works;
- (ii) take all necessary legal, financial and professional advice
- (iii) declare any personal or financial interest in a contract. Corruption is a criminal offence;
- (iv) conduct a value for money review appraise the need to purchase and ensure there is an adequate budget;
- (v) check whether there is an existing corporate contract that can be used before undergoing a competitive process;
- (vi) normally allow at least four weeks for submission of bids subject to any minimum timescales prescribed by law;

- (vii) keep bids confidential;
- (viii) ensure adequate terms and conditions are in place before goods works or services are provided;
- (ix) ensure specifications meet the defined needs and requirements of the Council;
- (x) only commence the supply or works once a council purchase order has been issued and a contract has been signed;
- (xi) identify a contract manager with responsibility for ensuring the contract delivers as intended;
- (xii) keep records of dealings with suppliers; and
- (xiii) assess each contract afterwards to see how well it met the purchasing need and value for money requirements.

## 6. **Audit requirements**

- (a) All Budget Holders must be aware that their procurement actions will be subject to Internal and External Audit examination, to ensure that procurement is carried out in a professional and business-like manner and strictly in compliance with these Contract Standing Orders and all relevant policies for the purchase of goods services or other works..
- (b) Decisions on procurement actions must be recorded on file to provide a clear and transparent audit trail. This should always include:
  - (i) a Procurement Plan;
  - (ii) clarification and contract reviews as part of contract management; and
  - (iii) full tender documents including a record of evaluation processes that will be held on the e-procurement system.
- (c) These are the most important examples; the list is neither exhaustive nor exclusive. If a Budget Holder is ever in doubt about whether facts need to be recorded, it is advisable to err on the side of caution and record them.
- (d) It is equally important to note that recording of facts in these circumstances should not be excessive. However, records should be sufficient to justify the decisions taken in all stages of the procurement procedure, including at evaluation, and give a reasonably easily understood picture of events to someone reading them for the first time and to assist others to explain the reasoning behind the decisions taken.
- (e) All officers recording decisions should remember that the Freedom of Information Act 2000 and/or the Environmental Information Regulations may apply to such documents.

## SECTION 2 – Procurement Options

### 1. Existing Contracts

- (a) **Where a Contract has been entered into it must be used for all requirements that relate to that contract. A Contracts Register is maintained by the Council and made available for all Budget Holders to access.**
- (b) The Council and its contracted Suppliers make a considerable investment in negotiating and preparing contracts and when a contract has been entered into with a contractor it must be honoured except in exceptional circumstances. To place purchase orders/contracts with alternative Suppliers other than the contract holder may frustrate the contract and expose the Council to potentially expensive litigation.
- (c) On the exceptional occasions where a Budget Holder feels that better value can be obtained from sources alternative to those that have been awarded a Council contract, approval to use those alternatives must be first obtained from the Head of Service and the Section 151 Officer before awarding a competing contract for similar requirements.
- (d) A procurement requirement can often be met through a range of business models, including a direct contract, use of an existing framework, creation of a new framework or Dynamic Purchasing System, collaboration with another public body, or creation of a wholly owned or Joint Venture Company. The Budget holder must be clear as to which option will provide the best outcome and must record this in a Procurement Plan where appropriate. For a Procurement Plan template, see the Council's intranet.

### 2. Framework Arrangements

- (a) Correct use of a Framework Agreement provides a compliant procurement process.
- (b) A Framework Agreement is a formal tendered arrangement which sets out terms and conditions under which specific purchases can be made throughout the term of the agreement. The appropriate Budget Holder may procure supplies, services or works from the successful framework tenderer(s) in unpredicted quantities at various times during the period that the agreement is in force. For this purpose, a Framework Arrangement may be internal, i.e., set up by the Council, or external, i.e., set up by CCS, ESPO or some other central purchasing body. Consideration must be given as to whether the Council could achieve increased value for money by joining an existing consortium to enable it to benefit from using pre-tendered framework agreements and whether any charges for this represent a good investment.
- (c) It is for the Budget Holder to decide, having taken appropriate advice, whether and how the Council is able to utilise a Framework Agreement.
- (d) If there is no previously existing framework agreement and the requirement is of an ongoing nature and may require more than one supplier, or if the volume of the requirement over the contract term is uncertain, the Budget Holder must consider whether creating a framework arrangement would better meet the requirement.
- (e) When advertising for a Framework Agreement the advertisement must indicate:

- (i) That it is a Framework Agreement which is being tendered;
- (ii) The parties eligible to participate in the Framework Agreement;
- (iii) The duration of the Agreement;
- (iv) The expected maximum number of suppliers;
- (v) The estimated total value of the contracts to be covered by the Agreement;
- (vi) The award criteria for choosing suppliers and subsequent criteria for placing orders.

### 3. **New contract development**

When a Contract does not exist to meet a requirement the Budget Holder must follow the appropriate competitive process in compliance with Contract Thresholds and risk assessment.

## **SECTION 3 – Legislation**

### 1. **Introduction**

The law requires the Council to treat suppliers and potential suppliers equally and without discrimination and to act in a transparent and proportionate manner. Procurement activity is also subject to subsidy control and competition law. All procurement activity must comply fully with the applicable requirements of the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016 and any other relevant legislation. Procurement is subject to local government law, including the general duty of best value, and to equalities legislation

### 2. **The Public Services (Social Value) Act 2012**

- (a) The Public Services (Social Value) Act 2012 (**Act**) requires that the Council has regard to economic, social and environmental well-being in connection with public services contracts and considers the following in all procurement exercises for services:
  - (i) how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and
  - (ii) how, in conducting the process of procurement, it might act with a view to securing that improvement.
- (b) In relation to the above, under section 1(6) of the Act, the Council must consider only matters that are relevant to what is proposed to be procured and, in doing so, must consider the extent to which it is proportionate in all the circumstances to take those matters into account.
- (c) When the Council undertakes an assessment of the categories of services that it procures, to evaluate those that are high risk or where there is scope to achieve social benefit, particular effort will be made to both reduce adverse impacts and maximize opportunities whilst understanding, valuing and building on existing social

capital and community assets and creating a positive ongoing impact on communities.

### 3. **Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)**

In relation to contracts where there is likelihood that employees may be transferred to a new employer the invitation to tender will state that the Council assumes that TUPE will apply unless evidence to the contrary is produced. It will then be the Council's responsibility to ensure that tenderers have access to the appropriate information to allow them to fully consider any impact that TUPE may have on their tender.

### 4. **HMRC Requirements – Engagement of Individuals**

- (a) All new suppliers must complete the Supplier Form prior to an order being placed for services. The form requests an individual's Unique Taxpayer Reference (UTR), which must be supplied prior to any payments being made. If an individual cannot provide this number, they are not to be engaged.
- (b) The Council must ensure that individuals engaged as consultants/self-employed are able to demonstrate that they meet the IR35 test for a self-employed person. The Budget Holder must take appropriate advice before making a decision to engage an individual.

## **SECTION 4 – Pre-Procurement**

### 1. **Valuation of the Contract**

- (a) When calculating the value of a contract to be awarded, the Budget Holder must remember that under the Public Contract Regulations 2015, the thresholds set are inclusive of VAT. The value must be calculated for the entire contract period including any extensions of the contract. Where the contract period is not fixed, the estimated value of the contract must be calculated by multiplying the monthly spend value by 48.
- (b) Before any procurement is begun the appropriate Budget Holder must estimate the value of the contract and must keep a written record of that estimate as part of a Procurement Plan (a Procurement Plan template can be found on the Council's intranet).
- (c) In the case of contracts for:
  - (i) the hire of goods for an indeterminate period, or
  - (ii) the provision of services for a period in excess of 4 years or for an indeterminate period,

the estimated value of the contract must be the estimated monthly cost multiplied by 48 or, where monthly costs are inappropriate, the estimated annual cost multiplied by 4.

- (d) In the case of contracts for the supply of goods or services over a period where the Council wishes to call off as required or has a series of regular requirements by standing order the estimated value of the contract is either:

- (i) the aggregate value of similar contracts over the previous 12 months (adjusted for any known changes in demand);
  - (ii) the estimated value of similar contracts over the next 12 months; or
  - (iii) if the contract is for a definite term of more than 12 months, the estimated value for the period of the contract.
- (e) For all supplies, services and works not covered by the above, the estimated value for the purpose of these Standing Orders must be the total estimated value of the supplies, services or works to be supplied over the period covered by the contract.
- (f) The value of a concession for the purpose of this Standing Order is the estimated gross value of the service before income.

## 2. **Pre-procurement budgetary considerations**

- (l) In addition to the likely cost of the goods, services or works (contract value) Officers must consider the following questions:
- (i) is the appropriate level of funding in place to cover the expense of the project?
  - (ii) in respect of capital works, is there a revenue budget allocation to cover ongoing costs (maintenance etc.)?

and ensure relevant information in respect of those questions is properly recorded.

## 3. **Disaggregation of demand – not permitted**

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding these Contract Standing Orders or legislation/law

## 4. **Market research**

Access to accurate and relevant commercial intelligence and knowledge of the marketplace is necessary in deciding which procurement option is best. Relevant markets need to be researched and understood, however, care must be taken to ensure this does not distort competition or prejudice any bidder or potential bidder. Advice may be taken from the Procurement Service to support market research.

## 5. **Assessing contract risk**

All procurement projects must be assessed prior to commencing activity in order to determine the level of risk associated with the particular procurement. A risk matrix is available on the Council's intranet and Officers are advised to use this to calculate the level of risk attached to a procurement. The categories of risk scores are set out below. The risk score may impact on the procurement process to be followed and Officers are advised to seek advice from the Procurement Service. The risk score must be recorded in the Procurement Plan.

- (a) A low risk contract is a risk matrix score of 0 – 59.

- (b) A medium risk contract is a risk matrix score of 60 – 100.
- (c) A high risk contract is a risk matrix score of above 100.

## 6. **Setting Terms and Conditions**

- (a) The Council's Standard Terms and Conditions (for the purchase of goods and services) have been developed with legal advice to protect the Council from contract risk in the majority of instances. When entering into any contract, following either the quotation or the tender process, the Budget Holder must be aware of the terms of that contract. Under normal circumstances for goods and simple services the Council's Standard Terms and Conditions should be applied. However, consideration should be given to specifics, such as insurance requirements, health and safety, regulated services and the protection of vulnerable adults and children, and confidentiality, as well as other relevant issues where risk is increased. Additional terms, including 'social value clauses' and other elements such as those set out in the Council's Procurement Strategy, will be available for selection where appropriate and the advice and support of Procurement Service and Legal Service should be sought on the application of such conditions.
- (b) In all cases contract terms shall include a requirement for contractors to be paid within 30 days of receipt of a valid invoice and also for contractors to pay their sub-contractors within 30 days and to pass that requirement through the supply chain.
- (c) In some limited circumstances the market operates in such a way as to prevent the Council from imposing its standard terms and it will be inevitable that the supplier's terms will be offered. The proposal of such clauses by the supplier may raise grounds for negotiation with the supplier prior to agreeing a contract. In such circumstances, the relevant Officer shall seek legal advice on the potential risks contracting on the supplier's terms and conditions may pose to the Council and appropriate amendments made in order to ensure that any such risks are suitably mitigated and the final form of contract is acceptable to the Council. Where a supplier's terms and conditions are to be agreed this must first be approved by the appropriate Head of Service, following receipt of legal advice.

## 7. **Pricing**

In the case of long-term contracts (usually longer than one year) it may be necessary to include provision for inflationary and deflationary factors during the course of the contract. A clause should be drafted requiring the supplier to provide evidence of increased costs and any increase must be limited to the appropriate inflationary index. Due care must be taken when drafting this type of clause and when used must be approved by the appropriate Head of Service following advice from the Procurement Service and/or the Legal Service.

## **SECTION 5 – Supplier Engagement**

### 1. **Advertising a quotation or tender**

- (a) Contracts Finder shall be used for all quotation and tender procedures where the contract value is over £25,000 and the Council is advertising the contract opportunity and all such opportunities will be published and made visible to all potential providers

that are registered on the system. The government's 'Find a Tender' will be used where necessitated by the value of the contract (usually above £217,333). The transparency obligations of the Council require that all contracts over £25,000 are advertised on Contracts Finder in addition to any other systems that may be used.

- (b) There may be circumstances when it will also be necessary to place an advertisement in a local newspaper, trade journal, local partnership network, or social media where appropriate, to invite potential suppliers to register on the above e-procurement systems to obtain access to the opportunity. This will particularly be the case where it is deemed that insufficient suppliers are registered for a specific category of products or services to achieve a reasonable level of competition. Such an advertisement may only be raised with the approval of the Head of Service and will include the website address for the relevant e-procurement system.
- (c) Where the Council is relying on suppliers on a pre-agreed list to gain quotations for a contract worth over £25,000 but below the threshold in the Public Contracts Regulations 2015, there is no obligation to publish on Contracts Finder.

## **2. Information to potential suppliers**

- (a) All potential suppliers must receive the same detailed information that accurately reflects the business and Budget Holder requirements. Information given to tenderers that relates to anticipated volumes or value of business is for guidance only. It must be clearly stated that the Council will not be bound by this information.
- (b) Tenderers must not be informed of the identity of competitors, as this can lead to supplier collusion and cartels and a potential loss of confidence among tenderers as well as the potential for a claim for breach of confidentiality.
- (c) All questions and answers to clarification points that may be raised by tenderers are to be administered through the e-procurement system to ensure that all tenderers receive the same information. Care should be taken to ensure that further clarification information is made anonymous before sharing with other tenderers.

## **3. Meetings/discussions with tenderers**

- (a) If it is part of the contract strategy to hold meetings with tenderers before tenders are submitted, best practice is to hold one meeting with all suppliers present unless the Budget Holder and the Head of Service determines that it is disadvantageous to do so. This approach ensures that all tenderers receive the same information.
- (b) No meetings or discussions shall take place during the tendering process between tenderers and the Budget Holder without the prior agreement of the Head of Service.

## **SECTION 6 – Process**

### **1. Development of the specification**

- (a) The Budget Holder, with the aid of specialist functions as appropriate, is responsible for compiling the specification which must include performance criteria. Budget Holders must use caution when communicating with potential suppliers during this stage of the process, to avoid compromising the Council's ability to maintain

transparency, equal treatment and impartiality. The Budget Holder must also have regard to the principles outlined in the Council's Procurement Strategy.

- (b) It is the responsibility of the Budget Holder to source and contract with suppliers who will supply goods and services that will meet the Budget Holder's specification as well as the commercial requirements of the contract.
- (c) To ensure best value, specifications should be generic and outcome-based and not limit offers of equivalent solutions.

## 2. Identification of Suppliers

There are a number of ways in which potential suppliers may be selected:

### (a) E-procurement platform

In the majority of circumstances suppliers will identify themselves by expressing an interest on an e-procurement platform for a particular opportunity.

### (b) Framework Agreements

Suppliers may be awarded business under Framework Agreements and the Budget Holder will not undertake any further supplier identification. In any case where a Framework Agreement is validly in place:

- (i) Orders will be placed against a known price and do not require further competition unless required by law;
- (ii) In circumstances where the price was not specified under the Framework Agreement an order can only be placed if further competition has been undertaken in accordance with the instructions contained within the Framework Agreement. This will be with all of the suppliers specified in the Agreement or within a specific Lot of the Agreement and no other suppliers. This competition will be undertaken utilising the e-procurement system;
- (iii) The further competition must be evaluated using the criteria as stated in the Framework Arrangement. If the number of suppliers within a Framework Agreement or relevant Lot is not sufficient to ensure competition the Budget Holder must seek expert advice;
- (iv) When an existing Framework Agreement is to be used, particularly for services and works, it is the Budget Holder's responsibility to ensure that all specified requirements remain valid. It may be necessary to request current evidence of insurance or other certification depending on how the Framework Agreement is managed.

### (c) Dynamic Purchasing Systems

Where a Dynamic Purchasing System is in place quotations will be sought using an e-procurement platform.

**(d) Supplier databases**

Various supplier/contractor databases exist to assist organisations select suppliers. These databases are available on-line, e.g., Construction-line, Sells, Yellow Pages, Kelly's and professional bodies such as RICS. When using such databases care must be taken not to only use one source of information and identified suppliers must then be encouraged to register on the appropriate e-procurement platform.

**3. Supplier selection**

- (a) The Council is committed to obtaining value for money through the procurement of all goods, services, works and capital projects. It is essential to ensure that only the most capable suppliers are selected as contractors to the Council.
- (b) The selection and elimination of suppliers within a procurement exercise can only be made on grounds of capability and that assessment should include a balance of technical, professional, and financial issues as appropriate. It is essential that any criteria used to select suppliers are notified to them in advance. This information should be contained within documents published through the applicable e-procurement platform.
- (c) Potential suppliers should be requested to provide accounts for the past two years of trading as part of the procurement process where appropriate (the Procurement Service will advise where this may be required). In the absence of audited statements, other information should be requested that is considered sufficient for assessment purposes. Potential suppliers such as SMEs and public service mutuals may have been recently formed and be unable to provide accounts for the previous two years or to provide any filed accounts at all. The Budget Holder should know the level of flexibility required towards potential suppliers from information gained through market research. Other information that may demonstrate the potential supplier's economic and financial standing can include, but is not limited to:
  - (i) parent company accounts (if applicable);
  - (ii) deeds of guarantee and performance bonds (e.g., directors/parent company/personal);
  - (iii) bankers statements and references;
  - (iv) accountants' references;
  - (v) management accounts;
  - (vi) financial projections, including cash flow forecasts;
  - (vii) details and evidence of previous contracts, including contract values; and
  - (viii) capital availability.
- (d) The capacity of a potential supplier may be assessed based on a simple comparison of the annual contract value to the annual (or average annual) turnover. While turnover may be a useful indicator of capacity, issues of financial position, capacity, capability and dependency should all be considered as part of the appraisal process.

If a potential supplier is not selected, there must be clear and demonstrable evidence of financial risks, capacity or capability issues over and above a simple turnover or ratio measure. Budget Holders should not impose arbitrary minimum requirements which may have the unintended effect of barring new businesses from bidding and in the spirit of encouraging supplier growth, the supplier evaluation process should not rule out a potential supplier unless there is clear evidence that the supplier's financial position places the Council or services at unacceptable risk. This should include the consideration of the level of insurances required. Whilst the Standard Terms & Conditions include a requirement for £10 million minimum cover for Public Liability, Budget Holders should set the minimum requirements for Employers Liability and Professional Indemnity Insurance at an appropriate value relative to the contract risk, and may wish to consult the Corporate Risk Officer, the Monitoring Officer or the s151 Officer before fixing limits. Note that legally Employers Liability must be a minimum of £5 million.

- (e) Where open advertisements are used to attract potential suppliers the selection process will form a qualifying stage of the tender exercise. Qualification can only be assessed on the grounds of financial soundness, capacity and professional and technical ability. There are 2 ways in which this process can be used, either
  - (i) the pre-qualification questionnaire is made available to all suppliers expressing an interest and only the suppliers that meet the required standard are then allowed access to the full tender documents (**Restricted Procedure**); or
  - (ii) suppliers are issued with the full Invitation to Tender (**ITT**) document of which the qualification section forms the first element (**Open Procedure**).
- (f) The **Restricted Procedure** should be used where the Council wants to "pre-qualify" suppliers based on their financial standing and technical or professional capability so as to narrow the number permitted to submit bids. Where the Restricted Procedure is appropriate, the Council should be able to specify your entire requirement at the outset such that, based on the Invitation to Tender, bidders will be able to deliver a fully priced bid without the need for any negotiations following receipt of the bid. The Restricted Procedure should only be used where the market is known to be extensive and large numbers of tenderers are anticipated. This approach will remove the possibility of large numbers of suppliers completing a full tender unnecessarily.
- (g) The purpose of pre-qualification is not to reduce the number of potential bidders but to ensure that those tenders that are evaluated are from suppliers that are capable of meeting the quality standards required. Where a pre-qualification questionnaire is used this must be based on the government standard and should be as simple as possible. Qualification may involve as little as a requirement of tenderers to confirm that they can meet the stated minimum standard required.

#### 4. **Public Contract Regulations 2015**

- (a) For all procurement requirements above the Public Contract Regulations 2015 financial thresholds a compliant procurement route must be used when awarding a contract. While the framework and principles underlying the public procurement regime (e.g., the Procurement procedures) have not substantially changed since EU exit, from 1st of January 2021, OJEU/TED was replaced by a new e-tendering

platform called 'Find a Tender' (FTS). If contract spend is over the current thresholds, that link to the World Trade Organisation Government Procurement Agreement threshold, tenders legally need to be posted on Find a Tender. This switch is the most notable and important, immediate effect of Brexit on public procurement. Find a Tender Service is a free service and works in the same format as OJEU/TED. It also works in conjunction with other tender portals, like Contracts Finder and MOD systems, and with other subsidiary portals.

- (b) There are six types of contract award procedure under the 2015 Regulations. The choice of these procedures must be appropriate to the contract in question. There are no restrictions in the legislation on the use of the open and restricted procedures. The competitive procedures and innovation partnership procedures can only be used in certain specified circumstances.
- (i) **Open** – this procedure is preferred by the Council, as it has the shortest timescales and is arguably most transparent. Any company who accesses the tender following the published hyperlink will be allowed access to the Invitation to Tender (ITT). The open procedure is suitable for simple procurements where the requirement is straightforward. It is most commonly used in practice for the purchase of goods where the requirement can be clearly defined and the Council is seeking the least expensive supplier. As there is no "pre-qualification" of bidders, anyone can submit a tender and it is possible that a large number of suppliers will bid.
- (ii) **Restricted** – this is a two-stage process. The Council must decide how many tenders it wants to evaluate at the second stage, with the legal minimum being 5, unless there are fewer than 5 tenderers that meet the minimum requirements. This must be made clear to tenderers within the tender documents. Only those tenderers that score highly enough at the first stage (the Selection Stage) to be in the top 5, or whichever number is decided upon, will be asked to complete the full ITT. The Restricted Procedure should only be used where the market is known to be considerable in size. Consider the restricted procedure where the Council wants to "pre-qualify" suppliers based on their financial standing and technical or professional capability so as to narrow the number permitted to submit bids. Where the restricted procedure is appropriate, the Council should be able to specify its entire requirement at the outset such that, based on its invitation to tender, bidders will be able to deliver a fully priced bid without the need for any negotiations following receipt of the bid.
- (iii) **Procedures with Negotiation** - the conditions that must be met for use of these procedures are set out at Regulation 26(4) of the 2015 Regulations and are as follows:
- (a) the needs of the contracting authority cannot be met without adaptation of readily available solutions; or
- (b) the requirements include design or innovative solutions; or
- (c) the contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial make-up or because of risks attaching to them; or

- (d) the technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard, European Technical Assessment, common technical specification or technical reference; or
  - (e) an open/restricted procedure procurement has been run but only irregular or unacceptable tenders have been submitted.
- (iv) **Competitive with Negotiation** – the first stage of this process is the Selection Stage. The Council must set minimum standards and these must not be changed through the negotiation rounds or at the evaluation stage. Tenderers that are selected as the Selection Stage are invited to submit tenders. The Council may decide once it has evaluated the tenders that it can accept one or more because it fully meets all of the Council’s requirements. However, if no tender meets the minimum requirements then the Council can negotiate with the tenderers and ask for revised final tenders to be submitted. The competitive with negotiation procedure allows the Council flexibility around whether to negotiate only if it reserves the right (by stating this in the advertisement) This reservation is not possible in the competitive dialogue procedure.
- (v) **Competitive Dialogue** – The first stage in this process is the Selection Stage. The Council must select at least three tenderers to go through to the Dialogue Stage, unless there are fewer tenderers that meet minimum requirements. The dialogue allows for discussion between the invited bidders and the Council on an individual basis. At the end of the dialogue phase bidders are invited to submit proposals which are then evaluated using the previously issued criteria. It is possible to have multiple rounds of dialogue depending on the complexity of the requirements. The competitive dialogue procedure contains more flexibility around negotiation with the winning bidder (provided this does not modify the essential aspects of the contract or procurement or amount to a distortion of competition). However, it is not possible to negotiate with all tenderers following submission of final tenders.
- (vi) **Competitive procedure without prior publication** – permitted in certain limited and narrowly defined circumstances. These include where there is extreme urgency not attributable to the contracting authority, and where the requirement can only be met by a particular economic operator due to technical reasons or the existence of exclusive rights. Legal advice should always be sought if this route is being considered.
- (vii) **Innovation Partnership** – This procedure is aimed at encouraging the development of innovative products, services or works, which are not already available on the market. The procurement process largely follows the competitive procedure with negotiation. Following a contract notice, the contracting authority receives expressions of interest and negotiates with the potential partner(s) it has selected. The partnership agreement is then awarded to one or more partners on the basis of the best price quality ratio. Following the award, the structure of the process covers two parts, firstly the development of the innovative product, service or works and then the purchase of the resulting supplies, services or works. Historically it has been challenging to run a procurement that involves both the Research &

Development and subsequent purchase of a product, without infringing principles of transparency, equal treatment and non-discrimination. The innovation partnership process is set out at Regulation 31, and now allows for the Research & Development and purchase of a product or service within the same single procurement process (with transparency and other safeguards built in to it).

- (c) Officers will follow the appropriate procedures as detailed in the Public Contract Regulations 2015. There are strict rules around contract value thresholds and mandatory timescales, including a standstill period between notification of a preferred contractor and the award of the contract. Officers must ensure that all mandatory timescales are adhered to and should always seek expert advice and refer to the procurement guidance for further details.

## 5. Receipt and opening of Tenders

All tenders will be managed in accordance with the defined procedures on the e-procurement system. If for any reason it becomes clear that insufficient time has been allowed for the preparation of tenders, the closing date may be extended. All tenderers must be advised of any change in the closing date, extension of time allowed, or of any other change in the tender arrangements.

## 6. Tender evaluation

- (a) The Officer with delegated authority is responsible for leading the commercial evaluation procedure within the tender assessment team. Tender evaluation will utilise the services of any other specialists deemed necessary. The evaluation process must be objectively followed using a team approach and by moderating scoring. All evaluation will either be carried out on the e-procurement system or if this is not suitable then an appropriate spreadsheet will be used and the records of the evaluation process must be uploaded onto the system and retained for audit purposes.
- (b) The purpose of the evaluation is to identify the most economically advantageous tender, which will be a balance of cost and quality. The Officer must draw up the evaluation criteria and methodology early in the process and this will be shared with the tenderers as part of the e-procurement process. It is good practice to allot a weighting system to the scoring to enable greater emphasis to be attributed to the key outcomes required.
- (c) The evaluation criteria must be relevant and proportionate and linked to the subject matter of the contract. These criteria will often include the following:
  - (i) Quality - Technical merit, aesthetic and functional characteristics, environmental characteristics, after sales service, technical assistance, delivery date and delivery period and period of completion.
  - (ii) Costs - Whole life cost - price, running costs, maintenance, consumables, spares and disposal costs.
- (d) A brief tender report (a template for this can be found on the Council's intranet) should be completed and submitted to the appropriate officer for approval to award.

## 7. **Acceptance of Tenders**

- (a) The appropriate Officer may accept from valid tenders received, in accordance with the decided award criteria:
  - (i) the most economically advantageous tender where one tender achieves an overall highest combined quality and cost score; or
  - (ii) any other tender only after consultation with the appropriate Head of Service and after taking legal advice and subject to the appropriate Budget Holder making a written report, and where the tender documents said the Council may do this; or
  - (iii) in the case of sales or concessions the highest tender, if that was the award criterion, provided that the tender is not more than 10 per cent below the estimated value.
- (b) In the situation where a tender appears to be abnormally low in relation to the works, supplies or services, before rejecting the tender, an Officer shall give the tenderer the opportunity to explain the price or costs provided in that tender.
- (c) Acceptance of a tender must be in writing and may in some cases be in the form of an official purchase order and must be signed by the appropriate Head of Service or by an Officer designated by him/her. The “acceptance” must not prejudice any formal contract required under Contract Standing Orders.
- (d) The appropriate Budget Holder must inform all tenderers of the name of the successful tenderer and (where practical) the amount of the tender accepted and (without connecting particular prices to particular tenderers) the prices submitted by other tenderers.
- (e) Where the tender has followed the Public Contract Regulations 2015 procedures and in other cases where appropriate, the unsuccessful tenderers must be allowed 10 days following receipt of their rejection notification, when notified electronically, and 15 days when by post, before the contract is awarded. This time is allowed for potential challenges to the award decision and to avoid cancelling an awarded contract. The successful tenderer should be notified in the meantime that they are the “preferred bidder”.

## 8. **Debriefing unsuccessful tenderers**

- (a) The Budget Holder must be prepared to explain to unsuccessful tenderers why their tenders were not accepted. For contracts subject to the procurement regime under the Public Contracts Regulations 2015, unsuccessful tenderers have a legal right to be debriefed, based on their tender, if they choose to make such a request. This is also good practice as it can help suppliers to improve and better compete for future business.
- (b) Debriefing of an unsuccessful tenderer should only be arranged once all unsuccessful tenderers have been informed. Debriefing in depth is likely to be needed only in respect of strategic or significant contracts. In doing so the Budget Holder must recognise and respect the confidentiality of information received from other tenderers.

## 9. **Errors or Discrepancies in Tenders**

- (a) Where examination of tenders reveals errors or discrepancies which would affect the tender figures in an otherwise successful tender, the tenderer is to be given written details of such errors and discrepancies and afforded an opportunity of confirming or withdrawing the offer in writing. Such an opportunity must only be used to correct genuine errors and not, for example, to revise bid figures. At all times the tender process must be one which is fair and open and comply with the principles of equal treatment and transparency.
- (b) Where a tender is for a fixed sum and is for measured work calculated on Bills of Quantity with rates or Activity Schedules and the arithmetical calculations are erroneous the tenderer may confirm either the rate (or rates) or the total for that particular item or the tenderer may withdraw the offer. Where the Contractor has agreed to confirm their offer, any revision to the arithmetic total will require a compensating adjustment to provide a build-up of cost to agree with the tendered sum.
- (c) If the tenderer withdraws, the next tender in competitive order is to be examined and then dealt with in the same way.
- (d) Any exception to this procedure must be authorised by the appropriate Head of Service.
- (e) If a supplier discovers after receiving a contract that their tender had contained a genuine error, they must be asked to submit a detailed explanation of their case. If that demonstrates to the satisfaction of the Budget Holder that the error or omission was genuine, the revised details may be accepted subject to their approval within the relevant financial authority and the supplier's bid remaining competitive.
- (f) Otherwise, the supplier must be required to stand by their tender or the contract may in extreme circumstances be terminated. This course of action must be at the discretion of the Budget Holder, in discussion with their Head of Service. If in any doubt of the action to be taken refer to the Section 151 Officer.

## 10. **Error by the Budget Holder**

- (a) If the Budget Holder finds an error in the requirement or specification of a tender, all potential suppliers must be informed of the correction and if necessary be given additional time to reply by extension of the tender return date.
- (b) If, following the issue of a Purchase Order, the Budget Holder finds a genuine error made in the process of placing the Purchase Order; the Budget Holder should advise the supplier and jointly discuss corrective action. The corrective action may be accepted subject to approval within the relevant financial authority.
- (c) In exceptional cases, cancellation of the contract may be necessary after discussion with the supplier and the Budget Holder.

## 11. **Clarification**

- (a) All supplier tender clarifications should be controlled and led by the Budget Holder with delegated procurement authority. The Budget Holder should determine a

strategy for the clarification, irrespective of whether it concerns a new purchase, a renewal, or a supplier generated change. The Budget Holder may decide to involve other specialists as appropriate.

- (b) Price negotiation is not advisable, however clarification is utilised to explore and understand the technical aspects of a tender. The result of clarification discussions may be an adjustment to the cost proposal.
- (c) Where clarification discussions do not lead to an agreement between the supplier and the Council it may well be necessary to undertake a second procurement exercise and re-engage the market.

## 12. **Post-tender / pre-contract clarification**

- (a) All post tender clarification must be transparent and be carried out with all appropriate suppliers to remove possibility of preferential treatment of tenderers. No negotiations may take place under this Standing Order unless and in very rare circumstances the tender documents specifically reserve the right to do so.
- (b) Post tender clarification is there to ensure that the Council has accurate information to evaluate. It is not the opportunity to negotiate.
- (c) All clarifications must be recorded and a record made on the e- procurement system and confirmed with the supplier.
- (d) Negotiation with tenderers after final tenders have been submitted is only allowed insofar as it is using one of the appropriate procedures in the Public Contracts Regulations 2015, or where a procurement outside of the Regulations is particularly complex. Under no circumstances should prices tendered by one tenderer be disclosed and / or used to “negotiate” other tenderer’s prices down. This is an unethical practice and could be damaging to suppliers and the Council.

## 13. **Post contract clarification**

- (a) Post contract clarification refers to any discussion which seeks to alter the contract conditions or which has any other direct implication for the delivery of goods or management of the contracted service, and which takes place after the award of contract.
- (b) Either party can initiate post contract discussions but any agreement must be in accordance with the limitations laid down in the Public Contracts Regulations 2015, so as to ensure compliance with the principles of equal treatment and transparency .
- (c) Alteration of contract conditions may trigger the requirement for the Council to run a fresh procurement process. There are limited changes which can be made to a contract during its term without triggering the need to run a new tender process. These are set out within Regulation 72 of the Public Contract Regulations 2015.
- (d) As such, post contract clarification must be conducted with the express authority of the Head of Service, following receipt of advice from the Procurement Service or Legal Service and should only be conducted with those personnel within the supplier’s organisation who are authorised to do so.

- (e) It is particularly important that no unauthorised personnel engage in any activity that could be interpreted by the supplier as negotiation. Unauthorised activity could compromise the Council's legal position in the event of a subsequent related dispute.
- (f) Personnel should be wary of the dangers of unwittingly giving implicit agreement to a change in the contract. Any discussions or correspondence that could be perceived to be related to changes in service requirements should be prefaced by stating or noting that they are "without prejudice" to the contract.
- (g) Any changes that are agreed should be fully documented in accordance with the change procedures within the contract and recorded as an addendum to the contract file.

#### 14. **Form of Contract**

- (a) Purchase Contracts should ordinarily be utilised in addition to Purchase Orders for requirements over £100,000 in value. For specific requirements below £100,000 a contract will also be appropriate where:
  - (i) supply will extend beyond one year;
  - (ii) special conditions apply;
  - (iii) the requirement is complex; or
  - (iv) there is significant risk associated with the purchase.
- (b) When a Purchase Contract is in place it must be used in preference to sourcing a requirement from another supplier. All purchase contracts must:
  - (i) be in writing; and must specify the supplies, materials or services to be supplied, the price to be paid and must contain a statement as to the amount of any discount or other deductions, the period within which the contract is to be performed and such other conditions and terms as may have been agreed between the parties through the tender process; and
  - (ii) include a clause prohibiting the contractor from transferring or assigning or sub-letting to any person any portion of the contract without the written permission of the Council signified by the appropriate Head of Service; and
  - (iii) contain a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any resulting loss if the contractor or any person employed by him/her or acting on his/her behalf whether or not to his/her knowledge shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for taking or for not taking any action in relation to the contract or any other contract with the Council, or shall have committed any offence under the Bribery Act 2010, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
  - (iv) incorporate the Great Yarmouth Borough Council Standard Terms & Conditions, unless the parties agree to the contrary or it is considered inappropriate to do so by the Section 151 Officer following legal advice.

- (c) Every contract whose estimated value exceeds £100,000 must where possible provide for the payment of liquidated damages by the contractor where he/she fails to complete the contract within the time specified.

## 15. Execution of Purchase Contracts

- (a) Purchase contracts may (at the discretion of the Monitoring Officer) be under seal (particularly for contracts regarding construction, land or property), but where the value is over £5000 they must always be signed by an Executive Director or a Head of Service. (Only Executive Directors may authorise use of the seal.)
- (b) Heads of Service may authorise officers in their service area to sign contracts with a value of under £5000 for specific purposes, but must retain a list of those they designate and the types of contract they may sign. Heads of Service must produce to the s151 Officer and Monitoring Officer a list of those Officers whom they have authorised to sign contracts on their behalf and maintain that list.
- (c) Entering into arrangements of any nature without first ensuring that an appropriate agreement (e.g., simple contract, deed, lease, transfer, or other relevant documentation setting out the terms and conditions of the agreement) has been executed by all relevant parties to the agreement is not permitted unless the conditions within the following paragraph have been met.
- (d) If an officer finds themselves in a situation where a third party is pressuring them to enter into an arrangement (whether that arrangement is proposed to be under a simple contract, deed, lease, transfer, or other documentation setting out the terms and conditions of the agreement) without the relevant agreement being properly executed by all parties to the arrangement, they must not do so unless they have first secured the written consent of at least two of the following individuals:
  - (i) Chief Executive;
  - (ii) Monitoring Officer;
  - (iii) Section 151 Officer,

and such written consent is properly documented and retained for future audit purposes in accordance with the retention periods set out within section 9, below.

- (e) Copies of all contracts, including those with a value under £5000, must be retained.

## 16. Post Issue Procedure

- (a) Completed contracts which have a value of over £5000 must be passed to the Executive Support Team, who will log them in the corporate system. Hard copies will be logged on the contracts database and stored in the strongroom, as well as being scanned. An electronic copy should be held for officers to access via a link in the database.
- (b) All contracts which have a value of over £5000 must also be notified by the Budget Holder to the Procurement Service for the detail to be entered on the published Contracts Register.

## 17. Purchase order

- (a) The standard Purchase Order is generated by the finance system and must be utilised for all individual requirements and to call off requirements from existing Contracts. There are very limited exceptions to this requirement and circumstances should be checked with the Finance Service. The Purchase Order will be completed with all the appropriate details of the purchase and the Standard Terms & Conditions are referred to on the supplier's copy of the Purchase Order.
- (b) The use of supplier-prepared agreements is not acceptable, except in limited circumstances (and with the agreement of Legal Services and Procurement Service) as the whole contract will be placed on the supplier's terms and conditions, which are unlikely to be favourable to the Council.

## 18. Receipt of goods & services and payment

- (a) Payment cannot be made until all supporting documentation has been completed. It is essential that receipt acknowledgements and invoices are returned promptly to the appropriate finance area by the Budget Holder after receipt of the goods or services. Invoices should in the first instance be sent directly to the finance department.
- (b) Before an invoice is paid by the finance department the following checks need to be completed to certify the specific invoice is passed for payment by confirming the following:
  - (i) the VAT invoice is an original or certified copy;
  - (ii) the goods and or services were received;
  - (iii) that the prices and all costs were agreed and invoiced correctly;
  - (iv) applicable credits and or discounts have been applied;
  - (v) the arithmetic calculations are correct.
- (c) The finance department will process invoices promptly for payment. The Council is targeted by central government to achieve all payments to suppliers within 30 days of receiving an invoice.

## SECTION 7 – Contract Management

### 19. Variations

- (a) All requests to suppliers to amend any contract or requirement must be made in writing and must include authorisation at the same level as the original instruction or at a higher level if the level of expenditure exceeds the original authorisation levels.
- (b) A contract variation may require the Council to run a fresh tender process. All requests for contract variations should be considered alongside the provisions of Regulation 72 of the Public Contracts Regulations 2015. Under Regulation 72 there are a number of limited changes which can be made to a contract during its term without triggering the need to run a new tender process. Appropriate legal advice

should be sought to ensure that the proposed variation is permitted under the procurement framework.

- (c) When the Purchase Order has been issued, any changes in the requirement must be notified to the supplier in writing by an amendment to the Purchase Order and if relevant a Contract Variation. The changes must also be made to the purchase order on the procurement system.

## 20. **Cancellation of purchase order/contract**

All requests for cancellation must be made in writing to the contractor by the Budget Holder who initiated the contract. For complex contracts advice must be sought from the Section 151 Officer and legal advice sought as required. Formal cancellation of the purchase order must be made in writing, ensuring Accounts Payable/Finance are informed. The details of any discussions and clarification between the Budget Holder and the Supplier should be recorded with the reasons for cancellation and the outcomes of any discussion.

## 21. **Termination due to supplier non performance**

- (a) If the Supplier is not meeting their contractual obligations and discussions fail to resolve the matter, the Purchase Order/Contract may need to be terminated.
- (b) The Budget Holder should consider the consequences of the cancellation with regard to:
  - (i) the Budget Holder's needs;
  - (ii) project timing and cost;
  - (iii) overall relationship between the Council and the supplier;
  - (iv) the Council's performance in the contract;
  - (v) contractual implication from the supplier's point of view;
  - (vi) future and other outstanding business with that supplier; and
  - (vii) the possibility of negotiating damages or consequential losses in line with the provisions of the contract conditions.

## 22. **Contract management**

- (a) The score achieved in the assessment of contract risk will suggest the level of contract management required and the appropriate approach to take. Detailed guidance can be found on the procurement intranet. The three categories of risk level and the required actions are summarized below:
  - (i) **low level** - ensuring compliance to the contract by managing the delivery of the contract using high level indicators, e.g.. cost, quality, delivery, service;
  - (ii) **medium level** - managing the performance of the contract and the supplier by expanding the high level indicators and holding a minimum of one performance review meeting per annum; and

- (iii) **high level** - managing the performance of the contract and the supplier using Key Performance Indicators (KPIs) and / or Service Level Agreements.
- (b) It is also suggested that a programme of peer reviews of significant contracts is undertaken and that this is procurement led. These reviews will assess internal controls, compliance, cost and scope changes, performance management, delivery of social value and benchmarking if appropriate.

### 23. **Exit strategy**

As the contract progresses the Budget Holder will have responsibility for ensuring that both parties are working towards the planned exit of the contract which, for example, may involve a review of service provision not less than 6-12 months prior to the termination date. The Budget holder will also be responsible for undertaking the procurement process for securing subsequent supply arrangements if required. For the majority of service contracts, it will be important to have built into the contract the requirements from the contractor should a change of supplier be appropriate at contract expiry. This might include provision of staff information to facilitate TUPE or the transfer of Council data from an existing system provider to a new contractor. Part of the exit strategy should involve ensuring that a review of the contract and supplier's performance and an assessment of lessons-learned are undertaken to inform future contracts.

## **SECTION 8 – Decommissioning**

### 24. **Disposal of assets**

- (a) Disposal and/or reallocation of assets needs to be managed with the same diligence as the acquisition process. The Council has a duty of care regarding the disposal of equipment where environmental issues are appropriate.
- (b) Where Procurement is involved in disposal, records must be retained for the disposal of assets in a similar way as for purchase decisions.
- (c) Any items of stock (other than land) deemed obsolete or surplus to requirements must, where the expected loss on disposal is no more than £5,000, be sold or disposed of only on the authorisation of the responsible Head of Service. Where the expected loss on disposal exceeds £5,000 the approval of the Section 151 Officer must be obtained.
- (d) Assets for disposal must be sold by public auction, except where better value for money is likely to be obtained by inviting quotations or tenders as determined by the Head of Service or Section 151 Officer. Appropriate advice from accountants and/or independent valuers should be sought to assist with the process of valuation and ensure that any related issues (e.g., tax matters) are properly considered. The method of disposing of surplus or obsolete stocks / stores or assets other than land must be determined as follows:

<b>Total Value</b>	<b>Method / Number of tenders or quotes</b>
Up to £5,000	Public auction or minimum of two tenders / quotations, after authorisation by the Head of Service.

£5,000.01 and above (Invitation to Tender)	Public auction or minimum of three written tenders, after authorisation by:  Less than £10k value – Heads of Service  Between £10k and 50k value – Chief Executive, Executive Directors and Section 151 Officer  Over £50k value – Cabinet
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- (e) Before an item is disposed of, consideration should be given as to whether there is a use for the item elsewhere within the Council. All options must be explored and a record kept of the decisions made. It is the responsibility of each Head of Service to establish that legal title rests with the Council prior to the disposal of any item. Disposal of land will in all cases require advice and guidance from the Head of Service - Property & Construction, as set out in the Council's Financial Regulations.

## SECTION 9 – Retention of documents

### 25. Archive records

- (a) It is a legal requirement for commercial records to be retained for inspection by various Government organisations, including HMRC (VAT).
- (b) The retention period commences once the Tender, Purchase Order or Contract is closed; all “open” documents are retained indefinitely.
- (c) The records to be retained, the retention period and which section retains them are detailed below:

Document	Retained by	Retention period
Tenders/Quotations	e-procurement system	7 Years
Purchase Orders	procurement system	7 Years
Contracts under £5000	Budget Holder	7 Years
Contracts £5000 and over	Executive/Corporate Services (Strongroom)	7 years
Suppliers' Invoices	Finance Dept.	7 Years

## SECTION 10 – Exemption, waiver, and operational emergency

### 26. General Principles of Exemption & Waiver

Exemption from or waivers of any of these Contract Standing Orders shall only be permitted in exceptional circumstances subject to compliance with the law. Exemptions or waivers may not be made retrospectively. The Monitoring Officer must be notified of any exemptions and waivers requested. The decision to waive any Contract Standing Order

must take into account value for money, probity and fairness. A single tender or quote must still be obtained and the procuring Officer must consult the Council's procurement team to verify that no other option is available. Any waiver of or exemption from these Contract Standing Orders may only be made provided the value does not exceed the Public Contracts Regulations 2015 financial thresholds.

## 27. Exemptions

- (a) Exemptions apply in certain specific circumstances. Exemption to these Contract Standing Orders is subject to the law and may only be applied provided the value does not exceed the Public Contracts Regulations 2015 financial thresholds. Exemptions apply in the following circumstances:
- (i) for supplies or services available only as proprietary or patented articles or which are sold by one manufacturer only at a fixed price;
  - (ii) where the purchase of supplies, services or works from a different organisation would result in incompatibility with existing goods, services or assets or would result in disproportionate technical difficulties or disproportionate financial disbenefit;
  - (iii) when best value for money can be achieved by the purchase of used or pre-owned vehicles, plant, equipment or materials;
  - (iv) the purchase of supplies or materials at an auction sale; or
  - (v) in exceptional circumstances; where the work to be done or the goods to be supplied constitute a valid extension to an existing contract and it is in the Council's best interest to negotiate with the existing contractor/supplier.

## 28. Waiver

In exceptional circumstances and subject to the law when there are justifiable technical, specialist or market supply reasons and insufficient suppliers are available from the market to enable competitive offers to be obtained, any requirement to seek more than one tender or quotation may be waived, subject to authorisation in advance by the s151 Officer and the Monitoring Officer (or their nominated deputies).

## 29. Exemption and Waiver Procedure

Request for exemption or waiver must be submitted by the relevant Head of Service to both the Section 151 Officer and the Monitoring Officer (or their nominated deputies) on the form provided at Appendix 2 of the Constitution and all associated documentation must be retained in accordance with the Council's Document Retention policy when an exemption or waiver is authorised. Officers should be aware that Records of Exemptions and Waivers may be published

## 30. Operational emergency

- (a) Subject to any legal limitations, the Head of Paid Service, the s151 Officer or an Executive Director, having consulted the Monitoring Officer (or their nominated deputy), may approve an exemption to any part of these Contract Standing Orders that is necessary because of an Operational Emergency creating immediate risk to

life, persons or property within the Borough or causing serious disruption to Council services (including any emergency or disruption under the Civil Contingencies Act 2004). An Operational Emergency is a situation that is the result of an unforeseen event over which the Council has no control. This procedure must not be used when a requirement has become late due to lack of planning on the part of the Council.

- (b) Full documentation must be completed regardless of the urgency of the requirement and a full and transparent audit trail must be made throughout the procurement process. Where the value of the Contract is over £250,000 a report supporting the use of this power must be taken to Cabinet at the first available opportunity.

## **SECTION 11 – Maintenance of Contract Standing Orders and Glossary of Terms**

### **1. Review of Contract Standing Orders**

These Contract Standing Orders will be reviewed annually to ensure that they stay at the forefront of good procurement practice.

### **2. Glossary of terms**

- (a) The following defined terms are used throughout these Contract Standing Orders:
- (i) **Budget Holder** - the person, department or business unit that holds the financial budget, and has the authority to raise requests for goods and services;
  - (ii) **Commitment** - the act of confirming a contract with third party suppliers and should be made by a contract or purchase order;
  - (iii) **Confirmation Order** - an order which has been placed verbally, by facsimile transmission, or electronically communicated and subsequently confirmed by a formal purchase order marked “confirmation order”;
  - (iv) **Contract** - a legal agreement between the Council and external suppliers for the supply of goods and services. For the purpose of these Standing Orders this does not include contracts of employment for staff;
  - (v) **Contractor** - an organisation that contracts with the Council to supply goods, services and works;
  - (vi) **Council** - refers to the full Great Yarmouth Borough Council;
  - (vii) **Framework Agreement** – an arrangement that has been advertised and tendered either by the Council or another body under which the Council can award a contract with a third party, either as a direct award or utilising further competition within the agreement, depending on the terms of the arrangement;
  - (viii) **FTS** – Find a Tender Service;
  - (ix) **Procurement** - the process by which the Council identifies the most suitable provider for the supply of goods, services, or works;

- (x) **Procurement Code of Conduct** - the behaviour and conduct that governs the correct and professional manner in which to conduct commercial business with third party suppliers as published by the Chartered Institute of Procurement & Supply;
- (xi) **Procurement Plan** - the procurement plan is the record of the procurement strategy development for a particular purchase and provides a clear audit trail of the decision making process;
- (xii) **Proprietary Product** - a product that has unique characteristics produced by one manufacturer. A proprietary product specification could exclude competitors from competing on equal terms. In consultancy the services of a named person or firm would be considered as a proprietary product;
- (xiii) **Purchase Order** - a serial numbered document created by the procurement system, raised by the Buyer on a specific supplier for the supply of goods, services or works. This document is a formal legal agreement with specific conditions for the supply of goods and/or services;
- (xiv) **Purchase Order Amendment** - a document communicating a change to the specified requirement, price or terms and conditions of the original Purchase Order. Like the original Purchase Order, this document is a formal legal agreement with specific conditions for the supply of goods and/or services;
- (xv) **Quotation** - a statement of price, delivery and specification against the specific enquiry provided by a specific supplier;
- (xvi) **Services** - include the provision of consultancy, legal, cleaning, maintenance, agency staff and similar non-tangible requirements;
- (xvii) **Specification** - a clear statement of requirement for goods and/or services, normally detailed as a generic specification to enable competition and the delivery of value for money;
- (xviii) **Social Clauses** – particular terms and conditions that may be included within a procurement process, and thereafter form part of a contract, that require a supplier to undertake specific actions to generate benefits to either particular groups of people or to the wider general public;
- (xix) **Supplier** - an organisation that contracts with the Council to supply goods, services and works;
- (xx) **Tender** - a formal offer from a supplier to supply specified goods, services or works at a stated cost or rate;
- (xxi) **Tenderer** - a supplier offering to buy or sell a product or service. This term applies prior to the formation of contract;
- (xxii) **Terms and Conditions of Purchase/Contract** - the specific conditions under which the Council will enter into a contract or purchase order with a supplier; and

- (xxiii) **Value for money** - a combination of criteria that include competitive price on a whole life basis, quality, reliability and timeliness. This is not necessarily the lowest priced offer.

## SECTION 12 – Procurement Authority Thresholds

### 3. Minimum Contracts Procedures for Works, Supplies or Services

The following table outlines the minimum selection procedure to be used where the procurement is within these Contract Standing Orders and a framework is not being used.

Estimated Value	Total	Selection procedure	Selection Decision by	Transparency Code Obligations
Up to £10,000		Single Quotation in writing including evidence of Value for Money, such as research into typical prices or rates	Officer	Publish details of all Contracts of £5,000 + on the Council's Contract Register
From £10,000 to £25,000		Single Quotation in writing including evidence of Value for Money, such as research into typical prices or rates	Head of Service	Publish details of all Contracts on the Council's Contract Register
From £25,000 to £75,000		At least three Quotations in writing, invited and returned using the e-procurement system and the opportunity should be published on Contracts Finder.	Officer with procurement team	Publish details of all Contracts on the Council's Contract Register. Opportunities and Contract award notices must be published on Contracts Finder.
Above £75,000 but below the Public Contract Regulations 2015 financial threshold		Invitation to Tender issued to a minimum of three Tenderers or an open tender. The Council's e-procurement system should be used and the opportunity published nationally using Contracts Finder with or without any other advertisement.	Head of Service with procurement team	Publish details of all Contracts on the Council's Contract Register. Opportunities and Contract award notices must be published on Contracts Finder.
Greater than the Public Contract Regulations 2015 financial threshold		Appropriate public contract regulations 2015 procurement procedure as managed by Procurement Team	Executive Director with Procurement Team	Published on the UK e-notification service called Find Tender services (FTS).

	with legal advice as necessary		
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## SECTION 13 – Grant Procedures

### 1. Basic principles applicable to all grant funding

- (a) Although there may be specific requirements depending on where the monies have originated the basic principles set out in the following paragraphs should be followed in the allocation of grant funding.
- (b) If there is potentially more than one group or organisation that can meet the priorities of the council for a particular need, then the opportunity for grant funding needs to be advertised appropriately. This may be through local media, partnership networks and even through social media such as Twitter or Facebook. Details should include what the funding is for and the priorities it is intended to address, who can apply for a grant, the amount of money available, timescales and how the fund will be administered.
- (c) Those interested in receiving grant funding and providing services must complete a simple grant application which should contain as a minimum:
  - (i) project outline and aims;
  - (ii) activity and timescales;
  - (iii) those contributing to the project and what they bring;
  - (iv) anticipated outcomes;
  - (v) funding required and a breakdown of how this will be used;
  - (vi) beneficiaries; and
  - (vii) monitoring and evaluation methodology.
- (d) An assessment will need to be made as to which application best fits the Council's needs and priorities before any grant funding is awarded. This will usually be undertaken by a panel consisting of project board members (if relevant), or appropriate Officers.
- (e) Once a decision has been made to award a grant this should be recorded and kept for audit purposes. An agreement should then be drawn up and signed by both the Council and the organisation, setting out the basis on which the grant is provided and how it will be monitored.
- (f) During the funded period it is advisable to regularly liaise with the successful organisation to ensure that the project is running to plan and that the desired outcomes are being achieved. Any alterations to the initial project outlines must be carefully considered to ensure that the council's priorities are still being met, especially if further funding is required.

- (g) Either annually, if the grant is for more than 12 months, or at the end of the funding period the organisation must provide a financial statement detailing how the grant has been spent and an evaluation report quantifying the outcomes achieved. It will also be helpful to obtain a case study demonstrating the achievements of the project and including any unexpected benefits. Feedback on how the project has been implemented, including other partners that have been involved, any difficulties experienced and how they have been overcome will also be useful. This may include photographs and letters of support from beneficiaries.

## Article 43 – Members' Code of Conduct

### 43.1 Introduction to the Code

- 43.1.1 This Code of Conduct (**Code**) is a key part of the Council's discharge of its statutory duty to promote and maintain high standards of conduct by its Members and co-opted members. It is very much focused upon the principles of conduct in public life of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership and it is the intention of the Council that the Code be used exclusively in that context and not for any other purpose. It sets an objective, non-political and high standard the purpose of which is to remind Members of the behaviour expected of them in public life and to set out clearly the key principles against which their conduct will be measured.
- 43.1.2 The Code also contains provisions for registration and declaration of interests the breach of which attracts potential criminal sanctions.
- 43.1.3 The Council will establish a Standards Sub-Committee (a Sub-Committee of the Audit, Risk and Standards Committee) to hear allegations of breaches of the Code and decide on sanctions against Members found to be in default.
- 43.1.4 Working closely with the Council's Monitoring Officer and Independent Person the Standards Sub-Committee will oversee a straightforward and robust regime dealing only with substantial ethics and standards issues and filtering out the inconsequential, trivial and vexatious. The Code will deal in broad common sense principles and neither it nor the supporting arrangements are intended to be over-technical or over-procedural. To return to the wording of the statute the Code is the Council's public statement on the promotion and maintenance of high standards of conduct in public life.
- 43.1.5 Every Member and co-opted member of Great Yarmouth Borough Council must sign an undertaking to observe the Code in the terms set out below.

### 43.2 The Code

- 43.2.1 All Members or co-opted members of Great Yarmouth Borough Council have a responsibility to represent the community and work constructively with Council staff and partner organisations to secure better social, economic and environmental outcomes for all.
- 43.2.2 In accordance with section 28(1) of the Localism Act 2011, when acting in the capacity of Member, Members are committed to behaving in a manner that is consistent with the following principles to achieve best value for Council citizens and maintain public confidence in the Council. This includes acting in accordance with the Seven Principles of Public Life (also known as the Nolan Principles) which are as follows:
- (a) **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 material benefits for themselves, their family, or their friends.

- (b) **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.
- (c) **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.
- (d) **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.
- (e) **OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- (f) **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.
- (g) **LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

43.2.3 Members of Great Yarmouth Borough Council will, in particular, address the statutory principles of the Code by:

- (a) Championing the needs of citizens - the whole community and in a special way their constituents, including those who did not vote for them - and putting their interests first.
- (b) Dealing with representations or enquiries from citizens, members of the Council's communities and visitors fairly, appropriately, and impartially.
- (c) Not allowing other pressures, including the financial interests of themselves or others connected to them, to deter them from pursuing constituents' casework, the interests of Great Yarmouth nor the good governance of the Council in a proper manner.
- (d) Exercising independent judgement and not compromising their position by placing themselves under obligations to outside individuals or organisations who might seek to influence the way they perform their duties as a Member/co-opted member of the Council.
- (e) Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- (f) Being accountable for their decisions and co-operating when scrutinised internally and externally, including by citizens.

- (g) Contributing to making the Council's decision-making processes as open and transparent as possible to enable citizens to understand the reasoning behind those decisions and to be informed when holding Members to account but restricting access to information when the wider public interest or the law requires it.
- (h) Behaving in accordance with all our legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including on the use of the Council's resources.
- (i) Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between them that is essential to good local government.
- (j) Always treating people with respect, including the organisations and public Members engage with and those Members work alongside.
- (k) Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council

### **43.3 Registration and Disclosure of Disclosable Pecuniary Interests**

- 43.3.1 Members will notify the Monitoring Officer within 28 days of taking office of any Disclosable Pecuniary Interests by completing the relevant Register form.
- 43.3.2 If a Members subsequently becomes aware of any new Disclosable Pecuniary Interest they shall provide details to the Monitoring Officer as soon as possible.
- 43.3.3 If a Member is present at a Council, Cabinet or Committee meeting and they have a Disclosable Pecuniary Interest in any matter to be considered they will declare that they have a Disclosable Pecuniary Interest (and the reasons why) and leave the room while the matter is considered.

### **43.4 Disclosure of Personal Interests**

- 43.4.1 If Members have a personal interest in any matter being considered at a Cabinet, Council or Committee meeting when it is not a Disclosable Pecuniary Interest but a decision on it is likely to affect the Member's well-being or financial position, or:
  - (a) that of the Member's family or close friends; or
  - (b) that of a club or society in which the Member has a management role; or
  - (c) that of another public body of which the Member is a member to a greater extent than others in their Ward,

they will declare a personal interest (and the reasons for it) at the meeting in question before the matter is discussed. Having declared a personal interest, the Member can speak and vote on the matter.

- 43.4.2 Members acknowledge that if they are sitting on a Licensing or Development Management Committee they should not speak or vote on an application if they could be considered to have made up their mind in advance, or to be biased in any way.

## **Dispensations**

### **43.5 Protocol Guide to Dispensations**

- 43.5.1 The Council is responsible for determining requests for a dispensation by a Member under section 33 of the Localism Act 2011. The Council may grant a dispensation to a Member or co-opted member on a matter with which they would otherwise not be permitted to deal, as a result of having a Disclosable Pecuniary Interest.
- 43.5.2 The following paragraphs explain:
- (a) the purpose and effect of dispensations;
  - (b) the procedure for requesting dispensations;
  - (c) the criteria applied in determining dispensation requests; and
  - (d) the terms of dispensations.
- 43.5.3 Until a dispensation is granted, a Member may not participate in the consideration of the matter before the Council (which includes the Cabinet, Committees or any Sub-Committees) in which they have a Disclosable Pecuniary Interest.

### **43.6 Purpose and effect of dispensations**

- 43.6.1 In certain circumstances, Members may be granted a dispensation that enables them to take part in Council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest. Provided Members act within the terms of their dispensation there is deemed to be no breach of the Members' Code of Conduct or the law.
- 43.6.2 Section 31(4) of the Localism Act 2011 states that dispensations may allow a Member to:
- (a) participate, or participate further, in any discussion of the matter at a meeting; and/or
  - (b) participate in any vote, or further vote, taken on the matter at a meeting.

Please note: if a Member participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under section 34 of the Localism Act 2011.

### **43.7 Process for making requests**

A request for dispensation must be made on an individual basis. Any Member who wishes to apply for a dispensation should complete a Dispensation Application Form (Appendix 1) in full and submit it to the Monitoring Officer, explaining why it is desirable and appropriate to grant the dispensation. All applications for dispensations must be received by the Monitoring Officer no less than five working days prior to the relevant meeting.

### **43.8 Approval Process**

43.8.1 The Monitoring Officer may only grant a dispensation to a Member who has a Disclosable Pecuniary Interest allowing them to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter (as per paragraph 2 above), if they consider that, after having regard to all relevant circumstances:

- (a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) without the dispensation, each Member of the Council's Executive would be prohibited from participating in any particular business to be transacted by the Executive;
- (d) granting the dispensation is in the interests of persons living in the Council's area; or
- (e) it is otherwise appropriate to grant a dispensation.<sup>13</sup>

43.8.2 In the absence of the Monitoring Officer, the Deputy Monitoring Officer is authorised to execute the functions of the Monitoring Officer in relation to dispensations.

43.8.3 The Monitoring Officer will formally notify the relevant Member of the decision and reasons in writing at the earliest opportunity and in any event within five clear working days of the decision.

### **43.9 Terms of dispensations**

43.9.1 A dispensation:

- (a) will specify the period for which it has effect; and
- (b) may be subject to specific conditions, e.g., notification of any material change in circumstances arising from the dispensation.

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<sup>13</sup> Section 33(2) Localism Act 2011

### **43.10 Disclosure of decision**

43.10.1 Any Member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

43.10.2 A copy of the dispensation will be kept with the Register of Members' Interests.

### **43.11 Dispensations for Conflicts of Interest when taking Executive decisions**

43.11.1 Under Regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the record of an Executive decision made either at meetings or by individuals, must include:

- (a) details of any conflict of interest either declared by any Member of the body which made the decision or declared by any Executive Member consulted by the Member or Officer taking the decision which relates to that decision; and
- (b) in respect of any such conflict of interest, a note of dispensation granted by the Head of Paid Service.

Please note: a conflict of interest is broader than a Disclosable Pecuniary Interest. It can be any interest that conflicts (or may reasonably be perceived to conflict) with a Member's duty to take decisions only in the public interest in the light of material considerations.

## Article 44 – Officers’ Code of Conduct

For the purpose of this Officers’ Code of Conduct (**Code**), the term ‘Senior Manager’ shall encompass the Chief Executive Officer, Officers subject to the Conditions of Service for Chief Officers of Local Authorities, and Heads of Service. For the purpose of this Procedure all Senior Managers report directly to the Chief Executive Officer.

### 44.1 Introduction

- 44.1.1 The public is entitled to expect the highest standards of conduct from all Council employees. The Code outlines existing laws and regulations and provides guidance to assist the Council and its employees in their day-to-day work.
- 44.1.2 The aim of the Code is to lay down guidelines for employees which will help maintain and improve standards and protect them from misunderstanding or criticism.
- 44.1.3 The Code applies to all employees, although inevitably some of the issues covered will affect senior employees more than it will others. Those employees who are members of a professional body will be bound both by their professional codes of conduct and the Council's. If any employee experiences any conflict between the Council's and their profession's codes of conduct, they are to make their Senior Manager aware immediately.
- 44.1.4 Activities carried out by Council employees acting as members of companies or voluntary organisations are subject to the minimum standards within the Code.
- 44.1.5 A breach of the Code may give rise to disciplinary action. A breach which is so serious as to undermine public confidence in the Council (i.e., bring the Council into disrepute) could be held to be gross misconduct. Following the disciplinary process, found actions of gross misconduct will normally result in dismissal without notice or pay in lieu of notice.

### 44.2 Standards

The public always demands the highest standards of conduct from the employees of the Council. The public's confidence in the integrity of the Council would be damaged if the actions of any employee allowed suspicion to arise that they would be influenced in any way by improper motives.

### 44.3 Standards of personal behaviour

- 44.3.1 Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Members and fellow employees with impartiality. Although the Committee on Standards in Public Life established its seven principles primarily with Members in mind, they apply equally to employees in the public service. All staff are therefore expected to conduct themselves in accordance with those principles, which are:
  - (a) **SELFLESSNESS:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

- (b) **INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- (c) **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.
- (d) **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.
- (e) **OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- (f) **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.
- (g) **LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

- 44.3.2 Employees will treat all members of the local community, customers and other employees with fairness and equality.
- 44.3.3 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive, within the policies of the Council, to ensure value for money to the local community and to avoid legal challenge to the Council.
- 44.3.4 All employees must be clear about their contractual obligations to the Council and shall not take outside employment which conflicts with the Council's interests, or which is of such a nature as to raise concerns that the employee's work for the Council may be adversely affected.
- 44.3.5 All employees must accordingly obtain their Senior Manager's permission before accepting any outside employment. Where necessary, authority for permission may be required from Head of Paid Service or Monitoring Officer rather than the Senior Manager. This information will be recorded on the employee's personal file. Detail of outside employment of Senior Managers will also be recorded on the Council's website.
- 44.3.6 Employees must take reasonable care for their health and safety and this duty extends to other people who may be affected by their actions or omissions (see the Council's Health & Safety Policy).

#### **44.4 Alcohol and Drugs**

- 44.4.1 The Council's employees are its most valuable resource and their health and safety is of the utmost importance. Drug and alcohol misuse has the potential to

damage the health and well-being of Council employees and threaten the success of the Council.

- 44.4.2 The aim of this section of the Code is to protect the health and safety of Council employees and to help anyone who may be suffering from a drug or alcohol-related problem.
- 44.4.3 In addition to the Council's duties to its staff, all employees are personally responsible for their own health and safety and the safety of others who may be affected by their acts and omissions. Consumption of alcohol or drugs may affect an employee's ability to properly perform their job and may also act as a distraction to others and/or endanger their health and safety. In addition, smelling of alcohol at work may cause others to question the quality of work being done. Employees are required to advise their Line Manager if they are taking any drugs whether prescribed or non-prescribed, which may affect their ability to work.
- 44.4.4 Where appropriate, the Council will provide support internally and/or through external agencies to employees who seek help for a drug or alcohol problem.
- 44.4.5 The use, possession, distribution, purchase, sale or being under the influence of any controlled drugs whilst at work or on Council property is prohibited and may be viewed as gross misconduct. Breach of this by an employee will be investigated and normally be dealt with under the Council's disciplinary procedure.
- 44.4.6 Consumption of alcohol during paid working hours is prohibited and may be viewed as gross misconduct. Breach of this by an employee will be investigated and dealt with under the Council's disciplinary procedure. Equally attending work whilst being under the influence of alcohol, or appearing to be under the influence (e.g., smelling of alcohol), may also lead to disciplinary action.

#### **44.5 Standards of services to the public**

- 44.5.1 Employees must always remember their responsibilities to the community and ensure courteous, knowledgeable, timely and impartial service delivery to all groups and individuals within that community.
- 44.5.2 The Council endeavours to deliver a high standard of services to the public. Employees are therefore expected, without fear of recrimination, to report any deficiency in the provision of services to the public.
- 44.5.3 In addition, the Council has a Whistleblowing Policy and an Anti-Fraud and Corruption Policy and recognises its employees as an important element in its fight against fraud and corruption. Employees are therefore positively encouraged to raise any concerns that they may have. These may relate to the internal activities of the Council, or to its dealings with suppliers or customers.
- 44.5.4 Any concerns will normally be made to an immediate Line Manager. If the circumstances are such as to make this inappropriate, employees should discuss such matters with their Senior Manager or in exceptional circumstances with an independent Officer such as the Chief Executive Officer, Monitoring Officer, or Deputy Monitoring Officer.

- 44.5.5 If employees feel unable to raise their concerns through any of the internal routes, then they may raise them through 'Protect' (tel: 020-3117-2520), a registered charity whose services are free and strictly confidential.

## **44.6 Disclosure of Information**

- 44.6.1 The law requires that certain types of information must be made available to Members, auditors, government departments and the public. This is largely governed by the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985. The Council itself, however, might decide to make available other types of information.
- 44.6.2 Employees must be aware of the restrictions imposed upon them by the Data Protection Act 2018 (**DPA**) (see the Council's Data Protection Policy). Each employee has a duty of care for the security of personal data that they may use in the course of their job. Such data must not be disclosed to any unauthorised person, even inadvertently, and includes data on a display screen or hard copy.
- 44.6.3 Management must therefore keep employees informed as to which information is open and which is not, and adequately trained in understanding the restrictions of the DPA. In cases of doubt, employees should withhold information and consult the Data Protection Officer.
- 44.6.4 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor shall they pass it on to others who might use it in such a way. This is especially relevant to employees who are privy to confidential information on tenders or costs for either internal or external contractors.
- 44.6.5 Any particular information received by an employee from a Member which is personal to that Member and is not the property of the Council must not be divulged by the employee without the prior approval of that Member, except where disclosure is required or sanctioned by the law. If an employee has concerns about the propriety of withholding any such information received, they can discuss the matter in confidence with the Monitoring Officer or Deputy Monitoring Officer.
- 44.6.6 On occasions a Member will make an enquiry about a specific item of Council business. Members are entitled to information which is necessary to enable them to carry out their duties as councillors. Employees are expected to disclose such information, usually in writing. If employees have any doubts as to whether certain pieces of information should be disclosed they are to consult either their Line Manager, the Monitoring Officer, or Deputy Monitoring Officer.
- 44.6.7 Only certain Officers are authorised to respond to enquiries from the media (see the Council's Media and Publicity Protocols).

## **44.7 Political Neutrality**

- 44.7.1 Employees serve the Council as a whole. They must follow every lawful decision and policy of the Council and must not allow their personal or political opinions to interfere with their work. They must therefore serve and respect the rights of all Members equally, irrespective of any Member's political affiliation.

- 44.7.2 Senior Managers may, on occasions, be requested to attend political group meetings to give information. Their conduct at such meetings must not compromise their political neutrality. An employee always has the right, without fear of recrimination, to decline to address a political group.
- 44.7.3 Some people will be in posts which restrict their political activity outside of their employment at the Council. All affected persons shall be mindful of the requirements of the Local Government and Housing Act 1989 and the Local Government Officers (Political Restriction) Regulations 1990.

## **44.8 Relationships**

- 44.8.1 No special favour may be shown to friends, partners, relatives or to current or former employees. Employees must therefore disclose all relevant relationships to their Senior Manager (Senior Managers must disclose any relevant relationships to the Chief Executive), whether of a business or private nature, which might have the potential to bring about a conflict with the Council's interests. Such relationships will include, for example, those with lessees, benefit claimants, and grant applicants. If employees have doubts over the relevance of a particular relationship, they are advised to disclose it anyway.
- 44.8.2 Employees must declare to the Chief Executive Officer and Monitoring Officer membership of any organisation which is:
- (a) not open to the public without formal membership;
  - (b) has a commitment of allegiance; and
  - (c) which has secrecy about its rules, membership or conduct.

## **44.9 Relationships with Members**

- 44.9.1 Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and individual Members can prove embarrassing to other employees and Members and should be avoided. In general, employees and Members should always consider the way others may view the potential conflicts arising from social connections, especially concerning confidentiality and bias.
- 44.9.2 Members should always be addressed respectfully.

## **44.10 Relationships with contractors**

- 44.10.1 Orders and contracts must be awarded on merit, by fair competition in accordance with the Contract Standing Orders. Employees must disclose all relationships with current or potential contractors.
- 44.10.2 Employees involved in the tendering process and dealing with contractor must be clearly aware of the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

- 44.10.3 If there is the slightest possibility of a conflict between an employee's duties to the Council and their relationship with the contractor, lessee, or benefit claimant etc., then the Senior Manager must report that relationship to the Executive Leadership Team. In cases where the employee concerned is a Senior Manager, then the Chief Executive Officer or Monitoring Officer must be informed.

#### **44.11 Relationships with potential employees**

- 44.11.1 Employees involved in appointments must ensure that these are made on the basis of merit (see section 7, Local Government & Housing Act 1989). It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. Employees making appointments must be aware of equal opportunities legislation.
- 44.11.2 In order to avoid any possible accusation of bias, employees must not be involved in any appointment where they are related to an applicant, or be familiar with them outside work, neither must they be involved in decisions relating to discipline, promotion or pay adjustments for any other employee to whom they are related.

## Article 45 – Gifts, hospitality and sponsorship

### 45.1 Gifts, hospitality and sponsorship

- 45.1.1 The law on the acceptance of gifts and hospitality is set out in the Bribery Act 2010. It is an offence for an individual to bribe another person or to accept a bribe. The maximum penalty for a conviction for one of these offences is up to 10 years imprisonment. There is an additional offence which applies to organisations of failing to prevent bribery. On a conviction for this offence the organisation could face an unlimited fine.
- 45.1.2 Section 117(2) of the Local Government act 1972 states that an employee shall not accept any fee or reward whatsoever other than their proper remuneration.
- 45.1.3 Corruption is a serious criminal offence. The law states that if an allegation is made it is for the recipient to demonstrate that any such gifts have not been corruptly obtained. Corruption is defined as 'the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person' (from 'Protecting the Public Purse'- Audit Commission - 1993).
- 45.1.4 The acceptance of gifts and hospitality by Officers or Councillors is not merely an administrative issue. It reflects directly upon the perception of the Council, Officers and Councillors acting in the public interest and not for the advantage of friends or for personal benefit.

### 45.2 Gifts and Hospitality for Employees

- 45.2.1 Employees must not accept personal gifts or special discounts for themselves or their families from contractors, customers or outside suppliers, except where the items are of token value and refusal would cause offence. Such token gifts may be kept for personal or business use. The table below indicates the way in which gifts to employees should be dealt with:

Item and value	Required action
Chocolates or other food items £25 or less	Noted in the Register of Gifts, Hospitality and Sponsorship and Retained by recipient
Flowers	Noted in the Register of Gifts, Hospitality and Sponsorship and Retained by recipient
Alcoholic drinks	Noted in the Register of Gifts, Hospitality and Sponsorship, and passed to Corporate Services*
Items over £25 not detailed above	Noted in the Register of Gifts, Hospitality and Sponsorship, and passed to Corporate Services*

Items £25 or less not detailed above	Noted in the Register of Gifts, Hospitality and Sponsorship and Retained by recipient
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\*If an item is received which is not covered by the table above, employees should discuss this with their Line Manager in the first instance, or with the Monitoring Officer or Deputy Monitoring Officer if there is still uncertainty.

- 45.2.2 When a gift has to be refused, this should be done with tact and courtesy, because the offering of gifts is common practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to an employee's place of work, there may be a problem returning it, in which case it should be reported to the appropriate Line Manager, Monitoring Officer or Deputy Monitoring Officer immediately.
- 45.2.3 Any items passed to Corporate Services will be raffled on a regular basis, with proceeds passing to the Mayor's charity.

### 45.3 Hospitality

- 45.3.1 Employees and their families must only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions must only be accepted when these are part of the life of the community, or where the Council should be seen to be represented. All such invitations must be reported to the Monitoring Officer or Deputy Monitoring Officer who will sanction attendance and irrespective of whether the invitation is accepted or not, it must be recorded in the Register of Gifts, Hospitality and Sponsorship held centrally in Corporate Services.
- 45.3.2 When attending authorised hospitality, employees shall give only relevant and factual answers and must be particularly sensitive as to the timing of the event in relation to decisions which the Council may be taking which could affect those providing the hospitality.
- 45.3.3 Where visits to inspect equipment etc. are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. This rule should be applied unless there is a specific decision of the Council to the contrary.
- 45.3.4 When hospitality has to be declined, the person who made the offer should be courteously, but firmly, informed of the procedures and standards operating within the Council.

### 45.4 Sponsorship

- 45.4.1 Where an outside organisation wishes to sponsor a Council activity, the basic conventions concerning acceptance of gifts or hospitality apply. In the first instance the employee must inform their Senior Manager who will give guidance as to whether the Council will accept the offer. Particular care, however, must be taken when dealing with contractors, potential contractors, and tenants. Irrespective of whether the offer is accepted or not, it must be recorded in the Register of Gifts, Hospitality and Sponsorship.

- 45.4.2 Where the Council wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to their Senior Manager and the fact being noted in the Register of Gifts, Hospitality and Sponsorship.
- 45.4.3 Similarly, where the Council through sponsorship, grant aid, financial or other means gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

## **45.5 Gifts and Hospitality for Members**

- 45.5.1 Members must not accept personal gifts or special discounts for themselves or their families made to them in their capacity as a Member from contractors, customers or outside suppliers, except where the items are of token value and refusal would cause offence.
- 45.5.2 Members must never accept a gift or hospitality as an inducement or reward for anything they do as a Councillor. Members must act in the public interest and must not be swayed in the discharge of their duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
- 45.5.3 If a Member is uncertain whether they are being offered a gift or hospitality as a Member or in their private capacity, then this should be raised with the Corporate Services Manager.
- 45.5.4 It is not recommended that a Member should accept any gift or hospitality which is anything more than modest in value (£25) and which arises in the course of the Member's ordinary work, e.g. modest refreshment in the course of an official external visit. If a member wishes to accept any hospitality or retain any gift over £25 in value they should first obtain written approval from the Monitoring Officer, setting out the circumstances in which the gift or hospitality is offered.
- 45.5.5 If the value of the gift or hospitality is £25 or less, but the recipient is concerned that its acceptance might be misinterpreted, the offer should be declined.
- 45.5.6 When a gift has to be refused, this should be done with tact and courtesy, because the offering of gifts is common practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to a Member's place of work, there may be a problem returning it, in which case it should be reported to the Corporate Services Manager immediately.

## **45.6 Hospitality**

- 45.6.1 Members and their families must only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions must only be accepted when these are part of the life of the community, or where the Council should be seen to be represented. All such invitations must be reported to the Corporate Services Manager who will sanction attendance and irrespective of whether the invitation is accepted or not, it must be recorded in the Register of Gifts, Hospitality and Sponsorship held centrally in Corporate Services.

- 45.6.2 When attending authorised hospitality, Members shall give only relevant and factual answers and must be particularly sensitive as to the timing of the event in relation to decisions which the Council may be taking which could affect those providing the hospitality.
- 45.6.3 Where visits to inspect equipment etc. are required, Members should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. This rule should be applied unless there is a specific decision of the Council to the contrary.
- 45.6.4 When hospitality has to be declined, the person who made the offer should be courteously, but firmly, informed of the procedures and standards operating within the Council.

## Article 46 – Members’ Allowance Scheme

46.1 [Placeholder drafting for purposes of number formatting]

**GREAT YARMOUTH BOROUGH COUNCIL**  
**SCHEME OF MEMBERS’ ALLOWANCES 2023/24**

**Basic Allowance** - all Members

£6,054

[DN – detail relating to special responsibility allowances will be included in due course]

## Article 47 – Officer Employment Procedure Rules

### 47.1 Definitions

47.1.1 In these rules:

- (a) **Statutory Chief Officer** means the Officer having responsibility for the purposes of section 151 of the Local Government Act 1972, section 73 of the Local Government Act 1985, section 112 Local Government Finance Act 1988, for the administration of the authority's financial affairs.
- (b) **Non-Statutory Chief Officer** means, subject to the following provisions of this section:
  - (i) a person for whom the Head of Paid Service is directly responsible;
  - (ii) a person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to the Head of Paid Service; and
  - (iii) any person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to the Council themselves, Cabinet or any Committee or Sub-Committee of the Council or Cabinet.

47.1.2 Where Executive arrangements are in place, the appointment of staff, including their dismissal and the terms and conditions upon which they are appointed, is a Non-Executive function.<sup>26</sup> Therefore, these decisions are either taken by full Council itself, a Committee or an Officer. However, there are a number of exceptions to this, as outlined below.

47.1.3 The final decision on the appointment or dismissal of the Head of Paid Service/Chief Executive or on the appointment of any Chief Officer shall be by resolution of the full Council on the recommendation of the Employment Committee or the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee, in respect of dismissal.

47.1.4 The appointment, dismissal of and the taking of any disciplinary action against any Chief Officer shall, except where required to be by resolution of the full Council under Article 47.1.3 above, be conducted by the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee.

47.1.5 The functions of appointment and taking disciplinary action against any Officer of the Council other than those listed in Article 47.1.6 below, shall be discharged on behalf of the Council by the Head of Paid Service or an Officer nominated by them.

47.1.6 Article 47.1.5 above shall not apply to the appointment of or disciplinary action against:

- (a) the Head of Paid Service/Chief Executive;
- (b) a Statutory Officer.

## **Recruitment and appointment**

### **47.2 Declarations**

- 47.2.1 The Council requires any candidate for appointment as an Officer to state in writing whether they are the spouse, co-habitee, partner, parent or child, or other close family relative or friend of an existing Member or Officer; or the partner of such persons.
- 47.2.2 No candidate so related to a Member or an Officer will be appointed without the authority of the relevant Executive Director or an Officer nominated by them.

### **47.3 Seeking support for appointment**

- 47.3.1 Subject to Article 47.3.3 below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 47.3.2 Subject to Article 47.3.3 below, no Member will seek support for any person for any appointment with the Council.
- 47.3.3 Nothing in Article 47.3.1 and 47.3.2 above will preclude a Member from giving a written reference for a candidate for submission with an application for appointment.

### **47.4 Conflicts of interest**

- 47.4.1 No Officer shall take part in the appointment or dismissal of, or take any disciplinary action against any Officer, where the Officer or candidate is the spouse, co-habitee, partner, parent or child or other close family relative or friend of the Officer concerned.
- 47.4.2 Where an Officer would be in breach of the rule in Article 47.4.1 above, they shall notify the relevant Head of Service who shall arrange for another Officer to take over that Officer's responsibility for the matter. Where the Officer with the conflict of interest is the Chief Executive, they shall inform the Monitoring Officer, who shall make such arrangements as are necessary to avoid such conflict.
- 47.4.3 A candidate who fails to comply with the provisions in paragraphs 47.2.1 to 47.4.2 above may be disqualified for the appointment and if appointed may be liable to dismissal without notice.

### **47.5 Recruitment of Head of Paid Service and Chief Officers**

- 47.5.1 Where the Council proposes to appoint a Head of Paid Service or a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, Officers acting on behalf of the Council will:
- (a) draw up a statement specifying:
    - (i) the duties of the Officer concerned; and

- (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

#### **47.6 Appointment of Head of Paid Service**

- 47.6.1 This process is subject to mandatory standing orders regulations.
- 47.6.2 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Employment Committee.
- 47.6.3 The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member.

#### **47.7 Appointment of Chief Officers**

- 47.7.1 This process is subject to mandatory standing orders regulations.
- 47.7.2 The Employment Committee will appoint Chief Officers subject to any approval required by Council in the case of Statutory Chief Officers only.
- 47.7.3 Before an offer of appointment as the Head of Paid Service is issued the full Council must be informed of the prospective decision and they may make representations concerning their material and well-founded objection to the Employment Committee.
- 47.7.4 An offer of employment to Head of Paid Service shall only be made where no well-founded objection from any Member has been received.

#### **47.8 Other appointments**

- 47.8.1 Appointment of Officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee and may not be made by Members.
- 47.8.2 Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

#### **47.9 Disciplinary action – Statutory Chief Officers and Non-Statutory Chief Officers**

- 47.9.1 The Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended by the Employment (Statutory Chief Officers) Investigation and Disciplinary Sub-Committee whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than absolutely necessary. Any such suspension will be reviewed periodically whilst the investigation is ongoing to ensure that it remains appropriate and proportionate in the circumstances.
- 47.9.2 No disciplinary action, other than suspension, shall be taken against the Head of Paid Service, the Monitoring Officer, or the Section 151 Officer, except in

accordance with a recommendation in a report of a designated Independent Person and until the procedure in Articles 47.10.2 to 47.10.6 below has been complied with.

- 47.9.3 Disciplinary action relating to the Chief Executive, Statutory Officers, Chief Officers and Non-Statutory Chief Officers, shall be undertaken in accordance with the relevant Model Disciplinary Procedure as published by the Joint Negotiating Committee (JNC).
- 47.9.4 Members will not be involved in the disciplinary action against any Officer below Chief Officer except where such involvement is necessary (e.g., as a witness) for any investigation or inquiry into alleged misconduct.

## 47.10 Dismissal

- 47.10.1 Members will not be involved in the dismissal of any Officer below Chief Officer except where such involvement is necessary (e.g., as a witness) for any investigation or inquiry into alleged misconduct.

- 47.10.2 In the following paragraphs:

**local government elector** means a person registered as a local government elector in the register of electors in the Council's area in accordance with the Representation of the People Acts;

**the Independent Panel** means a Committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant Officers;

**relevant meeting** means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant Officer;

- 47.10.3 The Council must appoint to the Independent Panel at least two such relevant independent persons who have accepted an invitation issued in accordance with the following priority order:
- (a) a relevant independent person who has been appointed by the Council and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the Council; and
  - (c) a relevant independent person who has been appointed by another Council or Councils.
- 47.10.4 The Council must appoint the Independent Panel at least 20 working days before the relevant meeting. The Independent Panel must be offered appropriate training for the role the Independent Panel is to fulfil. The Independent Panel will make a recommendation to full Council for decision.
- 47.10.5 Before the taking of a vote at the relevant meeting on whether or not to approve disciplinary action or dismissal, the Council must take into account, in particular:

- (a) any advice, views or recommendations of the Independent Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant Officer.

47.10.6 Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Independent Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the Localism Act 2011.

#### **47.11 Appeals**

47.11.1 If any decision to dismiss an Officer is taken by full Council, it is not possible to provide an internal appeal process against the dismissal. Instead, the Officer may appeal to an appeals panel formed from a neighbouring local authority under sharing arrangements in accordance with section 101 Local Government Act 1972.

47.11.2 Any other appeal by a Chief Officer must be lodged with the Head of Paid Service within 10 working days of written confirmation to the Chief Officer of the dismissal or disciplinary action and must include a written statement of the grounds on which the appeal is made.

#### **47.12 Other Policies**

Except as set out in these Officer Employment Procedure Rules, or as required by law or under a contract of employment, all appointments shall be made and disciplinary action taken in accordance with the Council's Human Resources policies and procedures which may add to these Rules but not override them.

#### **47.13 Outside Commitments**

47.13.1 Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests.

47.13.2 Any employee of local grade 5 or below does not require prior permission to undertake other work, but must, within 4 weeks of taking up other work, disclose its nature and extent, in writing, to their Head of Service. If graded local grade 6 or above you must obtain written permission from your Head of Service prior to undertaking any private work or other employment. A record of this approval must be placed on the officers HR file.

47.13.3 Employees should make themselves aware of the ownership of intellectual property, or copyright, including inventions, creative writings, and drawings. In general, if created by the employee during the course of employment, these belong to the Council.

## **Article 48 – Protocol For Member/Officer Relations**

### **48.1 Introduction**

- 48.1.1 The aim of the Protocol for Member/Officer Relations (**Protocol**) is to guide Member/Officer relations in order to provide an open and honest working ethos which ensures the delivery of the Council's statutory and other proper functions in a transparent and accountable fashion.
- 48.1.2 Given the variety and complexity of such relations, the Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 48.1.3 The Protocol reflects good practice and is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.

### **48.2 Principles underlying Member/Officer relations**

- 48.2.1 It is important that any dealings with Members and Officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances. The following underlying principles in Member/Officer relations should be noted:
- (a) both Members and Officers are servants of the public and are indispensable to one another;
  - (b) Members are responsible to the electorate and serve only as long as their term of office last;
  - (c) Officers are responsible to the Council and their job is to provide advice to Members and the Council and to undertake the Council's work as may be directed by the Council, Cabinet, Committees and Sub-Committees;
  - (d) both Members and Officers are bound by their respective Codes of Conduct which seek to enhance and maintain the integrity of local government generally by ensuring that both groups adopt the highest standards of personal conduct; and
  - (e) close personal familiarity between individual Members and Officers can damage the above relationship and prove embarrassing to other Members and Officers.

### **48.3 Roles of Members**

- 48.3.1 Members are responsible to the electorate and serve only so long as their term of office lasts. They undertake the following roles:
- (a) to effectively represent the interests of their Ward and of their individual constituents.

- (b) to respond to enquiries and representation from all their constituents both fairly and impartially.
- (c) to represent their communities and ensure that their communities' views are brought into the Council's decision making process.
- (d) collectively through the Council:
  - (i) adopt and review the Constitution;
  - (ii) adopt and review the Council's Code of Conduct;
  - (iii) agree the Policy Framework and Budget;
  - (iv) make decisions on matters which are not the responsibility of other decision making bodies within the Council and which have not been delegated;
  - (v) make appointments to committees;
  - (vi) make appointments to outside bodies;
  - (vii) appoint the Council's Chief Executive;
- (e) to serve as Members on Committees and Working Groups, if required;
- (f) to always maintain the highest standards of conduct and ethics; and
- (g) be available to represent the Council on other bodies including external organisations.

#### **48.4 Roles of Officers**

48.4.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups, or any individual Member. The following roles are undertaken by Officers:

- (a) responsibility for day to day managerial and operational decisions;
- (b) providing support to all Members in the undertaking of their various roles;
- (c) responsibility for ensuring the delivery of the Council's policies and services within the Policy Framework and Budget set by Council;
- (d) maintaining the principle of political neutrality and service to the whole Council;
- (e) providing the internal audit service and liaison with external audit;
- (f) through the post of Chief Executive (Head of Paid Service):

- (i) providing overall corporate management and operational responsibility (including overall management responsibility for all staff);
  - (ii) providing professional advice to all parties in the decision making process;
  - (iii) ensuring that a system of record keeping for all of the Council's decisions is maintained;
  - (iv) representing the Council on partnership and external bodies;
- (g) through the post of Monitoring Officer:
- (i) maintaining and promoting high standards of conduct;
  - (ii) providing advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues;
  - (iii) ensuring that all Council decisions and the reasons and other relevant papers are made publicly available;
  - (iv) ensuring lawfulness and fairness of decision making;
  - (v) supporting the Standards Sub-Committee by conducting investigations into matters referred by official Standards Officers and receiving and acting upon reports by those Officers and on decisions of case tribunals;
  - (vi) maintaining and up-to-date version of the Council's Constitution and ensuring it is widely available for consultation;
- (h) through the post of Section 151 Officer:
- (i) ensuring the lawfulness and financial prudence of decision making;
  - (ii) administering the Council's financial affairs;
  - (iii) providing financial advice to aid the corporate management of the Council;
  - (iv) advising all Members on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues and providing general support and advice to Members and Officers in their respective roles;
  - (v) providing financial information to the media, members of the public and the community.

## **48.5 Relationship between Mayor and Officers**

48.5.1 The Mayor will act as the independent Chair of the Council.

- 48.5.2 The Mayor is precluded from membership of the Cabinet, Standards Sub-Committee, and Regulatory Committees.
- 48.5.3 The Mayor is responsible for interpreting the Constitution and ensuring that its provisions are upheld. To undertake that role, they will need to maintain a close working relationship with Officers to obtain necessary advice and guidance.
- 48.5.4 At all times, however, the Mayor should remain impartial and should not allow themselves to be influenced by Officers to the extent that this could result in a breach of the Constitution.

## **48.6 Member Decision Making**

- 48.6.1 Officers should never lobby Members or otherwise improperly seek to influence their decision making, nor should they seek to act for personal rather than professional motives.
- 48.6.2 The principal focus of Member decision making is to determine policy and strategic objectives. 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, for example, in relation to development management and licensing matters, to which specific codes of practice apply.
- 48.6.3 Member decision making is always formal, public and auditable on the basis of written reports and advice from relevant Officers.
- 48.6.4 Accordingly, Members should not purport to give instructions directly to Officers on an informal basis, except to the small number of Officers employed specifically to provide support services to Members.
- 48.6.5 Members need to be aware that some, particularly more junior, members of staff can feel intimidated by direct approaches by Members, and in particular should avoid being in a position where they could be seen as asking an Officer to act against Council policy, against the Officer's professional judgement or otherwise under pressure from the Member.

## **48.7 Member/Officer Communication**

- 48.7.1 Members should communicate with Officers at the appropriate level. Routine service related enquiries should be initiated through normal departmental enquiry/contact points. Other matters will normally involve the appropriate, Executive Director or other Senior Manager.
- 48.7.2 In communicating with Members, Officers should have regard to the Council's Officers Code of Conduct, the requirements of the Protocol for Member/Officer Relations and any instructions issued by the appropriate Senior Manager.

## **48.8 Officer Relationships with Party Groups**

- 48.8.1 Whilst the existence of party groups within local government is acknowledged, they do not form part of the system for which Council support is provided or financed.
- 48.8.2 Members therefore will not receive any support on purely party matters, such support being restricted to Council business only. In the event of Officers attending a group meeting to discuss an issue it is important that the business is divided in such a way to ensure that the Officer can leave once the item(s) of Council business have been discussed. Officers attending such meetings should also be advised in advance if the meeting will involve Members who would not be bound by the Protocol or any other approved Code of Conduct.
- 48.8.3 Officers will respect party confidentiality but will be bound by their statutory obligations and so should not be placed in any position of potential conflict by party groups.
- 48.8.4 Support to party groups is only proper and legal if it applies to Council matters, any use for private or party benefit is unlawful.
- 48.8.5 Whilst party group meetings are part of the preliminaries to Council decision making they are not able to make decisions on behalf of the Council. Any conclusions reached at such meetings therefore are not Council decisions and Members must not instruct Officers to implement such a decision until that decision has been properly taken in accordance with Part 2 of the Constitution.
- 48.8.6 The provision of information and advice to a party group meeting on a matter of Council business cannot act as a substitute for that information and advice being provided to the relevant Council meeting when the matter is considered.
- 48.8.7 Any particular cases of difficulty or uncertainty concerning Officer advice to party groups should be raised with the Chief Executive who will, where appropriate, discuss with the relevant political group leaders.

## **48.9 Support Services and Facilities for Members and Party Groups**

The only basis on which the Council can legally provide support services (e.g., stationery, typing, printing, photocopying etc.) to Members is to assist them in undertaking their role as Members. Such support services must therefore only be used on Council business, they must never be used in connection with party political or campaigning activity or for private purposes.

## **48.10 Members in their Ward Roles and Officers**

- 48.10.1 Whenever a public meeting is organised by the Council to consider a local issue, all Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultation on a local issue, the Ward Members should be notified.

- 48.10.2 Ward Members will be kept informed of correspondence between the Council and local MP that concern their constituents. This will be done on a confidential basis (this will be discussed with the local MP before being implemented).

#### **48.11 Members' Access to Information, Council Documents and Officer Advice**

- 48.11.1 Members will need in the discharge of their duties to access information from Officers. This will usually be most efficiently achieved through the Chief Executive, or an Executive Director who are able to provide an overview or direct the Member to the most appropriate Officer. For individual cases, Members may approach Case Officers, but more junior staff are entitled to refer the Member to the Chief Executive, Executive Director, or Head of Service.
- 48.11.2 Members who wish to obtain information from Officers should request it as early as possible, recognising that Officers may require reasonable time to collate or research the information. Members will state any deadline for the provision of information. This also applies where a Member wishes to obtain information to supplement an Officer report after the agenda for a meeting has been issued.
- 48.11.3 Officers will make every reasonable effort to provide Members with accurate factual information and professional advice in a timely manner, unless this would exceed the Officer's authority or there are lawful reasons to prevent disclosure of the information.
- 48.11.4 Members have a statutory right to inspect any Council document, which contains material relating to any business, which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the Member is a Member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting but also to any relevant background papers. This right does not however apply to documents relating to items containing information which confidential or is exempt from publication. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations. Correspondence held by the Monitoring Officer in relation to their duties is similarly exempt, unless released by them in the interests of furthering any enquiry.
- 48.11.5 The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the Member to perform properly their duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle and will be determined in the first instance by the particular Executive Director whose service holds the document in question. In the event of dispute, the question will first be referred to the Chief Executive for determination, then to the Monitoring Officer if the matter is still unresolved and finally to the Standards Sub-Committee in the event that the dispute is still unable to be resolved.
- 48.11.6 A Member who requests to inspect documents which contain personal information about third parties will normally be expected to justify their request in specific terms.

- 48.11.7 A Member of one party group will not have a “need to know”, and therefore does not have a right to inspect, any document which forms part of the internal workings of another party group and is in the possession of the Council or an individual Officer.
- 48.11.8 More detailed advice concerning Members’ rights to inspect Council documents may be obtained from the Monitoring Officer.
- 48.11.9 Any Council information is provided to a Member on the basis that it must only be used by the Member in connection with the proper performance of the Member’s duties as a Member of the Council. This forms part of the Council’s Data Protection requirements. This point is emphasised in paragraph 26 of the National Code of Local Government Conduct.

## **48.12 Complaints and Criticism**

- 48.12.1 Neither Officers nor Members should pass comment about Officers in a way which could be taken as personally critical of, or as undermining, that Officer. Similarly, it is never the role of an Officer to criticise or undermine a Member.
- 48.12.2 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of the Protocol. This is a longstanding tradition in public service. An Officer has no means of responding to such criticisms in public. Complaints about Officers should be made to their Head of Service, or where necessary, to their Executive Director or the Chief Executive. Such complaints will be dealt with by appropriate disciplinary, capability or other established procedure.
- 48.12.3 Complaints about elected Members should be made to the Monitoring Officer. A breach of the Protocol may be evidence of a breach of the Members’ Code of Conduct.
- 48.12.4 Except as part of an appointment or appeals panel, Members are prevented by law from becoming involved in matters relating to individual employees. Information about disciplinary, capability or other employment processes are one of the exceptions to the rights of Members to access information (as set out Part 4).

## **48.13 Correspondence**

- 48.13.1 Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member except where necessary for the proper conduct of business. Where it is necessary in the opinion of the Officer, the Member will be informed. If there is any doubt then a member of the Executive Leadership Team should be consulted.
- 48.13.2 Members are entitled to send out correspondence in their own names but should check with Officers if they are concerned that they may be committing the Council to any form of action or create obligations or give instructions on behalf of the Council. Letters which, for example, create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the Chief Executive, the appropriate Executive Director or other Senior Officer. Officers will mention the involvement of a Member if that

Member has raised the matter (e.g., as part of their casework) or has asked the Officer to write to a constituent.

#### **48.14 External Communications**

- 48.14.1 The Council must follow the provisions contained within its adopted Media and Publicity Protocols in respect of press releases, media enquiries, and other external communications.
- 48.14.2 In relation to social media, Officers must have regard for the Council's adopted Social Networking Policy for Employees. Members are referred to the Council's Media and Communications Manager for guidance in this regard.

#### **48.15 Personal Relationships**

- 48.15.1 No Member or Officer should allow any personal connection or relationship with any other Member or Officer to affect the performance of their official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and Officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or Officer, and avoid creating any impression of bias or unfairness.
- 48.15.2 An Officer who is personally connected or related to any Member should notify the Monitoring Officer in writing.

## Appendix 1 – Application for Dispensation Form

To: The Monitoring Officer

### APPLICATION FOR A DISPENSATION UNDER SECTION 33 OF THE LOCALISM ACT 2011 IN RESPECT OF A DISCLOSABLE PECUNIARY INTEREST

Name of Member: .....

A Member who has a Disclosable Pecuniary Interest in a matter that is under consideration may not participate in the consideration of that matter by the Council, a Committee or Sub-Committee or by the Executive or a Committee of the Executive unless they have first obtained a dispensation from the Council.

You may apply for a dispensation by completing this form and sending it to the Monitoring Officer.

It should be noted that the Monitoring Officer may only grant a dispensation to a Member if, after having regard to all relevant circumstances, they consider that:

- (a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) without the dispensation, each Member of the Council's Executive would be prohibited from participating in any particular business to be transacted by the Executive;
- (d) granting the dispensation is in the interests of persons living in the Council's area; or
- (e) it is otherwise appropriate to grant a dispensation.<sup>14</sup>

#### 1. What is the matter for which dispensation is sought?

Please provide full details including amounts where the matter involves funding or finance.

#### 2. For which type of meeting is dispensation sought? (Please circle.)

- Full Council;

<sup>14</sup> Section 33(2) Localism Act 2011

- Cabinet;
- Committee; or
- Sub-Committee.

**3. What is the nature of the Disclosable Pecuniary Interest?**

Please provide full details.

**4. What is the date of the meeting(s) at which this matter is to be considered?**

.....

**5. For how long is the dispensation needed?**

Please note that it cannot be longer than 4 years nor exceed the term of office of the Member concerned.

.....

**6. Do you benefit personally from the business to which this application relates?**

If "yes" then full details must be provided of the nature and extent.

**7. How is the business of the Council being impeded in the absence of a dispensation?**

Please provide full details.

**8. Are there any other factors that might help the Council to reach a decision on the application?**

Please provide full details.

**9. Are you seeking a dispensation to speak and vote?**

Yes/No

**10. Are you seeking a dispensation to speak but not vote?**

Yes/No

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Please complete, sign, and return this form to the Monitoring Officer

## Appendix 2 – Exemption / Waiver Form

For use when requesting that an exception be made to the requirements of Contract Standing Orders in relation to selection procedure – further details are provided in Section [10] of the Contract Standing Orders.

Contract name / description (include supplier name):
Contract sum: £
Anticipated date of commencement of contract:
Anticipated date of completion of contract:
Contract supervisor:
Brief details of contract:
Justification for use of exemption or waivers (i.e., details of which paragraph(s) in Standing Order [new cross reference to be inserted] apply – refer to extract from CSO attached):
<b>Submitted by:</b> <b>Officer</b> ..... <b>Date:</b> .....
<b>Approved:</b> <b>Monitoring Officer (or nominated deputy)</b> ..... <b>Date:</b> .....
<b>Approved:</b> <b>Section 151 Officer (or nominated deputy)</b> ..... <b>Date:</b> .....
<b>Contracts Register updated</b> (all exemptions must be included on the Contracts Register for publication): <b>Officer</b> ..... <b>Date:</b> ..... <i>Please provide details to Finance Team for including on the Contracts Register (<a href="mailto:financetech@great-yarmouth.gov.uk">financetech@great-yarmouth.gov.uk</a>)</i>

**Subject** Pension Admission and Pooling

**Report to** ELT 28 March 2023

Council 13 April 2023



**Report by:** Karen Sly, Finance Director

## **SUBJECT MATTER/RECOMMENDATIONS**

To seek approval to apply to Norfolk Pension Fund to pool Great Yarmouth Services Ltd with the Great Yarmouth Borough Council pension arrangements.

### **Recommendations:**

**1) It is recommended that Council approve that an application be made to pool Great Yarmouth Services Ltd with the other Great Yarmouth Borough Council pension arrangements from 1 April 2023, this will be subject to the agreement of Norfolk pension Fund.**

## **1. INTRODUCTION AND BACKGROUND**

- 1.1. This report is to seek approval for the Great Yarmouth Services (GYS) Ltd Local Government Pension Service (LGPS) to be pooled with Great Yarmouth Borough Council LGPS at the point of transfer from GYBS (1 April 2023).
- 1.2. A pension pooling agreement provides for a common employer contribution rate and funding position between employers and a funding approach that reflects the covenant of the most secure member of the pooling arrangement.
- 1.3. On 1 April 2023 employees that have TUPE transferred to GYS who were in or eligible for the Local Government Pension Scheme continue to be eligible for the LGPS with the new company GYS Ltd.
- 1.4. As part of the establishment of the new company that is solely owned by the Borough Council there is an option for the GYS pension to be pooled with the other GYBC pension arrangements to manage longer term pension risks.

## **2. PROPOSAL FOR POOLING**

- 2.1. The employer rate (primary rate) previously paid by GYBS was 26.5% (GYBC rate is 15.5%). When companies (joint ventures) have been set up in the past, the employer percentage rate has historically been set higher due to the different funding profile of the of the company. If GYS does not pool with GYBC a higher employer rate would continue to be paid. If pooled, the company pays the same primary employer rate as the Council, i.e., a lower employer contribution rate as a result of the pooling agreement than would otherwise be the case. This is fixed unless there is any change to the GYBC primary rate. Under the long term funding approach used by the Pension Fund this is unlikely as any additional contribution requirement (or downward adjustment) is allowed for through the secondary rate.
- 2.2. There would be no impact to the employee benefits for either GYS or GYBC as part of the pooling arrangements. Local Government Pension Scheme benefits are established in statute and set nationally.

- 2.3. The GYS Board in March approved in principle the agreement to pool with GYBC subject to confirmation of no adverse financial impact to the company. There would actually be a saving to the company due to a lower employer rate being payable compared to that currently.

### 3. FINANCIAL IMPLICATIONS

- 3.1. The lower employer contribution rate would have a direct saving to GYS, initial estimates would be in the region of £100,000 to £120,000 per annum although this is to be confirmed once the final TUPE list has been confirmed and completed.
- 3.2. As 2023/24 is the first year of operation for the new company, until the full impact of the operating costs of the company are understood, it would be prudent for the company to not re-allocate any savings from a reduced primary rate until further work on the cost of the service is understood, for example at the mid-year position.

### 4. LEGAL IMPLICATIONS

- 4.1. The application to apply to pool with the other GYBC pension arrangements is subject to agreement of Norfolk Pensions Fund.

### 5. RISKS

- 5.1. Changes to the GYBC rate would impact on the GYS rate, although the rate for the company has been higher historically than that of GYBC, and as outlined at 2.1 this would be unlikely and be managed through the secondary rate that is the responsibility of GYBC.
- 5.2. There would be no change to the risk current facing the council in that the current pension position for GYBS is underwritten by GYBC.

### 6. CONCLUSION

- 6.1. The pooling of GYS with GYBC pension arrangements will have no change to the risk underwriting of the previous pension arrangements (of GYBS) of the company by the Council and will provide some financial saving to the company.

### 7. BACKGROUND PAPERS

- 7.1. Refer to any background papers used to inform the report.

Area for consideration	Comment
Monitoring Officer Consultation	ELT consultation
Section 151 Officer Consultation	Report Author
Existing Council Policies See background papers	N/A
Financial Implications eg within existing budgets or funding identified	Included in the report
Legal Implications (including human rights)	N/A
Risk Implications	Included in the report
Equality Issues/EQIA assessment (if EQIA not required explain why)	N/A
Details contained in strategy	N/A
Crime & Disorder	N/A
Every Child Matters	N/A